

Wednesday,
23rd July, 1884

ABSTRACT OF THE PROCEEDINGS

OF THE

Council of the Governor General of India,

LAWS AND REGULATIONS

Vol. XXIII

Jan.-Dec., 1883

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Council of the Governor General of India,

ASSEMBLED FOR THE PURPOSE OF MAKING

LAWS AND REGULATIONS

1884

VOL. XXIII



Published by the Authority of the Governor General

CALCUTTA :
OFFICE OF THE SUPERINTENDENT OF GOVERNMENT PRINTING, INDIA,
1884



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, Simla, on Wednesday, the 23rd July, 1884.

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.

The Hon'ble J. Gibbs, C.S.I., 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 Sir A. Colvin, K.C.M.G., C.I.E.

The Hon'ble J. W. Quinton.

The Hon'ble D. G. Barkley.

AGRICULTURISTS' LOANS BILL.

The Hon'ble SIR STEUART BAYLEY moved that the Report of the Select Committee on the Bill to amend and provide for the extension of the Northern India Takḡávi Act, 1879, be taken into consideration. He said:—

“When I obtained permission in January last to introduce this Bill, I explained that the objects which we had in view were, first, to remedy an omission in the original Act under which the process for recovering an original loan did not extend to the recovery of costs and interest; secondly, to enable the Bill to be extended to other provinces at the option of Local Governments; and, thirdly, to provide for loans being made to village-communities or associated agriculturists, and to facilitate their settling among themselves the shares in which such loans should be recovered. The Report of the Select Committee shows what alterations have been made in the first draft of the Bill in addition to securing these three objects, and the alterations are all very small ones.

“We have made the Bill of its own vigour applicable to Bombay, and have at the same time repealed two sections of the local Act, XV of 1880,

[*Sir Stewart Bayley.*]

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which cover very much the same ground as our own Bill. This we have done at the request of the Bombay Government and its legal advisers. We have also endeavoured to meet a suggestion of one of the Hon'ble Judges of the Madras High Court that costs incurred in the process of recovery should be recovered in a single procedure, together with the interest and cost of the loan. We have also made a minor alteration in section 6 of the Bill providing that joint applicants should be at liberty to sign or mark the distribution-paper either themselves or by an authorised agent.

“These are the alterations which have been made in the Bill; but we have received some other suggestions and criticisms which I think call for a brief notice to explain why we have not been able to adopt them. First came from British Burma a suggestion that the Bill should be extended so as to include loans to fishermen, and from the Panjáb the suggestion that the Bill should be made to cover loans to distressed artisans and others. We have not seen our way to accepting either of these suggestions, and for the same reason, namely, that the scope of the Bill is different in regard to its objects. The object of the law is to enable Government to lend money on easy terms, and to recover, by a summary process, loans made for specific purposes—either for the relief of distress or for the purchase of seed and cattle—to specific people, namely, the owners and occupiers of arable land. The general policy of encouraging frequent resort to such loans has not been uncontested on economical grounds and as tending to pauperization, and it may be admitted that they should be made somewhat sparingly and in exceptional cases; but the real justification of the policy itself seems to me to be the position of Government as the great landlord of the country, and the direct bearing which the welfare of the cultivator has on its revenues. This argument would not apply with the same force to other industries, and there is no justification for Government, as part of its ordinary revenue-procedure, making loans to fishermen which would not equally apply to weavers, spinners, miners or silversmiths, who none of them stand in the same direct relations to Government as do the great bulk of the agricultural population of the country. We have therefore, after full consideration, rejected this proposal as beyond the scope of the Bill and outside the special circumstances which justify it. Nor have we been able to accept a suggestion put forward by the Ajmer authorities that Government might authorise loans being made for the purposes of this Bill by private persons, and recover them as arrears of revenue. A similar proposal, when it was introduced into the Bill relating to loans for agricultural improvements, was not accepted by the Secretary of State; and while the principle which is really at issue in connection with the scheme for

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agricultural banks is still under the consideration of the Secretary of State, I think it would be premature to introduce it into a measure of the kind now under consideration.

“There was a further suggestion from the Government of the Panjáb—that the distribution-paper—that is, the paper which shows the shares in which the joint loans are to be recovered from the borrowers—should be signed by the *lambardár*, or headman, for the whole village instead of requiring the signature of each recipient. This was proposed as a matter of administrative convenience, and it had something to be said for it; but the majority of the Committee thought that it would be dangerous to accept a paper so signed as evidence as to the responsibility of each individual, especially as the distribution-paper is to be conclusive evidence in Court. If it is not made conclusive evidence, the paper will be of very little value; and it seemed to us that all we could do was to provide that the borrower should be at liberty to affix his mark to the distribution-paper by an agent instead of personally. Nor on consideration, is the necessity for the *lambardár*'s interference very apparent; the Bill does not deal with large loans for improvements in which a whole village may very probably be interested, but with small loans for seed and cattle, which are for the most part matters of individual concern. Doubtless, on some occasions, as in the case of famine, it might be desirable to administer loans for the relief of distress through the village-organization collectively, but we think that what we have proposed will go far to meet the difficulties of the case; and, even if it does not, it is better to accept the inconvenience involved than to adopt a dangerous precedent which is contrary to the usual practice and theory of legal documents in India. I may mention here that this section has been introduced specially with a view to the coparcenary villages of the Panjáb, and it is not anticipated that, save to meet exceptional cases, it will be found applicable elsewhere than in Northern India.

“We have also received some criticisms from the British Indian Association. They object to the Bill being made applicable to Bengal, and say that if the Bill is made so applicable the *rayyats* will not use it and that no one will apply for loans. We do not apply the Bill *proprio vigore* to Bengal; we merely say that the Local Government may extend it by notification to Bengal if it please, and the Local Government say that in cases of severe distress it will be necessary to have some such law. The British Indian Association are evidently under a misapprehension on this subject, for, in reference to the famine of 1874, they assume that the loans have been recovered with ease and without

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recourse to much litigation ; but, as a matter of fact, the Bengal legislature were obliged, in 1875, to pass a special law, *pro hac vice*, for the recovery of advances made in the previous year ; and the procedure adopted was in fact the same as this—to make them recoverable under the Certificate Act, VII (B. C.) of 1868. Of course this procedure might be repeated on each occasion and a fresh law passed, but it seems to me to be a much simpler process to have the law laid down once for all. Of course, if no one applies for a loan, no harm is done. But, although they take that objection, they go on to take another not quite consistent with it. The British Indian Association seem to be under great dread that in some way the grant of loans to tenants may prejudice the landlords, and they ask if it is intended that the lands of the owners should be liable to sale for the debts of the rayyats. I do not quite understand how such a misapprehension can possibly have arisen,—probably from omission to examine closely the meaning of the words ‘recovered as arrears of land-revenue,’—but clearly nothing but the tenant’s own property or his surety’s can be proceeded against. What will actually happen will be this. The law for the recovery of arrears of land-revenue in Bengal is contained in Act VII (B. C.) of 1880—called the Public Demands Act. Under that Act, the Collector, when the arrear is due, and after enquiry, issues a certificate which may within a year be contested in the Civil Court. That certificate has the force of a decree of the Civil Court and will be executed against either the moveable or immovable property of the debtor, and, as such, it will prejudice the landlord’s claims neither more nor less than any other decree of Court.

“This I think disposes of the more important objections in the letter from the Hon’ble Kristodás Pál, the Secretary of the Association ; and I may perhaps be allowed to take this opportunity of expressing the regret with which we have heard of our colleague’s severe illness, and how glad we are to learn that he is now out of danger. For myself I agree with him in thinking that the Bill is less applicable to Bengal than to any other province in India, and under ordinary circumstances I should not like to see it frequently applied to Bengal ; but cases may occur in which the Government may have to take upon itself the duty of relieving distress by making loans for the recovery of which it is necessary to have some procedure, and I think we may safely leave it to the discretion of the Local Government to extend the Act or not as it thinks necessary.”

The Motion was put and agreed to.

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[*Sir Stewart Bayley ; Mr. Ilbert.*]

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

The Motion was put and agreed to.

SETTLEMENT-OFFICERS' (PANJÁB) DECISIONS VALIDATION.

The Hon'ble MR. ILBERT presented the Report of the Select Committee on the Bill for the validation of decisions passed on appeal by certain Settlement-officers in the Panjáb.

The Council adjourned to Wednesday, the 30th July, 1884.

SIMLA ;
The 25th July, 1884. }

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