

With regard to the remaining objection of exclusion of evidence, we think that the Judge was not wrong in law in rejecting evidence of general reputation where the question of the truth of definite charges was in issue, and also in refusing consideration to what had been published on former occasions in the same paper by another editor.

The result is that we must reject this application.

Petition Rejected.

In re GEORGE BLACKWELL.

Insolvency—European British born subject—Jurisdiction—11 & 12 Vic., c. 21., s. 5—Letters Patent of High Court, Cl. 18.

A European British born subject, residing in the Bombay Presidency but outside the local limits of the jurisdiction of the High Court, is entitled to come to Bombay and present a petition in the Court for the Relief of Insolvent Debtors and obtain the benefit of the Indian Insolvent Act, as the original jurisdiction of the Supreme Court is in that respect continued to the High Court by Clause 18 of its Letters Patent.

THE petitioner in this case was a British born subject. He had a house in Puna in which he used to reside with his family. He came to Bombay about the month of September 1871, being then out of employment, leaving his family at Puna and resided sometimes at an hotel and sometimes with his friends; and on the 15th December 1871, while so temporarily resident in Bombay, he filed his petition and schedule; when the case came on for hearing he had left Bombay to take up an appointment at Sattara.

Marriott for the opposing creditors opposed the insolvent's discharge on the grounds (*inter alia*) that he was not resident within the local jurisdiction of the High Court, and therefore was not entitled to his discharge. He cited *in re Cockburn* (a); *in re Tietkins* (b).

Starling for the Insolvent cited *Holroyd v. Gwynne* (c).

(a) 2 Ind. N. S. Jur. 326.

(b) 1 Beng. Law Rep. O. C. 84.

(c) 1 Rose 113; S. C. 2 Taunt. 176.

1872.

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GIBBS, J. :—As in this case I am of opinion that the second ground of opposition has entirely failed, the sole point that remains for decision, is that of the jurisdiction of this Court to grant the insolvent his discharge. This question of jurisdiction is of some importance. The present charter of the High Court, cl. 18, gives the judge, sitting in insolvency, power “to have and exercise, within the Presidency of Bombay, such powers and authorities with respect to original and appellate jurisdiction and otherwise, as are constituted by the laws relating to insolvent debtors in India.” By the 5th sec. of the Insolvent Debtors’ Act 11 & 12 Vic., ch. XXI., any person who shall reside within the jurisdiction of any of the Supreme Courts at Calcutta, Madras, and Bombay shall be able to take the benefit of the Act. Now this jurisdiction is to be found in the charter of the late Supreme Court, and the clause runs thus, (clause 28) : “The jurisdiction, powers, and authorities of the said Supreme Court of Bombay shall extend to all such persons as have been heretofore described and distinguished, in our charters of justice for Bombay, by the appellation of British subjects, who shall reside within any of the factories subject to, or dependent upon the Government of Bombay ;” and by the next section jurisdiction is given “over the inhabitants of Bombay,” meaning the town and island. Thus the jurisdiction of the late Supreme Court was twofold—local, as respected the inhabitants of the town and island of Bombay; and personal, as regarded European British-born subjects, as they are now called, residing in any part of the territories subject to the Bombay Government. This latter jurisdiction, as regards civil actions, does not now exist, but, as regards the Insolvent Court, it has not been interfered with. Mr. Blackwell is a European British-born subject, and even if his residence at friends’ houses or at an hotel in the island of Bombay at the time he filed his petition, was not sufficient—and this the court would hesitate to affirm after the case of *Holroyd v. Gwynne*,—the judgment of Sir Barnes Peacock *in re Cockburn* seems decisive to show that he is entitled to seek for, and that it is competent for this court to

extend to him, the benefit of the Indian Insolvent Act. That learned judge observed that Mr. Justice Norman's decision dismissing the insolvent's petition for want of jurisdiction was good, because his then residence, Garden Reach, was not within the local limits of the jurisdiction of the High Court at Calcutta ; "and," he adds, "it was not shown that the petitioner was a European British subject"—clearly intimating that, if it had been, the jurisdiction would have been complete, as it would apparently have also been had he been a servant of Government. In the case *In re Tietkins* a temporary residence of an insolvent at an hotel solely for the purpose of filing his petition under the Act, and an immediate departure, was apparently held insufficient "residence" to give jurisdiction, but the decision also turned on the fact that the petitioner's permanent residence was at Cawnpore, in the N. W. Provinces, beyond the jurisdiction of the High Court, which by the last charter of 1865 was limited to Bengal Proper. I, therefore, hold that the jurisdiction is clearly sufficient, and finding no cause of opposition proved, direct the petitioner to be sworn to the truth of his schedule and discharged.

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