

Friday, November 22, 1867

**COUNCIL OF GOVERNOR GENERAL
OF
INDIA**

VOL . 6

4 JAN. - 20 DEC.

1867

P . L .

*Abstract of the Proceedings of the Council of the Governor General of India,
assembled for the purpose of making Laws and Regulations under the provisions
of the Act of Parliament 24 & 25 Vic., cap. 67.*

The Council met at Government House on Friday, the 22nd November, 1867.

P R E S E N T :

His Excellency the Viceroy and Governor General of India, *presiding*.

His Honour the Lieutenant Governor of Bengal.

The Hon'ble G. Noble Taylor.

The Right Hon'ble W. N. Massey.

The Hon'ble C. P. Hobhouse.

The Hon'ble J. Skinner.

The Hon'ble Stewart Gladstone.

The Hon'ble MR. GLADSTONE took the oath of allegiance, and the oath that he would faithfully discharge the duties of his office.

GENERAL CLAUSES' BILL.

The Right Hon'ble MR. MASSEY introduced the Bill for shortening the language used in Acts of the Governor General of India in Council and for other purposes, and moved that it be referred to a Select Committee with instructions to report in a month. He said that the verbosity and tautology to be found in the language of Acts of Parliament had long been the subject of complaint, but it was only within the last few years that an effort had been made to remove that reproach to British legislation. That object had to some extent been effected by the Statute of 7 Wm. IV. & 1 Vic., c. 39, followed by the Statute of the 13th & 14th years of Her present Majesty, cap. 21, which were passed to shorten the language of statutory enactments. The Government of India would have earlier followed the example of Parliament, had they not been under the impression that it was the intention of the Indian Law Commissioners to send out a series of clauses framed on the model of the provisions of the Statutes to which he had referred. This, however, had not been done, and it was therefore considered expedient to follow the example which had already been set by the Councils of the Governor of Madras and the Lieutenant Governor of Bengal. The provisions of the Bill were strictly confined to the objects specified in the Statement which had been published with the Bill. Every one who had had occasion to consult the Acts of the Governor General in Council must have observed that all, or almost all, contained an interpretation

clause, comprising a variety of definitions which were generally matters of mere routine, such as that " words in the singular number shall include the plural " and " the masculine gender shall include the feminine : " also definitions of " moveable " and " immoveable property," ' person,' ' year,' ' month,' ' High Court,' ' British India,' and so forth. It was now proposed to do away with the necessity of inserting such provisions in subsequent Acts, and the Bill accordingly defined once for all the words and expressions which he had mentioned, and declared that, in all Acts made by the Governor General in Council, after it should have come into operation, these words and expressions should bear the meanings attached to them respectively by the Bill.

There was another provision in the Bill which was of some importance. It sometimes happened that, when a law was repealed, and subsequent circumstances rendered it necessary to repeal the repealing law, perplexing questions occurred as to whether or not the repealed law was revived. It was therefore proposed to get rid of such questions by simply enacting that, for the purpose of reviving, either wholly or partially, a Statute, Act or Regulation, it should be necessary expressly to state such purpose.

The other objects of the Bill were succinctly stated in the Statement of Objects and Reasons. The Bill contained rules as to commencement and termination of a series of days or any other period of time mentioned in an enactment, and would thus relieve future draftsmen from the necessity of using the expressions ' from and after ' and ' down to and including : ' it prescribed a uniform mode of recovering fines to be hereafter imposed : it directed (herein repeating the provision contained in the Statute 3 & 4 Wm. IV., c. 85, s. 45) that the Acts should be noticed judicially, and it declared that recitals contained in any Act should be deemed to be *prima facie* evidence of the truth of the facts recited.

The Bill contained no provisions likely to give rise to any controversy : no Honourable Member would, MR. MASSEY thought, feel the slightest hesitation as to a measure framed to shorten the Acts of the Governor General in Council, and to free them from tautologies and incumbrances, which were not only discreditable to the legislature, but which sometimes raised perplexing questions as to what was its real intention. An illustration of the probable utility of the Bill was afforded by an Act which the Council had to pass last session. He referred to Act XVI of 1867 (to authorize the making of acting appointments to certain judicial offices). This would have been unnecessary had there been any Act in force containing a provision like that made in the third Section of the Bill, " For the purpose of indicating the application of a law to every person or number of per-

sons for the time being executing the functions of an office, it shall be sufficient to mention the official title of the officer at present executing such functions, or that of the officer by whom the functions are commonly executed." That got rid of all questions as to the powers of Government to make acting appointments, and as to the position of persons acting for officers charged with the execution of certain duties. The Bill was a very simple one, and so guarded in its provisions that he did not apprehend that any substantial amendment would be suggested, but he proposed to take the usual course of referring it to a Select Committee. He hoped to have the assistance of the Hon'ble Mr. Hobhouse in examining the provisions of the Bill, and he trusted the result would be a safe and practical measure.

The Motion was put and agreed to.

INDIAN RAILWAY ACT AMENDMENT BILL.

The Hon'ble MR. TAYLOR moved that the Select Committee on the Bill to amend Act No. XVIII of 1854 (relating to Railways in India) be re-constituted, and that His Honour the Lieutenant Governor, the Right Hon'ble Mr. Massey and the Hon'ble Mr. Skinner be added thereto.

The Motion was put and agreed to.

REPEAL OF OBSOLETE ENACTMENTS' BILL.

The Hon'ble Mr. HOBHOUSE introduced the Bill for repealing certain enactments which have ceased to be in force or have become unnecessary, and moved that it be referred to a Select Committee with instructions to report in six weeks. He said that this Bill, which had already appeared in the *Gazette of India*, was very short, although the enactments which it proposed to repeal were numerous. There was a large number of Regulations and Acts in the Statute Book which had not been expressly repealed, but which were no longer in force. Some, for instance, were simply temporary Acts, but their repeal was expedient to preclude doubts as to whether or not they had been, like the Arms' Act, continued or revived, others had become obsolete from various causes, and had therefore (to quote the Statement of Objects and Reasons) merely an historical interest, and others had been repealed by implication, but it was of course desirable to repeal expressly this class of enactments. Others again simply repealed prior enactments, and the reason for repealing this class was merely to relieve the Statute Book. The object of the Bill was to repeal expressly once for all, every enactment which was now no longer of any practical utility. The Bill had been confined for the most part to the Acts of the Government of India, and did not, as a rule, affect the older Regulations, because, in the case of

the North-Western Provinces, it was understood, when the Bill was framed, that they were being codified by a Member of the local Board of Revenue, and in the case of the Lower Provinces, Madras and Bombay, it was thought that the local legislatures would most fitly discharge the duty of repealing their obsolete Regulations. He had only to add that the Bill was modelled on 30° & 31° of Victoria, cap. 59 (the last of the three Acts passed for promoting the revision of the English Statute law), and that it might be regarded as clearing the way for the fulfilment of the mandate given by Parliament as far back as the 37th year of Geo. III, to form into a regular code all laws made by the Governor General in Council. The Select Committee on the Bill would go most carefully through the different Acts proposed to be repealed, to see that they were no longer in force; and when they were got rid of, he felt assured that all entrusted with the administration of the law, or otherwise interested in ascertaining what the written law really was, would be very much helped by being relieved of so many useless enactments.

The Motion was put and agreed to.

The following Select Committees were named :—

On the Bill for shortening the language used in Acts of the Governor General of India in Council and for other purposes—The Hon'ble Mr. Hobhouse and the Mover.

On the Bill to amend Act No. XVIII of 1854 (relating to Railways in India)—His Honour the Lieutenant Governor, the Hon'ble Mr. Maine, the Right Hon'ble Mr. Massey, the Hon'ble Major-General Sir H. M. Durand, the Hon'ble Mr. Skinner and the Mover.

On the Bill for repealing certain enactments which have ceased to be in force or have become unnecessary—The Right Hon'ble Mr. Massey, and the Hon'ble Messrs. Brandreth, Shaw Stewart and the Mover.

The Council adjourned till the 29th November 1867.

CALCUTTA, }
The 22nd November 1867. }

WHITLEY STOKES,
Asst. Secy. to the Govt. of India,
Home Department (Legislative).