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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 August 1886 :—

#### Bill No. 18 of 1886.

*A Bill to amend the Dekkhan Agriculturists' Relief Acts, 1879 to 1882.*

WHEREAS it is expedient to amend in manner hereinafter appearing the Dekkhan Agriculturists' Relief Acts, 1879 to 1882; It is hereby enacted as follows :—

1. (1) This Act may be called the Dekkhan Agriculturists' Relief Act, 1886; and it and the Dekkhan Agriculturists' Relief Acts, 1879 to 1882, may be cited collectively as the Dekkhan Agriculturists' Relief Acts, 1879 to 1886.

(2) This Act shall come into force on the first day of January 1887.

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

Definition.

“section” means a section, and “chapter” a chapter, of the Dekkhan Agriculturists' Relief Act, 1879, as amended by the Dekkhan Agriculturists' Relief Act, 1881, and the Dekkhan Agriculturists' Relief Act, 1882.

3. To section 1 the following shall be added after the word “Ahmadnagar”, namely :—

Addition to section 1.

“but may from time to time be extended wholly or in part by the Local Government, with the previous sanction of the Governor-General in Council, to any other district or districts in the Presidency of Bombay.”

4. To section 2 the following shall be added, namely :—

“5th.—‘Lease’ shall be deemed to include a counterpart, kabulyat, an undertaking to cultivate or occupy and an agreement to lease.”

5. In section 12, for the words “the Court shall, if the amount of the creditor's claim is disputed, enquire” the following shall be substituted, namely :—

“the Court, if the amount of the creditor's claim is disputed, shall examine both the plaintiff and the defendant as witnesses, unless, for reasons to be recorded by it in writing, it deems it unnecessary so to do, and shall enquire.”

6. In section 22, for the words “No agriculturist's immoveable property shall be attached or sold” the following shall be substituted, namely :—

“Immoveable property belonging to an agriculturist, other than his standing crops, shall not be attached or sold.”

7. To section 40 the following shall be added, namely :—

Addition to section 40.

“but may from time to time be extended wholly or in part by the Local Government, with the previous sanction of the Governor-General in Council, to any other district or districts in the Presidency of Bombay.”



"A Conciliator empowered by the Local Government in this behalf may, instead of inviting, direct the person against whom the application is made to attend at the time and place either first or subsequently fixed.

"If an applicant, or a person against whom an application is made, fails to be present or attend at the time and place specified in a direction proceeding from a Conciliator under this section, he shall be deemed to have committed an offence under section 174 of the Indian Penal Code."

XLV of 1860.

Addition to proviso to section 56. 8. To the proviso to section 56 the following shall be added, namely:—

"or to any instrument required by section 17 of the Indian Registration Act, 1877, to be registered under that Act."

III of 1877.

9. (1) For the second paragraph of section 58 Amendment of, and the following shall be addition to, section 58. substituted, namely:—

"As soon as all the intending executants have executed any instrument under section 57, the Village-Registrar shall register it by entering in his register an abstract of it in such manner and with such particulars as the Inspector General of Registration may, from time to time, with the previous sanction of the Local Government, prescribe, and shall then deliver the instrument to the party entitled to the custody of it."

(2) In the third paragraph of the same section, the words "and each such copy" are repealed.

(3) After the same section the following shall be added, namely:—

"A certified copy of any entry in the register shall be granted by the Village-Registrar, free of charge, on the application of any party to the instrument to which the entry relates, or of his agent or representative, and the copy shall be admissible as evidence of the contents of the instrument."

10. After Chapter VIII and section 63 the New chapter and section to follow Chapter VIII and section 63. following shall be inserted, namely:—

## "CHAPTER VIII A.

### "REGISTRATION UNDER THE INDIAN REGISTRATION ACT, 1877.

"63A. (1) When an agriculturist intends to execute any instrument required by section 17 of the Indian Registration Act, 1877, to be registered under that Act, he shall appear before the Sub-Registrar within whose sub-district the whole or some portion of the property to which the instrument is to relate is situate, and the Sub-Registrar shall write the instrument, or cause it to be written, and require it to be executed, and attest it and, if the executant is unable to read the instrument, cause it to be further attested, and otherwise act, in accordance with the procedure prescribed for a Village-Registrar by sections 57 and 59 of this Act, and shall then register the instrument in accordance with the provisions of the Indian Registration Act, 1877. III of 1877.

(2) An instrument to which sub-section (1) applies shall not be effectual for any purpose referred to in section 49 of the Act last-mentioned unless it has been written, executed and attested in the manner provided in that sub-section."

III of 1877.

11. (1) In section 72, for the words "under this Act," where the first occur, the words "of the description mentioned in section 3, clause (w)," shall be substituted.

(2) In the same section, the words "not being merely a surety for the principal debtor" are repealed.

(3) For the proviso to the same section the following shall be substituted, namely:—

"Provided that nothing in this section shall—

"(i) apply to a suit for the recovery of money from a person who is a surety merely of the principal debtor if the principal debtor was not, at the time when the cause of action arose, an agriculturist; or

"(ii) revive the right to bring any suit which would have been barred by limitation if it had been instituted immediately before this Act comes into force."

## STATEMENT OF OBJECTS AND REASONS.

THE object of this Bill is to make in the Dekkhan Agriculturists' Relief Act, 1879, certain amendments suggested by a report on the working of the Act and by the further experience gained during the four years which have elapsed since the Act last underwent revision.

2. By section 3 of the Bill it is proposed to empower the Local Government, with the previous sanction of the Governor-General in Council, to extend the Act wholly or in part to any district in the Presidency of Bombay. The effect of this provision will be to render it unnecessary for the Council of the Governor-General to undertake legislation whenever it may be deemed expedient to extend to any district either the whole of the Act or any particular provisions of it, such as those requiring the history of transactions with agriculturist-debtors to be investigated or those relating to the mode of taking accounts.

3. By section 4 the expression "lease" is defined as in the Indian Registration Act, 1877. The insertion of this definition in section 2 of the Act is deemed desirable because in section 56 the word "lease" must be taken to mean a kabuliyat or undertaking to cultivate or occupy rather than a lease in its ordinary sense.

4. Section 5 has been introduced, on the recommendation of the Special Judge, for reasons which are stated as follows:—

"Section 7 of the Act merely makes the examination of the defendant compulsory in all suits under Chapter II, which includes even non-agriculturist suits; but sections 12-14 apply to many suits which affect agriculturists only and do not fall under



Chapter II, and it is even more important that the defendant should be examined as a witness in such suits than in many of the suits to which Chapter II applies. The defendant is generally the debtor, but in redemption-suits it is the plaintiff who is the debtor, and it is his examination that is most necessary. It is moreover almost impossible for the Courts to investigate the past history of an old debt in a satisfactory manner without examining both creditor and debtor as witnesses. Again, unless a provision against *ex-parte* decrees be inserted in Chapter III, it will not be possible to guard against *ex-parte* decrees in other districts to which the Act may hereafter be extended without also extending the other provisions of Chapter II at the same time."

5. Standing crops are usually the legitimate security for an advance for the purposes of cultivation. It is proposed, therefore, by section 6 of the Bill, to make the standing crops of an agriculturist liable to be taken in execution of a decree even though they have not been specifically mortgaged for the repayment of the debt to which the decree relates.

6. The proposal to confer on Conciliators the power to require the attendance of persons against whom applications are made under section 39 of the Act was negatived by the Council of the Governor-General in 1882. The Government of Bombay has now urged the reconsideration of the proposal on the ground that the present law deprives the Conciliator in a large proportion of cases of all chance of exercising his functions. The statistics of late years fully support this view, while they prove that, where parties have attended before Conciliators, conciliation has been annually more and more successful. It is proposed, therefore, by section 7 of the Bill, to empower selected Conciliators not only to invite, but to require, the attendance before them of persons against whom applications are made.

7. Sections 8, 9 and 10 of the Bill modify those provisions of the existing law which relate to registration, by requiring documents of which the registration is compulsory under the Indian Registration Act, 1877, to be registered by Registering-officers appointed under that Act instead of by Village-Registrars appointed under the Dekkhan Agriculturists' Relief Act, 1879. But Registering-officers under the former Act are, where the executants of those documents are agriculturists, to observe the procedure prescribed for observance by Village-Registrars under the latter Act. Village-Registrars are to continue to register documents of which the registration is not compulsory under the Indian Registration Act, 1877. They are, however, to be relieved of much of the clerical labour imposed on them by the existing law. Instead of making at least two copies of the documents which they register, they are to enter in their registers, in such form as may be prescribed, abstracts only of the documents; and provision is made for granting copies of the abstracts free of charge, and for the admission of the copies as evidence of the contents of the documents.

8. The reasons for the amendments which it is proposed by section 11 of the Bill to make in section 72 of the Act are stated by the Special Judge as follows:—

"The words 'not being merely a surety for the principal debtor' were introduced by Act XXIII of 1881, in order to prevent the anomaly of the agriculturist surety of a non-agriculturist principal being held liable for a debt, after such debt has become time-barred as against his principal; but the amendment has itself produced a converse anomaly, namely, that, when principal and surety are both of them agriculturists, the extended period of limitation applies to the principal and not to the surety. As soon as the recent decisions to this effect become generally known, the result will be that even the principal debtor will lose the supposed benefit of the extended period of limitation, because few creditors will care to wait for the extended period when such waiting will deprive them of their remedy against the surety. I may mention here that the expression *suits under this Act* at the beginning of section 72 is objectionable, because there are no suits properly speaking under the Act. I think the words should be *suits of the description mentioned in section 3, clause (w)*. This would include all suits on bonds, khatas, written acknowledgments, and the like, and would exclude suits for rent, suits for damages, &c., to which there is no necessity of applying a special law of limitation."

*The 18th August 1886.*

(Signed) T. C. HOPE.

S. HARVEY JAMES,

Officiating Secretary to the Government of India.