

Wednesday, February 19, 1879

ABSTRACT OF THE PROCEEDINGS

COUNCIL OF THE GOVERNOR GENERAL OF INDIA

LAWS AND REGULATIONS.

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ABSTRACT OF THE PROCEEDINGS

OF THE

Council of the Governor General of India,

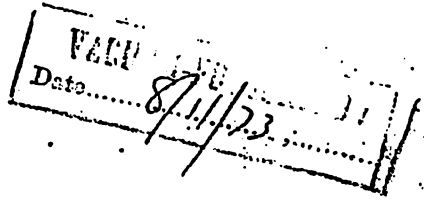
ASSEMBLED FOR THE PURPOSE OF MAKING

LAWS AND REGULATIONS.

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1880.

*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 19th February, 1879.

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, K.C.S.I.

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

Colonel the Hon'ble Sir Andrew Clarke, R.E., K.C.M.G., C.B.

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

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

The Hon'ble Rivers Thompson, C.S.I.

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

The Hon'ble E. C. Morgan.

The Hon'ble F. R. Cockerell.

The Hon'ble Sayyad Ahmad Khán Bahádúr, C.S.I.

Lieutenant-General the Hon'ble Sir M. K. Kennedy, R.E., K.C.S.I.

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

The Hon'ble B. W. Colvin.

The Hon'ble Mahárájá Jotíndra Mohan Tagore.

NEGOTIABLE INSTRUMENTS BILL.

The Hon'ble MR. STOKES presented a further Report of the Select Committee on the Bill to define and amend the law relating to Promissory Notes, Bills of Exchange and Cheques.

TRANSFER OF PROPERTY BILL.

The Hon'ble MR. STOKES also presented a further Report of the Select Committee on the Bill to define and amend the law relating to the Transfer of Property.

CIVIL PROCEDURE CODE AMENDMENT BILL.

The Hon'ble MR. STOKES asked leave to postpone the presentation of the Report of the Select Committee on the Bill to amend the Code of Civil Procedure.

Leave was granted.

CENTRAL PROVINCES EVIDENCE BILL.

The Hon'ble MR. STOKES also presented the Report of the Select Committee on the Bill to make better provision for recording evidence in the Central Provinces and moved that it be taken into consideration. He said the Committee had considered the suggestion of the Home Department that the opportunity might be taken to empower the other Local Governments to extend the procedure provided by the Bill to the rest of British India. The Committee was not prepared without further enquiry to recommend that such a power should be given; the chief justification for the present measure was, that it embodied a practice which had prevailed in the Central Provinces for the last seventeen years, and which the local authorities were not prepared to abandon for the general rule prescribed by the Code of Civil Procedure.

The only objection which could reasonably be taken to the Bill was, that it had received the unqualified approval of the Local Government concerned, and that no suggestions had been made for its amendment. MR. STOKES did not say this ironically. He did not believe that he, or any one else, could draw a Bill of any complexity that would really deserve unqualified approval and require no change either in substance or form. He had now been engaged for twenty-five years in the study and practice of the art of legal expression, and in the interpretation of the work of masters of the craft like Sir Henry Thring; and he had been more and more impressed with the great and inherent difficulties of legislative draftsmanship and the truth of Austin's dictum, which he would take leave to read to the Council: "I will venture to affirm that what is commonly called the *technical* part of legislation is incomparably more difficult than what may be styled the *ethical*. In other words, it is far easier to conceive justly what would be useful law, than so to construct that same law that it may accomplish the design of the law-giver." In India, moreover, these difficulties were enhanced by the practical impossibility of getting complete and perfectly accurate information as to the subject-matter and bearings of any proposed piece of legislation. In the present case, however, the matter of the Bill was extremely small and simple,

and he thought that, notwithstanding the regrettable absence of criticism, the Council might safely comply with the recommendation of the Committee, and let the Bill become law with all its presumable defects.

The Motion was put and agreed to.

The Hon'ble MR. STOKES then moved that the Bill be passed.

The Motion was put and agreed to.

The Council adjourned to Wednesday, the 26th February, 1879.

CALCUTTA ; <i>The 19th February, 1879.</i>	}	D. FITZPATRICK, <i>Secretary to the Government of India, Legislative Department.</i>
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NOTE.—The meeting which was originally fixed for Wednesday, the 12th February, 1879, was adjourned to Wednesday, the 19th February, 1879.