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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 15th August 1872, and was referred to a Select Committee with instructions to report thereon in a week:—

Bill No. 18 of 1872.

A Bill to amend the Indian Evidence Act, 1872.

Whereas it is expedient to amend the Indian Evidence Act, 1872; It is hereby enacted as follows:—

Preamble. I. This Act may be called "The Indian Evidence Act Amendment Act;"

Short title. And it shall come into force on the passing thereof.

Commencement. 2. In section thirty-two of the Indian Evidence Act, 1872, clauses five and six, after the word "relationship," the words "by blood, marriage, or adoption," shall be inserted.

Amendment of Act I. of 1872, Section 32, Clauses 5 and 6. 3. In section forty-one of the same Act, lines seventeen, twenty, and twenty-three, after the word "judgment," the words "order or decree," shall be inserted.

Amendment of Section 41. 4. In section forty-five of the same Act, line five, after the word "art," the words "or in questions as to identity of handwriting," shall be inserted.

Amendment of Section 45. 5. In section fifty-seven of the same Act, paragraph (13), after the word "road," the words "on land or at sea," shall be inserted.

Amendment of Section 57. 6. In section sixty-six of the same Act, line five, after the word "is," the words "or to his attorney or pleader," shall be inserted.

Amendment of Section 66. 7. In section ninety-one of the same Act, exception (2), for the words "under the Indian Succession Act," the words "admitted to probate in British India," shall be substituted.

8. In section ninety-two of the Indian Evidence Act, 1872, proviso (1), for the words "want of failure," the words "want or failure" shall be substituted.

Amendment of Section 92. 9. In section one hundred and eight of the same Act, line one, for the word "when" (1) the words "Provided that when" shall be substituted, and in the last line, for the word 'on,' the words 'shifted to,' shall be substituted.

Amendment of Section 108. 10. In section one hundred and twenty-six of the same Act, line twenty-two, and in section one hundred and twenty-eight of the same Act, line six, after the word "barrister," the word "pleader" shall be inserted.

11. In section one hundred and twenty-six of the same Act, line fifteen, for the word "criminal," the word "illegal" shall be substituted.

Amendment of Section 115. 12. Nothing in the Indian Evidence Act, 1872, shall be deemed to affect Act No. XV. of 1852 (to amend the Law of Evidence), section twelve.

11. In section one hundred and fifty-five of the same Act, paragraph (2), for the word 'had,' the word 'accepted' shall be substituted.

12. Nothing in the Indian Evidence Act, 1872, shall be deemed to affect Act No. XV. of 1852 (to amend the Law of Evidence), section twelve.

STATEMENT OF OBJECTS AND REASONS.

The primary object of this Bill is to continue certain rules which it is believed have been inadvertently repealed by the Indian Evidence Act, 1872. At the same time, opportunity is taken to correct some clerical and other accidental errors to which attention has been called.

Section thirty-two of the Act, clause (5), renders admissible certain statements as to the existence of "relationship." As there are many relations other than those intended by the Act, the Bill makes the clause precise by adding the words "by blood, marriage, or adoption."

In sections forty-one and forty-five, some words which should have been repeated have been accidentally omitted. The Bill supplies these omis-

sions. The same thing is done in sections one hundred and twenty-six and one hundred and twenty-eight. And slight alterations are made in section ninety-two to clear up some ambiguities of language and to correct a typographical error.

Section fifty-seven, clause 13, declares that the Court shall take judicial notice of "the rule of the road." It must have been intended to include the rules of navigation. The Bill, therefore, adds the words "on land or at sea."

Section sixty-six contains rules as to notice to produce documents. It only mentions notice to the party in whose possession or power a document is. To prevent a doubt which might arise in the Mofussil, the Bill inserts the words "or to his attorney or pleader."

Section ninety-one of the Evidence Act, exception 2, provides that wills under the Indian Succession Act may be proved by the probate. But other wills are admitted to probate, and the same mode of proof is made applicable to all such, as doubtless was intended.

Of sections one hundred and seven and one hundred and eight, the latter was clearly intended to be a qualification of the former. The language is altered so as to produce this effect.

Section one hundred and twenty-six relates to professional communications, and provides that when made "in furtherance of any criminal purpose," they shall not be protected from disclosure. As every fraud, though "illegal," is not "criminal,"

the Bill amends this provision by substituting the former word for the latter, thus expressing the present rule of law and establishing the same principle for the first and second provisos of this section.

Section one hundred and fifty-five, paragraph (2), provides that the credit of a witness may be impeached by proof that he "has had the offer of a bribe." The Bill, for obvious reasons, for "had" substitutes 'accepted.' In India, still more than in England, the mere offer of a bribe, if unaccepted, should not prejudice the character of the person to whom it is made.

Act XV. of 1852, section twelve, provides that Her Majesty's Courts and Judges, and all Officers, Commissioners, Arbitrators, etc., authorised to receive evidence with respect to proceedings in such Courts, may administer oaths to witnesses. The Evidence Act repeals this section, and puts nothing in its place. Nor is the matter sufficiently provided for by the Oaths Act (VI. of 1872), or any other enactment. The Charters of the late Supreme Courts empower those Courts to administer oaths. But nothing is said as to Commissioners to examine witnesses. The Bill accordingly saves Act XV. of 1852, section twelve.

(Signed) A. HOBHOUSE.

SIMLA,

The 12th August 1872.

WHITLEY STOKES,

Secretary to the Government of India.