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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 24th August 1887:

Bill No. 10 of 1887.

A Bill to make better provision for recovering certain public demands.

WHEREAS it is expedient to make better provision for recovering certain public demands; It is hereby enacted as follows:—

Title, extent and commencement. 1. (1) This Act may be called the Revenue Recovery Act, 1887.

(2) It extends to the whole of British India; and

(3) It shall come into force at once.

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

(1) "district" includes a presidency-town:

(2) "Collector" means the chief officer in charge of the land-revenue administration of a district: and

(3) "defaulter" means a person from whom an arrear of land-revenue, or a sum recoverable as an arrear of land-revenue, is due, and includes a person who is responsible as surety for the payment of any such arrear or sum.

3. (1) Where an arrear of land-revenue, or a sum recoverable as an arrear of land-revenue, is payable to a Collector by a defaulter being or having property in a district other than that in which the arrear accrued or the sum is payable, the Collector may send to the Collector of that other district a certificate in the form as nearly as may be of the schedule, stating—

(a) the name of the defaulter and such other particulars as may be necessary for his identification, and

(b) the amount payable by him and the account on which it is due.

(2) The certificate shall be signed by the Collector making it, and, save as otherwise provided by this Act, shall be conclusive proof of the matters therein stated. [Cf. Act XIX. 1873, s. 149, & Act XVIII. 1881, s. 92.]

(3) On receiving the certificate the Collector of the other district shall proceed to recover the amount stated therein as if it were an arrear of land-revenue which had accrued in his own district.

4. (1) When proceedings are taken against a person under the last foregoing section for the recovery of an amount stated in a certificate, that person may, if he denies his liability to pay the amount or any part thereof and pays the same under protest made in writing at the time

of payment and signed by him or his agent, institute a suit for the re-payment of the amount or the part thereof so paid.

(2) A suit under sub-section (1) must be instituted in a Civil Court having jurisdiction in the place where the office of the Collector who made the certificate is situate, and the suit shall be determined in accordance with the law in force at that place as if the payment under protest had been made thereat.

[Act XIX 1873, s. 189.] (3) In the suit the plaintiff may, notwithstanding anything in the last foregoing section, give evidence with respect to any matter stated in the certificate.

[Ben. Act VII, 1880, s. 9; Cf. Act XII, 1850, s. 4; Act XVII, 1878, s. 9; Act XV, 1879, s. 77; and Act XIII, 1884, s. 61, sub-section (3).] 5. Where any sum is recoverable as an arrear of land-revenue by any public officer other than a Collector or by any local authority, the Collector of the district in which the office of that officer or authority is situate shall, on the request of the officer or authority, proceed to recover the sum as if it were an arrear of land-revenue which had accrued in his own district, and may send a certificate of the amount to be recovered to the Collector of another district under the foregoing provisions of this Act as if the sum were payable to himself.

[See s. 3, sub-section (1) of this Bill.]

[Cf. Punjab Land-revenue Bill, No. II, s. 77; Act XIX, 1873, s. 168; and Act XIX, 1883, s. 7, sub-section (1), clause (d).] 6. (1) When the Collector of a district receives a certificate under this Act, he may issue a proclamation prohibiting the transfer or charging of any immoveable property belonging to the defaulter in the district.

(2) The Collector may at any time, by order in writing, withdraw the proclamation, and it shall be deemed to be withdrawn when either the amount stated in the certificate has been recovered or the property has been sold for the recovery of that amount.

(3) Any private alienation of the property or of any interest of the defaulter therein, whether by sale, gift, mortgage or otherwise, made after the issue of the proclamation and before the withdrawal thereof shall be void.

(4) Subject to the foregoing provisions of this section, when proceedings are taken against any immoveable property under this Act for the recovery of an amount stated in a certificate, the interests of the defaulter alone therein shall be so proceeded against, and no incumbrances created, grants made or contracts entered into by him in good faith shall be rendered invalid by reason only of proceedings being taken against those interests.

7. Nothing in the foregoing sections shall be construed to impair any security provided by any other enactment for the recovery of land-revenue or of sums recoverable as arrears of land-revenue. [Cf. Mad. Act II, 1864, s. 57; Bom. Act V, 1879, ss. 137, 149 and 187; Ben. Act VII, 1880, s. 19; and Act XVIII, 1881, s. 94.]

THE SCHEDULE.

CERTIFICATE.

(See section 3, sub-section (1).)

From _____
The Collector
of _____
To _____
The Collector
of _____
Dated the _____ of 18 ____
The sum of Rs. _____ is payable on
account of _____ by _____
, son of _____, resident
of _____, who is believed (to be
at _____) (to have property consisting
of _____ at _____) in your
district.

Subject to the provisions of the Revenue Recovery Act, 1887, the said sum is recoverable by you as if it were an arrear of land-revenue which had accrued in your own district, and you are hereby desired so to recover it and to remit it to my office at

A. B.,
Collector of _____

STATEMENT OF OBJECTS AND REASONS.

THE principal object of this Bill (sections 3 and 4) is to provide for the recovery of arrears of revenue in districts other than those in which the arrears have accrued. The necessity of making provision in this behalf arises from the fact that most of the enactments relating to the recovery of revenue are local in their operation. Thus, the North-Western Provinces Land-revenue Act, 1873, extends only to the territories for the time being under the government of the Lieutenant-Governor of those Provinces, and the Oudh Land-revenue Act, 1876, only to the territories under the administration of the Chief Commissioner of that Province. The consequence is that a process for the recovery of an arrear which has accrued in Oudh cannot be enforced in an adjoining district of the North-Western Provinces. Similarly, a process for the recovery of an arrear which has accrued in the North-Western Provinces cannot be enforced in Madras, Bombay, Bengal, the Punjab or the Central Provinces. It has even been doubted whether, in the absence of such a clause as is to be found in section 94 of the Central Provinces Land-revenue Act, 1881, a process issued for the recovery of an arrear which has accrued in one district of the North-Western Provinces can be enforced in another district of those Provinces. The very great inconvenience arising from such a state of the law has been represented to the Government of India by the Governments of the North-Western Provinces and Oudh and the Punjab, and legislation on the lines of this Bill has been urged by those Governments and approved by all other Local Governments.

2. The minor object of the Bill (section 5) is to provide, as in section 61, sub-section (3), of the Punjab Municipal Act, 1884, a machinery for the recovery of sums which are recoverable by officers other than Collectors and by public bodies as if the sums were arrears of land-revenue. Such sums are those mentioned in section 4, Act XII of 1850, section 9, Act XVII of 1878, and section 77, Act XV of 1879, which are recoverable as arrears of land-revenue by the head of the office, the District Magistrate and the Rangoon Port Commissioners, respectively.

3. Section 6, sub-section (4), of the Bill lays down a rule which has been law in the Bengal Presidency since the year 1822 and has since been enacted for most other parts of British India.

The 24th August 1887.

(Signed) J. W. QUINTON.

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