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PART VI.

BILLS OF THE GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 22nd August 1888 :

Bill No. 9 of 1888.

A Bill to amend the Indian Succession Act, 1865, the Probate and Administration Act, 1881, and the Court-fees Act, 1870, and to make provision with respect to certain other matters.

WHEREAS it is expedient to amend the Indian Succession Act, 1865, the Probate and Administration Act, 1881, and the Court-fees Act, 1870, and to make provision with respect to certain other matters ; it is hereby enacted as follows :

1. (1) This Act may be called the Probate Title and commence- and Administration Act, ment. 1888 ; and

(2) It shall come into force on the first day of January 1889.

Indian Succession Act, 1865.

2. For the last forty-two words of section 254 of the Indian Succession Act, 1865, the following shall be substituted, namely :

"he having undertaken to administer the same, and, on the requisition of this Court, to make a true inventory of the said property and credits and exhibit the same in this Court at or before the expiration of six months from the date of this grant, and also, on a like requisition, to render to this Court a true account of the said property and credits within one year from the same date."

3. For the last forty-five words of section 255 of the same Act the following shall be substituted, namely :

"he having undertaken to administer the same, and, on the requisition of this Court, to make a true inventory of the said property and credits and exhibit the same in this Court at or before the expiration of six months from the date of this grant, and also, on a like requisition, to render to this Court a true account of the said property and credits within one year from the same date."

4. For section 277 of the same Act the following shall be substituted, namely :

"277. (1) An executor or administrator shall, on the requisition of the Court which granted the probate or letters of administration, exhibit in that Court, within six months from the date of the grant, or within such further time as that Court may appoint in its requisition, an inventory containing a full and true estimate of all the property in possession, and all the credits, and also all the debts owing by any person to which the executor or administrator is entitled in that character, and on a like requisition shall in like manner, within one year from the date aforesaid or within such further time as the Court may appoint in its requisition, exhibit an account of the estate, showing the assets which have come to his hands and the manner in which they have been applied or disposed of.

"(2) Failure to comply with a requisition of the Court for an inventory or account under this section shall be deemed to be an offence under section 176 of the Indian Penal Code, and the XLV of 1860.

submission of an intentionally false inventory or account shall be deemed to be an offence under section 193 of that Code.

"(3) The High Court may from time to time prescribe the form in which an inventory or account under this section is to be exhibited."

Probate and Administration Act, 1881.

V of 1881.

5. For the portion of section 76 of the Probate and Administration Act, 1881, beginning with the words

"he having undertaken to administer the same" and ending with the words "within one year from the same date", the following shall be substituted, namely:

"he having undertaken to administer the same, and, on the requisition of this Court, to make a true inventory of the said property and credits and exhibit the same in this Court at or before the expiration of six months from the date of this grant, and also, on a like requisition, to render to this Court a true account of the said property and credits within one year from the same date."

6. For the portion of section 77 of the same Act beginning with the words "he having undertaken to administer the same" and ending with the words "within one year from the same date", the following shall be substituted, namely:

"he having undertaken to administer the same, and, on the requisition of this Court, to make a true inventory of the said property and credits and exhibit the same in this Court at or before the expiration of six months from the date of this grant, and also, on a like requisition, to render to this Court a true account of the said property and credits within one year from the same date."

7. For section 90 of the same Act the following shall be substituted, namely:

"90. (1) An executor or administrator has, subject to the provisions of this section, power to dispose, as he thinks fit, of all or any of the property for the time being vested in him under section 4.

"(2) The power of an executor to dispose of immoveable property so vested in him is subject to any restriction which may be imposed in this behalf by the will appointing him, unless probate has been granted to him and the Court which granted the probate permits him by an order in writing, notwithstanding the restriction, to dispose of any immoveable property specified in the order in a manner permitted by the order.

"(3) An administrator may not, without the previous permission of the Court by which the letters of administration were granted,—

(a) mortgage, charge or transfer by sale gift, exchange or otherwise any immoveable property for the time being vested in him under section 4, or

(b) lease any such property for a term exceeding five years.

"(4) A disposal of property by an executor or administrator in contravention of sub-section (2) or sub-section (3), as the case may be, is voidable at the instance of any other person interested in the property.

"(5) Before any probate or letters of administration is or are granted under this Act there shall be endorsed thereon a copy of sub-sections (1), (2) and (4), or of sub-sections (1), (3) and (4), as the case may be.

"(6) A probate or letters of administration shall not be rendered invalid by reason of the endorsement required by the last foregoing sub-section not having been made thereon, nor shall the absence of such an endorsement authorise an executor or administrator to act otherwise than in accordance with the provisions of this section."

8. For section 98 of the same Act the following shall be substituted, namely:

"98. (1) An executor or administrator shall, on the requisition of the Court which granted the probate or letters of administration, exhibit in that Court, within six months from the date of the grant, or within such further time as that Court may appoint in its requisition, an inventory containing a full and true estimate of all the property in possession, and all the credits, and also all the debts owing by any person to which the executor or administrator is entitled in that character, and on a like requisition shall in like manner, within one year from the date aforesaid or within such further time as the Court may appoint in its requisition, exhibit an account of the estate, showing the assets which have come to his hands and the manner in which they have been applied or disposed of.

"(2) Failure to comply with a requisition of the Court for a inventory or account under this section shall be deemed to be an offence under section 176 of the Indian Penal Code, and the XLV of 1860. submission of an intentionally false inventory or account shall be deemed to be an offence under section 193 of that Code.

"(3) The High Court may from time to time prescribe the form in which an inventory or account under this section is to be exhibited."

Court-fees Act, 1870.

9. Article 16 (Administration-bond) of the second schedule to the Court-fees Act, 1870, is VII of 1870. hereby repealed.

Miscellaneous.

10. (1) Notwithstanding anything in the Probate and Administration Act, 1881, an executor or administrator to whom a grant of probate or of letters of administration with copy of the will annexed was made before the first day of April, 1881, under the Hindu Wills Act, 1870, or an executor or administrator to whom a grant of probate or of letters of administration has been

made before the commencement of this Act, under the Probate and Administration Act, 1881, shall be deemed to have had and to have power to dispose, as he might or may think fit, of all or any of the property of the deceased which was or is for the time being vested in him.

(2) Nothing in sub-section (1) shall be construed to validate any disposal of property by an executor or administrator which has before the commencement of this Act been declared by any competent Court to be invalid.

VII of 1870.

Recovery of penalties and forfeitures under Act VII, 1870.

11. (1) Any penalty or forfeiture under section 19G or section 19H of the Court-fees Act, 1870, may, on the certificate of the Chief Controlling Revenue-authority, be recovered from the executor or administrator as if it were an

arrear of land-revenue by any Collector in any part of British India.

(2) The Chief Controlling Revenue-authority may remit the whole or any part of any such penalty or forfeiture.

12. The following portion of section 7, clause (3), of the Act of the Lieutenant Governor of Bengal in Council No. VII of 1880, entitled the Public Demands' Recovery Act, 1880, namely:

"or in the following sections and portions of the following Act passed by the Governor General in Council, that is to say, in Act VII of 1870, 'the Court-fees Act,' sections 19G, 19H," hereby repealed.

STATEMENT OF OBJECTS AND REASONS.

Under section 90 of the Probate and Administration Act, 1881, an executor or administrator has power, with the consent of the Court by which the grant of probate or of letters of administration was made, to dispose of the property of the deceased, either wholly or in part, in such manner as he thinks fit.

A proviso to the section enacts that the Court may, when granting probate or letters of administration, exempt the executor or administrator from the necessity of obtaining such consent as to the whole or any specified part of the assets of the deceased.

It has been represented to the Government of India that it is only recently that the restrictive effect of this section has been realised, and that Hindus have gone on taking out probates and letters of administration and acting under them as if they had the same effect as probates, and letters of administration with copy of the will annexed, had under the Hindu Wills Act, 1870, up to the first day of April 1881. They now find that such of their transfers of property as they had not power to make under Hindu law are invalid. It appears also that for some years after Act V of 1881 had come into force no distinction was made in the Public Debt Office between the powers of European and those of Asiatic executors.

The confusion caused by the restricted form of probate and administration under the Act of 1881 is so serious as in the opinion of competent authorities to render retrospective as well as prospective legislation necessary.

In these circumstances it is proposed by section 7 of the Bill to substitute for section 90 of the Probate and Administration Act, 1881, a section conferring on an executor or administrator an absolute power of disposal over moveable property, but, as regards immoveable property, subjecting an executor ordinarily to such restrictions, if any, as are imposed on him by the will appointing him, and an administrator to restrictions similar to those imposed on a guardian by Acts XL of 1858 and XX of 1864. It is also proposed by section 10 of the Bill to confer on persons who have already taken out probate or letters of administration under Act V of 1881 the unrestricted powers prospectively and retrospectively, which under the Hindu Wills Act used to be conferred, and under the Indian Succession Act are conferred, on executors and administrators.

It is further proposed by section 10 of the Bill to remove a doubt whether section 90 of the Act of 1881 is to be construed, with respect to transfers made after the first day of April 1881, as applying to executors and administrators to whom probates, and letters of administration with copy of the will annexed, were granted under the Hindu Wills Act, 1870, before that day.

2. The other sections of the Bill are of secondary importance.

Sections 4 and 8 will enable Courts which are not Courts of Record, and cannot punish for such contempt as is involved in the omission to submit an inventory or account, to insist in proper cases, either in the interests of the revenue or at the instance of a person interested in the administration of an estate, on the submission of such documents as Acts X of 1865 and V of 1881 now require to be submitted in all cases, without, however, making any express provision for enforcing their submission.

Sections 2 and 3 are subsidiary to section 4, and sections 5 and 6 to section 8.

Section 9 is designed to remove a doubt which has existed since the enactment of article 2 of the first schedule to the Indian Stamp Act, 1879, with respect to the stamp to which an administration bond under the Indian Succession Act, 1865, or the Probate and Administration Act, 1881, is liable.

Sections 11 and 12 are suggested by the Public Demands' Recovery Act (Bengal), VII of 1880.

The 17th August 1888.

(Signed) ANDREW R. SCOBLE.

S. HARVEY JAMES,

Secretary to the Government of India.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 22nd August 1888:

Bill No. 10 of 1888.

THE SUCCESSION CERTIFICATE BILL.

CONTENTS.

SECTIONS.

1. Title, commencement, extent and application.
2. Repeal.
3. Definitions.
4. Restriction on recovery of debts from debtors of deceased persons.
5. Court having jurisdiction to grant certificate.
6. Application for certificate.
7. Procedure on application.
8. Contents of certificate.
9. Effect of certificate.
10. Requisition of bond from grantee of certificate.
11. Appointment of trustee in case of disputed succession.
12. Local extent of certificate.
13. Appeal.
14. Effect on certificate of a previous certificate or of previous probate or letters of administration.
15. Effect on certificate of subsequent probate or letters of administration.
16. Validation of payments made in good faith to holders of invalid certificates.
17. Extension of certificate.
18. Forms of certificate and extended certificate.
19. Amendment of certificate in respect of powers as to securities.
20. New articles substituted for articles 11 and 12, Schedule I, Act VII, 1870.
21. Mode of collecting court-fees on certificates.
22. Effect of certificate granted or extended by British representative in Foreign State.
23. Effect of decisions under this Act, and liability of holders of certificates thereunder.
24. Prohibition of exercise of certain powers by curators.
25. Effect of certain probates and letters.
26. Amendment of Court-fees Act, 1870, and Bombay Regulation VIII of 1827.

THE FIRST SCHEDULE.—ENACTMENTS REPEALED.

THE SECOND SCHEDULE.—FORMS OF CERTIFICATE AND EXTENDED CERTIFICATE.

A Bill to facilitate the collection of debts on successions and afford protection to parties paying debts to the representatives of deceased persons.

WHEREAS it is expedient to facilitate the collection of debts on successions and afford protection to parties paying debts to the representatives

of deceased persons; It is hereby enacted as follows:—

1. (1) This Act may be called the Succession Certificate Act, 1888.
- (2) It shall come into force on the first day of January 1889; and
- (3) It extends to the whole of British India, [Act XX of 1886, s. 6 (2).] inclusive of Upper Burma;
- (4) But a certificate shall not be granted [Act XXVII of 1860, s. 23; and Act XXI of 1870, s. 2.] thereunder with respect to any debt or security to which a right can be established by probate or letters of administration under the Indian Succession Act, 1865, or by probate of a will to which the Hindu Wills Act, 1870, applies, or by letters of administration with a copy of such a will annexed.
2. (1) The enactments specified in the first schedule are repealed to the extent mentioned in the third column thereof.
- (2) But nothing in this Act shall affect any certificate granted before the commencement of this Act under Act XXVII of 1860 or any enactment repealed by that Act or under the Regulation of the Bombay Code No. VIII of 1827.
- (3) Any enactment except section 152 of the Probate and Administration Act, 1881, or any V of 1881. document, referring to any enactment repealed by this Act shall, so far as may be, be construed to refer to this Act or to the corresponding portion thereof.
3. In this Act, unless there is something repugnant in the subject or context,—
 - (1) "District Court" means a Court presided over by a District Judge; and [Act I of 1868, s. 2 (12).]
 - (2) "security" means— [New.]
 - (a) any promissory note, debenture, stock or other security of the Government of India;
 - (b) any bond, debenture or annuity charged by the Imperial Parliament on the revenues of India;
 - (c) any stock or debenture of, or share in, a company or other incorporated institution;
 - (d) any debenture or other security for money issued by, or on behalf of, a local authority;
 - (e) any other security which the Governor General in Council may, by notification in the Gazette of India, declare to be a security for the purposes of this Act.
4. (1) No debtor of any deceased person shall [Act XXVII of 1860, s. 2] be compelled by any Court to pay his debt to deceased persons. any person claiming to be entitled to the effects of any deceased person or any part thereof except on the production of a probate or letters of administration or of a certificate granted under this Act and having that debt specified therein, or granted under Act XXVII of 1860 or an enactment repealed by that Act or under the Regulation of the Bombay Code No. VIII of 1827.

*The Succession Certificate Bill.**(Sections 5—11.)*

[New.]

(2) The word "debt" in sub-section (1) includes any debt except rent, revenue or profits payable in respect of land used for agricultural purposes.

[Act XXVII of 1860, s. 3.]

5. The District Court within the jurisdiction of which the deceased ordinarily resided at the time of his death, or if at that time he had no fixed place of residence then within the jurisdiction of which any part of the property of the deceased may be found, may grant a certificate under this Act.

[Act V of 1881, s. 64.]

6. (1) Application for such a certificate must be made to the District Court by a petition signed and verified by or on behalf of the applicant in the manner prescribed by the Code of Civil Procedure for the signing and verification of a plaint by or on behalf of a plaintiff, and setting forth the following particulars, namely:

XIV of 1882.

(a) the time and place of the death of the deceased and his ordinary residence at the time of his death;

(b) the family and other relatives of the deceased and their respective residences;

(c) the right in which the petitioner claims;

(d) the absence of any impediment under section 1, sub-section (4), to the grant of the certificate; and

(e) the debts and securities in respect of which the certificate is applied for.

[Act V of 1881, s. 68.]

(2) If the petition contains any averment which the person verifying it knows or believes to be false, that person shall be subject to punishment according to the provisions of the law for the time being in force for the punishment of giving or fabricating false evidence.

[Guardians and Wards Bill, s. 11.]

7. (1) If the District Court is satisfied that there is ground for entertaining the application, it shall fix a day for the hearing thereof and cause notice of the application and of the day fixed for the hearing—

(a) to be served on any person to whom, in the opinion of the Court, special notice of the application should be given, and

(b) to be posted on some conspicuous part of the court-house and published in such other manner, if any, as the Court, subject to any rules made by the High Court in this behalf, thinks fit,

and upon the day fixed, or as soon thereafter as may be convenient, shall proceed to determine the right to the certificate.

[Act XXVII of 1860, s. 6.]

(2) The High Court may, on application made by petition and on cause shown to its satisfaction, suspend the granting of the certificate by the District Court, and may direct such further proceedings for the investigation of the right to the certificate as it thinks fit.

[Succession Certificate Bill, 1883, s. 3: and Act XXVII of 1860, s. 8.]

8. When the District Court grants a certificate, it shall therein specify the debts and securities set forth in the application for the certificate and may thereby empower the person to whom the certificate is granted to receive interest or dividends on the securities specified therein or on any of them, or to negotiate the securities or any of them.

9. Subject to the provisions of this Act, the certificate of the District Court shall, with respect to the debts and securities specified therein, be conclusive of the representative title of the person to whom the certificate is granted, and shall, notwithstanding any contravention of section 1, sub-section (4), or other defect, afford full indemnity to all debtors of the deceased paying their debts to that person.

10. (1) The District Court may require, as a condition precedent to the granting of a certificate, that the person to whom it proposes to make the grant shall give a bond to the Judge of the Court to ensure for the benefit of the Judge for the time being, with one or more surety or sureties for rendering an account of debts and securities received by him and for indemnity of persons who may be entitled to the whole or any part of those debts and securities.

(2) The Court may, on application made by petition and on cause shown to its satisfaction, and upon such terms as to security, or providing that the money received be paid into Court, or otherwise as the Court thinks fit, assign the bond to some proper person, and that person shall thereupon be entitled to sue on the bond in his own name as if it had been originally given to him instead of to the Judge of the Court, and to recover, as trustee for all persons interested, such amount as may be recoverable thereunder.

11. (1) Where there is a dispute among persons claiming as the representatives of a deceased person to be jointly entitled to be proprietors of any securities, the District Court, on the application of any of the claimants and on cause shown to its satisfaction, may, so far as regards the securities, grant a certificate under this Act to a person appointed by the Court to act as trustee under this section, and shall specify in the certificate the securities and the several persons appearing to such trustee to be the proprietors thereof and their respective shares therein.

(2) The trustee shall be entitled by virtue of such certificate to receive and give discharges for the interest or dividends on the securities, and shall account for and pay the interest or dividends to the several persons specified in the certificate to be thereunto entitled, according to the shares therein set forth, and may act for those persons in all other respects concerning the securities, and shall be entitled to receive such commission, not exceeding one per centum, on the sums received and paid by him, as the Court thinks fit.

12. (1) Where there is a dispute among persons claiming as the representatives of a deceased person to be jointly entitled to be proprietors of any securities, the District Court, on the application of any of the claimants and on cause shown to its satisfaction, may, so far as regards the securities, grant a certificate under this Act to a person appointed by the Court to act as trustee under this section, and shall specify in the certificate the securities and the several persons appearing to such trustee to be the proprietors thereof and their respective shares therein.

(2) The trustee shall be entitled by virtue of such certificate to receive and give discharges for the interest or dividends on the securities, and shall account for and pay the interest or dividends to the several persons specified in the certificate to be thereunto entitled, according to the shares therein set forth, and may act for those persons in all other respects concerning the securities, and shall be entitled to receive such commission, not exceeding one per centum, on the sums received and paid by him, as the Court thinks fit.

*The Succession Certificate Bill.**(Sections 12—20.)*

(3) If any such dispute among persons claiming to be proprietors of any securities is not ended within two years from the date of the certificate granted under sub-section (1), the trustee may apportion the principal sum of the securities rateably among the parties appearing from the certificate to be proprietors thereof, and may apply for and receive new securities from the proper officer appointed to issue them in the respective names of the several parties certified to be entitled thereto.

(4) The receipt of the trustee for such new securities, by endorsement on the old securities or otherwise, shall be a legal discharge against the disputing parties claiming to be entitled to the several amounts for which the securities are issued.

(5) If the amount of the securities in dispute or any part thereof is not sufficient to admit of their rateable division according to the rules applicable to the issue of such securities, the trustee may sell and dispose of the disputed securities, or such part as may be necessary, and apportion the proceeds thereof among the parties certified to be entitled to receive the same.

(C) A certificate granted to a trustee appointed under this section shall supersede any previous certificate so far as the previous certificate relates to the securities specified in the certificate granted to the trustee.

[Act XXVII of 1860, s. 7.]

12. A certificate under this Act shall have effect throughout the whole of British India.

Local extent of certificate.

[Act XXVII of 1860, s. 6: 7 Bom. H. O. R., A. C., 71: 8 W. R., C. R., 376: 17 W. R., C. R., 566: I. L. R. 1 Cal. 127, 0 Cal. 40, and 1 All. 287: and Punjab Record, Civil Judgment No. 103 of 1888.]

13. (1) An appeal shall lie to the High Court from an order of a District Court granting or refusing or, on review, revoking a certificate under this Act, and the High Court may, if it thinks fit, by its order on the appeal declare the person to whom the certificate should be granted and direct the District Court, on application being made therefor, to grant it accordingly, in supersession of the certificate, if any, already granted.

(2) Subject to the provisions of sub-section (1), and of Chapters XLVI and XLVII of the Code of Civil Procedure as applied by section 647 of that Code, an order of a District Court under this Act shall be final.

[Act XXVII of 1860, ss. 7 and 13.]

14. Save as provided by this Act, a certificate thereunder in respect of any debts or securities shall be invalid if such a certificate has been previously granted in respect of the debts or securities or if a grant of probate or letters of administration has been previously made in respect of the estate including them.

15. (1) A grant of probate or letters of administration under the Probate and Administration Act, 1881, in respect of an estate shall be deemed to supersede any certificate previously granted under this Act in respect of any debts or securities included in the estate.

[Act V of 1881, s. 152, and s. 2 (3) of this Act.]

Effect on certificate of subsequent probate or letters of administration.

(2) When at the time of the grant of the probate or letters any suit or other proceeding instituted by the holder of the certificate regarding any such debt or security is pending, the person to whom the grant is made shall, on applying to the Court in which the suit or proceeding is pending, be entitled to take the place of the holder of the certificate in the suit or proceeding.

16. Where a certificate under this Act has been superseded wholly or in part, or is invalid, by reason of the grant of a certificate to a trustee under section 11, or to a person named in an order of the High Court under section 13, or by reason of the certificate having been revoked, or by reason of a certificate having been previously granted, or by reason of a grant of probate or letters of administration, or for any other cause, all payments made to, and dealings had with, the holder of the superseded or invalid certificate in ignorance of its supersession or invalidity shall be held good against claims under any other certificate or under the probate or letters of administration.

Validation of payments made in good faith to holders of invalid certificates.

[Act XXVII of 1860, ss. 6, 11 and 14.]

17. (1) A District Court may from time to time, on the application of the holder of a certificate under this Act, extend the certificate to any debt or security not originally specified therein, and every such extension shall have the same effect as if the debt or security to which the certificate is extended had been originally specified therein.

(2) Upon the extension of a certificate, powers with respect to the receiving of interest or dividends on, or the negotiation of, any security to which the certificate has been extended may be conferred, and a bond for the purposes mentioned in section 10 may be required, in the same manner as upon the original grant of a certificate.

[Act XXVII of 1860, ss. 21 and 22.]

18. Certificates shall be granted and extended in the forms set forth in the second schedule.

Forms of certificate and extended certificates.

[New.]

sions of certificates shall be made, as nearly as circumstances admit, in the forms set forth in the second schedule.

19. Where a District Court has not conferred on the holder of a certificate any power with respect to a security specified in the certificate, or has only empowered him to receive interest or dividends on the security, the Court may, on application made by petition and on cause shown to its satisfaction, amend the certificate by conferring one or other of the powers mentioned in section 8, or by substituting for the power to receive interest or dividends a power to negotiate the security, as the case may be.

20. For Nos. 11 and 12 of the second schedule to the Court-fees Act, 1870, the following shall be substituted, namely:—

New articles substituted for articles 11 and 12, Schedule I, Act VII, 1870.

VII of 1870.

*The Succession Certificate Bill.**(Sections 21—25.)*

Number.		Proper fee.
"11. Pro- bate of a will or letters of adminis- tration with or without will an- nexed.	If the amount value of the pro- perty in respect of which the grant of probate or letters is made exceeds one thou- sand ru- pees.	Two per centum on such amount or value: provid- ed that when, after a certificate has been grant- ed under the Succession Certificate Act, 1888, or any enactment repealed by that Act, in respect of any property included in an estate, a grant of pro- bate or letters of adminis- tration is made in respect of the same estate, the fee payable in respect of the latter grant shall be reduc- ed by the amount of the fee paid in respect of the former grant.
"12. Cer- tificate under the Succes- sion Cer- tificate Act, 1888.	In any case.	Two per centum on the amount or value of any debt or security specified in the certificate under sec- tion 8 of the Act, and three per centum on the amount or value of any debt or security to which the cer- tificate is extended under section 17 of the Act. NOTE.—(1) The amount of a debt is its amount, in- cluding interest, on the day on which the inclusion of the debt in the certifi- cate is applied for so far as such amount can be as- certained. (2) Whether or not any power with respect to a security specified in a cer- tificate has been conferred under the Act, and, where such a power has been so conferred, whether the power is for the receiving of interest or dividends on, or for the negotiation of, the security, the value of the security, is its mar- ket value on the day on which the inclusion of the security in the certificate is applied for, so far as such value can be ascer- tained."

[N. W. P. High Court Circular Order No. 7 of 1878.] 21. (1) Every application for a certificate or for the extension of a certificate must be accompanied by a deposit of a sum equal to the fee payable under article 12 of the first schedule to the Court-fees Act, 1870, in respect of the certificate or extension applied for.

(2) Every objection to the grant of a certificate must, when the objector claims, but has, not made an application for, the grant of the

certificate to himself, be accompanied by a like deposit.

(3) If the application or the claim is allowed, the sum deposited by the applicant or by the objector, as the case may be, shall be expended under the direction of the Court, in the purchase of the stamp to be used for denoting the fee payable as aforesaid.

(4) Any sum received under sub-section (1) or sub-section (2), and not expended under sub-section (3), shall be refunded to the person who deposited it.

22. Where a certificate in the form, as near-ly as circumstances admit of 1860, ss. 19, 20 and 21.]
Effect of certificate granted or extended by British representative in Foreign State. ly as circumstances admit of the second schedule has been granted to a resident within a Foreign State by the British representative accredited to the State, or where a certificate so granted has been extended in such form by such representative, the certificate shall, when stamped in accordance with the provisions of the Court-fees Act, 1870, with respect to certificates under this Act, have the same effect in British India as a certificate granted or extended under this Act.

23. (1) No decision under this Act upon any question of right between any parties shall be held to bar the trial of the same question in any other suit or proceeding between the same parties, and nothing in this Act shall be construed to affect the liability of any person who may receive the whole or any part of any debt or security to account therefor to the person lawfully entitled thereto: [New.] [Act XXVII of 1860, s. 5.]

(2) But a suit shall not lie against a trustee appointed under section 11 in respect of anything done by him in accordance with the provisions of that section. [Act XXVII of 1860, s. 9.]

24. (1) Where a certificate has been granted under this Act or any enactment repealed by this Act, or a grant of probate or letters of administration has been made, a curator appointed under Act XIX of 1841 shall not exercise any authority lawfully belonging to the holder of the certificate or to the executor or administrator: [Act XXVII of 1860, s. 17.]

(2) But persons who have paid debts or rents to a curator authorised by a Court to receive them shall be indemnified, and the curator shall be responsible for the payment thereof to the person who has obtained the certificate, probate or letters of administration, as the case may be.

25. Any probate or letters of administration granted before the first day of April, 1881, by any Supreme or High Court of Judicature in any case in which the deceased person was not a British subject within the meaning of the charter of the Court and any assets belonging to him were at the time of his death within the local limits of the jurisdiction [Act XXVII of 1860, s. 18.]
Effect of certain probates and letters.

The Succession Certificate Bill.(Section 26. *The First Schedule.—Enactments repealed.*)*(The Second Schedule.—Forms of certificate and extended certificate.)*

of the Court shall, for the purpose of the recovery of debts, the protection of persons paying debts, and the negotiation of securities included in the estate of the deceased, be deemed to have and to have had the effect which a grant of probate or letters of administration has under the Indian Succession Act, 1865 :

Provided that nothing in this section shall be construed to validate any disposal of property by an executor or administrator which has before the commencement of this Act been declared by any competent Court to be invalid.

X of 1865.

VII of 1870.

26. In the Court-fees Act, 1870, section 19, clause viii, the word "or" shall be inserted between the words "probate of a will" and the words "letters of administration": and in the Regulation of the Bombay Code No. VIII of 1827, section 11, the word and figures "section 10" shall be substituted for the words and figures "sections 9 and 10."

THE FIRST SCHEDULE.

ENACTMENTS REPEALED.

(See section 2).

Number and year.	Subject or title.	Extent of repeal.

Acts of the Governor-General in Council.

XXVII of 1860.	Collection of debts on successions.	So much as has not been repealed.
VII of 1870	Court-fees Act, 1870.	In section 19, clause viii, the words "and certificate mentioned in the first schedule to this Act annexed, No. 12," and the words "or certificate."
XV of 1874	Laws Local Extent Act, 1874.	So much as relates to Act XXVII of 1860.
V of 1881	Probate and Administration Act, 1881.	Sections 151 and 153.

Act of the Lieutenant-Governor of Bengal in Council.

VII of 1880	Public De- mands' Re- covery Act, 1880.	In section 7, clause (3), the words "and the note to paragraph 12 of Schedule I."
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VI.—18

Number and year.	Subject or title.	Extent of repeal.
<i>Regulation of the Bombay Code.</i>		
VIII of 1827	Administra- tion of Es- tates.	So much as has not been repealed, except sections 10 and 11 and Appendix C.

THE SECOND SCHEDULE.

FORMS OF CERTIFICATE AND EXTENDED CERTIFICATE.

(See section 18.)

In the Court of

To A. B.

Whereas you applied on the day of for a certificate under the Succession Certificate Act, 1888, in respect of the following debts and securities, namely:—

Debts.

Serial number.	Name of debtor.	Amount of debt, including interest, on date of application for certificate.	Description and date of instrument, if any, by which the debt is secured.

Securities.

Serial number.	DESCRIPTION.			Market-value of security on date of application for certificate.
	Distinguishing number or letter of security.	Name, title or class of security.	Amount or par value of security.	

This certificate is accordingly granted to you and empowers you to collect those debts [and [to receive] [interest] [dividends] [on] [to negotiate] [those securities].

Dated this day of .

District Judge.

The Succession Certificate Bill.

(The Second Schedule.—Forms of certificate and extended certificate.)

In the Court of

On the application of *A. B.* made to me on the _____ day of _____, I hereby extend this certificate to the following debts and securities, namely:—

Debts.

Serial number.	Name of debtor.	Amount of debt, including interest, on date of application for extension.	Description and date of instrument, if any, by which the debt is secured.

Securities.

Serial number.	DESCRIPTION.			Market-value on date of application for extension.
	Distinguishing number or letter of security.	Name, title or class of security.	Amount or par value of security.	

This extension empowers *A. B.* to collect those debts [and] [to receive] [interest] [dividends] [on] [to negotiate] [those securities].

Dated this _____ day of _____

District Judge.

STATEMENT OF OBJECTS AND REASONS.

THE object of this Bill is to re-enact Act XXVII of 1860 and amend the Court-fees Act, 1870, in accordance with the proposal made by the Hon'ble Major Baring in his Succession Certificate Bill of 1883 and with the suggestions which that Bill evoked from Local Governments, High Courts and other authorities.

2. The following was the Statement of Objects and Reasons which Major Baring appended to his Bill:

"ARTICLE 12, Schedule I, of the Court-fees Act, VII of 1870, provides, among other matters, for the levy of a fee of two per cent. on the amount or value of the property in respect of which a certificate is granted under Act XXVII of 1860. The following note is appended to the article:

'The person to whom and such certificate is granted, or his representative, shall, after the expiration of twelve months from the date of such certificate, and thereafter whenever the Court granting such certificate requires him so to do, file a statement on oath of all moneys recovered or realized by him under such certificate.

'If the moneys so recovered or realized exceed the amount of debts or other property as sworn to by the person to whom the certificate is granted, the Court may cancel the same, and order such person to take out a fresh certificate and pay the fee prescribed by this schedule for such excess.

'In default of filing such statement within the time allowed the Court may cancel the certificate.'

"2. In the course of the discussions in the Legislative Council which preceded the passing of the Probate and Administration Act, V of 1881, a proposal was made by Mr. Pitt-Kennedy that Act XXVII of 1860 and the Court-fees Act should be amended so as to require, from any one obtaining a certificate under the former Act for the recovery of any portion of the estate of a deceased person, payment of a court-fee at the rate of two per cent. on the entire value of the estate.

"3. A circular was thereupon addressed to Local Governments calling for opinions on this proposal.

"The replies received show that the weight of authority is altogether against its adoption; but many of them call attention to the fact, already more than once brought to the notice of the Government of India, that the requirements of the note in the Court-fees Act above referred to are as a rule neglected or evaded, that persons taking out certificates do not file the statements required by it, that the Courts have no proper means of compelling them to do so, and that large amounts of debts are thus collected under certificates obtained for trifling sums.

"4. Various suggestions have been made for enforcing compliance with the provisions of the note; but it appears to the Government of India that there are objections to any device for securing the fee which involves the imposition on the person obtaining the certificate of a duty to be performed after he has obtained the certificate.

"The great mass of the people who take out certificates are so indolent or careless or unintelligent that there is little hope of getting them to comply with the provisions of such a law; and the consequence is that, if it is not allowed to remain a dead letter, as the present law has been, public officers will be constantly compelled to inflict penalties on large numbers of persons many of whom have been guilty of no deliberate wrong.

"5. The simple plan, as it seems to the Government of India, is that already adopted without any warrant of law by some of the officers consulted, namely, to require each applicant for a certificate to file with his application a schedule of the debts in respect of which the certificate is required, and to amend Act XXVII of 1860 so as to make the certificate good only for the debts entered in the schedule, at the same time allowing the certificate-holder, if he afterwards finds that he needs a certificate for other debts, to obtain an extension of the certificate on paying the additional duty, and (if the Court requires him to do so) giving additional security.

"6. The only objection that has been taken to this arrangement is that taken by the Calcutta High Court in their Registrar's letter No. 54, dated 10th January 1880, printed in paper No. 20 to the Court-fees Bill. They fear that 'improper use' might be made of the schedule 'by fraudulent debtors whose debts were not in the knowledge of the applicant at the time [he filed the schedule], or in some way prejudice might arise.'

"Now, there is little doubt that a fraudulent debtor would take the point referred to, and that he would thereby put the certificate-holder to the trouble of explaining his omission to enter the debt in his original schedule; but there would be no great hardship in this, and there would, on the other hand, be a certain compensating advantage, inasmuch as (as observed in one of the replies to the circular) the fear of this would stimulate applicants for certificates to be careful in compiling their schedules.

"7. Assuming that the law is to be amended in the manner proposed, a further question arises as to what debts the applicant for a certificate should be bound to include in his application. Should he be bound to include—

(a) all debts known to him to be outstanding, including those which could be realised equally well without a certificate; or

(b) only those debts which he chooses to include because he believes he cannot realise them without a certificate?

"The former, it is believed, would be more in accordance with the views of those who framed the existing law; but it appears to the Governor General in Council that it would be sufficient to adopt the second mode of valuation and allow the applicant to take out a certificate in respect of such debts only as he thinks fit. No doubt, a larger revenue might be obtained by insisting on the other mode of valuation; but it is apprehended, having regard to the class of people who take out these certificates, that any system requiring the applicant to give a complete list of debts would, if it was to be thoroughly enforced, necessitate proceedings of an inquisitorial nature for which no sufficient machinery exists and which it would not be worth while to undertake for the sake of the additional revenue to be obtained.

"8. The rule which it is now proposed to lay down, while it dispenses with all proceedings of an inquisitorial or penal nature, may reasonably be expected to lead to some increase of the revenue under this head, inasmuch as, the certificate being expressly limited in its operation to the debts specified in it, the necessity of including in it all debts except those due from persons standing in some peculiarly friendly or confidential relation will be brought home to the applicants, and debtors will probably become alive to the risk they run in paying a debt which is omitted from it.

"The additional revenue realized will not, as just observed, be as large as if the alternative mode of valuation were adopted, but this is a result which, for the reason already stated, the Government is prepared to accept.

"9. The present bill has been prepared for the purpose of carrying out the above views. The effect of it, if it becomes law, will be that every applicant for a certificate under Act XXVII of 1860 will be required to state in his application the debts in respect of which he desires the certificate. It will be in his option to include what debts he pleases. He will pay duty only in respect of the debts which he elects to include, and the operation of the certificate will be limited to those debts. If he subsequently desires to include other debts, he can have the certificate extended to them on paying the additional duty. The note appended to article 12 of the schedule to the Court-fees Act will not apply to him. For the rest, the amendments made by the Bill in Act XXVII of 1860 and in the Probate and Administration Act, 1881, are of an unimportant nature and merely such as are necessitated by the above alterations in the substance of the law."

3. As regards the main provisions of Major Baring's Bill there was a considerable preponderance of opinion among Local Governments and High Courts in favour of them.

4. But very many authorities, including the Government of the North-Western Provinces and Oudh, the High Court for the North-Western Provinces, the Hon'ble the Advocate General of Bengal, the Administrator General of Madras, Mr. Trenlett of the Panjab Chief Court, and the Hon'ble Mr. Conlan of the Allahabad Bar, urged the repeal of the last thirty words of section 2 of Act XXVII of 1860 on the ground of the difficulty of construing them, of the capricious manner in which they are in practice construed, of their incompatibility with the scheme of Major Baring's Bill, and of the loss of revenue which would necessarily result from their retention. These words have accordingly been omitted from section 4 of the Bill.

5. Another suggestion was that the exemption from court-fees of certificates in respect of debts and securities of value not exceeding one thousand rupees was inconsistent with a scheme which was to allow an applicant to include only as much as he thought fit of the debts and securities of a deceased person. This suggestion has been accepted, and it is proposed in section 20 and the first schedule to amend the Court-fees Act accordingly.

6. A further suggestion was that some higher fee should be charged in respect of debts which were not originally included in a certificate and to which the certificate has to be subsequently extended. This suggestion has also been accepted in section 20 of the Bill.

7. The other portions of the Bill which appear to call for remark are the following :—

Section 2.—With reference to the Probate and Administration Act, 1881, and certain remarks recorded on the Bill of 1883 by Mr. Cordeaux, District Judge of Poona, it is proposed to repeal the Regulation of the Bombay Code No. VIII of 1827. In the consideration of this proposal by the Select Committee the opinions of the Government and High Court of Bombay will of course carry great weight.

Section 3.—Proposals made by the Government of Bombay and the Hon'ble Mr. Conlan have suggested the definition of the word "security".

Sections 9 and 16.—These sections are designed for the protection of persons dealing in good faith with holders of certificates, even though the certificates have been superseded or are otherwise invalid.

Section 10.—This section follows an unanimous recommendation of the Hon'ble Judges of the High Court for the North-Western Provinces.

Section 11.—The retention of this section, which appears to be little used at present, will be for the consideration of the Select Committee to which the Bill is to be referred.

Section 12.—In proposing to make a certificate have effect throughout the whole of British India, the Bill is drawn in accordance with the advice of the Hon'ble Mr. Conlan, who has pointed out the grave inconvenience which sometimes arises from the limitation of the local operation of certificates under Act XXVII of 1860.

Section 13.—In this section it is proposed to specify the orders from which appeals are to lie, and to leave no room for doubt as to the authority of a Court to review its orders.

Section 21.—This section prescribes a practice which has been enforced in the North-Western Provinces for the last ten years.

Section 23.—The early part of the first sub-section was suggested by the Hon'ble Mr. Justice Field.

Section 25.—This section enlarges the effect of the grants of administration at which section 150 of the Probate and Administration Act, 1881, is aimed.

8. In view of the possible effect of section 4 of the Bill, the Governor General in Council desires that Local Governments and High Courts, and the officers who may be consulted by them, will, where any such enactment as the Bombay Civil Courts Act, 1869, section 16, the Oudh Civil Courts Act, 1879, sections 25 and 26, the Punjab Courts Act, 1884, section 29, or the Bengal, North-Western Provinces and Assam Civil Courts Act, 1887, sections 23 and 24, is in force, consider its sufficiency, and, where no such enactment is in force, consider whether such an enactment will not be necessary or at least convenient.

The 18th August 1888.

(Signed) J. WESTLAND.

S. HARVEY JAMES,
Secretary to the Government of India.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced into the Council of the Governor-General of India for the purpose of making Laws and Regulations on the 22nd August 1888:

Bill No. 11 of 1888.

A bill to amend the Code of Civil Procedure and the Presidency Small Cause Courts Act, 1882.

WHEREAS it is expedient to amend the Code of Civil Procedure and the Presidency Small Cause Courts Act, 1882; It is hereby enacted as follows:

1. For the second schedule to the Code of Civil Procedure there shall be substituted the schedule in the first schedule to this Act.

2. (1) To section 23 of the Presidency Small Cause Courts Act, 1882, the following shall be added, namely:—"Subject to such control, the Court may modify or cancel any notification under this section as occasion may appear to it to require."

(2) For the second schedule to the same Act there shall be substituted the schedule in the second schedule to this Act.

(3) Any declaration which has been notified under the proviso to section 23 of the Presidency Small Cause Courts Act, 1882, before the day on which this Act is passed, and which was in force immediately before that day, shall, subject to the powers of the Court under that section, be construed, so far as may be, as referring to the schedule which has been substituted by the last foregoing sub-section for the second schedule to that Act.

3. To section 589 of the Code of Civil Procedure the following shall be added, namely:

"Provided that an appeal from an order specified in section 588, clause (17), shall lie—

(a) to the District Court where the order was passed by a Court subordinate to that Court, and

(b) to the High Court in any other case."

4. Act VIII of 1880 (*an Act to correct a clerical error in the Indian Limitation Act,*

Repeal.

1877) and section 26 of the Provincial Small Cause Courts Act, 1887, are hereby repealed.

THE FIRST SCHEDULE TO THIS ACT.

THE SECOND SCHEDULE TO THE CODE OF CIVIL PROCEDURE.

(See section 5.)

CHAPTERS AND SECTIONS OF THIS CODE EXTENDING TO PROVINCIAL COURTS OF SMALL CAUSES.

PRELIMINARY: Sections 1, 2, 3 and 5.

CHAPTER I.—Of the Jurisdiction of the Courts and *Res Judicata*, except section 11 and the last paragraph of section 14.

CHAPTER II.—Of the Place of Suing, except section 20, paragraph 4, and sections 22 to 24 (both inclusive).

CHAPTER III.—Of parties and their Appearances, Applications and Acts.

CHAPTER IV.—Of the Frame of the Suit, except section 42 and section 44, rule a.

CHAPTER V.—Of the Institution of Suits.

CHAPTER VI.—Of the Issue and Service of Summons, except section 77.

CHAPTER VII.—Of the Appearance of the Parties and Consequence of Non-appearance.

CHAPTER VIII.—Of Written Statements and Set-off.

CHAPTER IX.—Of the Examination of the Parties by the Court, except section 119.

CHAPTER X.—Of Discovery and the Admission, &c., of Documents.

CHAPTER XII.—Section 155, first paragraph, Judgment where either party fails to produce his evidence.

CHAPTER XIII.—Of Adjournments.

CHAPTER XIV.—Of the Summoning and Attendance of Witnesses.

CHAPTER XV.—Of the Hearing of the Suit and Examination of Witnesses, except sections 182 to 188 (both inclusive).

CHAPTER XVI.—Of Affidavits.

CHAPTER XVII.—Of Judgment and Decree, except sections 204, 207, 211, 212, 213, 214 and 215.

- CHAPTER XVIII.—Of Costs, sections 220, 221 and 222.
- CHAPTER XIX.—Of the Execution of Decrees, sections 223 to 236 (both inclusive), 239 to 258 (both inclusive), 259 (except so far as relates to the recovery of wives), 266 (except so far as relates to immoveable property), 267 to 272 (both inclusive), 273 (so far as relates to decrees for moveable property), 275 to 283 (both inclusive), 284 (so far as relates to moveable property), 285, 286, 287, 288, 289, 290 (so far as relates to moveable property), 291, 292, 293 (so far as relates to re-sales under 297), 294 to 303 (both inclusive), 328 to 333 (both inclusive, so far as relates to moveable property), 336 to 343 (both inclusive).
- CHAPTER XX.—Section 360, Power to invest certain Courts with Insolvency-jurisdiction.
- CHAPTER XXI.—Of the Death, Marriage and Insolvency of Parties.
- CHAPTER XXII.—Of the Withdrawal and Adjustment of Suits.
- CHAPTER XXIII.—Of Payment into Court.
- CHAPTER XXIV.—Of requiring Security for Costs.
- CHAPTER XXV.—Of Commissions, except section 396.
- CHAPTER XXVI.—Suits by Paupers.
- CHAPTER XXVII.—Suits by and against Government or Government Servants.
- CHAPTER XXVIII.—Suits by Aliens and by and against Foreign and Native Rulers.
- CHAPTER XXIX.—Suits by and against Corporations and Companies.
- CHAPTER XXX.—Suits by and against Trustees, Executors and Administrators.
- CHAPTER XXXI.—Suits by and against Minors and Persons of unsound Mind.
- CHAPTER XXXII.—Suits by and against Military Men.
- CHAPTER XXXIII.—Interpleader.
- CHAPTER XXXIV.—Of Arrest and Attachment before Judgment, except as regards Immoveable Property.

- CHAPTER XXXVI.—Appointment of Receivers.
- CHAPTER XXXVII.—Reference to Arbitration.
- CHAPTER XXXVIII.—Of Proceedings on Agreement of Parties.
- CHAPTER XLVI.—Reference to and Revision by High Court.
- CHAPTER XLVII.—Of Review of Judgment, sections 623, 626 and 630.
- CHAPTER XLIX.—Miscellaneous.

THE SECOND SCHEDULE TO THIS ACT.

THE SECOND SCHEDULE TO THE PRESIDENCY SMALL CAUSE COURTS ACT, 1882.

(See section 23.)

PORTIONS OF CIVIL PROCEDURE CODE EXTENDING TO COURT.

PRELIMINARY: Section 2, Interpretation-clause.

CHAPTER I.—Of the Jurisdiction of the Courts and *Res Judicata* except section 11.

CHAPTER II.—Of the Place of Suing, except sections 15 to 19 (both inclusive), Section 20, paragraph 4, sections 22, 23 and 24, and section 25, paragraphs 2 and 3.

CHAPTER III.—Of Parties and their Appearances, Applications and Acts, except section 37, clause (b), and the last paragraph.

CHAPTER IV.—Of the Frame of the Suit, except section 42 and section 44, rule a.

CHAPTER V.—Of the Institution of Suits, except section 53, clause (b), sub-clause (iv), section 55, section 57, clause (b), and sections 58 and 62.

CHAPTER VI.—Of the Issue and Service of Summons, except, in section 64, the words "and the copies or concise statements required by section 58 have been filed," and sections 65 and 66.

CHAPTER VII.—Of the Appearance of the Parties and Consequence of Non-appearance.

CHAPTER VIII.—Of Written Statements and Set-off, except sections 110, 112 and 113.

CHAPTER IX.—Of the Examination of the Parties by the Court, except section 119.

- CHAPTER X.—Sending for Records and Production, &c., of Documents, sections 137 (except paragraph 2), 138, 140 (except the proviso and the last six words), 141, 141A, 142, 142A, sub-section (1), 143 and 145.
- CHAPTER XI.—Settlement of Issues, sections 150 and 151.
- CHAPTER XII.—Disposal of the Suit at the first Hearing, except sections 154 and 155.
- CHAPTER XIII.—Of Adjournments.
- CHAPTER XIV.—Of the Summoning and Attendance of Witnesses, except sections 168, 169, 170 and 175.
- CHAPTER XV.—Of the Hearing of the Suit and Examination of Witnesses, except sections 182 to 191 (both inclusive) and the second paragraph of section 193.
- CHAPTER XVI.—Of Affidavits.
- CHAPTER XVII.—Of Judgment and Decree, except sections 200, 201, 202, 204, 207 and 211 to 215 (both inclusive).
- CHAPTER XVIII.—Of Costs.
- CHAPTER XIX.—Of the Execution of Decrees, sections 229, 229A and 229B, section 230, first two clauses, sections 231 to 236 (both inclusive), 243 to 259 (both inclusive), 266 (so far as relates to the attachment of moveable property or decrees therefor), 267 to 272 (both inclusive), 273 (so far as relates to decrees for moveable property), 275 to 303 (both inclusive), 328 to 333 (both inclusive), 336 (except the last three clauses), and 337 to 343 (both inclusive).
- CHAPTER XXI.—Of the Death, Marriage and Insolvency of Parties.
- CHAPTER XXII.—Of the Withdrawal and Adjustment of Suits.
- CHAPTER XXIII.—Of Payment into Court.
- CHAPTER XXIV.—Of requiring Security for Costs.
- CHAPTER XXV.—Of Commissions, except section 396.
- CHAPTER XXVII.—Suits by or against Government or Public Officers.
- CHAPTER XXVIII.—Suits by Aliens and by and against Foreign and Native Rulers, except section 433, sub-sections (1), (2), (4) and (5).
- CHAPTER XXIX.—Suits by and against Corporations and Companies.
- CHAPTER XXX.—Suits by and against Trustees, Executors and Administrators.
- CHAPTER XXXI.—Suits by and against Minors and Persons of Unsound Mind.
- CHAPTER XXXII.—Suits by and against Military Men.
- CHAPTER XXXIII.—Interpleader.
- CHAPTER XXXIV.—Of Arrest and Attachment before Judgment, except as regards the attachment of immoveable property.
- CHAPTER XXXV.—Interlocutory Orders, sections 498, 499, 500 and 502.
- CHAPTER XXXVI.—Appointment of Receivers, section 503.
- CHAPTER XXXVII.—Reference to Arbitration, except the provisions of section 522 as to appeals.
- CHAPTER XXXVIII.—Of Proceedings on Agreement of Parties, except so much of section 527, clause (b), as relates to immoveable property.
- CHAPTER XLVI.—Of Reference to and Revision by High Court.
- CHAPTER XLIX.—Miscellaneous.

STATEMENT OF OBJECTS AND REASONS.

The object of this Bill is to remove doubts which have been expressed as to the effect of the Debtors Act, VI of 1888, and the Civil Procedure Code Amendment Act, VII of 1888, on the procedure of Presidency and Provincial Courts of Small Causes, and as to the course of appeal from orders in insolvency-matters under sections 351, 352, 353 and 357 of the Code of Civil Procedure.

As section 653 of that Code (section 8, Act VI, 1888) does not apply to Presidency Courts of Small Causes, and the portions of the Code applicable to Provincial Courts of Small Causes have now to be ascertained by reference to two Acts (XIV of 1882 and IX of 1887), it is considered that the doubts which have been expressed as to the effect of the legislation of this year on the procedure of Courts of Small Causes should be removed by the substitution of new schedules for the second schedule to the Code of Civil Procedure and the second schedule to the Presidency Small Cause Courts Act, XV of 1882.

Act VIII of 1880 (*an Act to correct a clerical error in the Indian Limitation Act, 1877*) has been rendered obsolete by section 66 of the Civil Procedure Code Amendment Act, VII of 1888.

(Signed) ANDREW R. SCOBLE.

S. HARVEY JAMES,

Secretary to the Government of India.

The 15th August 1888.