

ACT No. VI OF 1881.

PASSED BY THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

*(Received the assent of the Governor General on the 21st
January, 1881.)*

An Act to make further provision for the grant
of Probate and Letters of Administration
in non-contentious cases.

WHEREAS it is expedient to make further provi- Preamble.
sion for the grant of probate and letters of
administration in non-contentious cases; It is hereby
enacted as follows:—

1. This Act may be called "The District Delegates Short title.
Act, 1881":

It extends to the whole of British India; Extent.
and it shall come into force on the first day of Commence-
ment.
April, 1881.

2. After section 235 of the Indian Succession Act, Addition of
section after
section 235 of
Succession
Act.
1865, the following section shall be added:—

"235 A. The High Court may, from time to time, Power to
appoint Dele-
gate of Dis-
trict Judge
to deal with
non-conten-
tious cases.
appoint such judicial officers within any district as it
thinks fit, to act for the District Judge as Delegates
to grant probate and letters of administration in non-
contentious cases, within such local limits as it may
from time to time prescribe:

"Provided that, in the case of High Courts not
established by Royal Charter, such appointment be
made with the previous sanction of the Local Govern-
ment.

"Persons so appointed shall be called 'District
Delegates.'"

3. After

Addition of section after section 241 of same Act.

3. After section 241 of the said Act, the following section shall be added :—

Probate and letters of administration, may be granted by Delegate.

“ 241 A. Probate and letters of administration may, upon application for that purpose to any District Delegate, be granted by him in any case in which there is no contention, if it appears by petition (verified as hereinafter mentioned) that the testator or intestate, as the case may be, at the time of his death resided within the jurisdiction of such Delegate.”

Addition to sections 244 and 246 of same Act.

4. To sections 244 and 246 of the said Act, respectively, the following words shall be added :—

“ and when the application is to a District Delegate, the petition shall further state that the deceased at the time of his death resided within the jurisdiction of such Delegate.”

Substitution of section for section 251 of same Act.

5. For section 251 of the said Act, the following section shall be substituted :—

Caveats against grant of probate or administration.

“ 251. Caveats against the grant of probate or administration may be lodged with the District Judge or a District Delegate ; and immediately on any caveat being lodged with any District Delegate, he shall send a copy thereof to the District Judge ; and immediately on a caveat being entered with the District Judge, a copy thereof shall be given to the District Delegate, if any, within whose jurisdiction it is alleged the deceased resided at the time of his death, and to any other Judge or District Delegate to whom it may appear to the District Judge expedient to transmit the same.”

Amendment of section 253 of same Act.

6. In section 253 of the said Act, after the word “ Judge ” the words “ or officer,” and after the word “ made ” the words “ or notice has been given of its entry with some other Delegate,” shall be inserted.

Addition of sections after section 253 of same Act.

7. After section 253 of the said Act, the following sections shall be added :—

District Dele-

“ 253 A. A District Delegate shall not grant probate

bate or letters of administration in any case in which there is contention as to the grant, or in which it otherwise appears to him that probate or letters of administration ought not to be granted in his Court.

“*Explanation.*—By ‘contention’ is understood the appearance of any one in person, or by his recognized agent, or by a pleader duly appointed to act on his behalf, to oppose the proceeding.

“253 B. In every case in which there is no contention, but it appears to the District Delegate doubtful whether the probate or letters of administration should or should not be granted, or when any question arises in relation to the grant, or application for the grant, of any probate or letters of administration, the District Delegate may, if he thinks proper, transmit a statement of the matter in question to the District Judge, who may direct the District Delegate to proceed in the matter of the application, according to such instructions as to the Judge may seem necessary, or may forbid any further proceeding by the District Delegate in relation to the matter of such application, leaving the party applying for the grant in question to make application to the Judge.

“253 C. In every case in which there is contention, or the District Delegate is of opinion that the probate or letters of administration should be refused in his Court, the petition, with any documents that may have been filed therewith, shall be returned to the person by whom the application was made, in order that the same may be presented to the District Judge; unless the District Delegate thinks it necessary, for the purposes of justice, to impound the same, which he is hereby authorized to do; and in that case the same shall be sent by him to the District Judge.”

8. In the said Act, sections 254 and 255, respectively, after the words “I, Judge of the District of _____,” the words “(or Delegate appointed for granting probate or letters of administration in (*here insert the limits of the Delegate’s jurisdiction*))”; and in section 308, after the words

“District

gate when not to grant probate or administration.

Power to transmit statement to District Judge in doubtful cases where no contention.

Procedure where there is contention, or District Delegate thinks probate or letters of administration should be refused in his Court.

Amendment of sections 254, 255 and 308 of same Act.

“District Judge, by whom” the words “or by whose District Delegate” shall be inserted.

Introduction of the words “or District Delegate” in certain sections of same Act.

9. In the said Act, sections 246, 250, 255 and 259, after the words “District Judge,” and in section 250 and section 254 (when it first occurs) after the word “Judge,” the words “or District Delegate” shall be inserted respectively.