

MISCELLANEOUS SERIES.

G.O., No. 3845.

DATED 24th July 1897.

[Despatch Abstract.]

Frags. of the Judicial Deptt.
communicating to the officers concerned
letter from the Govt. of India forwarding
a bill to further amend the Court-fees
Act, 1870. &c. — forwarded to the
Board of Revenue

BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

Government { 1897 } of Madras. JUDICIAL

Recd.

Enclosures

Regd.

1897.

Spare copies

G.O., No. 995, 12th July 1897.

Enclosurement (no) no. 3845
Forwarded. 24th July

JULY.

List

2 The Board of Rev (Sep Rev).
22 July 97

Des. 29-7-97

Court-fees Act.

Communicating to the Hon'ble the Judges of the High Court, the Advocate-General, the Administrator-General and the Board of Revenue, for favour of remarks, letter from the Government of India forwarding a Bill to further amend the —, 1870, and ordering that the Bill with the Statement of Objects and Reasons be published in the Fort St. George Gazette in English and in all vernaculars.



GOVERNMENT OF MADRAS.
JUDICIAL DEPARTMENT.

READ—the following paper :—

From J. M. MACPHERSON, Esq., C.S.I., Secretary to the Government of India, Legislative Department, to the Chief Secretary to the Government of Madras, dated Simla, 3rd July 1897, No. 1203.

I am directed to forward herewith forty copies of the papers noted on the margin, and to request that the Governor in Council will favour the Government of India in this department with an expression of his opinion on the provisions of the Bill, and with the opinions of the Hon'ble the Judges of the High Court and of such selected officers and other persons as the Governor in Council may think fit to consult on the subject.

2. I am also to request that the Bill and Statement may be published in the *Fort St. George Gazette* in English and in such other languages as the Governor in Council may deem proper, and that the dates of publication of both may be communicated in your reply.

3. The Government of India will be glad to have a reply to this letter by the 1st September next.

ORDER—No. 995, Judicial, dated 12th July 1897.

Communicated to the Hon'ble the Judges of the High Court, the Advocate-General, the Administrator-General and the Board of Revenue for favour of early remarks.

2. The Bill and the Statement of Objects and Reasons will be published in the *Fort St. George Gazette* in English and in all vernaculars.

3. The Superintendent, Government Press, should report to Government the dates of publication.

(True Extract.)

C. M. Macpherson
for Chief Secretary.

To the Hon'ble the Chief Justice (with C.L.).

„ the Government Solicitor.

„ the Administrator-General.

„ the Board of Revenue, through the Revenue Department. ✓

„ the Superintendent, Government Press.

„ all Translators.

Gazette.

Ed. A. Raitt.

A

BILL

TO

Further amend the Court-fees Act, 1870.

WHEREAS it is expedient to further amend the Court-fees Act, 1870; It is hereby enacted as follows :—

I. (1) This Act may be called the Court-fees Act (1870) Amendment Act, 1897; and

(2) It shall come into force at once.

2. After section 19-G of the Court-fees Act, 1870, the following sections shall be added, namely :—

“19-H. (1) The Chief Revenue-officer of the district may at any time inspect, or cause to be inspected, the record of any case in which application for probate or letters of administration has been made to a Court within his district, and if, on such inspection or otherwise, he is of opinion that the petitioner has underestimated the value of the estate of the deceased, he may require the Court before which such application is pending, to hold an inquiry into the true value of the estate.

(2) Every Court, when so required as aforesaid, shall hold an inquiry accordingly, and shall record a finding as to the true value, as near as may be, at which the estate of the deceased should have been estimated.

(3) For the purposes of any such inquiry the Court may examine the petitioner for probate or letters of administration on oath (whether in person or by commission), and may take such further evidence as may be produced before it, either by such Revenue-officer or by such petitioner, to prove the true value of the estate.”

“19-J. (1) Every application for probate or letters of administration must be accompanied by a deposit of a sum equal to the fee chargeable under this Act in respect of probate or letters of administration.

(2) If the application is allowed, the sum deposited under sub-section (1) shall be expended, under the direction of the Court, in the purchase of the stamp to be used for denoting the fee chargeable as aforesaid.

(3) Any sum deposited under sub-section (1) and not expended under sub-section (2) shall be refunded to the depositor.”

GOVERNMENT OF INDIA.
LEGISLATIVE DEPARTMENT.

A
BILL
TO

Further amend the Court-fees Act,
1870.

(Sir John Woodburn.)

STATEMENT OF OBJECTS AND REASONS.

Under Act VII of 1870, a certain percentage is leviable by way of court-fee on the value, as estimated by the petitioner, of an estate in respect of which a grant of probate or letters of administration is made. Chapter III-A of the same Act, as amended by Acts XIII of 1875 and VIII of 1890, makes provision for a refund where the petitioner pays what turns out to be too high a fee, and also, in the converse case of his paying at the time of his application for probate or letters of administration a fee calculated on too low an estimate of the assets likely to come to his hands, for the subsequent levy of the difference between what he has actually paid and what he ought to have paid.

2. There is, however, no means provided by which the Revenue Officers of Government can check the sufficiency of a petitioner's valuation, and it is proposed by this Bill to remove what experience has shown to be a defect in the law of some practical importance, by adding to the Court-fees Act, 1870 (VII of 1870), a section enabling the Chief Revenue Officer of the district, to inspect the records of any case in which application for probate or letters of administration has been made, and to prove in court any undervaluation of the estate concerned.

3. It is further proposed to insert in the same Act a provision similar to that contained in section 14 of the Succession Certificate Act, 1889 (VII of 1889), so as to secure, at the time of application for probate or letters of administration, the payment of the fee chargeable in respect of the subsequent grant thereof. As the law now stands, the duty is payable, not on the application for, but on the grant of, probate or letters of administration. A person to whom sections 187 and 190 of the Indian Succession Act, 1865 (X of 1865), do not apply and who is not bound to produce probate or letters of administration to establish his rights in succession may attain all that he desires by merely obtaining on his application an order for the grant of probate or letters of administration, without actually taking out, and paying the fees prescribed for, the probate or letters of administration applied for. This result cannot, obviously, have been contemplated, and the latter part of clause 2 of the Bill is intended to guard against it.

The 26th June, 1897.

J. WOODBURN.

GOVERNMENT OF INDIA.
LEGISLATIVE DEPARTMENT.

ANNEXURE

TO

Bill to further amend the Court-fees Act,
1870.

(Statement of Objects and Reasons.)

When given for copying _____
When copied _____
When examined _____
When signed _____

189 .

READ AGAIN G.O., No.
189

DATED

PRESENT No.

ENCLOSURE TO G. No.

ORDER OF GOVERNMENT

LETTER OF GOVERNMENT

STATEMENT WITH DITTO

PAPERS NOT FILED UP, BEING MEANT FOR DESPATCH
IN ORIGINAL.

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N.B.—

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