

THE



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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 18th June 1869, and was referred to a Select Committee, with instructions to make their report thereon in a fortnight :—

Bill No. 10 of 1869.

A Bill to exclude the ordinary Civil Courts from the cognizance of suits relating to land in the Bhután Dvárs, and to legalize certain Rules for the settlement of the said territory.

Whereas it is expedient to exclude the ordinary Civil Courts from the

Preamble.

cognizance of suits relating to immoveable property, revenue, and rent in the territory ceded by the Government of Bhután to the British Government in the year 1866, and commonly known as the Bhután Dvárs; And whereas certain rules contained in the Schedule to this Act have been made by the Lieutenant-Governor of Bengal for the settlement of the said territory, and it is expedient that such rules should have the force of law; It is hereby enacted as follows :—

1. The jurisdiction which the ordinary Civil Courts of Judicature have hitherto had and exercised in respect of suits and other matters connected with immoveable property, revenue, and rent in the said territory shall cease from the date of the passing of this Act.

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2. Such jurisdiction shall be exercised by such Officers and within such local limits as the Lieutenant-Governor of Bengal shall from time to time appoint in this behalf.

Validation of settlement rules.

3. The rules contained in the Schedule to this Act shall be deemed to have the force of law.

Short Title.

4. This Act may be called "The Bhután Dvárs Act, 1869."

SCHEDULE.

Rules for the settlement of the Territory ceded by the Government of Bhután to the British Government in the year 1866, known as the Bhután Dvárs.

1. At a reasonable time, before any Officer appointed under Section 2 of the Bhután Dvárs' Act, 1869, shall commence his inquiries in any Revenue Survey Circuit or other convenient tract of country, a notice shall be published in such tract calling on all interested in the suits and matters mentioned in Section 1 of the said Act, to come forward and advance their claims and protect their interests before the said Officer.

2. In the investigation of such suits and matters the said Officer shall be guided by the provisions of Regulation VII. of 1822, and shall exercise all the powers conferred upon a Collector making a settlement of land revenue by that Regulation and all other Regulations and Acts amending the same, in addition to the powers vested in him by these rules.

3. The said Officer shall make a record in such form as the Lieutenant-Governor may direct, of all rights, interests and other matters which he is empowered by these rules to investigate, ascertain, and determine.

4. The said Officer shall ascertain the position as to rights and interests connected with the soil which each person *bonâ fide* occupied before the state of things was affected by the Bhután war, and, subject to due regard for considerations of public policy, confirm him in that position: He shall take cognizance of, and decide, all disputes, conflicting claims, and doubtful questions which then existed. Provided that he shall not take cognizance of any right or interest which, being capable of exercise or assertion within twelve years before the date on which the Dvârs were transferred to the British Government, had not been exercised or asserted during the period.

5. As soon as the record of rights for any tract as mentioned in Rule 3 is completed, the said Officer shall cause it to be published in the tract, and a second copy shall be open for inspection at his Office, of which fact due notice shall be given.

6. Within one month of such publication, any person who is dissatisfied with any entry in the record, which has not been adjudicated upon by the said Officer, to present a petition to such Officer, who shall thereupon proceed to try the questions in dispute.

7. Any person aggrieved by any decision or order of the said Officer may appeal by petition to the Commissioner of the Division, or to any other Officer specially appointed by the Lieutenant-Governor to be a Commissioner in that behalf: Provided that such appeal be presented within three months of the date of the decision or order appealed against, unless sufficient cause for longer delay be shown to the satisfaction of the Commissioner.

8. The said Officer may, within one month of the passing of any decision or order by him, admit to review any such decision or order, and eventually amend, vary, or correct the same, provided that no appeal have been preferred against such order or decision to the appellate authority as defined in Rule 10.

9. The appellate authority may, within one month of the passing of any decision or order by such appellate authority on appeal, admit to review any such decision or order.

10. No appeal shall lie as of right to any authority against any order passed by the appellate authority under these rules, but, notwithstanding any thing to the contrary in these rules, the Lieutenant-Governor of Bengal may, if he think fit, alter, vary, or annul any decision or order which may have been passed under these rules:

Provided that an application in that behalf shall have been made before or within one month after the issue of the notification of confirmation of the record under Rule 11.

11. When the record of any circuit or other tract as mentioned in Rule 3 shall have been finally revised and amended in accordance with all orders passed by the said Officer or the Commissioner of the Division under these rules, the record shall be confirmed by an order of the Commissioner of the Division, to be published in the *Calcutta Gazette*.

12. From the date of the publication of such confirmation, the said record shall not be varied or altered otherwise than by an order of the Lieutenant-Governor under Rule 10, and such record shall be conclusive evidence as to any right, interest, or other matter which may be entered on it in accordance with the provisions of these rules.

STATEMENT OF OBJECTS AND REASONS.

The object of this Bill, which has been framed at the desire of the Lieutenant-Governor of Bengal, is two-fold; first, to exclude the ordinary civil courts from jurisdiction in respect of suits relating to land, rent, and revenue in the Bhután Dvârs; and secondly, to legalize certain rules which provide, *inter alia*, for the disposal of such suits.

It is thought impolitic that a newly-acquired and barbarous country should be subject to the civil jurisdiction of tribunals which, however qualified to decide cases of complexity, cannot (as the High Court itself has held in *Sreehant Shaha v. Kattoo Doss*, 10 Suth. W. R. Civil Rulings 125), entertain considerations of expediency, and which are confined to the decision of naked issues of law or of fact, and bound by the strict rules of evidence.

The rules which the Bill proposes to validate have been prepared by the Bengal Government. The Officers who may be appointed to adjudicate suits and matters, of which cognizance by the ordinary civil courts is barred, will under these rules exercise the powers conferred on a Collector making a settlement by Bengal Regulations VII. of 1822 and IX. of 1833.

The rules provide also for the publication of the record of the rights of persons having any interest in the land, and for the presentation of petitions to the Officer by whom the record has been framed, and of appeals to the Commissioner against the orders of the said Officer, by persons dissatisfied with the entries in the record.

(Signed) F. R. COCKERELL.

WHITLEY STOKES,

Secy. to the Council of the Govr. Genl.
for making Laws and Regulations.

SIMLA, }
The 1st June 1869. }