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part of the village excepting in this portion of the village which was reserved as Government forest. The plaintiff, as it appears to their Lordships, has not made out a title to any teakwood, and he has not made out a case against the Government as to their having cut *izaili* wood in any place, not of their having recovered the value of *izaili* wood cut in any part of the village, except the Government reserves in which the plaintiff was clearly not entitled to any of the trees.

Under these circumstances their Lordships are of opinion that the decision of the High Court was right, and they will, therefore [275] humbly recommend Her Majesty that the decree of the High Court be affirmed, and that the appellants do pay the costs of this appeal.

Solicitors for appellant.—Messrs. *Hores* and *Pattison.*

Solicitor for respondents.—Mr. *H. Treasure,*

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4 B. 275 = 5 Ind. Jur. 145.

ORIGINAL CIVIL.

Before Sir Charles Sargent, Kt., Chief Justice (Officiating) and Mr. Justice Bayley.

IN THE MATTER OF THE NEW FLEMING SPINNING AND WEAVING COMPANY (LIMITED) IN LIQUIDATION.

THE BANK OF BOMBAY (*Appellants*), *v.* H. R. CORMACK AND OTHERS (*Official Liquidators*), *Respondents.* [5th December, 1879.]

Bill of exchange—Liability of a company to third parties on a bill drawn by directors as such—Indian Companies Act (X of 1866), s. 47—Company—Winding up.

Three of the directors of the New Fleming Spinning and Weaving Company, Limited, one of whom was also the secretary, treasurer and agent of the company, drew a bill in favour of S, *in the following form* :—"Sixty days after the date of this first of exchange, (second and third of the same tenor and date not being paid), pay to the order of S, the sum of Rupees two lakhs only. Value received, and place to account of G.P., K.N., N.K., Secretary, Treasurer and Agent. The New Fleming Spinning and Weaving Company, Limited, Directors." The bill was endorsed by S. to the Bank of Bombay, was duly presented for payment to the drawee, and was protested for non-payment. Subsequently to the date of the drawing of the bill, the New Fleming Spinning and Weaving Company, Limited, went into liquidation. The Bank of Bombay claimed as endorsees of the bill to prove against the company as drawers.

Held, affirming the decision of GREEN, J., that the company was not liable. In order to make a company liable on a bill or note it must appear on the face of such bill or note that it was intended to be drawn, accepted, or made on behalf of the company, and no evidence *dehors* the bill or note is admissible under s. 47 of the Indian Companies Act (X of 1866).

Dutton v. *Marsh* (1) followed.

[F., 5 B. 92.]

THIS was an appeal against an order dated the 30th August 1879 made by Green, J., whereby he disallowed the claim of the Bank of Bombay to rank as creditors of the New Fleming Spinning and Weaving Company as endorsees of a bill of exchange for Rs. 2,00,000, dated the 20th November 1878. The bill, in respect of which the claim was made against the company by the Bank of Bombay, was in the following form :—

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(1) L. R. 6 Q. B. 361.

[276] "Sixty days after date of this first of exchange (second and third of the same tenor and date not being paid) pay to the order of Dr. Sidney Smith the sum of Rupees 2 lakhs only.

Value received and place to account of
Ghellabhai Padumsey,
Kessowji Naik,
Nursey Kessowji,
} Directors.
Secretary, Treasurer and Agent.
The New Fleming S. & W. Co., Limited.

To Messrs. Shamji Nursey & Co.,
Calcutta."

This bill was endorsed as follows:—

No. 990.—Rs. 2,00,000.
Due 22nd January 1879.
Pay Bank of Bombay or order.
Sidney Smith.

The facts of the case and the judgment of Mr. Justice Green are reported in the Indian Law Reports, 3 Bom. 439.

The following were the grounds of appeal:—

1. That the said learned Judge erred in holding that the said New Fleming Spinning and Weaving Company, Limited, was not liable to the Bank of Bombay upon the said bill of exchange within the meaning of the 47th section of the Indian Companies Act, 1866.

2. That the said learned Judge erred, in that he did not infer, from the terms of the said bill of exchange, that it was drawn on behalf of the said company by persons duly authorized thereto, within the meaning of the said section of the said Act.

3. That the said learned Judge erred, in holding that he was precluded from considering evidence, other than the terms of the said bill of exchange itself, upon the question, whether the same was or was not drawn on behalf of the said company, within the meaning of the said section of the said Act.

4. That the said learned Judge ought to have considered the evidence which was before him, other than the terms of the said bill of exchange, with a view to determining whether the said [277] bill, was or was not drawn on behalf of the said company, within the meaning of the said section of the said Act.

5. That the said learned Judge ought, on the evidence referred to in the last two preceding grounds of appeal, to have held, that the said bill was drawn on behalf, or on account of the said company within the meaning of the said section of the said Act.

6. That the learned Judge ought to have held that the description attached to the names of the drawers of the said bill of exchange raised an ambiguity on the face of the same, as to whether the drawers drew the same on their own account or on account of the said company, which ambiguity it was proper to explain by evidence other than the terms of the said bill itself.

Hon'ble *J. Marriott* (Advocate-General), *Macpherson* and *Lang*, for the appellants (the Bank of Bombay).—We contend that the company is liable on the bill which was clearly made on behalf of the company. In order to bind the company it is not necessary, under s. 47 of the Indian Companies Act (X of 1866), that the bill should expressly state that it was made by or on behalf of the company. Under that section the Court

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may receive evidence of intention, and we refer to the affidavit made by the Official Liquidator (Mr. Cormack) which shows the circumstances under which the bill was drawn, and which proves that it was intended to bind the company and not the individuals who signed it.

Section 47 of the Indian Companies Act of 1866 is precisely the same as s. 47 of the English Companies Act of 1862. All the cases reported upon this point are under the English Acts prior to the Companies Act of 1862, except the case of *Dutton* v. *Marsh* (1), and in that case the Act of 1862 was not referred to. Whatever the law may have been prior to the Act of 1866 we contend that s. 47 of that Act admits evidence to show on whose behalf a bill or note is made. It is not necessary that the bill should show on the face of it that it was made on behalf of the company: Buckley on Companies (3rd ed.), p. 138; *O'Kell* v. *Charles*(2). The alterations that have been made from time to time in the phraseology of the various Acts in force, show that the [278] intention was that directors of Companies should not be so stringently bound under s. 47 as they had been under previous Acts. [Counsel referred to Stat. 7 and 8 Vic., c. 110, s. 45; Stat. 19 and 20 Vic., c. 47, s. 43; The Indian Companies' Act (IX of 1857), s. 47; Stat. 25 and 26 Vic., c. 89, s. 47; and the Indian Companies Act (X of 1866), s. 47.]

No doubt the strict rule of law is, that the party signing a bill is the party alone liable upon it, but that rule has been relaxed. In Pollock on Contracts (2nd Ed.) 226, it is said that "modern decisions seem to show that when an agent is in a position to accept bills so as to bind his principal, the principal is liable, though the agent signs, not in the principal's name, but in his own or, it would appear, in any other name. It is the same as if the principal had signed a wrong name with his own hand:" *Lindus* v. *Bradwell* (3).

If evidence outside the bill itself be admitted in this case we must succeed. There is no doubt that the company had the benefit of the bill: *Edmunds* v. *Bushell* (4). *Yorkshire Banking Company* v. *Beatson* (5); Byles on Bills (ed. 1879), p. 38; *In re Barber* (6). The articles of association give the directors of the company full power to raise money by bill of exchange.

Dutton v. *Marsh* (1) will be cited against us, but that case was referred to in *O'Kell* v. *Charles* (2), and must be regarded as overruled.

Latham and *Farran*, for the respondents (Official Liquidators).—The ordinary rule of law is that there is no such person as an undisclosed principal in the case of a bill of exchange. The party liable is the party who signs: Byles on Bills (ed. 1879), p. 38. In the case of other contracts, evidence is admissible to charge an unnamed principal, but bills and notes are exceptions to this rule. According to the law merchant, by which they are regulated, no persons can be made liable upon these instruments except those who appear by name or designation on the face of the instrument [279] to be parties: Leake on Contracts (ed. 1878), p. 500; Chalmers on Bills of Exchange, p. 56; *Fenn* v. *Harrison* (7); *Leadbitter* v. *Farrow*(8); *Beckham* v. *Drake* (9); *Miles' claim* (10). This series of decisions shows that the rule which allows evidence to be given so as to charge undisclosed principals, does not apply to bills of exchange. Then, the question is, whether s. 47 of the Indian Companies Act (X of 1866) has altered the

(1) L. R. 6 Q. B. 361. (2) 34 L. T. 822. (3) 5 C. B. 583 = 17 L.J.C.P. 123.
(4) L.R. 1 Q. B. 97. (5) L.R. 4 C.P. D. 204.
(6) L.R. 9 Eq. 725. (7) 3 T. R. 759. (8) 5 M. & S. 345.
(9) 9 M. & W. 79. (10) L. R. 9 Ch. Ap. 635.

law usually applicable to bills of exchange, and whether it permits unnamed principals to be charged where companies are concerned. How is it to be shown that a bill has been drawn "on behalf or on account of" a company? Are we confined to the terms of the bill itself, or may other evidence be given? Under the former Acts a bill could not be drawn "on behalf of" a company. Now, that can be done. *Lindus* v. *Melrose* (1) perhaps suggested the change in the words of the section. That case showed that, under the former Act, where an instrument on the face of it, purported to be drawn on behalf of a company, yet it might happen that the company was not liable, because the requisitions of the Act were not satisfied, and the maker was not liable, because the intention not to bind him was clear. So that a bill might be drawn on which no one was liable. Hence the change in the law. An individual would have been liable in the circumstances stated in *Lindus* v. *Melrose*, and now under s. 47 of the Companies Act, 1862, a company would also be liable, so that the effect of that section was merely to make the liability of a company the same as that of an individual.

It is contended that s. 47 has altered the general rule of the law merchant in the case of companies; but if so important a change had been intended, it would have been made formally and expressly. The argument for the appellants really amounts to this: that if a bill were drawn by a single director in his own name, evidence might be taken that he had authority to draw for the company, and so make it liable, although it was not mentioned in the bill.

[280] If evidence were to be admitted of an undisclosed principal in the case of a bill, the value of a bill as a negotiable instrument would be destroyed. It goes into the market on the credit of the name appearing upon it. If evidence were admitted that some unknown person was the person really liable, an element of uncertainty would be introduced that would destroy its value. A drawer of a bill is entitled to get notice of its dishonour; without such notice he is discharged. But a holder of such a bill, as the one in this case, may not know at the time of its dishonour that it was drawn on behalf of a company, and so be unable to give notice. Is the company, therefore, to be discharged?

Barber's Case (2) does not apply, for there the letter of credit was incorporated in the bill of exchange. The two formed one contract.

Unless the company's name appears on the bill, whether as signatory or otherwise, there could be no inference that the company was intended to be liable: *Ex parte Buckley* (3), *Miller* v. *Thompson* (4), *O'Reilly* v. *Richardson* (5).

The authorities show that the Court must decide who is liable on a bill by what appears on the face of the instrument itself.

JUDGMENT.

SARGENT, C. J.—This is an appeal from an order made by Mr. Justice Green, in chambers, on a summons taken out by the Bank of Bombay, calling on the official liquidators of the New Fleming Spinning and Weaving Company to show cause why the claim of the bank for Rs. 5,50,107, in respect of certain bills or drafts, with interest as mentioned in the summons, should not be allowed out of the assets of the company. The sum of Rs. 5,50,107 is made up of Rs. 3,50,000 (the aggregate of three bills) and

(1) 3 H. & N. 177. (2) L. R. 9 Eq. 725. (3) 14 M. & W. 469.
(4) 4 M. & Gr. 260. (5) 17 Ir. Com. Law Rep. 74.

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Rs. 83 (notarial charges), as to which the claim was allowed by the learned Judge, and of Rs. 2,00,000 (the amount of a bill of exchange alleged to have been drawn by or on behalf of the company on and accepted by Messrs. Shamji Nursey and Company of Calcutta, and endorsed to the bank by the payee), with Rs. 24 for notarial charges, as to [281] which the claim was disallowed. This appeal is now brought by the Bank of Bombay against so much of the order as disallows the claim in respect of the two lakhs and Rs. 24. The bill in question is addressed to Messrs. Shamji Nursey and Company of Calcutta, and requires them, sixty days after sight, to pay to the order of A. B. Rs. 2,00,000, and place the same to the account of—then follow the drawers' names written one under the other—Ghellabhai Padumsey, Kessowji Naik, Nursey Kessowji, secretary, treasurer and agent; and, lastly, below the names are the words "The New Fleming S. and W. Company, Limited," of which "The New Fleming" are written and the remaining words are printed. The names of the signatories and the words "Fleming S. and W. Company, Limited," being included in one long bracket, outside which is written the word "directors."

The liability of companies, registered (as this company was) under the Indian Companies Act (X of 1866) is provided for by s. 47 of the Act, which enacts, that "a promissory note, bill of exchange or *hundi*, shall be deemed to have been made, accepted, or endorsed on behalf of any company under this Act, if made, accepted, or endorsed in the name of the company by any person acting under the authority of the company, or if made, accepted, or endorsed by or on behalf or on account of the company by any person acting under the authority of the company." By s. 102 of the articles of association of the company "the board of directors, and the secretary, treasurer and agent are authorized to borrow money on behalf of the company by promissory notes or in such other manner as they deem best," and it was contended for the appellants that the power thus given would include the power to draw a bill in favour of a person advancing money to the company; that the evidence satisfactorily establishes that the bill in question was, as a fact, drawn for the purpose of raising money for the company; and that, therefore, it was a bill drawn by persons acting under the authority of the company on behalf of the company as contemplated by s. 47 of the Companies' Act. The learned Judge, in deciding against the liability of the company to be sued on this bill, relied upon the conclusion which he considered was to be drawn from the English authorities, *viz.*, that, so far as third parties are concerned, a [282] company under s. 47 of Act X of 1866 can be made liable on a bill or note only when the bill or note on the face of it expresses that it was made, accepted or endorsed by or on behalf or on account of the company, or where that fact appears by necessary inference from what the face of the instrument shows. The correctness of this conclusion is, of course, disputed by the appellants; but, assuming it to be correct, it was but faintly attempted, and, in our opinion, it cannot be so successfully, to distinguish this case from that of *Dutton* v. *Marsh* (1) on which the learned Judge more particularly relied. That was an action against the directors of a company on a promissory note in the following form: "We, the directors of the Isle of Man Slate and Flag Company, Limited, do promise to pay John Dutton, Esq., the sum of £1,600 sterling, with interest at the rate of six per cent. per annum until paid, for value received." This note was signed

(1) L. R. 6 Q. B. 361.

by the directors, one of them signing as chairman, and the seal of the company was affixed to the note. Cockburn, C. J., in delivering the judgment of the Court, says:" The question is whether the promissory note is binding upon the persons who signed it, or was binding, not upon them, but upon the company. Let us assume for the present that the seal was not affixed. The effect of the authorities is clearly this that where parties in making a promissory note or accepting a bill, describe themselves as directors, or by any similar form of description, but do not state on the face of the document that it is on account or behalf of those whom they might otherwise be considered as representing—if they merely describe themselves directors,—but do not state that they are acting on behalf of the company they are individually liable. But, on the other hand, if they state they are signing the note on the acceptance on account of or on behalf of some company or body of whom they are the directors and the representatives, in that case, as the case of *Lindus* v. *Melrose* fully establishes, they do not make themselves liable when they sign their names, but are taken to have been acting for the company, as the statement on the face of the document represents." Applying the principle so enunciated, the Court held that the directors and not the company were liable on the note, as the words " directors of the Isle of Man Slate and Flag Company [283] Limited," were only words of description; and the fact of the seal having been affixed was not, in the opinion of the Court, equivalent to a declaration that the note was signed on behalf of the company. The present case is not embarrassed by the fact of the seal having been affixed, and the word " directors " and the name of the company are not found in the body of the instrument, but are associated with the signatures—a circumstance which makes the form of the bill in question, if any thing, less favourable to the liability of the company than was the case in *Dutton* v. *Marsh*. The earlier case of *Cortauld* v. *Sanders & Co.* (1), which was not mentioned at the hearing of the summons, is to the same effect. There, the form in which the note was signed by the directors was precisely the same as in the bill in question, with only one unimportant difference, *viz.*, that the names of the signatories are included in a bracket, describing them as directors of the Financial Insurance Company, whereas in the latter, the name of the company is written immediately below the words describing Nursey Kessowji (who was himself a director) as secretary, manager and agent, the whole being included within one bracket.

But it has been contended before us, that although the directors who have signed may be liable on the face of the bill, and evidence *dehors* the instrument could not be received to discharge them, the company is nevertheless liable upon a proper construction of s. 47 of the Act of 1866, if, as a fact, it was drawn, accepted, or endorsed by the directors on behalf or on account of the company. No case has been cited in which the question can be said to have been distinctly raised, or still less decided. In the class of cases, such as *Dutton* v. *Marsh* and *Cortauld* v. *Sanders*, the directors themselves who had signed the bill or note were sued, and the decisions proceeded exclusively on the well-established rule of law, that when a person signs a contract in his own name without qualification, he is *prima facie* liable, unless it is apparent from the other portions of the instrument that he did not intend to bind himself as principal; and the question for the Court, having regard to that rule of law, was solely whether the directors

(1) 15 W. R. 906 = 16 L. T. 562.

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of the company were liable on the face of the note. However, it is to be remarked [284] that in *Cortauld* v. *Saunders*, which was a case under the English Act of 1862 corresponding with the Indian Act of 1866, the question now raised was touched upon in argument, and Chief Justice Bovill in delivering judgment says: "It can scarcely be said that a note would be binding on a company if it bore the signatures of the directors, but did not on its face purport to be the note of the company or made on their behalf." Again in *O'Kell* v. *Charles*(1), where the directors were also sued, and which was much relied on by both sides, it was decided that the bill or note need not, as on the English Act of 1862, be expressed to be made by the directors on behalf of the company, to make the company liable as had been required by 7 and 8 Vic., c. 110. The Master of the Roll, Sir George Jessel, says: "The Legislature have decided that the words are not wanted. The meaning of the words is necessary, but not the words themselves." And he then proceeds to show that the meaning could be inferred from the combined circumstances of the bill having been addressed to the company, and accepted by its directors. But he concludes his judgment by saying: "If the acceptances (*i.e.*, by the directors) had stood alone (by which we understand the learned Judge as meaning that if it had been addressed to the directors and accepted by them) they might possibly not have been enough to bind the company, but, coupled with the fact that the company is the drawee, it is perfectly clear that they come within the Act." The Master of the Rolls treated the question, whether the bill was accepted on behalf of the company, as one to be decided on the face of the instrument, Kelly, C. B., however, in his judgment says: "No terms need appear on the face of the acceptance, implying that it is on behalf or by authority of the company. The bill shall bind the company if made by its authority or on its behalf. It is admitted here that, *de facto*, the bills were accepted on behalf of the company and by persons with authority so to bind them." These remarks of the Chief Baron would certainly show that he considered the admission by the plaintiff, that the bill was accepted on behalf of the company, as sufficient to meet the requirements of the Act; but they cannot be taken even as an expression of opinion, that, if that fact had been in dispute between the parties, the defendants could be allowed to [285] prove it in order to discharge themselves. Although, therefore, this case goes nearer than any other to raise the question before us, it cannot be regarded as having decided it.

Now it was contended for the respondent that the section must be construed, and that the appellants' construction would place companies on a different footing from individuals and ordinary partnerships in respect to liability on bills of exchange and promissory notes, as to whom it was argued that the general rule was, as stated by Mr. Baron Parke in *Beckham* v. *Drake*(2), "that in neither bills of exchange or promissory notes can any one but the parties named in the instrument, by their name or firm, be made liable to an action on it;" and by Lord Justice James in *Miles' claim* (3) *viz.*, : "That it is the law of this country, and always has been the law of this country, that nobody is liable upon a bill of exchange, unless his name, or the name of some partnership, or body of persons, of which he is one, appears either on the face or the back of the bill." It is plain, however, that in applying this rule the name on the bill or note need not be the ordinary name of the individual or the partnership,

(1) 34 L. T. 822. (2) 9 M. & W. 79. (3) L.R. 9 Ch. Ap. 635.

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but one which the individual or partnership is authorized to be used as his or their name on the bill or note *with the intention* of pledging their credit. *Lindus* v. *Bradwell* (1), where it was held that the husband had authorized his wife to accept the bill in his name, is an illustration of the former; and the *South Carolina Bank* v. *Case* (2), as explained by Crompton, J., in *Nicholson* v. *Ricketts* (3), is an illustration of the latter; and in *Miles claim* (4) we find Mellish, L. J., stating the question to be, whether the other partners had authorized those who had put their names on the bills, to use those names as the names of the partners. If, therefore, a company had power to authorize its directors to draw, accept, or endorse bills in their own names on behalf of the company, evidence might doubtless be given, consistent with these circumstances, to prove that such authority had been given; but we think it requires a far clearer expression of intention, than the language of this section affords, to justify the conclusion that the Legislature contemplated a [286] company, incorporated under the Act, being bound by the use on a bill, or note, of any other than the registered name by which it is known to the public. The inference, therefore, to be drawn as to the intention of the Legislature from the general law as to liability on bills of exchange, is, we think, unfavourable to the appellant's construction.

Again, if we consider the course which the Legislature has pursued on this subject, we find the early Act, 7 & 8 Vic. c. 110, requiring that a bill or note, to be binding on the company, should be drawn, or made, in the name of the company expressly on its behalf. This was followed by the Companies Act of 1856, with which the Indian Act of 1857 corresponds, in which the requisite for fixing liability on the company is of a more stringent nature, *viz.*, that the bill or note should be drawn, accepted, or endorsed in the name of the company. Lastly, the English Act of 1862, with which the Indian Act of 1866, now under consideration, corresponds, requires that the bill or note should be drawn, accepted, or endorsed in the name of, or on account or on behalf of the company, by a person authorized by the company. It is to be remarked, that the phraseology of the sections in the English Act of 1862, and in the Indian Act of 1866, is the same as in the corresponding sections of the English Act of 1856 and the Indian Act of 1857, the operation of which, from the very nature of their provisions, is confined to the form of the bill, or note, on which the company is to be held liable. Moreover, the object of these sections, which are intended for the protection of creditors (as appears from their being included in a number of provisions with that heading), is amply secured by holding that the intention of the Legislature was to remove all restriction on the nature of the evidence afforded by the bill or note itself; or, as Sir G. Jessel expresses it in *O'Kell* v. *Charles*, to require only the meaning of the words "expressed to be made, accepted, or endorsed on behalf of the company," and thus to prevent all difficulties such as presented themselves in *Lindus* v. *Melrose* (5), where the requirements of the English Act of 1855 were not strictly complied with, but where the instrument, on the face of it, left no doubt that it was intended to be made on behalf [287] of the company. For these reasons we think that the learned Judge was right in holding that, in order to make the company liable, it must appear on the face of the bill, or note, that it was intended

(1) 5 C.B. 583. (2) 8 B. & Cr. 427. (3) 2 Ell. & Ell. 497.
(4) L. R. 9 Ch. Ap. 635. (5) 3 H. and N. 177.

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to be drawn, accepted, or made, on behalf of the company, and, therefore, in refusing the claim of the Bank of Bombay, to prove against the estate of the company for the amount of the bill in question, as the question involves the construction of an Act, which, in our opinion, has not been the subject of a distinct judicial decision, both parties should, we think, pay their own costs of appeal.

Appeal dismissed.

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4 B. 287.

APPELLATE CRIMINAL.

Before Mr. Justice Pinhey and Mr. Justice F. D. Melvill.

IMPERATRIX *v.* POPAT NATHU.* [17th December, 1879.]

The Code of Criminal Procedure (Act X of 1872), *ss.* 471, 474—*Power of Civil Court to commit.*

The power of a Civil Court to commit a case to the Court of Session, after completing the preliminary inquiry, is given by s. 474 of the Code of Criminal Procedure, and is restricted to the class of cases provided in that section, *viz.*, where offences, exclusively triable by a Court of Session, are committed before the Civil Court.

Section 471 deals with a more extended class of cases, *viz.*, all those mentioned in ss. 467, 468 and 469, in which not merely a Civil Court but any Court, civil or criminal, and whether possessing or not possessing the power to commit to the Court of Session, is of opinion that there is sufficient ground for holding an inquiry; and it enacts the procedure to be followed by the Court, which may elect to adopt one of two courses, that is to say, it may either commit a case to the Court of Session, if and where it has the power to do so, or, if it has not that power or is not disposed to exercise it, it may send the case to a Magistrate having power to try or commit for trial the accused person for the offence charged.

THIS was a reference, under s. 296 of the Code of Criminal Procedure (Act X of 1872), by S. H. Phillpotts, Session Judge of Ahmedabad.

It arose out of a civil suit in which one Nathu, the father of the accused, was plaintiff and one Bulakhi was defendant in the Court [288] of Rao Saheb Lalshankar, Subordinate Judge of Dhanduka. The suit was for money due on a balance of account in which the accused, who had written an account book, was called on to produce it and give his evidence. The defendant impugned the book as a forgery, and the Subordinate Judge, after holding and completing an inquiry under s. 474 of the Code of Criminal Procedure, committed both the father and the son to take their trial before the Court of Session at Ahmedabad. The case of the father, Nathu, is not material for the purposes of this report. The son was committed and tried on five charges of forgery under s. 463 of the Indian Penal Code, and one charge, under s. 471, of uttering a forged document; and on all these charges he was acquitted. On the first five charges the Sessions Judge held that the Subordinate Judge had no power to commit, the offences of forgery not having been committed before the said Subordinate Judge's Court within the meaning of s. 474 of the Code of Criminal Procedure; and on the sixth, that the accused Popat, not being a party to the suit within the meaning of s. 469, was not amenable under s. 471. The Sessions Judge was of opinion that the committal was not merely irregular, but bad. He therefore submitted the case in order

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* Criminal Reference, No. 188 of 1879.