

Wednesday, February 13, 1878

ABSTRACT OF THE PROCEEDINGS

COUNCIL OF THE GOVERNOR GENERAL OF INDIA

LAWS AND REGULATIONS.

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ABSTRACT OF THE PROCEEDINGS

OF THE

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ASSEMBLED FOR THE PURPOSE OF MAKING

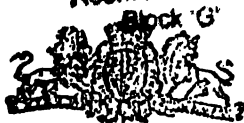
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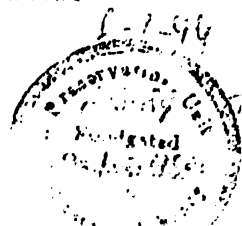


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1879.



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 Wednesday, the 13th February, 1878.

P R E S E N T :

His Excellency the Viceroy and Governor General of India, G.M.S.I.,
presiding.

His Honour the Lieutenant-Governor of Bengal, C.S.I.

His Excellency the Commander-in-Chief, G.O.B.

The Hon'ble Sir E. O. Bayley, K.C.S.I.

The Hon'ble Sir A. J. Arbuthnot, K.C.S.I.

The Hon'ble Sir J. Strachey, K.C.S.I.

Lieutenant-General the Hon'ble Sir E. B. Johnson, K.C.B.

The Hon'ble Whitley Stokes, C.S.I.

The Hon'ble F. R. Cockerell.

The Hon'ble B. W. Colvin.

The Hon'ble Maharaja Jotindra Mohan Tagore.

The Hon'ble T. C. Hope, C.S.I.

The Hon'ble Mumtaz-ud-Daulah Nawab Sir Muhammad Faiz Ali Khan,
Bahadur, K.C.S.I.

The Hon'ble T. H. Thornton, D.C.L., C.S.I.

TREASURE-TROVE BILL.

The Hon'ble SIR EDWARD BAYLEY moved that the Report of the Select Committee on the Bill to amend the law relating to Treasure-trove be taken, into consideration. He said that, as it was now some time since this Bill was first introduced into this Council, and as the form, though not the substance, of the Bill had been considerably altered since it first came under consideration, he thought it might perhaps be right, in asking the Council to take the report of the Select Committee into consideration, to say a few words to refresh their memory as regards the reasons for and the objects of the Bill. The reasons for the Bill—the reasons for which it was required—were simply that the law throughout the country was partly uncertain, partly diversified, and partly unworkable.

The old law, that is to say, the existing law, was founded upon the principle that all treasure-trove lapsed to, and became the property of, the State. That was a principle which was in theory perfectly defensible and was not to be

denied. But as a matter of fact, especially in India, it was impossible to enforce it, and the attempt to do so had only resulted in creating a series of offences which it was difficult to punish, which were also demoralising, and had also led to the destruction of many valuable articles in consequence of the temptations for concealing their discovery. The object of the present Bill was to make the law certain and to place it on a workable foundation. The principle which the Committee had followed was to secure in the first place the intimation of the finding of the treasure, to secure the rights of all persons who could establish an antecedent property in it; and only where no such antecedent right could be established, did the right to the property come to be dealt with under this law. When the property was declared to be without an antecedent owner, then the division of property in the article found was made between the finder and the owner of the place where it was found. The reason for giving this right to the owner of the soil was that, although perhaps it was not a right which could very easily be defended on principle, yet as a matter of fact such right was very largely asserted by persons who were owners of the soil, and the assertion of vague and antagonistic rights had given rise to many disputes and had also frequently led to the concealment of property found. It was therefore proposed to place the finder and the owner of the property in certain definite relations in regard to that property; and finally the Bill provided means whereby the Government would be able to procure for the national museum articles of historical or archæological value which it might be desirable to secure. Special provisions had been largely introduced into legislation in Europe for the purpose, and had the effect of preserving for national use much very valuable property and articles of great historical importance which would otherwise have been destroyed. He hoped that such might also be the result in India. But the Bill being one which was founded on a principle entirely new to India and intended for a state of society which was not exactly the same as that in Europe, might possibly be found practically to require amendment in its details. It was at present launched in the best form which we were able to give it, and he had no doubt that if experience showed that it required modification, the Council would so modify it.

The Motion was put and agreed to.

The Hon'ble SIR EDWARD BAYLEY also moved that the Bill as amended be passed.

The Motion was put and agreed to.

TRANSFER OF PROPERTY BILL.

The Hon'ble Mr. STOKES moved that the Hon'ble Mr. Thornton be added to the Select Committee on the Bill to define and amend the law relating to the Transfer of Property.

The Motion was put and agreed to.

The Council adjourned to Wednesday, the 20th February 1878.

CALCUTTA ;
The 13th February 1878. }

D. FITZPATRICK,
Secretary to the Government of India,
Legislative Department.