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PART VI.

BILLS OF THE GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced in the Council of the Governor General of India for the purpose of making Laws and Regulations on the 6th February 1896:—

Bill No. 8 of 1896.

A Bill to amend the Negotiable Instruments Act, 1881.

XXVI of 1881.

WHEREAS it is expedient to amend the Negotiable Instruments Act, 1881: It is hereby enacted as follows:—

Substitution of new section for section 72, Act XXVI of 1881.

1. For section 72 of the said Act the following section shall be substituted, namely:—

“72. (1) A cheque must be presented for payment at the Bank upon which it is drawn—

(a) in order to charge the drawer within a reasonable time after its date or delivery to the payee or before the relation between the drawer and the banker has been altered to the prejudice of the drawer, whichever of these periods shall last expire;

(b) in order to charge any person except the drawer within a reasonable time after its delivery by such person.”

Repeal of section 73, Act XXVI of 1881.

2. Section 73 of the said Act is hereby repealed.

Substitution of new section for section 84, Act XXVI of 1881.

3. For section 84 of the said Act the following section shall be substituted, namely:—

“84. (1) When the holder of a cheque fails to present it for payment within a reasonable time after its delivery to him, and the drawer or the person on whose account it is drawn had, at the time when it ought to have been presented in due course, a right as between him and the banker to have the cheque paid, and suffers actual damage from the delay in such presentment, he is thereby discharged from liability to the holder to the extent of such damage, that is to say, to the extent to which he is a creditor of the banker to a larger amount than he would have been had the cheque been paid.

(2) When the holder of a cheque in respect whereof the drawer has been wholly or partially released from liability under sub-section (1) is an indorsee thereof for valuable consideration, his indorser and all prior indorsers thereof are thereby, in the absence of any contract to the contrary, released from liability to him in respect of such consideration to the extent to which the drawer has been so released from liability as aforesaid.

(3) The holder of a cheque in respect whereof the drawer is released from liability under sub-section (1) shall, to the extent of such release, be a creditor, in lieu of the drawer, of the banker on whom the cheque is drawn, and shall be entitled to recover the amount from him.”

STATEMENT OF OBJECTS AND REASONS.

UNDER section 84 of the Negotiable Instruments Act (XXVI of 1881), when a cheque is not presented for payment within a reasonable time to the banker on whom it is drawn, and the drawer sustains loss or damage through the delay, the holder has no claim in respect of the cheque against the drawer, nor does the Act enable him to recover over as a creditor of the banker's estate. The object of this Bill is to assimilate the law of this country to the provisions of section 74 of the English Bills of Exchange Act, 1881 (45 & 46 Vict., cap. 61), by limiting the extent of the discharge of the drawer in such cases to the amount due on the cheque: provided that it does not exceed the balance which would have been available in the bank to meet it had it been presented in proper time, and by enabling the holder to prove against the estate of the banker for the sum he is precluded from recovering from the drawer. The opportunity has also been taken to afford similar protection to intermediate indorsers against loss or damage caused by delay in presentment on the part of their indorsees.

The 6th February 1896.

(Signed) ALEX. EDW. MILLER.

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