

THE



Bombay Government Gazette

Published by Authority.

THURSDAY, 24TH JANUARY 1901.

Separate paging is given to this Part, in order that it may be filed as a separate compilation.

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 18th January 1901:—

No. 3 of 1901.

A Bill further to amend the Administrator General's Act, 1874.

WHEREAS Hindus, Muhammadans, Parsis and Buddhists are exempted from the operation of certain provisions of the Administrator General's Act, 1874, and it is expedient that Native Christians should be exempted from the operation of the said provisions to the same extent as Hindus, Muhammadans, Parsis and Buddhists: It is hereby enacted, as follows:—

1. (1) This Act may be called the Administrator General's Act (Amendment) Act, 1901 and

(2) It shall come into force at once.

2. In this Act, the expression "Native Christian" means a native of India who is or in good faith claims to be of unmixed Asiatic descent and who professes any form of the Christian religion.

3. In sections 16, 17, 18, 37 and 64 respectively of the Administrator General's Act, 1874, before the word "Hindu" wherever it occurs, the word "Native Christian" shall be inserted.

4. Nothing herein contained shall affect any probate, letters of administration or certificate granted or vested under the said Act.

STATEMENT OF OBJECTS AND REASONS.

SEVERAL representations have been received by the Government on the subject of the grievances from which Native Christians suffer through the unequal operation of the law in India, relating to probate and administration, to be found in the Indian Succession Act, 1865 (X of 1865), the Hindu Wills Act, 1870 (XXI of 1870), the Administrator General's Act, 1874 (II of 1874), and the Probate and Administration Act, 1881 (V of 1881).

2. By sections 187 and 190 of the Act of 1865 it is provided that no right under a will or to the property of an intestate can be established in any Court unless probate or administration has been granted, and such a grant is further rendered necessary by certain provisions of the Act of 1874, under which the omission to obtain a grant entails the intervention of the Administrator General if the value of the assets of the estate concerned exceeds Rs. 1,000. These provisions govern Native Christians, but not Hindus,

Muhammadans or Buddhists save in the Lower Provinces of Bengal and the towns of Madras and Bombay, where, owing to the provisions of the Hindu Wills Act, 1870, which incorporates section 187 of the Act of 1865, probate of the wills of Hindus, Jains, Sikhs and Buddhists has been rendered compulsory. Elsewhere Hindus, Muhammadans and Buddhists are only subject to the Act of 1881, which, while it enables a person governed by it to take out a grant if he finds it expedient to do so, contains no compulsory provisions similar to those of sections 187 and 190 of the Act of 1865. This concession was deliberately made with a view to save Natives of India unnecessary trouble and expense, in uncontested cases, and it is clear that by reason of it Native Christians are in a less favourable position than other Natives who differ from them only in respect of their religious belief.


3. The Government of India are of opinion that the considerations which prompted the granting of the concession above explained to the vast majority of Natives of India, have equal force when applied to the case of such as are Christians. The Act of 1865 was originally designed for Europeans and other persons with a foreign domicile resident in India, and it is due only to the fact that Natives on their conversion to Christianity *ipso facto* cease to be governed by the Indian laws of succession, that, though Asiatics domiciled in the country, they fall within the purview of that Act.

4. To remove these grievances more than one course has been proposed, but that which commends itself to the Government, is the exemption of Native Christians from the provisions of sections 16, 17, 18, 37 and 64 of the Administrator General's Act, 1874. This will do for them precisely what was done for Parsis by the amending Act IX of 1881; *i.e.*, it will relieve them from the interference of the Administrator General in certain cases, and will enable them to avoid taking out probate, and, therefore, to escape payment of probate duty, in cases where the assets can be amicably distributed. Such action, though it will not place Native Christians on terms of absolute equality with other natives of India, will, it is thought, be an adequate recognition of their grievances. The present Bill has been prepared accordingly.

(Signed) C. M. RIVAZ.

The 15th January 1901.

J. M. MACPHERSON,
Secretary to the Government of India.

 Please erase the figure “ 8 ” on page now numbered “ 46 ” of Part VI of the 17th January 1901, and read as “ 4 ” only, which is the correct folio.