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1905.

ASSAM SECRETARIAT.

GENERAL DEPARTMENT.

HOME—A.

June.

Nos. 25-27.

Proposed legislation so as to permit plaintiffs to put, for the purposes of jurisdiction
their own valuation on suits for the restitution of conjugal rights.

REFERENCES TO FORMER CASES.	
Department, date, and Nos., or File No. and year.	Brief Title of File.
File No. 1501J. of 1886.	Bill to prescribe the mode of valuing certain suits for the purpose of determining the jurisdiction of courts with respect thereto.

REFERENCES TO LATER CASES.	
Department, date, and Nos.	Brief Title of File.
<i>Indl A. Jan'y 06 = 26</i>	

(To be continued on back, if necessary.)

PAPERS OTHER THAN PROCEEDINGS.

I.—Printed.

Notes and orders.

II.—Not printed.
Unimportant papers.

1905.
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NOTES.

HOME—A, JUNE 1905.

Nos. 25-27.

Proposed legislation so as to permit plaintiffs to put, for the purposes of jurisdiction, their own valuation on suits for the restitution of conjugal rights.

FROM THE UNDER-SECRETARY TO THE GOVERNMENT OF INDIA, HOME DEPARTMENT, No. 590, DATED THE 27TH APRIL 1905.

Asks for Chief Commissioner's opinion on the question of undertaking legislation so as to permit plaintiffs to put, for the purposes of jurisdiction, their own valuation on suits for the restitution of conjugal rights.

Personal Assistant,

We may send a copy of India's letter with enclosure to the Judges of the Assam Valley Districts and Sylhet and ask for their opinion on the question. This procedure was adopted in 1886 when the Bill for the Suit Valuation Act came for consideration.

Mahendra—7th May 1905.

8th May 1905.

P. G. ROGERS.

[Memorandum to the District Judge, Sylhet, and the Judge, Assam Valley Districts, Nos. 2028-9J., dated the 9th May 1905.—(Not printed.)]

Personal Assistant,

The opinions* received are placed below. As both the Judges have found the proposed legislation a desirable one, we may perhaps reply to India supporting the Calcutta High Court's proposal.

* Not printed.

Mahendra—5th June 1905.

Secretary,

As proposed.

6th June 1905.

P. G. ROGERS.

Chief Commissioner,

We may reply that, on the assumption that the Hon'ble Judges are correct in their interpretation of section 9, Act VII of 1887, the Chief Commissioner is of opinion that legislation on the lines proposed would be desirable.

7th June 1905.

L. J. KERSHAW.

8th June 1905.

J. B. FULLER.

[To the Secretary to the Government of India, Home Department, No. 2665J., dated the 10th June 1905.]

ASSAM SECRETARIAT PROCEEDINGS.

HOME—A.

June 1905.

Proposed legislation so as to permit plaintiffs to put, for the purposes of jurisdiction
their own valuation on suits for the restitution of conjugal rights.

No. 590

FROM

H. G. STOKES, Esq.,

Under Secretary to the Government of India,

To

The Honorable the Chief Commr of Assam

Home Department.
Judicial.

Simla, the 24th April 1905.

SIR,

I AM directed to forward a copy of a letter* from the High Court, Calcutta, in which the Honourable the Chief Justice and Judges recommend that legislation should be undertaken so as to permit plaintiffs to put, for the purposes of jurisdiction, their own valuation on suits for the restitution of conjugal rights, and to request that the Government of India may be furnished with an expression of

Your opinion

on the question.

2. With reference to the concluding portion of the letter of the Calcutta High Court, I am to add that the view taken by the court as regards its powers under section 9 of the Suits Valuation Act, 1887 (VII of 1887), seems to be at variance with those adopted elsewhere, for it is observed that in more than one province general directions have been issued for the valuation of such suits for the purposes of the Court Fees Act, 1870 (VII of 1870), as well as the Suits Valuation Act, 1887 (VII of 1887), on the principle which it is now proposed to legalise.

I have the honour to be,

SIR,

Your most obedient servant,

H. G. STOKES,

Under Secy. to the Govt. of India.

No.

COPY forwarded to the Foreign Department for information, with the request that the views of the Honourable the Chief Commissioner, North-West Frontier Province, may be obtained and communicated to the Home Department.

By order,

H. G. STOKES,

Under Secy. to the Govt. of India.

No. 3486, dated the 30th November 1904.

From—R. SHEEPHSANKS, Esq., REGISTRAR of the High Court of Judicature at Fort William in Bengal, Appellate Side,

To—The Secretary to the Government of India, Home Department.

I AM directed to invite the attention of the Government of India to the case of Aklemunnessa Bibi *versus* Mahamod Hatim, reported at page 705, Calcutta Weekly Notes, volume VIII, in

PRESENT;
The Full Court.

which it was held, following two previous decisions of this court, that a suit for restitution of conjugal rights does not admit of pecuniary valuation; that it cannot therefore be predicated of such a suit that its value does not exceed Rs. 1,000; and that consequently, under section 19 of the Bengal, North-Western Province and Assam Civil Courts Act (XII of 1887), a munsif has no jurisdiction to try it. The consequence is that, in the present state of the law, all such suits must be instituted in the Court of a Subordinate Judge, and all appeals in them must be laid in the High Court.

2. It is, in the opinion of the judges, a great hardship to a poor man that he should be compelled, in such cases, to go to the court of the Subordinate Judge, with the chance of an appeal to the High Court. They accordingly desire to recommend that legislation should be undertaken, allowing plaintiffs to put, for the purposes of jurisdiction, their own valuation on suits for the restitution of conjugal rights. The case is not one which can be met by the exercise by the High Court of the powers conferred on it by section 9 of the Suits Valuation Act (VII of 1887), since a uniform value cannot be specified for the subject matter of all suits of the nature in question.

No. 27.

No. 2665J., dated Shillong, the 12th June 1905.

From—The Offg. Secretary to the Chief Commissioner of Assam,
To—The Secretary to the Government of India, Home Department.

With reference to Mr. Stoke's letter No. 590, dated the 27th April 1905, asking, for the Chief Commissioner's opinion on the recommendation of the High Court, Calcutta, that legislation should be undertaken so as to permit plaintiffs to put, for the purposes of jurisdiction, their own valuation on suits for the restitution of conjugal rights, I am directed to say that, on the assumption that the Hon'ble Judges of the High Court are correct in their interpretation of section 9 of Act VII of 1887, the Chief Commissioner is of opinion that legislation on the lines proposed would be desirable.