

ACT No. XXVII OF 1860.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 25th June, 1860.)

*An Act for facilitating the collection of debts on successions, and for the security of parties paying debts to the representatives of deceased persons.*

WHEREAS it is expedient to consolidate and amend certain Acts now in force which provide greater security for persons paying to the representatives of deceased Hindoos, Mahomedans, and others not usually designated as British subjects, debts which are payable in respect of the estates of such deceased persons, and which facilitate the collection of such debts by removing all doubts as to the legal title to demand and receive the same; It is enacted as follows:—

I. Act XX of 1841 (*for facilitating the collection of debts on successions, and for the security of parties paying debts to the representatives of deceased persons*): so much of Act VIII of 1842 as relates to the said Act XX of 1841: Act X of 1851 (*to amend Act XX of 1841 for the administration of personal estate of deceased persons*): and Act VIII of 1854 (*to explain and amend Act X of 1851 and Act XX of 1841*) are hereby repealed; except as to certificates granted and acts done under the authority of the said laws before the passing of this Act.

II. No debtor of any deceased person shall be compelled in any Court to pay his debt to any person claiming to be entitled to the effects of any deceased person or any part thereof, except on the production of a certificate to be obtained in manner hereinafter mentioned or of a probate or letters of administration, unless the Court shall be of opinion that

ACT No. XXVII OF 1860.

that payment of the debt is withheld from fraudulent or vexatious motives, and not from any reasonable doubt as to the party entitled.

III. The District Court within the jurisdiction of which the deceased shall have ordinarily resided at the time of his death, or if at that time he had no fixed place of residence then within the jurisdiction of which any part of the property of the deceased may be found, shall have authority to grant a certificate under this Act. The applicant in his petition shall set forth his title. The Court shall issue notice of application, inviting claimants, and fixing a day for hearing the petition, and upon the appointed day or as soon after as may be convenient, shall determine the right to the certificate and grant the same accordingly.

IV. The certificate of the District Court shall be conclusive of the representative title against all debtors to the deceased, and shall afford full indemnity to all debtors paying their debts to the person in whose favor the certificate has been granted.

V. The Court may take such security as it shall think necessary from any person to whom it shall grant a certificate for rendering an account of debts received by him, and for indemnity of persons who may be entitled to the whole or any part of the monies received by virtue of such certificate whose right to recover the same by regular suit against the holder of the certificate is not affected by this Act.

VI. The granting of such certificate may be suspended by an appeal to the Sudder Court, which Court may declare the party to whom the certificate should be granted, or may direct such further proceedings for the investigation of the title as it shall think fit. The Court may also, upon petition, after a certificate shall have been granted by the District Court, grant a fresh certificate in supersession of the certificate granted by the District Court. Such fresh certificate shall not affect any payments made to the person to whom any former certificate may have been granted, without notice that the same has been superseded, but shall entitle the person named therein to receive all monies that may have been recovered under the first certificate from the person to whom the same may have been granted.

VII. Every

ACT No. XXVII of 1860.

VII. Every certificate shall give authority to the person to whom the same is granted throughout the Presidency within which the same is granted, and no certificate subsequently granted in respect of the same property shall be valid or effectual, except as hereinafter mentioned.

VIII. If the estate of the deceased shall include any Government Securities or Bank-shares, or any shares in any public Company, the certificate may empower the person certified as aforesaid to receive interest or dividends thereon, or on any of them, or to negotiate the same or any of them: in such case the certificate shall describe the securities and shares in respect of which such powers are given, and such powers shall not be vested by the certificate except by express words.

IX. In the case of disputes among persons claiming to be jointly entitled to be proprietors of any Government Securities as the representatives of any deceased person, the District Court, whenever sufficient cause shall be shown, and on the request of any such claimant, may, so far as concerns the said securities, grant a certificate under this Act to such person as shall be from time to time appointed by the local Government to act as trustee under this Section, and shall specify in such certificate the several persons appearing to him to be such proprietors and their several shares; and the said trustee by virtue of such certificate shall be entitled to receive and give discharges for the interest accruing due on such securities, and shall account for and pay the sum to the several persons specified in the certificate to be thereunto entitled, according to the shares therein set forth, and shall be empowered to act in all other respects concerning the said securities as agent for such persons, and shall be entitled to receive such commission, not exceeding one per centum, on the sums received and paid by him, as the local Government shall think fit. Provided nevertheless that the right of any other person to recover the whole or any part of the monies so paid by regular suit against all or any of the persons to whom the same have been paid, shall not be affected by this Act.

X. If any such disputes among persons claiming to be proprietors of Government Securities are not ended within two years from the date of the certificate granted under the last preceding Section, the said trustee may apportion the principal sum of the

ACT No. XXVII of 1860.

of the said securities rateably among the parties appearing from the certificate to be proprietors thereof, and may apply for and receive new securities from the proper Officer appointed to issue the same in the respective names of the several parties certified to be entitled thereto; provided that such new securities shall be issued only according to the rules in use for the regulation and issue of such Government Securities, and the receipt of the said trustee for such new securities, by endorsement on the old securities or otherwise, shall be a legal discharge to the Government against the disputing parties claiming to be entitled to the several amounts for which such securities shall be issued. Provided always that, if the

Proviso. amount of any Government Securities in dispute or any part thereof shall not be sufficient to admit of their rateable division according to the rules applicable to the issue of such securities, the said trustee may sell and dispose of the disputed securities, or such part as shall be necessary under this provision, and apportion the proceeds thereof among the parties entitled to receive the same.

XI. Every certificate granted to the trustee appointed under Section IX, shall be taken to supersede and annul any previous certificate so far as such previous certificate relates to the said Government Securities.

Effect of certificate granted by trustee.

XII. When a certificate shall have been granted, in cases in which such certificate would be valid but for the previous grant of a certificate, all payments made to the person holding the latter certificate in ignorance of the grant of the previous certificate, shall be held good against claims under such previous certificate.

Payments under certificate void by reason of previous certificate.

XIII. With regard to the property of a deceased Hindoo, Mahomedan, or other person not usually designated by the term "British subject," no certificate in respect of any such property shall be valid if made after a probate or letters of administration granted in respect of the same, provided assets belonging to the deceased were at the time of his death within the local jurisdiction of the Court granting the probate or letters of administration.

Certificate in respect of property of deceased Hindoos, Mahomedans, &c., void after grant of probate or letters.

XIV. Where

XIV. Where a certificate shall have been granted, in cases in which such certificate would be valid but for a probate or letters of administration previously granted, all payments made to the person holding the certificate in ignorance of the previous granting of the probate or letters of administration, shall be held good against claims under the probate or letters of administration so previously granted.

Certain payments under certificate granted after grant of probate or letters, protected.

XV. No probate or letters of administration shall be valid for the purpose of the recovery of debts or for the security of debtors, after a certificate granted in respect of the same property for which such probate or letters of administration shall have been granted, provided assets belonging to the deceased were at the time of his death within the jurisdiction of the Court granting such certificate.

Probate or letters void after grant of certificate.

Proviso.

XVI. Where probate or letters of administration may have been granted in cases in which such probate or letters of administration would be valid but for the previous grant of a certificate, all payments made in ignorance of the previous grant of the certificate, shall be held good against claims under such previous certificate.

Certain payments under probate or letters, granted after grant of certificate, protected.

XVII. Curators appointed under Act XIX of 1841 who may be invested with certain powers which are conferred on persons obtaining certificates under this Act, shall not exercise any powers which, but for that Act, would lawfully belong to persons obtaining certificates, or to executors or administrators where a certificate, probate, or letters of administration has been actually obtained; but all persons who may have paid debts or rents to a curator authorized by a Court to receive the same, shall be indemnified, and the curator shall be responsible for the payment of the same to the person who has obtained a certificate, the executor or administrator as the case may be.

Curators prohibited from exercising certain powers.

XVIII. All probates and letters of administration granted by any Supreme Court of Judicature in cases in which any assets belonging to deceased persons were at the time of their deaths within the local jurisdiction of the Court granting the probate or letters of administration, shall have the effect of probate and letters

of

ACT No. XXVII of 1860.

of administration granted in respect of the property of British subjects, but for the purpose of the recovery of debts only and the security of debtors paying the same, except so far as is in this Act provided.

**XIX.** A certificate of administration granted by the British Representative accredited to any Foreign Prince or State, shall, as regards the residents within the Territories of such Prince or State, have the same effect in respect to Government Securities as a certificate granted to a Native subject of Her Majesty under the provisions hereinbefore contained.

*Effect of certificates granted by British Representatives in Foreign States.*

**XX.** Every certificate of administration granted under the last preceding Section shall, as regards the Government Securities, give authority to the person to whom the same shall be granted throughout the British Territories in India, and have the same effect throughout the said territories as a certificate granted under Section VII of this Act has within the Presidency within which the same is granted.

*Local extent of power given by such certificates.*

**XXI.** Any Court or Officer authorized to grant a certificate may from time to time extend the same to any Government Security or Bank share not originally specified therein, and every such extension shall have the same effect as if the Government Security or Bank share to which the certificate shall be extended had been originally specified therein.

*Extension of certificate.*

**XXII.** Upon the extension of a certificate, security may be required in the same manner as upon the original grant of a certificate.

*Security upon extension.*

**XXIII.** Nothing in this Act contained shall be held to extend to the property of any person usually designated as a British subject.

*Act not to apply to British subjects.*

**XXIV.** The following words and expressions in this Act shall have the meaning hereby assigned to them, unless there be something in the subject or context repugnant to such construction (that is to say)---

*Interpretation.*

Words

ACT No. XXVII OF 1860.

Number. Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number.

Gender. Words importing the masculine gender shall include females.

"District Court." The words "District Court" shall mean the principal Civil Court of original jurisdiction of a Zillah or District.

"Sudder Court." The words "Sudder Court" shall be deemed to include the highest Civil Court of Appeal in any part of the British Territories in India not subject to the control and superintendence of a Sudder Court..