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PART VI.

BILLS OF THE GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced in the Council of the Governor General of India for the purpose of making Laws and Regulations on the 29th March 1894 :—

Bill No. 7 of 1894.

A Bill to amend the Dekkhan Agriculturists' Relief Acts, 1879 to 1886.

WHEREAS it is expedient to amend in manner hereinafter appearing the Dekkhan Agriculturists' Relief Acts, 1879 to 1886; It is hereby enacted as follows :—

1. (1) This Act may be called the Dekkhan Agriculturists' Relief Act, 1894; and it and the Dekkhan Agriculturists' Relief Acts, 1879 to 1886, may be cited collectively as the Dekkhan Agriculturists' Relief Acts, 1879 to 1894.

(2) This Act shall come into force on the first day of 189 .

2. In this Act, unless there is something repugnant in the subject or context,—

the word "section" means a section, and "Chapter" a Chapter, of the Dekkhan Agriculturists' Relief Acts, 1879 to 1886.

3. Sections 8, 9, 14, 15, 19 and 73, and the last seventeen words of section 7, are hereby repealed.

4. To section 1 the following shall be added after the words "Presidency of Bombay," namely :—

"or to any part or parts of any other such district or districts."

5. For section 2 the following shall be substituted, namely :—

"2. In construing this Act, unless there is something repugnant in the subject or context, the following rules shall be observed, namely :—

"1st.—'Agriculturist' shall be taken to mean a person who by himself, or by his servants, or by his tenants being members of his family, earns his livelihood wholly or principally by agriculture carried on within the limits of a district or part of a district to which this Act may for the time being extend, or who ordinarily engages personally in agricultural labour within those limits.

"Explanations.—(a) An agriculturist who, without any intention of changing his status as such, temporarily ceases to earn his livelihood or to engage personally in agricultural labour as aforesaid does not thereby cease to be an agriculturist within this definition.

"(b) An inamdar who, without himself cultivating his lands, derives an income from rents received from his tenants is not, nor is an assignee of Government assessment or a mortgagee, as such, an agriculturist within this definition.

"2nd.—In Chapters II, III, IV and VI, and in section 69, the term 'agriculturist,' when used with reference to any suit or proceeding, shall mean a person who, when any part of the liability which forms the subject of that suit or proceeding was incurred, was an agriculturist within the meaning of that word as defined in the first rule then in force.

"3rd.—An agriculturist shall be deemed to reside where he earns his livelihood or personally engages in agricultural labour as aforesaid.

"4th.—'Money' shall be deemed to include agricultural produce, implements and stock.

"5th.—'Lease' shall be deemed to include a counterpart, kabuliyat, an undertaking to cultivate or occupy and an agreement to lease.

"6th.—'Standing crops' shall be deemed to include garden-produce attached to trees or to the soil."

Addition of new section after section 13.

6. After section 13 the following section shall be added, namely:—

"13A. (1) Notwithstanding anything in the last foregoing section, no agreement for the set-off of profits against interest and assessment and similar charges, without an account, made after the first day of 189 , shall be set aside where the Court is satisfied that the bond was given for the principal sum stated as consideration therein, and that such sum was actually paid to the borrower or by his order, and the mortgagee has been let into actual possession of the property and is cultivating it himself or by a tenant other than the mortgageor."

"(2) Where any such agreement as is mentioned in sub-section (1) is upheld, the accounts (if any) taken in the suit shall be taken in the manner directed by the last foregoing section but subject to such agreement."

7. To sub-section (3) of section 15D the following section shall be added, namely:—

"Every decree for redemption or foreclosure of any mortgage or for the sale of any mortgaged

property at the instance of a mortgagee thereof shall name such future day, not being less than three months after the date of such decree, as the Court may think reasonable, for the payment by the mortgagor of the money payable under the decree, and no such foreclosure shall be made absolute nor shall any such sale take place before the day so named."

8. For the first seven words of section 61 the following shall be substituted, namely:—

"The Local Government may appoint any officer to exercise".

9. In Chapter XI, before section 70, the following sections shall be inserted, namely:—

"69A. The last clause of section 258 of the Code of Civil Procedure shall not apply to payments out of Court made in any proceeding under this Act. XIV of 1882

"69B. In taking an account in any suit under this Act interest shall be awarded at the following rates:—

(a) the rate, if any, agreed upon between the parties or the persons (if any) through whom they claim, unless such rate is deemed by the Court to be unreasonable; or,

(b) if such rate is deemed by the Court unreasonable, or if no rate was agreed upon, or when any agreement between the parties or the persons (if any) through whom they claim, to set-off profits against interest and assessment and similar charges without an account has been set aside by the Court, such rate as the Court may deem reasonable."

10. In section 72, after the word "agriculturist" where that word first occurs, the words "in any of the districts of Poona, Sātāra, Sholāpur and Ahmednagar,"

and in the same section, after the same word where that word afterwards occurs, the words "in any of the districts aforesaid," shall be added.

STATEMENT OF OBJECTS AND REASONS.

The object of this comparatively short Bill is to introduce into the law known as the Dekkhan Agriculturists' Relief Acts a few changes suggested by a Commission which was appointed by the Government of India in 1891 to inquire into the working of the Acts. The larger projects recommended by that Commission have no bearing upon this Bill except in one particular which will be noticed presently, and but for one reason the Government of Bombay would have been quite content to leave the law as it stands and to defer the alterations now proposed until the Acts could be consolidated into one enactment. The reason which mainly induces the Local Government to approach this Council now is to be found in section 4 of this Bill. Already the law permits the extension of the Acts to any other districts, but it happens that the physical and agricultural condition of various talukas in the same district differs greatly, and the Government of Bombay in pursuance of past policy desires only to extend the Acts to those areas where they are really needed. Since this amendment required legislation, the opportunity has been taken to give effect to some of the recommendations of the Commission

by repealing sections 8, 9, 15, 19 and 73 of the present law. Section 14 of the existing law is only repealed because it gains a wider application by being transferred to Chapter XI as 69B under section 9. By section 5 of the Bill the definition of "agriculturist" is slightly changed so as to make clearer the intention of the Legislature in the second rule and to exclude from the special law intended for agriculturists an owner of alienated land whose only title to be deemed an agriculturist in one of the districts to which the Acts apply arises from his receipt of rents from his tenants in that district. Section 6 is drafted in deference to the views of the Commission with only such conditions as appear indispensable. Section 7 provides an obviously desirable interval to enable the mortgagor in certain cases to find the money payable under a decree; and section 9 recognises under 69A a practice common in the Dekkhan. Section 10 limits the special Limitation Law to the four districts in which the Act runs, and thus endeavours to meet the recommendation of the Commission who have proposed an alteration in the general Limitation Law. The other changes require no special notice.

(Signed) W. LEE-WARNER.

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

The 28th March 1894.