

**Wednesday,
6th August, 1884**

ABSTRACT OF THE PROCEEDINGS

OF THE

Council of the Governor General of India,

LAWS AND REGULATIONS

Vol. XXIII

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Council of the Governor General of India,

ASSEMBLED FOR THE PURPOSE OF MAKING

LAWS AND REGULATIONS

1884

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*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 6th August,
1884.

P R E S E N T :

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.O.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.

THE HON'BLE KRISTODÁS PÁL, RAI BAHADUR.

On the Members of Council taking their seats, His Excellency THE PRESIDENT made the following remarks:—"Before we proceed to consider the business upon the List before us, I am sure that my hon'ble colleagues will allow me to express my deep regret at the lamented death of Rai Bahadur Kristodás Pál, which has taken place since the last meeting of the Legislative Council. By this melancholy event we have lost from amongst us a colleague of distinguished ability, from whom we had on all occasions received assistance, of which I readily acknowledge the value. He has been taken from us in the prime of life, when his powers were at their best, and when we might have hoped that he would still for many years to come have been permitted to devote himself to the service of his country with the same energy and patriotism as had hitherto marked his career. Mr. Kristodás Pál owed the honourable position to which he had attained to his own exertions. His intellectual endowments were of a high order; his rhetorical gifts were acknowledged by all who heard him, and were enhanced when addressing this Council by his thorough mastery over the English language.

[*The President ; Mr. Ilbert ; Mr. Hope.*]

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He will long live in the remembrance of his countrymen; and it is with feelings of sincere sorrow that I pay this last tribute to the memory of one who was so well entitled to be regarded as a worthy representative of the intellect and eloquence of the race to which he belonged."

SETTLEMENT-OFFICERS' (PANJÁB) DECISIONS VALIDATION BILL.

The Hon'ble MR. ILBERT moved that the Bill for the validation of decisions passed by certain Settlement-officers in the Panjáb be referred back to the Select Committee. He said :—"The object of this Motion is merely to give the Select Committee an opportunity of considering some formal alterations which have been suggested to me since the date of their Report, which would, I think, effect an improvement in the form of the Bill, and which could not be very conveniently made by amendments moved in Council."

The Motion was put and agreed to.

INDIAN TELEGRAPH ACT, 1876, AMENDMENT BILL.

The Hon'ble MR. HOPE moved for leave to introduce a Bill to facilitate the construction of Telegraphs, and to amend the Indian Telegraph Act, 1876. He said :—

"The main object of this Bill is to empower the Governor General in Council, or any company or person licensed by him under the Indian Telegraph Act of 1876, to place and maintain lines of telegraph under, over, along, across, in or upon property belonging either to private persons or public bodies. The determination to bring forward this Bill has arisen out of the fact that it has recently come to the attention of Government that, as the law at present stands, the Governor General in Council and his licensees have no power to place and maintain lines of telegraph upon the land of municipal or other similar bodies or of private persons. In England the requisite powers have been conferred on the Post Master General, who works and maintains the telegraphs in that country, and it appears to us to be necessary that similar powers should be enjoyed here. The power given in the Bill will operate to prevent, on the one hand, any Government officer from violating private rights when erecting the telegraphs, and, on the other hand, any private person from offering unnecessary and unreasonable obstruction to those who are carrying out operations intended for the public convenience.

"The present opportunity has also been taken to make two amendments in the Indian Telegraph Act, which were found from experience to be necessary.

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[*Mr. Hope ; Mr. Ilbert.*]

“ The first of these amendments has for its object the regulation of telegraph lines constructed by the Government, but leased to companies or individuals by whom they are worked. We have a very large and increasing class of such lines along our railways, the system being that the Government owns the whole of the plant of the telegraphs, and that it leases them to the Railway-administrations for the actual working. The position of these lines under the present Telegraph Act is far from clear, and the object of the amendment proposed in section 8 of the Bill is to put them on much the same footing as licensed lines.

“ The object of the second amendment, made by section 9 of the Bill, is to prescribe penalties for the breach by licensees or lessees of the rules made under section 8 for the conduct of their telegraph. In such cases, as the Act now stands, the only remedy is to revoke the license or lease; but this course would in most cases cause such great public inconvenience that it is impracticable.”

The Motion was put and agreed to.

FUNCTIONS (LIEUT.-GOVERNOR, N. W. P.) VALIDATION BILL.

The Hon'ble MR. ILBERT moved for leave to introduce a Bill to legalise the discharge by the Lieutenant-Governor of the North-Western Provinces of certain functions assigned to the Governor General in Council. He said:—
“ The object of this Bill is merely to legalise the existing practice in accordance with which certain functions which under some unrepealed Regulations and Acts ought strictly to be discharged by the Governor General in Council are in fact discharged, and much more conveniently discharged, by the Lieutenant-Governor of the North-Western Provinces. The functions in question are not of a very important character, one of them, for instance, being the power to sanction the allowances and establishment of the *dároghas* of certain stone-quarries, and to fix the rate of duty payable in respect of stone taken from the quarries. That is a power which, I think, might be very conveniently delegated to the Local Government.”

The Motion was put and agreed to.

TRANSFER OF PROPERTY ACT, 1882, AMENDMENT BILL.

The Hon'ble MR. ILBERT moved for leave to introduce a Bill to amend the Transfer of Property Act, 1882. He said:—

“ The chief object of the Bill which I am asking leave to introduce is to remove a doubt which has been entertained as to the effect of the exemption

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clause in the Transfer of Property Act. When this important measure was before the Select Committee, it was apprehended that there were certain classes of the community to which some of its provisions might be unsuitable, and accordingly a power was given to Local Governments, with the previous sanction of the Governor General in Council, to make exemptions from the operation of particular sections of the Act.

"The sections to which the power of exemption applies are those which relate to transfer by an ostensible owner (section 41) ; to the mode of effecting a transfer of property by sale (section 54, paragraphs 2 and 3), mortgage (section 59), lease (section 107), and gift (section 123) ; and to the effect of a power of sale in a mortgage (section 69). And the form of exemption adopted was copied, with some modifications, from the Indian Succession Act, which enables (section 382) the Government to exempt from the operation of the whole or any part of the Act, either prospectively or retrospectively, the members of any race, sect or tribe in British India to whom the provisions of the Act might be considered inapplicable.

"Now, this was an excellent precedent to follow ; but I cannot help thinking that the Select Committee, when adopting it, did not sufficiently advert to the difference between the rules of the Succession Act and those of the rules of the Transfer of Property Act to which the power of exemption was to apply. It is easy enough to make a personal exemption from the rules of succession, and to say that some of those rules shall not apply in the case of succession to a particular person or class of persons. But it is not so easy to make a personal exemption from rules which require the observance of certain formalities in the case of a sale, mortgage, lease or gift of land. According to the generally recognised principles of what is called private international law, formalities of this kind are regulated by the law of the place where the property is situate, and are not affected by the personal law of any party to the transaction. What, for instance, would be the effect of saying that a rule which requires the sale of land to be made only by a registered instrument shall not apply to Bñls ? Would it apply where the vendor is a Bñl, or where the purchaser is a Bñl, or where any party to the transaction is a Bñl, or only when all parties to the transaction are Bñls ? So, again, is it only intended to apply where litigation ensues ; and in that case is the intention to exempt the person who wishes to enforce the contract, or the person against whom the contract is to be enforced, or both ? Plausible reasons may be suggested, and indeed have been suggested in the papers which have come before me, for adopting any one of these views ; but I do not think any lawyer could say with complete confidence which of them would be the correct view.

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"The difficulty of construing this section was raised very shortly after the Act came into operation by Mr. Elliott, the Chief Commissioner of Assam, who was anxious to exempt from some of the provisions of the Act certain classes of the population under his government, and more especially the wild tribes on the eastern frontier of Assam, but who was not at all sure what would be the effect of his exercising the power of exemption given to him by section 1 of the Act.

"When the question came before me my own opinion was that the best way out of the difficulty would be to make the power of exemption local and not personal, so far at least as it applies to the sections which prescribe the formalities of transfer. Mr. Elliott, however, would have preferred a power to exempt from the operation of those sections not persons or places, but *transactions* to which members of any race, sect, tribe or class whom it might be desirable to exempt were parties; and as to sections 41 and 69 (which relate to sales by ostensible vendors, and to powers of sale in mortgages), he did not see why the power of exemption was needed in their case at all.

"I felt bound to admit that a local exemption would not give precise effect to the intentions of the Select Committee, and I shared Mr. Elliott's doubts as to the reasons for including sections 41 and 69 in the exemption clause. And under these circumstances, considering that the Act had so recently come into operation, and that I had not had the advantage of taking part in any of the deliberations which preceded its passing, I thought it was only due to the eminent persons by whom it was framed, and to the Select Committee who had bestowed so much pains on bringing it into its present shape, to take the opinion of Local Governments before proposing any specific amendment in the law.

"The result of the reference to Local Governments has been to elicit a great difference of opinion as to the form which the exemption clause should assume, whether it should be purely local or purely personal, or partly local and partly personal; and further, if it is made personal, whether it should apply where any of the parties to the transaction is a member of the exempted class, or only where all of them belong to that class. But the general effect of this conflict of opinions on my mind is to confirm the view which I had previously entertained, that the best and simplest way out of the difficulty is to make the exemption from the provisions as to formalities of transfer local, and that any other form of exemption would not only give rise to difficult legal questions, but would facilitate forms of fraud which it is the object of the Act to make impossible, or at least difficult.

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"In the view that there should be some kind of local exemption, I think I may claim the support of Sir Charles Turner, whose opinion, as that of one of the three Law Commissioners to whom the Transfer of Property Bill was referred, is entitled to great weight, and I am certainly supported by Mr. Justice Muthusami Aiyar, who has written an interesting Minute on the subject, and by Mr. Robert Crosthwaite, who was acting as Secretary in the Legislative Department when the Bill was before the Select Committee, and who may therefore be presumed to be acquainted with the reasons which induced them to insert the exemption clause now in the Act.

"As to the extent of the local exemption, one point appears to be clear, namely, that the sections prescribing the formalities of transfer should not extend to tracts of country in which the Registration Act is not in force. The sections in question presuppose the existence of a Registration Law, and are scarcely intelligible without it; and it can, I think, only have been through an oversight that they were extended to areas where that Act is not in operation.

"Should we go further, and exempt from the operation of those sections any part of the country where the Registration Act is in force? Sir Charles Turner appears to doubt whether we should, and suggests, as an alternative, that the kind of protection now afforded to certain classes of agriculturists under the Dekkhan Relief Acts should be extended to other classes of persons, by making them incompetent to convey any interest in land by a written instrument unless the instrument is executed in the presence of an officer of Government, who should be required to explain its effect. In other words, instead of relaxing formalities in the case of these classes, he would require the observance of additional formalities. With all deference to his high authority, I think the balance of argument is against the adoption of this suggestion. In the first place, any attempt to superadd a personal to a local exemption is open to the objections which have been urged against granting purely personal exemptions. In the next place, although I do not deny that members of uncivilized and ignorant classes are exposed to risk of fraud when they engage in transactions with persons of superior intelligence, though perhaps not of superior morality, yet there does not appear to be anything which shows that this particular risk was in the view of the Select Committee when they framed the exemption clause now under consideration. There may be, in my opinion there are, cases in which a contract should not be legally binding, unless it is executed under sufficient safeguards against fraud. The English Legislature has recognised this principle

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in its legislation on the subject of bills of sale (to select one out of many instances), and English Courts of Equity constantly act on it where such relations exist between the parties as afford ground for the presumption of undue influence having been exercised. But such cases, as the illustrations which I have referred to clearly show, are not confined to transactions relating to land, or to transactions to which one of the parties is a member of an uncivilized race; and on the whole I think it is best to deal with them, not in the manner suggested, but by special legislation, where the need for such legislation is shown to exist.

“ On the other hand, I think that it would be convenient to have a power of exempting from the operation of some of the provisions of the Act certain tracts to which the Registration Law extends. For instance, Sir Henry Ramsay has strongly pressed upon me the expediency of exempting Kumaun, where I believe the Registration Act is in force. I am quite aware that the Transfer of Property Act is not the only Act of the Legislature which Sir Henry Ramsay has desired to exclude from Kumaun, and I fully understand the jealousy with which legislation of the kind is regarded by a man whose long and eminently successful administration affords one of the most conspicuous instances of what may be done in a backward district by a strong, conscientious and capable ruler when left very much to his own devices and untrammelled by laws and regulations. But without committing myself to Sir Henry Ramsay's views on legislation generally, it does seem to me probable that there are tracts of country where the mass of the population are not ripe for those provisions of the Transfer of Property Act which require all transfers of property above a certain value to be in writing and registered, and which in the case of petty transactions make writing obligatory unless the transfer is accompanied by delivery; and this appears to be the opinion of the Government of the North-Western Provinces, who desire to have the power of exempting certain tracts of country within the area under their administration, including, I believe, not only Kumaun, but certain other hill tracts. The amending Bill proceeds on the view that such a power is advisable, and proposes to give a power to grant local exemptions from those sections which prescribe the formalities of transfer.

“ The power will doubtless be cautiously exercised, and I should point out that it may be so exercised as to exclude certain portions from the exempted area. For instance, provisions which may be considered unsuitable to Kumaun generally, may be suitable enough to Nainí Tál.

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"This is all that I need say at present about sections 54, 59, 107 and 123, the sections which prescribe the formalities to be observed in cases of sale, mortgage, lease and gift.

"To sections 41 and 69 different considerations apply. Section 41 enacts that a transfer of property by its ostensible owner shall not be void by reason only that the transferor was not authorized to make it, provided that the transferee after taking reasonable care to ascertain that the transferor had due powers has acted in good faith.

"This section is based on the principle that where one of two innocent persons must suffer from the fraud of a third party, the loss should fall on him who has created or could have prevented the opportunity for the fraud, and that in such cases hardship is caused by the strict enforcement of the general rule that no one can confer a higher right on property than he himself possesses. This principle is generally recognized in the jurisprudence of all civilized nations, and lies at the bottom of such legislation as the English Factors Act; but I am inclined to agree with Sir Charles Turner in thinking that it involves a refinement of equity which is perhaps hardly required for, or suitable to, the very simple transactions between members of uncivilized races, and which they might fail to appreciate. Accordingly I propose to give power to exempt from the operation of this section any property within a particular area in which a member of any specified race, sect, class or tribe is interested. As the section deals not with the formalities of transfer, but with the capacity to transfer, the objections to a form of exemption which is to some extent personal do not apply.

"As to section 69, there does not seem to be any reason why it should be included in the general exemption clause; but, on the other hand, it does seem to require amendment in itself.

"The object of the section was to set at rest what had been previously a moot question, namely, whether, under the law of British India, a mortgagee could sell under an express power of sale without the intervention of the Courts. The section says that such a power of sale shall be valid in certain cases, namely,—

- (a) where the mortgage is an English mortgage (*i.e.*, in the ordinary English form), and neither the mortgagor nor the mortgagee is a Hindu, Muhammadan or Buddhist;
- (b) where the mortgagee is the Secretary of State in Council;

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(c) where the mortgaged property or any part of it is situate within the town of Calcutta, Madras, Bombay, Karachi or Rangoon :

but it does not go on to say that the power shall not be valid in other cases.

“ I propose to make clear what seems on the whole to have been the intentions of the framers of the section by declaring the cases in which the power of sale is not to be valid. And as Mr. Justice Muthusami Aiyar has pointed out that there are other classes which it is even more necessary to exclude from the operation of the exceptional provision than Hindus, Muhammadans and Buddhists, I propose to add words giving a power to exclude such classes.

“ These are the principal amendments which I propose to make in the Act. There is however one further amendment, which, though of minor importance in itself, opens up questions that are of considerable importance.

“ There is a section in the Act which declares that nothing in the Act is to be deemed to affect the provisions of any enactment not thereby expressly repealed. And Mr. Elliott asked how this declaration was to be reconciled with certain sections which appeared to him to affect the provisions of the Registration Act. Under the Registration Act certain instruments relating to property of less than Rs. 100 in value *may* be registered, and, if registered, have priority over unregistered instruments. Under section 54 of the Transfer of Property Act all instruments of sale *must* be registered to have any effect at all. Where the value of the property is less than Rs. 100, you may sell by mere delivery; but if you wish to rely on a written instrument, you must register it; and the question is whether the latter of these provisions does not affect the former. The answer depends on the meaning which you attach to the term ‘affect.’ As used in legislative language, it usually means affect *in malam partem*, derogate from, wholly or in part. In this sense the Transfer of Property Act does not affect the Registration Act. What it really does is to supplement it by rendering certain instruments compulsorily registrable which were only optionally registrable before. And I propose to insert in the amending Bill words which will make this clear.

“ Now this is, as I have said, a minor matter, but it raises the question as to the relations to each other of these two important Acts, and as to the extent to which the passing of the Transfer of Property Act has superseded the necessity for making some of the amendments which have from time to time been suggested in the Registration Act.

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"The Registration Act is an Act which has been frequently tinkered, and which from the nature of the case it is almost impossible to make thoroughly satisfactory, and therefore I am not particularly anxious to undertake the task of further amending it. But I fear that it will be necessary before long to take action on the suggestions for its amendment which have for some time been pressed on the Legislative Department, and the close connection of some of those suggestions with the parts of the Transfer of Property Act which I am proposing to amend will, I think, afford a sufficient justification for my referring to them briefly now.

"One of the proposals which has been laid before us is pretty radical in its character, for it goes to the root of the matter, and suggests that our whole system of registration is wrong, and that what we ought to aim at is a registration, not of instruments or documents, but of titles. Now this question of registration of instruments or assurances *versus* registration of titles has been the subject of controversy in England among those learned in the conveyancing craft during the last half century or so. On the one hand, a system of registering assurances has been in force in two counties in England—Middlesex and Yorkshire—ever since the reign of Queen Anne, and has also been in force for a long while in Ireland and Scotland, and has worked with more or less success. In Middlesex I can undertake to say that it has worked very badly. On the other hand, Sir Robert Torrens has introduced into the Australian colonies a system of registering titles which appears to have been a conspicuous success, and which has therefore naturally suggested the expediency of its introduction elsewhere. Both Lord Westbury and Lord Cairns have passed Acts providing for registration of titles somewhat on the Torrens' system; but both those Acts, though framed with great ability, have, I am sorry to say, remained almost dead-letters. It has been suggested that in India a system of registering of titles might be conveniently engrafted on the system of revenue registration, which looks rather to the man in possession than to the way in which he got into possession, and that we should thus avoid a double system of registration under the Revenue Acts and under the Registration Acts.* My own opinion, however, for what it is worth, is that, though registration of titles is preferable in theory to registration of assurances, it is not compatible with a complicated system of titles. It is mainly for this reason that I believe it has failed in England, where titles are complicated by settlements, and I fear that it would fail in India, where there are even greater complications arising out of Hindu family law.

* This suggestion has the support of Mr. Justice Field. See "*Landholding and the Relations of Landlord and Tenant*," p. 406, note 9.

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“ Our present system of registering instruments has obtained firm possession of the field, has on the whole worked fairly well, and is recognized as the basis of such important pieces of legislation as the Transfer of Property Act ; and under these circumstances it would be a strong measure to upset it altogether. Whether an economy may not be effected by combining the functions of the staff employed under the Revenue Acts and of that employed under the Registration Acts is an administrative question into which I need not enter.

“ Assuming then that instruments and not titles are to be registered, there is a feature of the existing Registration Act to which strong exception has been frequently taken by high authorities, and that is what is known as optional registration, the system, namely, under which instruments of a certain class are allowed, but not required to be registered, are given a legal effect without registration, but, if left unregistered, are liable to be overridden by a registered instrument of later date. Sir Richard Garth has repeatedly inveighed against the system as inducing and facilitating fraud, and a high authority on the other side of the peninsula has recently used equally strong expressions about it. ‘ The present law,’ says Mr. Maxwell Melvill in a note which I read the other day, and which I hope he will excuse me for quoting in this connexion, though it was written with reference to a different subject ‘ which makes the registration of certain instruments optional, but invalidates them when they come into competition with registered instruments of a later date, is a trap for the unwary, and has unfairly deprived thousands of innocent mortgagees and private owners of their property.’

“ Among the numerous difficult questions to which the system of optional registration has given rise, one of the most difficult is as to the effect of notice of an unregistered transaction on the rights of a person who claims under a registered instrument. There is a section of the Registration Act (section 50) which says that when a deed of which the registration is optional is registered, it shall have priority over any unregistered deed relating to the same property. This is in fact the inducement to register such deeds. But supposing that a man who claims under a deed so registered had, at the time of entering into the transaction on which the deed is based, notice of the existence of another unregistered deed, earlier in date, and inconsistent with his claims, what then ? Is he still to have priority, notwithstanding the notice ? On this question there is a vast number of decisions, which are collected in the various editions of the Registration Act (the edition which I happen to have consulted is a handy little book brought out this year by Mr. Cuddalore Ramachandra

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Aiyar, a Subordinate Judge in North Malabar), but the upshot of them is that the Madras High Court would allow the claimant under the later registered deed to assert his priority, notwithstanding notice, whilst the other High Courts, and I believe the Chief Court of the Panjáb, hold the opposite view. I have had some correspondence on this subject with Sir Charles Turner, and he has been kind enough to send me a note, in which he has reviewed the history of the successive Registration Acts, and has defended with much force the view taken by the Madras High Court as to the operation of the present Act. I quite agree with him that if the doctrine of notice is carried to the extravagant lengths to which it was formerly carried by English Courts of Equity, and under which what was called constructive notice was made to include, not only what a man actually knows, but what he and various other persons connected with him could, should, or might have known,—I quite agree that if the doctrine is carried to this length, it is fatal to any system of registration. But a much more reasonable view of what amounts to notice has been taken of late years by the English Courts, and notably by Lord Cairns in a well known case in the House of Lords (*Agra Bank v. Barry*). It is certainly desirable, as Sir C. Turner admits, that the law administered in the several provinces should be made uniform by legislation, and that it should be expressly declared whether the doctrine of notice is to be applied by the Courts, and if so, to what extent. It may be found possible so to define the term for the purpose of the Registration Act as to get rid of what is called constructive notice, and to confine the doctrine to cases where there is such a knowledge of a previous transaction as shows that the person claiming under a subsequent registered deed is obviously trying to take advantage of his own fraud; but the work of framing a definition which would draw the line precisely at the right point would be a matter of considerable difficulty.

“In the meantime it should be borne in mind that we have already in our Statute Book a definition of notice and a declaration of its legal effects. The definition section of the Indian Trusts Act (section 8) explains that a person is said to have ‘notice’ of a fact when he actually knows that fact, or when, but for wilful abstention from inquiry or gross negligence, he would have known it, or when information of the fact is given to, or obtained by, his agent, under the circumstances mentioned in the Indian Contract Act, 1872, section 229. And the Act goes on to enact (section 91) that—

‘Where a person acquires property with notice that another person has entered into an existing contract affecting that property, of which specific performance could be enforced, the former must hold the property for the benefit of the latter to the extent necessary to give effect to the contract.’

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"I am not aware whether the effect of this section on the Registration Act has been fully considered ; but it certainly cannot be left out of account in any legislation which may be necessary—and I fear legislation will be necessary—to reconcile the conflicting decisions of the High Courts.

"Of course if you could get rid of optional registration altogether, many of the difficulties to which I have referred would vanish. And I understand Sir Richard Garth* to be of opinion that, so far as transfers by sale are concerned, the evils arising out of optional registration have been removed for the future in those parts of India to which the Transfer of Property Act already extends, and are capable of being removed by a simple extension of that Act to other provinces, such as Bombay, to which the Act may be extended by the Local Government. For, under section 54 of the Transfer of Property Act, there is no such thing now as a transfer by writing of immoveable property unless that writing is registered. There may be an oral transfer by way of sale of a possessory interest under Rs. 100 in value, but any sale in writing, whether under or over Rs. 100, must be registered. However, leases and mortgages stand on a different footing, and as to them the law of optional registration still prevails.

"The remedy which is usually suggested is to extend the range of compulsory registration to instruments relating to property of less than Rs. 100 in value. The chief objection to this proposal appears to be that the obligation to register petty transactions would impose great expense and hardship in cases where a registry office is not available within a reasonable distance. There may be—I dare say there are—parts of the country to which this objection would not apply, and the suggestion which I should be disposed to make is that the Registration Act should be amended in such a way as would empower Local Governments to make registration of small transactions relating to land compulsory in those areas in which, in their opinion, the people are prepared for general registration and there is machinery available for registering such transactions without unnecessary expense and inconvenience to those concerned. In this way the range of compulsory registration might be carried out in a gradual and experimental manner. Of course the registration fees charged on petty transactions would have to be very light.

"And it is worth considering whether, in the class of cases to which compulsory registration is considered inapplicable, we should allow an unregistered instrument to have any legal effect whatever, whether in fact we should not

* See his remarks in *Narain Chunder Chatterjee v. Dattaram Beg.* 1. L. M. & C. 12, at p. 612.

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extend and generalize the principle which I understand to be embodied in section 54 of the Transfer of Property Act.

“These points will have to be fully worked out when the Registration Act comes up for amendment ; but I suggest them for consideration now, because of their close and obvious connexion with the enactment which I am asking the leave of the Council to amend.”

The Motion was put and agreed to.

PANJÁB MUNICIPAL BILL.

The Hon'ble MR. BARKLEY presented the Report of the Select Committee on the Bill to make better provision for the organization and Administration of Municipalities in the Panjáb.

The Council adjourned to Wednesday, the 20th August, 1884.

SIMLA ;
The 8th August, 1884. }

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