

THE



# Bombay Government Gazette

Published by Authority.

THURSDAY, 22ND AUGUST 1889.

*Separate paging is given to this Part, in order that it may be filed as a separate compilation.*

## 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 14th August 1889:—

#### Bill No. 10 of 1889.

*A Bill to amend Act XXXVI of 1858.*

WHEREAS it is expedient to extend the authority of the Governor General in Council with respect to the appointment of asylums for the reception and detention of lunatics and with respect to the transfer of any lunatic from any one to any other lunatic asylum in British India; It is hereby enacted as follows:

#### 1. For section 17A of Act XXXVI of 1858

Substitution of new section for section 17A, Act XXXVI, 1858.

*(an Act relating to lunatic Asylums), as amended by Act XVIII of 1886 (an Act to amend Act XXXVI of 1858), the following shall be substituted, namely:*

Provision for provinces having insufficient or no asylums.

“17A. In either of the following cases, namely:

(a) when an Executive Government has not established within its limits a public asylum for the reception and detention of lunatics,

(b) when it appears to the Governor-General in Council that a public asylum established within such limits is not conveniently situated with respect to any part of the territories administered by such Government or does not afford sufficient or suitable accommodation,

the Governor-General in Council may from time to time appoint an asylum in any part of British India beyond the limits of such Government to be an asylum to which any Magistrate or Judge exercising jurisdiction within those limits may send lunatics as to an asylum established under this Act for the division in which his jurisdiction is situate.”

Addition of new section after section 17B, Act XXXVI, 1858.

2. After section 17B of the said Act XXXIV of 1858 the following section shall be added, namely:

“17C. Any lunatic may, by order of the Governor-General in Council, be removed from any lunatic asylum established or licensed under this Act to any other such asylum in any part of British India.”

Removal of lunatics from one asylum to another.

#### STATEMENT OF OBJECTS AND REASONS.

SOME four years ago a question which had been raised with respect to the accommodation of lunatics compelled the Governor-General in Council to pass section 3 of Act XVIII of 1886.

Two further questions touching the same subject have now arisen. One is whether, there being a lunatic asylum at Tezpur in Assam, lunatics from the Surma Valley in Assam can be sent to the Dacca asylum in Bengal. The other is whether a lunatic who is, say, a native of a district in the Madras Presidency can be sent from Bengal, where his language is not understood, to an asylum in his own country.

The object of the Bill is to set these further questions at rest.

(Signed) PHIL P. HUTCHINS.

S. HARVEY JAMES,

Secretary to the Government of India.

The 5th August 1889.

BOMBAY: PRINTED AT THE GOVERNMENT CENTRAL PRESS.



**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 28th August 1889:

**Bill No. 11 of 1889.**

*A Bill to amend Acts XVII of 1864, X of 1865, II of 1874 and V of 1881.*

WHEREAS it is expedient to amend Act XVII of 1864 (*an Act to constitute an Office of Official Trustee*) the Indian Succession Act, 1865, the Administrator General's Act, 1874, and the Probate and Administration Act, 1881; It is hereby enacted as follows:—

*Act XVII of 1864.*

1. In section 1 of Act XVII of 1864 the Addition to section 1, following shall be inserted Act XVII, 1864. before the definition of the expression "High Court", namely:—

"The word 'Government' shall mean, in relation to the Presidency of Fort William in Bengal, the Governor General in Council; in relation to the Presidency of Fort St. George, the Governor of Fort St. George in Council; and, in relation to the Presidency of Bombay, the Governor of Bombay in Council."

2. For section 5 of the said Act the following Substitution of new section for section 5. shall be substituted, namely:—

"5. Every Official Trustee appointed under this Act shall be appointed and may be suspended or removed from his office by the Government."

3. In section 6 of the said Act, for the words "Chief Justice by whom he is appointed" the word "Government" shall be substituted.

4. For the portion of section 7 of the said Act beginning with the words "It shall be lawful for the Chief Justice of the High Court" and ending with the words "it shall be lawful for the Chief Justice to appoint some person to officiate as Official Trustee" the following shall be substituted, namely:—

"It shall be lawful for the Government from time to time to grant leave of absence to the Official Trustee, but subject always to such and the like rules as may be for the time being in force as to leave of absence of officers attached to the High Court. Whenever any Official Trustee shall obtain leave of absence, it shall be lawful

for the Government to appoint some person to officiate as Official Trustee."

5. Every person holding the office of Official Trustee at the commencement of this Act shall be deemed to have been appointed under Act XVII of 1864 as amended by this Act.

Official Trustees holding office at commencement of this Act.

*The Indian Succession Act, 1865.*

6. After section 326 of the Indian Succession Act, 1865, the following section shall be inserted, namely:—

"326A. Where a person not having his domicile in British India has died leaving assets both in British India and in the country in which he had his domicile at the time of his death, and there has been a grant of probate or letters of administration in British India with respect to the assets there and in the country of domicile with respect to the assets in that country, the executor or administrator, as the case may be, in British India, after having given such notices as are mentioned in section 320 and discharged, at the expiration of the time therein named, such lawful claims as he knows of, may, instead of himself distributing any surplus or residue of the deceased's property to persons residing out of British India who are entitled thereto, transfer, with the consent of the executor or administrator, as the case may be, in the country of domicile, the surplus or residue to him for distribution to those persons."

Transfer of assets from British India to executor or administrator in country of domicile for distribution.

there has been a grant of probate or letters of administration in British India with respect to the assets there and in the country of domicile with respect to the assets in that country, the executor or administrator, as the case may be, in British India, after having given such notices as are mentioned in section 320 and discharged, at the expiration of the time therein named, such lawful claims as he knows of, may, instead of himself distributing any surplus or residue of the deceased's property to persons residing out of British India who are entitled thereto, transfer, with the consent of the executor or administrator, as the case may be, in the country of domicile, the surplus or residue to him for distribution to those persons."

*The Administrator-General's Act, 1874.*

7. In clause (b) of the definition of the expression "Presidency of Bengal" in section 3 of the Administrator-General's Act, 1874, the words "Burma, British Baluchistan" shall be substituted for the words "British Burma".

Amendment of definition of "Presidency of Bengal" in section 3, Act II, 1874.

8. (1) For the first paragraph of section 37 of the said Act, as amended by section 5 of the Administrator General's Act, 1881, beginning with the words "If in cases falling within section 36" and ending with the words "as if such letters had been granted to him", the following shall be substituted, namely:—

"If, in cases falling within section 36, no person claiming otherwise than as a creditor to be entitled to a share of the effects of the deceased obtains, within three months, a certificate from the Administrator General under the same section, or letters of administration to the estate and

X of 1865.  
II of 1874.  
V of 1881.

X of 1865.

II of 1874.

IX of 1881.



and, subject to the provisions of this section, the following consequences shall thereupon ensue, namely:—

- (i) the office of Administrator General of Bengal shall cease to exist:
- (ii) the Administrator General of a Province shall have the like rights and privileges and perform the like duties in the territories and dominions included in the Province as the Administrator General of Bengal had and performed as Administrator General therein:
- (iii) the functions of the Government under this Act shall, as regards the territories and dominions included in a Province, be discharged by the Governor-General in Council:
- (iv) the functions of whatsoever kind assigned by the foregoing provisions of this Act to the High Court at Calcutta in respect of the territories and dominions included in a Province shall be discharged by such High Court as the Governor-General in Council may, by notification in the *Gazette of India*, appoint in this behalf, and probate or letters of administration granted to the Administrator General of the Province by the High Court so appointed shall have the same effect throughout the Presidency of Bengal, as defined in this Act, or, if the Court so directs, throughout British India, as, but for the abolition of the office of Administrator General of Bengal, probate or letters of administration granted to the holder of that office by the High Court at Calcutta would have had:
- (v) in the foregoing provisions of this Act the word 'Presidency' shall be deemed to include a Province, the expression 'Presidency-town' the place of sitting of a High Court appointed by the Governor-General in Council under clause (iv) of this sub-section, and the expression 'Advocate General' a Government Advocate or other officer appointed by the Government to discharge for a Province the functions under this Act of an Advocate General for a Presidency:
- (vi) the provisions of this Act with respect to the commission of the Administrator General of Bengal shall regulate the commission payable to the Administrator General of a Province: and,
- (vii) generally, the provisions of the foregoing sections of this Act with respect to the High Court at Calcutta, and the provisions of those sections or of any other enactment with respect to the Administrator General of Bengal, shall, in relation to a Province, be construed, so far as may be, to

effects of the deceased, and such deceased was not a Hindu, Muhammadan, Parsi or Buddhist, or exempted under the Indian Succession Act, 1865, section 332, from the operation of that Act, the Administrator General may administer the estate and effects without letters of administration, in the same manner as if such letters had been granted to him:—

X of 1865.

IX of 1881.

(2) The portion of section 5 of the Administrator General's Act, 1881, beginning with the words "and in section 37 of the same Act" and ending with the words "from the operation of that Act" is hereby repealed.

Addition of new section after section 41, Act II, 1874.

namely:—

9. After section 41 of the said Act the following section shall be inserted, namely:—

"41A. Where a person not having his domicile in British India has died leaving assets both in British India and in the country in which he had his domicile at the time of his death, and proceedings for the administration of his estate with respect to assets in British India have been taken under section 36 or section 37, and there has been a grant of probate or letters of administration in the country of domicile with respect to the assets in that country, the holder of the certificate granted under section 36 or section 37, or the Administrator General, as the case may be, after having given such notices as the High Court may by any general rule to be made from time to time prescribe, for creditors and others to send in to him their claims against the estate of the deceased, and having discharged, at the expiration of the time therein named, such lawful claims as he knows of, may, instead of himself distributing any surplus or residue of the deceased's property to persons residing out of British India who are entitled thereto, transfer, with the consent of the executor or administrator, as the case may be, in the country of domicile, the surplus or residuum to him for distribution to those persons."

Transfer of certain assets from British India to executor or administrator in country of domicile for distribution.

Addition to Act II, 1874, of a Part respecting the division of the Presidency of Bengal into Provinces.

10. To the said Act, after Part VI and section 66 thereof, the following shall be added, namely:—

#### "PART VII.

##### DIVISION OF THE PRESIDENCY OF BENGAL INTO PROVINCES.

67. (1) Notwithstanding anything in the foregoing provisions of this Act, the Governor-General in Council, upon the occurrence of any vacancy in the office of the Administrator General of Bengal, may, by notification in the *Gazette of India*,—

- (a) divide the Presidency of Bengal, as defined in this Act, into so many Provinces as he thinks fit,
- (b) define the limits of each of those Provinces, and
- (c) appoint an Administrator General for each Province,

Division of the Presidency of Bengal into Provinces.



apply to the High Court and Administrator General, respectively, appointed for the Province under this section.

(2) Any proceeding which was commenced before the publication of the notification dividing the Presidency of Bengal into Provinces and to or in which the Administrator General of Bengal in his representative character was a party or was otherwise concerned shall be continued as if the notification had not been published, and the Administrator General of the Province in which the town of Calcutta is comprised shall for the purposes of the proceeding be deemed to be the successor in office of the Administrator General of Bengal.

(3) The Court of the Recorder of Rangoon shall be deemed to be a High Court for the purposes of clause (iv) of sub-section (1).

(4) Notwithstanding any division of the Presidency of Bengal, as defined in this Act, into Provinces under this section, the Administrator General of the Province in which the town of Calcutta is comprised shall be deemed to be the Administrator General for the whole of the said Presidency for the purposes of the Regimental Debts Act, 1863."

*The Probate and Administration Act, 1881.*

11. After section 145 of the Probate and Administration Act, 1881, <sup>V of 1881.</sup> the following section shall be inserted, namely:—

Addition of new section after section 145, Act V, 1881.

Transfer of assets from British India to executor or administrator in country of domicile for distribution.

"145A. Where a person not having his domicile in British India has died leaving assets both in British India and in the country in which he had his domicile at the time of his death, and there has been a grant of probate or letters of administration in British India with respect to the assets there and in the country of domicile with respect to the assets in that country, the executor or administrator, as the case may be, in British India, after having given such notices as are mentioned in section 139 and discharged, at the expiration of the time therein named, such lawful claims as he knows of, may, instead of himself distributing any surplus or residue of the deceased's property to persons residing out of British India who are entitled thereto, transfer, with the consent of the executor or administrator, as the case may be, in the country of domicile, the surplus or residue to him for distribution to those persons."

STATEMENT OF OBJECTS AND REASONS.

THE main object of this Bill (section 10) is to provide for the division, upon the occurrence of a vacancy in the office of Administrator General of Bengal, of the present unwieldy Presidency of Bengal, as defined in the Administrator General's Act, 1874, into Provinces having Calcutta, Allahabad, Lahore and Rangoon as their respective centres.

2. Another object (sections 1 to 5), which has been approved by the Honourable the Chief Justices of the Calcutta, Madras and Bombay High Courts, is to enable the Government, as occasion occurs, to combine the office of Official Trustee with that of Administrator General at Calcutta, Madras and Bombay.

3. Another object of the Bill (section 7) is to provide for the administration of estates in Upper Burma and British Baluchistan by an Administrator General.

4. A further object (section 8) is to remove an ambiguity in the expression of section 5 of the Administrator General's Act, 1881.

5. Lastly, it not infrequently happens that a person not having his domicile in British India dies leaving assets both in British India and in the country of his domicile, his estate being administered by one executor or administrator in British India and by another in the country of domicile, and it has been held by very high authority that a receipt given by the executor or administrator in the country of domicile to the executor or administrator in British India for the surplus or residue of the estate in British India is not a valid discharge to the executor or administrator in British India. An object of the Bill (sections 6, 9 and 11) is to declare that such a receipt shall, subject to conditions, be a valid discharge.

(Signed) ANDEEW R. SCOBLE.

*The 26th August 1889.*

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 28th August, 1889:—

## Bill No. 12 of 1889.

*A Bill to amend the Indian Merchandise Marks Act, 1889.*

WHEREAS it is expedient to enable Local Governments to permit piece-goods to be imported at any time before the first day of November, 1889, without having their length stamped thereon in standard yards, or in standard yards and

a fraction of such a yard; It is hereby enacted as follows:—

1. (1) The Local Government may in its discretion, and either absolutely or subject to conditions, declare that the provisions of section 18 of the Sea Customs Act, 1878, as amended by section 10, sub-section (2), of the Indian Merchandise Marks Act, 1889, shall, as regards any piece-goods mentioned in the declaration, be deemed to be in abeyance up to, and inclusive of, the thirty-first day of October, 1889.
- (2) The Local Government may delegate to a Chief Customs-officer or other officer appointed by it in this behalf the power conferred upon it by sub-section (1).

## STATEMENT OF OBJECTS AND REASONS.

The Calcutta, Madras, Rangoon and Karachi Chambers of Commerce having represented that the first day of August, 1889, has proved to be an inconveniently early date for the enforcement of the prohibition of the bringing into British India of such piece-goods as are described in clause (f) of section 18 of the Sea Customs Act, 1878, as amended by the Indian Merchandise Marks Act, 1889, the Governor-General in Council proposes to authorise Local Governments to permit the prohibition to remain in abeyance in special cases up to, and inclusive of, the thirty-first day of October, 1889.

(Signed) ANDREW R. SCOBLE.

*The 28th August, 1889.*

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