M.R.O. 1—20,000—16-10-21.

# MADRAS RECORD OFFICE.

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## Government of Madras.

Judicial DEPARTMENT.

G.O. No. 757 Press ~~Mis.~~

114-115

Dated 18.5.1883 ~~19~~ .

22/22

***Not to be folded or roughly handled***

*Proceedings of the Madras Government, Judicial Department,*
*18th May* 1863.

No. 114. Read the following letter from J. W. S. WYLLIE, Esq., Under Secretary to the Government of India; to J. D. SIM, Esq., Secretary to the Government of Fort Saint George, dated Fort William, the 11th March 1863, No. 2,001.

Home Department.
Legislative.

I am directed to request that His Excellency the Governor in Council may be moved to favor the Honorable the President in Council with his opinion on the provisions of the Bill "to provide for the Registration of Assurances" as republished in the Calcutta Gazette of this date. For facility of reference I am desired to forward herewith a copy of the Bill together with a copy of the Report of the Select Committee thereon.

2. I am also directed to request that the opinion of the Judges of the High Court may be obtained and furnished at the same time, and that the attention of the High Court of Madras may be drawn to the remarks of the Select Committee on the Bill in question as to the extension of Registration to the local limits of the High Court's original Civil jurisdiction.

No. 115. ORDER THEREON, 18th May 1863, No. 751.

Resolved that a copy of the Bill "to provide for the Registration of Assurances" and of the Report of the Select Committee thereon, together with the foregoing letter, be referred to the Honorable the Judges of the High Court, and to the Board of Revenue, and that they be requested to favor Government with their opinion and with those of any Officers they may deem it proper to consult on the provisions of the Bill. The attention of the Honorable the Judges of the High Court is especially requested to the subject of extending the provisions of the Act to the local jurisdiction of all Courts in the British Territories in India, established by Royal Charter.

(Signed) A. J. ARBUTHNOT,
*Chief Secretary.*

Exd. T. McMootry.

## HOME DEPARTMENT.

### LEGISLATIVE.

We, the undersigned, the Members of the Select Committee of the Council of the Governor-General of India for the purpose of making Laws and Regulations, to whom the Bill to provide for the Registration of Assurances was referred, have the honor to report, that we have been engaged in the attentive consideration of the Bill, and the papers relating to it, which are enumerated in the margin; and that from the nature and the number of the amendments which we recommend in the Bill, we think it desirable that it should be republished for general information, and for the consideration of the Local Governments, in this amended form.

1. From Governor of the Straits Settlement, dated 23rd July 1862.
2. " Secretary to the Government of North Western Provinces, dated 1st October 1862, and enclosures.
3. " Judge of the 24-Pergunnahs, dated 14th April 1862.
4. " Secretary to the Government of the North Western Provinces, dated 15th May 1862, and enclosures.
5. " Assistant Secretary to Government of India, Foreign Department, dated 29th November 1862, and enclosures.

Title sent to the Calcutta Gazette dated 10 April 1863

The amendments we recommend will have the effect of enabling the Local Governments to adapt the Act to their respective Territories, in respect of the formation of Registration Districts and Divisions, the adoption of forms of Registration, and the scale of Fees.

We also recommend that provision be made for issuing execution, without suit, on registered Bonds and other Obligations for the payment of money not exceeding one hundred Rupees in amount, and also on the same class of instruments for any larger amount, if the assent of both parties to such proceeding shall have been registered, and endorsed on the instruments at the time of Registration. We have prepared a series of Sections to carry out this important amendment in the law.

A considerable number of the other changes which we recommend in the Bill, will be found to be either of a verbal character, or to consist of a re-arrangement of the Sections. The Schedule of Fees is rendered unnecessary, by power being given to the Local Governments to fix their amount.

The Bill, as referred to us, provided that, except in respect of the non-admissibility in evidence of certain instruments, it should "not be in force in any place within the jurisdiction of the Courts established by Royal Charter."

In lieu of this provision we recommend the adoption of two Sections, to provide that the Act shall not operate on instruments relating to immoveable property situate within the local limits of the Ordinary Original Civil Jurisdiction of any Court established by Royal Charter, and that the Section limiting the period for bringing suits on unregistered instruments shall not apply to any suit brought in such Court. But the subject of extending the provisions of the Act to the local jurisdiction of all Courts in the British Territories in India established by Royal Charter, whether in the Presidency Towns or in the Straits' Settlement, appears to us to be worthy of further consideration, and might be referred for the opinion of the Judges of those Courts.

We recommend that the 1st May 1864, be named as the time for the Act to come into operation, so that all the Local Governments may have ample time for the previous necessary arrangements.

H. B. HARINGTON.
H. SUMNER MAINE.
C. J. ERSKINE.
R. S. ELLIS.
A. A. ROBERTS.
DEO NARAIN SINGH.

*The 18th February* 1863.

Government of India.

HOME DEPARTMENT.

LEGISLATIVE.

# Report of the Select Committee on the Bill to provide for the Registration of Assurances.

Printed at the Bengal Printing Co.'s Press.

Rec. 18th May 1863 No 757

82783

1st 18-5-63

From the Secretary to the Government of India

To the Secretary to the Board of Revenue

Dated 16th May 1863.

Received 20th May 1863.

No 2294

Circulate to Members.

I am directed to forward for the information of the Board of Revenue a copy of the Report of the Select Committee on the Bill to provide for the Registration of Assurances, and to request that the Board will favor the Government with their opinion on the Bill as reported by the Committee.

Exhibits an Order.

Lwt

Nº 1661 of 19th Oct/63.

The Board of Revenue are requested to expedite the submission of their reply to the Orders of the 18th May last Nº 757.

The Board of Rev. sup 19

No. 3093

A. R. Wyllie Esqre

*Under Secy. to the Govt. of India,*

W. D. Sim Esqre

Sec. to the Govt. of Fort St. George

SIR,

*Dated Fort William, the 16th Sept. 1863.*

HOME DEPT. I AM directed to call attention to the office letter No. 2001 dated the 11th March last, and to request an early reply thereto.

I have the honor to be,

SIR,

Your most obedient Servant,

A. R. Wyllie

*Under Secy. to the Govt. of India.*

5

# REGISTRATION OF ASSURANCES.

## ARRANGEMENT OF SECTIONS.


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3. Governor-General of India may vest in the Head Executive Officer of any Territory under his immediate administration the powers conferred by this Act.

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4. General Register Office.
5. Formation of Districts and Divisions.
6. Establishment of Register Offices.
7. What Public Officers to be District and Deputy Registrars.
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   Persons not Public Officers may also be appointed.
8. Appointment of Deputy Registrars by Local Government.
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10. Salaries and Establishments.

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11. Control of proceedings of Deputy Registrars.
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12. Instruments in language not understood by Deputy Registrar.
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18. Deeds of Gift of immoveable property not to be recognized unless registered in proper time.
19. Certain Instruments, if unregistered, not to be received in evidence.
20. Value of right, title, or interest affected by Instruments required to be registered, to be determined by Stamp affixed thereto.
21. Instruments which may be registered under this Act.
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TIME OF REGISTRATION

Section.
23. When certain Instruments must be presented for Registration.
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27. Registration where to be made.
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31. Enquiry concerning identity of parties appearing before the Deputy Registrar, who are not personally known to him.
32. Powers of Registration Officers to summon parties whose evidence is required.
33. Erasures or interlineations.
34. Date and time of presentation for Registration.
35. Entry in Register Book.
36. Procedure after entry in Register.
37. Abstract of every instrument registered in subordinate office to be sent to General Register Office.
38. Payment of fee per abstract.
39. Entry in General Register Office of abstract of entry made by District Registrar.

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40. Procedure in case of Registered Instruments being declared to be invalid or forged.
41. How notice or certificate to be dealt with.

ENFORCEMENT OF REGISTERED BONDS AND OTHER INSTRUMENTS.

42. Bonds, &c., for sums below 100 Rupees may be enforced under this Act without regular suit. Also for sums above that limit in certain cases. Proviso.
43. But application for enforcement must be made within a period fixed.
44. Court to which application may be made for enforcing claims under last Section.
45. Procedure of Court on receipt of application.
46. Procedure in case of alleged debtor being about to quit jurisdiction, or to move property therefrom.
47. And in case of his appearing, and showing cause against issue of execution.
48. Court may at discretion direct institution of suit, instead of enforcing Bond, &c., under this Act.
49. Procedure in case of Court refusing to enforce Bond, &c. under Act.
50 Foregoing provisions not to bar institution of suit on Bond, &c. after lapse of period indicated.

REGISTRATION OF WILLS, CODICILS, AND AUTHORITIES TO ADOPT.

51. Wills, &c.
52. Entry in Register of Wills.
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54. Local Government to prescribe, subject to approval, the fees to be charged for Registration.
55. Disposal of fees.

REGISTERS.

56. Register Books.
57. Entries in Registers.
58. Indices
59. Register of Wills.
60. Inspection of Register, and fees for inspection and copies of entries.

MISCELLANEOUS PROVISIONS.

61. Time from which Instruments shall operate.
62. Registry of Instruments executed by or on behalf of Government.
63. False statements to be dealt with as the offence of giving false evidence.
64. Limits of action in certain cases.
65. Special provision respecting Instruments affecting immoveable property within certain jurisdiction.
66. Provisions of Section 64 of this Act not to apply in certain cases.
67. Commencement of Act.

A

# BILL

TO

*Provide for the Registration of Assurances.*

WHEREAS it is expedient to consolidate and amend the laws relating to the Registration of Assurances; It is enacted as follows:—

Preamble.

REPEAL OF REGULATIONS AND ACTS.

I. Regulation XXXVI. 1793 *(for establishing a Registry for Wills and Deeds, for the transfer or mortgage of real property)*, Regulation XXVIII. 1795 *(for extending to the Province of Benares, Regulation XXXVI. 1793, entitled "A Regulation for establishing a Registry for Wills and Deeds for the transfer or mortgage of real property")*, Regulation XVII. 1803 *(for establishing a Registry for Wills and Deeds for the transfer or mortgage of real property in the Provinces ceded by the Nawaub Vizier to the Honorable the English East India Company)*, Section XVII Regulation VIII. 1805 *(for extending to the conquered Provinces situated within the Doab and on the right Bank of the River Jumna, and to the territory ceded to the Honorable the English East India Company in Bundlecund by the Peishwa, such of the Laws and Regulations established for the internal Government of the Provinces ceded by the Nawaub Vizier to the Honorable the English East India Company, as have not been already extended to those territories, and for revising and amending certain parts of the said Laws and Regulations)*, so far as it relates to Regulation XVII. 1803. Section XXXII Regulation XII. 1805 *(for the settlement*

Laws repealed.

*and collection of the Public Revenue in the Zillah of Cuttack, including the Pergunnahs of Puttespore, Kummardichour, and Bograe, at present included in the Zillah of Midnapore*), Regulation XX. 1812 *for modifying some of the provisions contained in the existing Regulations respecting the Registry of Deeds and for establishing a Register of engagements for the delivery of Indigo)*, and Regulation IV. 1824 *(to provide more effectually for the Office of Register of Deeds)*, of the Bengal Code; Regulation XVII. 1802 *(for establishing a Registry for Wills and Deeds for the transfer or mortgage of real property)*, and Regulation XI. 1831 *(to provide more effectually for the Office of Register of Deeds)*, of the Madras Code; and Regulation IX. 1827, *(for establishing a Register of Title-Deeds and a General Register of Deeds, Obligations, and other Writings, in each Zillah subordinate to the Presidency of Bombay)* of the Bombay Code, and Regulation XIII. 1828 *(for enabling Assistant Judges when expedient to keep the Registers prescribed by Regulation II. of* 1827 *when stationed in the Districts)* of the Bombay Code, and Act XXX of 1838, Act I of 1843 *(for amending the law concerning the Registration of written conveyances and other instruments affecting titles and other interests to land)*, Act XIX of 1843 *(for amending the law respecting the Registration of certain Deeds)*, Act IV of 1845 *(to amend the law regarding the Registration of Deeds)*, Act XVIII of 1847 *(for curing the invalidity in the Registration of Deeds arising from the fact of having been registered by persons not duly appointed or on other than Court days)*, and Act XI of 1851 *(for the custody of Registers of Deeds in the Presidency of Bengal)*, shall cease to have effect in any part of the British Territories in India from and after the date on which this Act shall come into operation, except in so far as such Regulations or Acts rescind other Regulations or Acts, and except as regards Instruments registered before the date on which this Act shall come into operation, under any of the said Regulations or Acts then in force; and from and after such date, in the Territories not subject to the general Regulations, all Rules and Regulations relating to the Registration of Instruments in force in such Territories at such date shall cease to have effect, except as regards instruments Registered in such Terrritories before such date under any of such Rules or Regulations.



DEFINITIONS.

Interpretation.

II. In the construction of this Act, unless the contrary appear from the context,

"Local Government."

the words "Local Government" shall denote the person or persons authorized by law to administer the Executive Government in any part of British India; the words "District Registrar" shall include the Registrar of every Presidency Town; the words "year" and "month" shall denote a year or month respectively by the British Calendar; and words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number; words importing the masculine gender shall include females.

"District Registrar."

"Year" and "month."

Number.

Gender.

Governor-General of India may vest in the Head Executive Officer of any Territory under his immediate administration the powers conferred by this Act.

III. It shall be lawful for the Governor-General of India in Council, by an order to be published in the Calcutta Gazette, to declare that in any Territory

under the immediate administration of the Governor-General in Council, the Head Executive Officer of such Territory shall exercise the powers vested by this Act in the local Government, and thereupon such Officer shall, for the purposes of this Act, be the local Government of such Territories as defined in this Act.

REGISTRATION ESTABLISHMENT.

General Register Office.

IV. The local Government of every Presidency and place shall establish, within the territories subject to such Government at such place as to it shall seem fit, an Office to be called the General Register Office, and may appoint an Officer to the charge of such Office, who shall be called the Registrar-General of the Presidency or place for which he is appointed. Provided that the local Government may declare and constitute the Board of Revenue, where there is a Board of Revenue, or any other Public Office to be such General Register Office, and all the provisions of this Act which apply to such Registrar-General shall apply to such Board or other Office so declared and constituted.

Formation of Districts and Divisions.

V. For the purposes of this Act the local Government shall form Districts and divisions of Districts, and shall prescribe, and from time to time may alter the limits of the Districts or divisions of Districts so formed.

Establishment of Register Offices.

VI. The local Government shall establish, in every District formed as aforesaid, an Office to be styled the District Register Office, and also such number of Divisional Register Offices as, in the judgment of the local Government, may be necessary for the purposes of this Act. A Register Office shall also be established in



the several Presidency Towns of Calcutta, Madras, and Bombay, for the registration of Instruments under this Act.

What Public Officers to be District and Deputy Registrars.

VII. The Judge of the principal Court of Original Civil jurisdiction shall be the District Registrar of the District in which such Court may have jurisdiction.

Proviso for Bombay.

Provided that in the Presidency of Bombay the local Government may appoint the Assistant Judge in any District to be District Registrar of such District. Such of the Judges of the subordinate Courts, and of the Judges of the Courts of Small Causes, as the local Government may select, shall be Deputy Registrars of such Districts and divisions formed as aforesaid. The local Government may appoint such other Public Officers as it may think proper to be Deputy Registrars of such Divisions. In each of the Presidency Towns aforesaid the local Government shall appoint an Officer to be called the Registrar of such Town. It shall also be lawful for the local Government to

Persons not Public Officers may also be appointed.

appoint any other persons, not being Public Officers, to be Deputy Registrars of such Divisions.

Appointment of Deputy Registrars by Local Government.

VIII. The local Government shall appoint one or more Deputy Registrars to every one or more of the Divisions formed as aforesaid as to such local Government shall seem fit.

Provision for cases of absence or vacancies.

IX. In case of the absence of any Deputy Registrar, or of a vacancy occurring in the Office of any Deputy Registrar, it shall be lawful for the District

Registrar to appoint any person whom he may think proper to take temporary charge of the Office of such Deputy Registrar, and to register instruments in the same manner as if such person had been appointed to the Office by the local Government. In case of the absence of any District Registrar, or of a vacancy occurring in the office of any District Registrar, the Officer whose duty it is to carry on the Judicial functions of the Officer who by this Act is District Registrar shall, during such absence or vacancy, be the District Registrar.

X. It shall be lawful for the local Government, with the sanction of the Governor-General of India in Council, to assign such salaries as from time to time such local Government may deem proper to the Registrar-General and Deputy Registrars appointed under this Act, or to provide for the remuneration by fees of such Deputy Registrars as shall not be Public Officers. It shall also be lawful for the local Government, with the like sanction, to allow such Establishments for the General Register Office and for the Offices of the several District and Deputy Registrars as may be necessary for the purposes of this Act.

Salaries and establishments.

GENERAL RULES.

XI. Every Deputy Registrar shall perform the duties of his office under the superintendence and control of the District Registrar in whose District the Office of such Deputy Registrar shall be situate, and the District Registrars shall have authority to issue (whether on complaint or otherwise) any orders they may consider necessary in respect of any proceeding or omission of any Deputy Registrar

Control of proceedings of Deputy Registrars.



subordinate to them. Provided that no order of a Deputy Registrar admitting or refusing to admit to registration any Instrument shall be reversed or altered, except on appeal to be presented within thirty days from the date of such order.

Proviso as to Registration admitted or refused.

XII. If any Instrument tendered for registration be in a language which the Deputy Registrar does not understand, such Instrument shall be referred by him to the District Registrar.

Instruments in language not understood by Deputy Registrar.

XIII. The Registrar-General shall exercise a general superintendence over all the Register Offices within his jurisdiction, and such Registrar-General shall have the power, for any sufficient reason, on the application of any party to any Instrument the registration of which has been refused by a District Registrar, either originally or on appeal from a Deputy Registrar, to order the same to be registered.

General control by Registrar General.

XIV. The Registrar-General shall, for the guidance of the District and Deputy Registrars, have power from time to time to frame rules not inconsistent with the terms of this Act. The Rules so framed shall be submitted to the local Government, and after they shall have been approved by the local Government, they shall be published in the Official Gazette, and shall have the same force as if they were inserted in this Act.

Power of Registrar General to frame Rules.

XV. The registration of all Instruments under this Act shall be made only at the Public Office or Court of the Officer whose

Registration to be made at a Public Office.

duty it shall be to register the same. Provided that any District Registrar or any Deputy Registrar with the sanction of the District Registrar may, on special cause being shown, attend at the place of residence of any party to any Instrument, or of any person desiring to deposit a Will, Codicil, or authority to adopt a son.

Proviso.

XVI. The General Registrar and the several District and Deputy Registrars shall use a seal bearing the following inscription in English, and in such other language as the local Government shall direct: "The Seal of the Registrar-General" *(or of the Registrar or Deputy Registrar of* )

Seal of Office.

XVII. The local Government shall provide for the Office of every District and Deputy Registrar such books as may be necessary for the purposes of this Act. The books so provided shall contain such printed forms as shall from time to time be prescribed by the Registrar-General with the sanction of the local Government for the entries to be made therein, and for the indices to such books, and the pages of such books shall be consecutively numbered in print, and the number of pages in each book shall be certified on the title page by the Officer by whom such books shall be supplied. The local Government shall further supply the Office of every District Registrar with a fire-proof box to be used as hereinafter provided.

Registry Books.

Fire-proof boxes.

INSTRUMENTS TO BE REGISTERED.

XVIII. No Instrument being a deed of gift of any immoveable property shall (except as provided in Section LXV of this Act) be received in evidence in any

Deeds of gift of immoveable property not to be recognized unless registered in proper time.



Court of Justice, or shall be acted on by any Public Officer, if such Instrument shall have been executed after the date on which this Act shall come into operation, unless the same be registered within the time prescribed by this Act.

XIX. No Instrument other than a deed of gift as provided in the last preceding Section, which purports or operates to create, declare, transfer, or extinguish any right, title, or interest of the value of one hundred Rupees or upwards in any immoveable property, (except as provided in Section LXV of this Act, and not being a lease for a period not exceeding one year,) and no Instrument which acknowledges the receipt or payment of any consideration on account of the creation, declaration, transfer, or extinction of any right, title, or interest of such value as aforesaid in any immoveable property (not being such a lease as aforesaid), shall be received in evidence in any Civil proceeding in any Court of Justice or shall be acted on by any Public Officer unless the same be registered within the time prescribed by this Act, if such Instrument shall have been executed after the date on which this Act shall come into operation.

Certain Instruments, if unregistered, not to be received in evidence.

XX. For the purposes of this Act, the value of the right, title, or interest in any immoveable property created, declared, transferred, or extinguished by any Instrument required to be registered under the last preceding Section, shall be taken to be the value indicated by the stamp affixed

Value of right, title, or interest affected by Instruments required to be registered to be determined by Stamp affixed thereto.

thereto or impressed thereon under Act X of 1862, (*to consolidate and amend the law relating to Stamp Duties*,) or under any other Act for the time being in force for regulating the Stamp Duties.

XXI. From and after the date on which this Act shall come into operation any of the following Instruments executed after the said date, may be registered under this Act.

Instruments which may be registered under this Act.

1. Any Instrument which purports or operates to create, declare, transfer, or extinguish any right, title, or interest of value (indicated as provided in the last preceding Section) less than one hundred Rupees in any immoveable property.

2. Any Instrument which acknowledges the receipt or payment of any consideration on account of the creation, declaration, transfer, or extinction of any right, title, or interest, of such value as aforesaid, in any such immoveable property.

3. Any lease for a period not exceeding one year.

XXII. After the date on which this Act shall come into operation any of the following Instruments, executed after the said date, may be registered under this Act.

Further instruments which may be registered.

1. Any Instrument which purports or operates to create, declare, transfer, or extinguish any right, title, or interest in any moveable property.



2. Any Will, Codicil, or Authority to adopt a son.

3. Any private award of arbitration.

4. Any Deed, Bond, Contract or other Obligation.

TIME OF REGISTRATION.

XXIII. No Instrument of the descriptions mentioned in Section XVIII or Section XIX of this Act, which shall have been executed after the date on which this Act shall come into operation, shall be accepted for registration unless presented for that purpose to the proper Officer within three months from the date of the execution thereof.

When certain instruments must be presented for registration.

XXIV. No Instrument of the descriptions mentioned in Section XXI or Section XXII of this Act, (other than a Will, Codicil to a Will, or Authority to adopt a Son) which shall have been executed before the date on which this Act shall come into operation, shall be accepted for registration unless such Instrument be presented for registration within twelve months from such date.

Provision as to certain other instruments.

XXV. No Instrument of any of the descriptions mentioned in Section XXI or Section XXII of this Act (other than a Will, Codicil to a Will, or Authority to adopt a son) which shall be executed after the date when this Act shall come into operation, shall be accepted for registration unless presented within six weeks from the date of the execution thereof.

Provision as to certain Instruments executed after the Act comes into operation.

XXVI. Any Will, Codicil to a Will, or authority to adopt a son may at any time be registered in the manner hereinafter provided by the person making such Will or Codicil, or giving such authority.

Time for Registration of Wills, &c.

PLACE OF REGISTRATION.

XXVII. Every Instrument which purports or operates to create, declare, transfer, or extinguish any right, title, or interest in any immoveable property, and any Instrument acknowledging the receipt or payment of any consideration on account of the creation, declaration, transfer, or extinction of any right, title, or interest in any immoveable property, or any lease, shall be presented for registration in the Office of the Deputy Registrar within whose Division the property is situate. Every Instrument mentioned in Section XXII of this Act (not being a Will, Codicil to a Will, or Authority to adopt a son) shall be presented for registration in the Office of the Deputy Registrar within whose jurisdiction such Instrument is executed, or at any Registry Office, under the same local Government, at which all the parties to any such Instrument shall desire the same to be registered.

Registration where to be made.

XXVIII. Every Instrument affecting immoveable property the whole of which is not situate in one Division of a District may be presented for registration to any Deputy Registrar in such District within whose Division any part of such property is situate. It shall be the duty of such Deputy Registrar, after registering the Instrument forthwith, to make and forward a copy thereof endorsed in the manner herein-

Registration of property situate in more than one Division of a District.



after provided to the District Registrar, who shall register the same and forward an abstract of such Instrument, showing the parties thereto and the date and substance thereof, to every Deputy Registrar in his District in whose Division any part of such property is situate, other than the Deputy Registrar in whose office the same shall have been originally registered, and every Deputy Registrar who shall receive such abstract shall forthwith register the same.

XXIX. Every Instrument affecting immoveable property, situate in more Districts than one, may be presented for registration to the District Registrar of any such District. It shall be the duty of the District Registrar in whose office such Instrument is originally registered to cause to be made, and to forward to the District Registrar of every other District in which any other part of such property is situate, a copy of such Instrument endorsed with an attestation, stating the date on which it was registered, and its number in his Register Book, and the District Registrar of any District receiving such copy so forwarded and endorsed, shall register the same as if it had been presented to him in the first instance, and shall forward a copy endorsed with such attestation as aforesaid to the Deputy Registrar of each Division of his District in which any part of such property may be situate, and such Deputy Registrar shall register the same in the manner prescribed for Instruments presented to him in the first instance.

Registration of Instruments affecting property situate in several Districts.

XXX. Every Instrument to be registered under this Act, not being a Will, Codicil to a Will, or an Authority to adopt a son, shall be presented at the Office

Instruments for registration by whom to be presented.

of the Deputy or District Registrar in which such Instrument is to be registered by all the parties thereto, or by the heirs, representatives, or assigns of such parties, or by the authorized agents of such parties, or of their heirs, representatives, or assigns under a power of Attorney special or general. But no such power of Attorney shall be recognized for the purposes of this Act unless it shall have been delivered personally by the person executing the same to such Deputy or District Registrar. Provided that where a person who shall have executed a power of Attorney is unable to attend personally, and such power is tendered to a District Registrar, such Registrar shall determine whether he will receive the same. If such power be tendered to a Deputy Registrar such Deputy Registrar shall only receive the same with the sanction of the District Registrar.

MODE OF REGISTRATION.

Enquiry concerning identity of parties appearing before the Deputy Registrar who are not personally known to him.

XXXI. On the parties to any Instrument, their heirs, administrators, or assigns, or the authorized agents of such parties, as provided by the last preceding Section appearing before the Deputy or District Registrar for the purpose of obtaining the registration of such Instrument, he shall proceed to enquire whether such Instrument was executed or not by all the parties thereto. If all the parties to the Instrument appear personally before the Deputy or District Registrar and are personally known to him, or in case they are not personally known to him, if they satisfy him that they are the parties they represent themselves to be, and if they all admit the execution of the Instrument, or in the case of any party appearing by authorized Agent, if such Agent shall admit the execution of



the Instrument, the Deputy or District Registrar shall register the same in the manner hereinafter provided. It shall be the duty of the District or Deputy Registrar to satisfy himself of the right of any person to appear as the heir, administrator, or assign of any party whom he shall claim to represent, or if any party shall appear by Agent, of the authority of such Agent. The Deputy or District Registrar shall enter in the Register Book the names in full of all the persons whose evidence he may take to prove such identity, right, or authority.

Powers of registration officers to summon parties whose evidence is required.

XXXII. If any party to an Instrument shall require assistance to procure the attendance of any person whose testimony is necessary for the registration of such Instrument by a Deputy Registrar; such Deputy Registrar shall have power, if he be satisfied that such assistance is necessary, and if such person shall be within the division of such Deputy Registrar, to issue a summons requiring such person to attend at the Office of such Deputy Registrar at a time to be named in such summons. If the person whose attendance is required is not in such division the party to the Instrument shall apply to the District Registrar, who, if he be satisfied that his assistance is required, shall issue a like summons for attendance at the Office of such Deputy Registrar. If the Instrument be presented for registration to a District Registrar he shall have the like powers of summoning persons to appear at his own Office, which are herein provided in respect of persons whose attendance is required at the Office of a Deputy Registrar. The provisions of the Regulations and Acts for procuring the attendance of

witnesses, for the examination, remuneration, and punishment of witnesses in suits before Civil Courts shall be of equal force and effect in respect of persons summoned to appear by a summons from a Deputy or a District Registrar under this Section.

Erasures or interlineations.

XXXIII. No Instrument shall be accepted for registration, if any interlineation, erasure, or alteration shall appear on such Instrument, unless the parties appearing to register the same shall attest with their signatures such interlineation, erasure, or alteration; and it shall be the duty of the District or Deputy Registrar, at the time of registering such Instrument, to make a note in the Register, of such interlineation, erasure, or alteration.

Date and time of presentation for registration.

XXXIV. The date and time on which every Instrument shall be presented for registration shall be endorsed on such Instrument at the time of presentation, and such endorsement shall be attested by the Deputy or District Registrar in whose Office such Instrument is presented for registration, and if such Instrument shall be admitted to registration it shall be held to have been registered from the date and time so endorsed.

Entry in Register Book.

XXXV. Every Instrument admitted to registration shall be entered in its appropriate book according to the order of its presentation, and shall be numbered accordingly. The entry made in the Register shall show the year, month, day, and hour of presentment, the character of the Instrument presented for registration, the names in full of the parties to the Instrument, and when the



Instrument shall have been presented by the agent, or by the heir, representative, or assign of any party, the name of such agent, heir, representative or assign, and the names in full of every person whose evidence may have been taken under Section XXXII of this Act, after which the Instrument shall be entered in full. The entry made as is above prescribed, shall be signed by every party to the Instrument, or by his agent, heir, representative, or assign, and by the District or Deputy Registrar.

Procedure after entry in register.

XXXVI. The Instrument shall then be returned to the party who may have presented the same for registration, with an endorsement inscribed thereon, shewing the date of registration, the number of the book in which such registry shall have been made, and the page of the book on which such entry shall appear; and if the Instrument be a Bond or other written obligation for the payment of money, and the party liable to make such payment shall, in the presence of the District or Deputy Registrar, have declared his assent to the same being enforced without a regular suit, such assent shall in like manner be endorsed on such Instrument. The endorsement on the Instrument shall be certified by the seal and signature of the District or Deputy Registrar, and the Instrument thus endorsed shall be *primâ facie* proof, on the production thereof in any Court of Justice, that such Instrument has been duly registered in the manner provided in this Act. Provided that it shall be competent to the Court to require evidence of such registration, if it shall see sufficient cause for doing so.

XXXVII. An abstract of every original Instrument affecting immoveable property registered in the Office of any Deputy Registrar shall, within three days, be forwarded with an endorsement attesting the date on which it was registered and its number on the Register Book of such Registrar, to the District Registrar, and an abstract of every such Instrument registered in the Office of any District Registrar, whether originally or by transmission from the Office of a Deputy Registrar, shall from time to time, not less frequently than weekly, be forwarded with an endorsement attesting the date on which it was registered and its number in the Register Book of such District Registrar, to the General Register Office.

Abstract of every Instrument registered in subordinate office to be sent to General Register Office.

XXXVIII. For every abstract required to be forwarded under the last preceding Section, and for every abstract or copy required under Sections XXVIII and XXIX of this Act, the same fee shall be paid as for the registration of the original Instrument.

Payment of fee per Abstract.

XXXIX. On the receipt, in the General Register Office, of any abstract of any entry made in any Register by any District Registrar, the same shall be entered in the Book No. 1, 2, 3, or 4, described in Section LVI of this Act, as the case may be.

Entry in General Register Office of Abstract of entry made by District Registrar.

DECREES AFFECTING REGISTERED INSTRUMENTS.

XL. When any Civil Court, in the exercise of its original or appellate jurisdiction shall, by a decree or order, declare any Instrument before it relating to immoveable property, which shall have been

Procedure in case of registered Instruments being declared to be invalid or forged.



registered under this Act, to be invalid or a forgery, or when such Court, in the exercise of such jurisdiction, shall pass any decree or order affecting any Instrument before it relating to immoveable property which shall have been registered under this Act, which decree, or order shall create, declare, transfer, limit, or extinguish any right, title or interest under any such Instrument of any person in such immoveable property, such Court shall cause a memorandum of such decree or order to be sent to the District or Deputy Registrar in whose District or Division such Instrument shall have been originally registered.

XLI. Whenever any memorandum is received under the last preceding Section by any District or Deputy Registrar, a transcript thereof shall immediately be made in the margin of that part of the book in which there is any Register of the Instrument relating to the immoveable property affected by such memorandum, and such District or Deputy Registrar shall forthwith transmit a copy of such memorandum to the Registrar General, and to every District and Deputy Registrar in whose office such Instrument or any abstract of such Instrument is registered.

How notice or certificate to be dealt with.

ENFORCEMENT OF REGISTERED BONDS AND OTHER INSTRUMENTS.

XLII. A Bond or other written obligation for the payment of money not exceeding the sum of one hundred Rupees, which shall have been registered under the provisions of this Act, may be enforced without a regular suit as hereinafter provided. A Bond or other written obligation for the payment of money exceeding the sum of one hundred Rupees which shall have been registered under the provi-

Bonds, &c., for sums below one hundred Rupees may be enforced under this Act without regular suit. Also for sums above that limit in certain cases.

sions of this Act may in like manner be enforced. Provided the parties to such Bond or other obligation as aforesaid shall, at the time of the registration thereof, have signified their assent to such Bond or other obligation as aforesaid being so enforced, and provided that such assent shall have been recorded at the foot of the memorandum of registration, required by Section XXXVI to be endorsed on Instruments registered under this Act.

Proviso

XLIII. No Bond or other obligation as aforesaid shall be enforced under the provisions of the last preceding Section unless application for enforcement of the same be made within twelve months from the date on which the whole amount secured thereby became payable, and was not paid.

But application for enforcement must be made within a period fixed.

XLIV. Any person who is desirous of enforcing a claim on a Bond or other obligation as aforesaid, under Section XLII of this Act, may apply to any Court which would have had jurisdiction to try a regular suit on such Bond or other obligation as aforesaid, for enforcement of the same. Such application shall be treated as an application for the execution of a decree, and the provisions contained in Chapter IV of the Code of Civil Procedure (except Section 206) relating to execution of decrees shall, subject to the provisions hereinafter contained, be considered applicable thereto so far as the same can be applied.

Court to which application may be made for enforcing claims under last Section.

XLV. The Court to which such application is made shall cause a notice to be served on the person against whom the enforcement is claimed,

Procedure of Court on receipt of application.



calling on him to show cause, within a time to be fixed by the Court, why execution for the amount stated in the application should not be issued against him.

XLVI. If the person making the application shall satisfy the Court that the party against whom the claim is made, is about to leave the jurisdiction of the Court, or to dispose of or remove his property from the jurisdiction of the Court in order to evade payment of the money claimed to be due by him, the Court may issue process of attachment against the person or property of such party. Whenever such attachment shall issue, the provisions contained in the Code of Civil Procedure relating to arrest and attachment before judgment shall be applicable.

Procedure in case of alleged debtor being about to quit jurisdiction, or to move property therefrom.

XLVII. If the person against whom execution is claimed shall attend within the time specified in the notice, and show cause why execution should not be issued against him, the Court shall enquire into his objections, and shall pass such order as it shall think proper. Provided that no person shall in any such case be allowed to plead in bar of such execution, any plea other than that he was no party to the Registration of the Bond or other obligation as aforesaid, or that such Bond or other obligation as aforesaid has been paid and satisfied, or that the amount claimed exceeds that which is remaining due on the Bond or other obligation as aforesaid, whether for principal or interest; or a denial of the representative character in respect of which execution is claimed against him.

And in case of his appearing, and showing cause against issue of execution.

XLVIII. The Court to which application is made for enforcement of a Bond or other obligation as aforesaid under the foregoing Sections may, for any sufficient reason, instead of granting such application, order that a suit shall be brought on such Bond or other obligation as aforesaid.

Court may at discretion direct institution of suit, instead of enforcing Bond, &c., under this Act.

XLIX. No suit between the same parties shall be entertained on any Bond or other obligation as aforesaid, the enforcement of which shall have been refused by the Court, on an application for enforcement made under Section XLIV of this Act, otherwise than as barred by lapse of time, unless the Court shall have directed a suit to be brought thereon; but all orders passed by the Court for issuing execution or refusing to issue execution on any Bond or other obligation as aforesaid, shall be open to appeal to the Court competent to hear appeals from decisions passed by the same Court in regular suits. Such appeal shall be subject to the provisions of the Code of Civil Procedure relating to appeals from orders, and shall be heard and determined under the rules of the said Code relating to such appeals.

Procedure in case of Court refusing to enforce Bond, &c., under Act.

L. Nothing in the foregoing Sections shall be held to prevent the holder of any Bond or other obligation, as aforesaid for the payment of money from instituting a regular suit on the same, subject to the rules of Limitation for the time being in force, instead of applying for enforcement of the same under Section. LIV of this Act.

Foregoing provisions not to bar institution of suit on Bond, &c., after lapse of period indicated.



REGISTRATION OF WILLS, CODICILS, AND AUTHORITIES TO ADOPT

LI. Any person wishing to register his Will, a Codicil to his Will, or any Instrument giving authority to adopt a son after his decease shall, either personally or by a duly authorized agent, deliver such Will or Codicil, or such Instrument, in a sealed cover, superscribed with the name of the depositor and the nature of the Instrument, to a District Registrar, who shall, if such person be not personally known to him, satisfy himself of the identity of such person, or if such Will, Codicil, or Instrument be presented by an agent, of the authority of such agent as provided in Section XXXI of this Act.

Wills, &c.

LII. On receipt of such sealed cover superscribed as is above provided, and if satisfied as aforesaid, the District Registrar shall enter the same in the Register of Deposits of Wills, Codicils, and Instruments giving authority to adopt, transcribing therein the superscription on such sealed cover, and noting in the Register and on the cover the year, month, day, and hour of such receipt, together with the name of the depositor and the names of each of the persons testifying to the identity of such depositor, and shall then place such sealed cover in a fire-proof box to be supplied by Government for that purpose.

Entry in Register of Wills.

LIII. Whenever, on the death of any depositor of any such sealed packet, application may be made to he District Registrar in whose office such sealed packet was deposited to open such packet, such District Registrar, after satisfying himself that such

Procedure an application to open sealed packet, consequent on death of depositor.

depositor is dead, shall, in the presence of the person making such application, open such sealed packet, and shall enter a copy thereof, to be made at the expense of the applicant, in a Register of Wills, Codicils, and Instruments giving authority to adopt a son. The District Registrar shall thereupon re-deposit the original Will, Codicil, or Instrument, until required to produce the same in a Court of Justice. Any copy made under the provisions of this Section, and certified by the District Registrar to be a true copy, shall be evidence of the contents of the Will, Codicil, or Instrument giving authority to adopt, of which it purports to be such copy.

REGISTRATION FEES.

Local Government to prescribe, subject to approval, the fees to be charged for registration.

LIV. Subject to the approval of the Governor-General in Council, the local Government shall prepare a table of fees which shall be payable for the registration of Instruments under this Act, and may from time to time subject to the like approval, alter such table. A table of fees so payable shall be exposed to public view in every Office established for the registration of Instruments under this Act, and no Instrument shall be accepted for registration until the fee so prescribed for registration of such Instrument shall have been paid.

Disposal of Fees.

LV. All fees received under the provisions of this Act (not being fees payable under Section X of this Act to Officers who are paid by fees) shall be remitted to the Collector's Treasury, or to such other Treasury as the local Government shall direct, under such rules as the local Government shall from time to time issue, and be credited to Government.



REGISTERS.

Register Books.

LVI. In every General Register Office, and in the Office of every District and Deputy Registrar, four Books shall be kept, which shall be entitled—

1.—Register of absolute transfers of immoveable property.

2.—Register of other transfers of immoveable property.

3.—Register of awards of arbitrations.

4.—General Register of all other Instruments for the registration of which provision is made in this Act, and the entry of which is not required to be made in such other Registers as are hereinafter provided.

Entries in Registers.

LVII. All entries made in such books shall be numbered in a consecutive numerical series, which shall commence and terminate with the year, a fresh series being commenced at the beginning of each year. Whenever any Instrument, for the registration of which application may be made, refers to immoveable and also to moveable property, it shall be entered in Book No. 4 and also in Book No. 1, 2, or 3, as the case may be.

Indices.

LVIII. At the close of each year, two Indices shall be prepared for each Register, one containing the name of every party to every Instrument registered; and the other in the case of immoveable property, containing the name of the village or place where the property is situate, together with a description of the property, and its name, and such other particulars and in

such form as the Registrar-General shall from time to time prescribe under Section XIV of this Act.

LIX. Every District Registrar shall, in addition to the books prescribed in Section LVI of this Act, keep two books, to be entitled—

Register of Wills.

Register of deposits of Wills, and Codicils to Wills, and Instruments giving authority to adopt a son as provided in Section LII.

Register of Wills, Codicils, and Instruments giving authority to adopt a son as provided in Section LIII.

LX. The Registers in the General Register Offices, and in the Offices of the District and Deputy Registrars, shall be at all times open to inspection by any person applying to inspect the same, and certified copies of any entry in such Registers shall be given to all persons applying for such copies. A fee, to be prescribed in the Table of fees prepared under Section LIV of this Act, shall be paid by anyperson applying to inspect any Register, before such Register is opened to his inspection, and a fee of one Rupee over and above the charge of making the transcript shall be paid by every person requiring a copy of any entry in any such Register. The charge to be made for making copies of entries in the Register shall be regulated from time to time by the General Register Office. Provided that the Registers to be inspected under this Section shall be only the Registers No. 1, 2 and 3 specified in Secton LVI, and the Register specified in Section LIII.

Inspection of Register and fees for inspection and copies of entries.



MISCELLANEOUS PROVISIONS.

LXI. A registered Instrument shall operate from the time from which it would have commenced to operate if no registration had been required or made, and not from the time of its registration.

Time from which Instruments shall operate.

LXII. It shall not be necessary for any Officer of Government to appear in person for the purpose of registering any Instrument, but when any Instrument is executed by or on behalf of Government, or by any Board, Commission, Court, or Public Office on behalf of Government, the Deputy or District Registrar to whom such Instrument is presented for registration, may, if he deem it necessary, refer to the Head Officer of the Board, Commission, Court or Office on whose behalf such Instrument was executed, for information respecting the same, and on being satisfied of the execution thereof shall register the same.

Registry of Instruments executed by, or on behalf of, Government.

LXIII. If any person shall wilfully make any false statement in any deposition or declaration made by him before any Officer acting in execution of this Act, in any proceeding or enquiry under the provisions of this Act, he shall be deemed guilty of the offence of giving false evidence as defined in Section 191 of Act XLV of 1860 (The Indian Penal Code).

False statements to be dealt with as the offence of giving false evidence.

LXIV. No action on an Instrument of the nature of the Instruments specified in Sections XXI, and XXII of this Act which shall have been executed after this

Limits of action in certain cases.

Act came into operation, and which, though it could have been registered in the manner provided by this Act, shall not have been so registered, shall be entertained, unless such action, if it relate to immoveable property, shall be brought within two years, or, if it relate to moveable property, within six months from the date when the cause of action arose. Provided that nothing in this Section shall authorize any Court to receive any unregistered deed, the registration of which, to make it admissible in evidence, is required by this Act. This Section shall not apply to any Will, Codicil, or Instrument giving authority to adopt a son.

Special provision respecting Instruments affecting immoveable property within certain Jurisdiction.

LXV. No Instrument which purports or operates to create, declare, transfer, or extinguish any right, title or interest in any immoveable property situate within the local limits of the Ordinary Original Civil Jurisdiction of any Court established by Royal Charter shall be deemed invalid, nor shall any such Court or any other Court of Justice or public Officer refuse to receive such Instrument in evidence, or to act thereon, by reason of such Instrument not having been registered under this Act, nor shall the provisions of Section XL of this Act apply to any decree or order passed by any Court of Royal Charter in respect of any Instrument relating to any property situated as aforesaid.

Provisions of Section LXIV of this Act not to apply in certain cases.

LXVI. The provisions of Section LXIV of this Act shall not apply to any suit brought in any Court established by Royal Charter in the exercise of its ordinary Original Civil Jurisdiction, or to any appeal from any decision passed in any such suit, nor shall the provisions of the said Section apply to any suit brought in any Court of Small Causes situate within the local limits of the ordinary Original Civil Jurisdiction of any Court established by Royal Charter.



Commencement of Act.

LXVII. This Act shall come into operation on the 1st day of May 1864.

In No. 2996 of 1863.

Government of India.

HOME DEPARTMENT.

LEGISLATIVE.

A

# BILL

TO

Provide for the Registration of Assurances.

Amended Bill.

*(Mr. Ellis.)*

*Price* 15 *Annas.*

Printed at the Bengal Printing Company's Press.

Pro. 18th May 1863 No. 757

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No. 757 — 18th May 1863.

Resolved that a copy of the Bill "to provide for the Registration of Assurances" & of the Report of the Select Committee thereon, together with the foregoing letter, be referred to the Honble the Judges of the High Court and the Board of Revenue, & that they be requested to favor Govt. with their opinions and with those of any Officers they may deem it proper to consult on the provisions of the Bill.

Ordered that the Hon'ble Judges of the High Court is especially requested to consider the provisions of the Act for the Registration of Assurances in force within the Jurisdiction of the Courts in the Bengal Presidency

Hon'ble Judges of the High Court
" Board of Revenue