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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 11th August, 1886:—

Bill No. 16 of 1886.

A Bill to prescribe the mode of valuing certain suits for the purpose of determining the jurisdiction of Courts with respect thereto.

WHEREAS it is expedient to prescribe the mode of valuing certain suits for the purpose of determining the jurisdiction of Courts with respect thereto; It is hereby enacted as follows:—

Short title, local extent and commencement.

1. (*1*) This Act may be called the Suits Valuation Act, 1886; and

(*2*) It shall extend to such local areas, and come into force therein on such dates, as the Governor-General in Council, by notification in the Gazette of India, from time to time directs.

Power for Local Government to make rules to determine value of land for purposes of jurisdiction.

2. (*1*) The Local Government may from time to time, with the previous sanction of the Governor General in Council, make rules for determining the value of land for purposes of jurisdiction in the suits mentioned in the Court-fees Act, 1870, section 7, paragraphs v and vi, and paragraph x, clause (*d*). of 1870.

(*2*) The rules may determine the value of any class of land, or of any interest in land, in the whole or any part of the local area in which this Act is in force in the territories under the administration of the Local Government, and the value so determined may vary from place to place within the local area or part thereof to which the rules apply.

Value of relief sought in certain suits not to exceed value of the land to which those suits relate.

3. Where a suit mentioned in paragraph iv of section 7, or in article 17 of Schedule II, of the Court-fees Act, 1870, relates to land or an interest in land, the amount at which for purposes of jurisdiction the relief sought in the suit is valued shall not exceed the value of the land or interest to which the suit relates as determined by the rules made under the last foregoing section. VII of 1870.

Ad valorem court-fee value in other suits to be value for purposes of jurisdiction.

4. Where in suits other than those referred to in sections 2 and 3 court-fees are payable *ad valorem* under the Court-fees Act, 1870, the value as determinable for the computation of court-fees shall be the value for purposes of jurisdiction. VII of 1870.

Procedure where objection is taken on appeal that suit was not properly valued for purposes of jurisdiction.

5. (*1*) The objection that a suit was not properly valued for purposes of jurisdiction shall not be entertained by an appellate Court unless the objection was taken in the Court of first instance. [Act XII of 1881, s. 206]

[Act XII of 1881, s. 207.] (2) If the objection was taken in the Court of first instance but the appellate Court has before it the materials necessary for the determination of the suit, it shall dispose of the appeal as if the suit had been instituted in the proper Court.

[Act XII of 1881, s. 208.] (3) If the appellate Court has not those materials before it, it shall proceed under the rules applicable to it with respect to the hearing of appeals; but if it remands the suit, or frames and refers issues for trial, or requires additional evidence to be taken, it may direct its order either to the Court prescribed in that behalf in those rules or to any Court competent, in its opinion, to entertain the suit; and the objection that the order of the appellate Court was directed to a Court which was not competent to entertain the suit shall not be taken on further appeal.

(4) Nothing in this section shall be construed to affect the provisions of section 28 of the Court-
VII of 1870. fees Act, 1870.

Repeal of section 14 of the Madras Civil Courts Act, 1873.

6. On and from the date on which rules under this Act take effect in any part of the territories under the administration of the Governor of Fort Saint George in Council
III of 1873. to which the Madras Civil Courts Act, 1873, extends, section 14 of that Act shall be repealed as regards that part:

Provided that the repeal of that section shall not affect the jurisdiction of any Court with respect to any suit instituted in that part before the rules take effect therein.

Time and procedure for making rules.

7. (1) Rules may be made under this Act at any time after the passing thereof.

(2) A Local Government shall, before making rules under this Act, consult the High Court with respect thereto and publish a draft of the proposed rules in the official Gazette.

(3) There shall be published with the draft a notice specifying a date at or after which the draft will be taken into consideration.

(4) The Local Government shall receive and consider any objection or suggestion which may be made by any person with respect to the draft before the date so specified.

(5) A rule made under this Act shall not take effect before the Act has come into force in the local area for which the rule has been made or till the expiration of one month after the rule has been published in the local official Gazette.

(6) The publication in the Gazette of a rule purporting to be made under this Act shall be conclusive proof that it has been made as required by this section.

STATEMENT OF OBJECTS AND REASONS.

THE principal object of this Bill is to prescribe a simple mode of valuing suits relating to land for the purpose of determining the jurisdiction of the Courts with respect to them. Most of those suits are of course cognizable exclusively by Civil Courts, but some of them, as for instance, suits in the Punjab under section 9 of the Specific Relief Act, may be tried by Revenue Courts.

2. It has been brought to the notice of the Government that, while the Civil Courts Acts of the several Provinces, with the exception of that in force in the Presidency of Madras, prescribe no special rules for fixing the value for jurisdiction of the subject-matter of land-suits, but simply define the limit of the jurisdiction of each grade of Court by the money-value of the subject-matter in suit, thus leaving the market-value to be the strictly legal criterion, a practice has sprung up, generally in the inferior Courts, of accepting, in the absence of any express provision of law to the contrary, the court-fee valuation as laid down in section 7, paragraph v, of Act VII of 1870, for purposes of jurisdiction also.

3. The generally admitted result is that land-suits are undervalued and disposed of by Courts not strictly competent to try them. In order to remedy this state of things the present Bill has been prepared. It empowers (section 2) the Local Government to frame rules, subject to the sanction of the Governor-General in Council, for determining the value of land in the territories under its administration for purposes of jurisdiction in the suits mentioned in section 7, paragraphs v and vi, and paragraph x, clause (*d*), of the Court-fees Act, 1870, namely, suits for possession of land, to enforce a right of pre-emption, and for specific performance of an award relating to land. These rules are to be made after consultation with the High Court; and the Bill provides (section 7) a procedure for the publication of proposed rules, so that the Courts and the public may have an opportunity of preferring any objections which they may have to them before the rules are made. The Bill further declares (section 3) that where a suit mentioned in paragraph iv of section 7, or article 17 of Schedule II, of the Court-fees Act, relates to land, the amount at which for purposes of jurisdiction the relief sought in the suit is valued shall not exceed the value of the land to which the suit relates as determined by the rules under the Act.

4. In addition to the foregoing provisions, which relate exclusively to land-suits, section 4 provides that in other suits in which court-fees are payable *ad valorem*, the value for purposes of jurisdiction shall be estimated in accordance with the rules which regulate the value for court-fee purposes.

5. Section 5 of the Bill is taken from sections 206-208 of the North-Western Provinces Rent Act, 1881, and has been inserted at the suggestion of Sir Charles Turner, late Chief Justice of Madras. It lays down a special procedure for cases in which the objection that a suit was not properly valued for purposes of jurisdiction is taken in an appellate Court, an objection which the Bill declares may not be entertained unless it was taken in the Court of first instance.

6. Lastly, the Bill (section 6) repeals section 14 of the Madras Civil Courts Act, 1873, which enacts the rule of valuation which it is the object of this Bill to abolish, namely, the valuation for jurisdiction in the case of land-suits shall be in accordance with the court-fee valuation prescribed by section 7, paragraph v, of the Court-fees Act, 1870. In order, however, to prevent hardship or inconvenience to suitors, it is provided that this repeal shall not affect any suit instituted before the rules under the proposed Act take effect.

(Signed) C. P. ILBERT.

The 11th August, 1886.

S. HARVEY JAMES,
Offg. 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 11th August 1886 ;—

Bill No. 17 of 1886.

A Bill to amend the Indian Evidence Act, 1879.

WHEREAS it is expedient that Revenue-officers should not be compelled to say whence they obtain information with respect to offences against the public revenue; It is hereby enacted as follows :—

1. The following section shall be substituted for section 125 of the Indian Evidence Act, 1872, namely :—

New section substituted for section 125 of the Evidence Act, I of 1872.

"125. *(1)* No Magistrate, Police-officer or Revenue-officer shall be compelled to say whence he got any information as to the commission of any offence.

Information as to commission of offences.

(2) 'Revenue-officer' in this section means any officer employed in or about the business of any branch of the public revenue." [Act X, 1876 s. 3.]

STATEMENT OF OBJECTS AND REASONS.

THE object of this Bill is to prevent officers of any department concerned with any branch of the public revenue from being compelled to say whence they got any information as to the commission of any offence.

In England not only is it the case that witnesses may not be compelled to disclose, but they are not even permitted to be asked, the names of those from whom they receive information as to frauds on the revenue (*Russell on Crimes and Misdemeanours*, Fifth Edition, III, 553). The law on the subject is further stated in Bell's *Laws of Excise* as follows :—

"It is a rule of evidence applicable to criminal cases, and the same rule has always been held to apply to penal informations at the suit of the revenue, that a witness is not permitted to disclose privileged communications brought to his knowledge for the furtherance of justice. 'This is not the privilege of the witness, but may be justly called a public privilege, and is observed on a principle of public policy and from regard to public interests' (1 *Phil. Ev. 272*). Hence 'those questions which tend to the discovery of the channels by which the disclosure was made to the officers of justice, are not permitted to be asked' (*Rex* v. *Hardy*, 24 Howell's S. T. 753—Eyre, L. C. J.). 'If the name of the informer were to be disclosed, no man would make a discovery, and public justice would be defeated' (*Id.*, p. 814—Buller, J.). In the case of *Attorney-General* v. *Bryant* it was held that a witness for the Crown could not be asked 'Did you give the information?' (15 M. & W. 169)."

It cannot be ascertained from the records of the Legislative Department why the English law with respect to the disclosure by Revenue-officers of the source of information as to the commission of offences against the revenue was not incorporated in the Indian Evidence Act, 1872. The omission has caused much inconvenience, and is even said to be seriously impairing the efficiency of the Excise and Salt Departments in the Presidency of Bombay.

(Signed) C. P. ILBERT.

The 11th August 1886.

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

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