

ACT No. XV OF 1868.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

(Received the assent of the Governor General on the 17th April 1868).

An Act to provide for the collection of fees, by means of stamps, in the High Courts and the Courts of Small Causes at the Presidency Towns.

WHEREAS it is expedient to amend the law relating to the collection of fees in the High Courts of Judicature and the Courts of Small Causes at Fort William in Bengal, Madras and Bombay; It is hereby enacted as follows:—

Short title.

1. This Act may be called "The High Court Fees' Act, 1868."

Repeal of Act XX
of 1862, sections 1, 3
and 4.

2. Sections one, three and four of Act No. XX of 1862 (*to provide for the levy of Fees and Stamp Duties in the High Court of Judicature at Fort William in Bengal; and to suspend the operation of certain sections of Act VIII of 1859 in the said High Court*) are hereby repealed.

3. All fees for the time being chargeable in the High Courts of Judicature and the Courts of Small Causes at Fort William in Bengal, Madras and Bombay, and their several offices, shall be collected by stamps from such date, in the said High Court of Judicature in Fort William, as the Governor General of India in Council shall notify in the *Gazette of India*, and from such date, in the said other High Courts and in each of the said Courts of Small Causes, as the Local Government shall notify in the local official Gazette.

4. All or any stamps to be used under this Act shall be impressed or adhesive as the Local Government may from time to time direct.

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5. The Local Government, with the concurrence of the Chief Justice of the High Court, in the case of such Court, and with the concurrence of the First Judge of the Court of Small Causes, in the case of such Court, may, from time to time, make rules for regulating the use of stamps under this Act, and particularly for prescribing the application thereof to documents from time to time in use or required to be used for the purposes of such stamps, and for insuring the proper cancellation of such stamps, the renewal of damaged or spoilt stamps, and keeping accounts of all stamps used under this Act.

General rules to be made by Local Government.

6. No document which ought to bear a stamp under this Act shall be of any validity unless and until it is properly stamped; but if any such document is through mistake or inadvertence received, filed, or used, in the High Court or the Court of Small Causes, without being properly stamped, a Judge of the High Court or of the Court of Small Causes (as the case may be) may, if he thinks fit, order that the same be stamped as in such order may be directed, and on such document being stamped accordingly, the same and every proceeding relative thereto shall be as valid as if it had been properly stamped in the first instance.

Documents not properly stamped to be invalid.

7. Where any such document is amended in order merely to correct a mistake and to make it conform to the original intention of the parties, it shall not be necessary to impose a fresh stamp.

Amendment of stamped instrument.

8. Nothing in this Act shall apply to the fees allowed to the sheriff or attorneys of the High Court, or to the fees which any officer of such Court shall be allowed to receive in addition to any fixed salary.

Saving of fees allowed to sheriff, &c.

9. If any difference arise between the officer whose duty it is to see that any stamp is affixed under this Act and any suitor or attorney, as to the necessity of imposing a stamp or the amount thereof, the question shall, when the difference arises in the High Court, be referred to the Taxing Officer, whose decision thereon shall be final, except when the question is, in his opinion, one of general importance, in which case he shall refer it to the final decision of the Chief Justice of the High Court.

Procedure in case of difference as to necessity of imposing a stamp.

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When any such difference arises in any of the said Courts of Small Causes, the question shall be referred to the Clerk of the Court, whose decision thereon shall be final, except when the question is, in his opinion, one of general importance, in which case he shall refer it to the final decision of the First Judge of such Court.