

Wednesday,
19th September, 1883

ABSTRACT OF THE PROCEEDINGS

OF THE

Council of the Governor General of India,

LAWS AND REGULATIONS

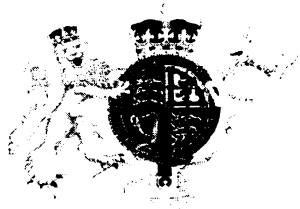
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OF
THE COUNCIL OF THE GOVERNOR GENERAL OF INDIA
ASSEMBLED FOR THE PURPOSE OF MAKING
LAWS AND REGULATIONS

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1884**

The Council met at Government House, Simla, on Wednesday, the 19th September 1883.

PRESENT :

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

His Excellency the Commander-in-Chief, G.C.B., C.I.E.

Lieutenant-General the Hon'ble T. F. Wilson, C.B., C.I.E.

The Hon'ble C. P. Ilbert, C.I.E.

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

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

The Hon'ble W. W. Hunter, LL.D., C.I.E.

The Hon'ble J. W. Quinton.

The Hon'ble D. G. Barkley.

PROTECTION OF INVENTIONS BILL.

The Hon'ble MR. ILBERT presented the Report of the Select Committee on the Bill for the protection of inventions exhibited in the Exhibitions of India.

NATIVE PASSENGER SHIPS ACT, 1876, AMENDMENT BILL.

The Hon'ble MR. ILBERT also presented the Report of the Select Committee on the Bill to amend the Native Passenger Ships Act, 1876.

LEGAL PRACTITIONERS BILL.

The Hon'ble MR. ILBERT also moved for leave to introduce a Bill to amend the Legal Practitioners Act, 1879, and the Indian Stamp Act, 1879. He said :—

“ The object of this Bill is to amend the Legal Practitioners Act, 1879, in certain respects in which experience has shown that the existing law is defective.

“ Section 13 of the Legal Practitioners Act, 1879, contains a provision that the High Court may suspend or dismiss any pleader who takes instructions in any

case except from the party on whose behalf he is retained, or from a private servant of such party, or from some person who is the recognized agent of such party within the meaning of the Code of Civil Procedure. It has been brought to the notice of the Government that the practical operation of this provision is in certain cases attended with inconvenience to litigants and pleaders. In litigation in which *pardánashín* women are concerned, instructions must often, as a matter of necessity, be given through their near relatives. Again, there are cases in which male litigants, who have not the means of employing private servants, are unable from various causes, such as physical incapacity or old age, to instruct their pleaders in person. In such cases, it seems right to allow the relatives of the litigants to instruct pleaders on their behalf. Section 3 of the Bill accordingly adds a proviso to section 13 of the Act enabling pleaders to take instructions from a relative of the party deputed by him or her to instruct the pleader when the party is a *pardánashín* woman or unable for any sufficient cause to instruct the pleader in person.

“ Under the Legal Practitioners Act, 1879, an advocate not ordinarily practising in his own province must, if he wishes to practise in such a province as the Central Provinces, for example, where the Judicial Commissioner has at present no power of enrolling advocates, first enrol himself as a pleader. As this state of the law is felt by certain persons to be a grievance, a new section has been added to the Act, empowering all High Courts not established by Royal Charter to enrol advocates as the Chief Court of the Panjáb is at present empowered to enrol them. As the power of suspension or removal would, except in the case of the Panjáb Chief Court, be vested in a single officer if it were conferred absolutely on the High Court, it has been thought well to make every order by any High Court other than the Panjáb Chief Court suspending or removing an advocate subject to confirmation by the Local Government.

“ The new section 42, which section 5 of the Bill adds to the Act, provides for the repeal of Acts I of 1846 and XX of 1853 in all places to which that section may be extended. The Madras High Court has noticed that these Acts have not as yet been expressly repealed in that Presidency, though a great portion of the Legal Practitioners Act, 1879, has been brought into operation there. These Acts are, it is believed, already repealed in all the provinces to which the Legal Practitioners Act, 1879, extends *proprio vigore*; but it is possible that they may be still unrepealed in some of the other provinces to which the Act either has already been or may hereafter be extended under the power conferred by its first section. The new section 42, taken with section 1 of the Act, will enable the Local Government of any such province to repeal the Acts if still in force in it.

“Lastely, section 6 of the Bill amends article 27 of schedule I and article 11 of schedule II of the Indian Stamp Act, 1879, by omitting the words which confine their operation to advocates of the chartered High Courts. As section 41 of the Legal Practitioners Act, 1879, empowers the Chief Court of the Panjáb to enrol advocates, and as the Bill will confer similar powers on the other non-chartered High Courts, the words in question are, as represented by the North-Western Provinces High Court, out of place, so far as advocates are concerned, and should therefore be omitted.”

The Motion was put and agreed to.

The Council adjourned to Thursday, the 4th October 1883.

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

SIMLA ;
The 20th September, 1883.