

Wednesday, March 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,

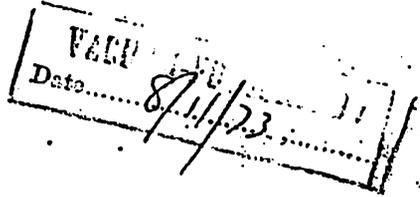
ASSEMBLED FOR THE PURPOSE OF MAKING

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 March 1879.

P R E S E N T :

The Hon'ble Sir A. J. Arbuthnot, K. C. S. I., Senior Member of the Council of the Governor General, *presiding*.

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

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

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

The Hon'ble Mumtáz-ud-Daulah Nawáb Sir Muhammad Faiz Ali Khán Bahádur, K. C. S. I.

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

The Hon'ble G. H. P. Evans.

The Hon'ble F. R. Cockerell.

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

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

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

The Hon'ble Mahárájá Jotindra Mohan Tagore.

CIVIL PROCEDURE CODE AMENDMENT BILL.

The Hon'ble MR. STOKES presented the supplementary Report of the Select Committee on the Bill to amend the Code of Civil Procedure. Since the former report had been presented he had received valuable communications from Mr. Justice Ainslie and Mr. Justice Sewell White, both of the Calcutta High Court, which had led the Select Committee to make some changes in the Bill, and one or two further amendments of the Code. Under these circumstances, the Committee now recommended that the Bill as amended should be republished; but, considering the urgency with which some of the amendments were required, they were of opinion that the passing of the Bill should not be delayed for more than two months.

ALLUVION BILL.

The Hon'ble MR. STOKES also presented the preliminary Report of the Select Committee on the Bill to define and amend the law relating to alluvion, islands and abandoned river-beds.

PRESIDENCY BANKS ACT AMENDMENT BILL.

The Hon'ble MR. STOKES also moved that the Report of the Select Committee on the Bill to amend the Presidency Banks Act, 1876, be taken into consideration. He said that since the report was presented, the Government of India had received a telegram and a letter from the Bank of Madras proposing two changes in the Act. To enable the Council to understand this proposal, he must read the part of the Act relating to the qualifications of a Director, so far as it was material for his present purpose. It was very brief and clear :—

“ No person shall be qualified to serve as a director of a Bank who is not a proprietor or holder *in his own right* of unencumbered stock or shares of such Bank to the nominal amount of Rs. 10,000 at the least.

“ No person shall be qualified to serve as a director if he holds *the office of* director, provisional director, promoter, *agent* or manager of any other joint-stock Bank established or having a branch or agency in British India.”

Now, the Madras Bank wanted the Government to make two changes in this rule; first, they wanted us to insert after the words “in his own right,” the words “or in right of a firm in which he is a partner;” and, secondly, they wanted us to define the word “agent” so as to prevent the member of a mercantile firm acting merely as the correspondent of a joint-stock Bank, such as the Comptoir d'Escompte, from being thereby disqualified as a Director. It was difficult to speak gravely of the latter proposition. The duties of the firm which had raised this question were, so far as regarded the Comptoir d'Escompte, simply to collect some of the Bank's bills and invest and remit the proceeds for the credit of the Paris Bank, as directed from time to time. No lawyer would hold for a moment that this constituted the collecting firm an “agent” in the sense in which that word was used in the Act. By ‘agent,’ as there used, was meant the gentleman at the head of the branch of a Bank doing its local business and thereby competing with the Presidency Bank—as Mr. Harper was the agent of the Oriental Bank in Calcutta and Mr. Stevens in Madras. And the present able and learned Advocate General of Madras (Mr. O'Sullivan) had given an opinion (which the Bank of Madras had sent us yesterday) distinctly to that effect. It would therefore be idle to introduce such a definition, and the Government of India objected to make useless changes in the law. The other alteration which the Bank of Madras proposed was of a substantial nature. They wanted to have it laid down in the Act that a man might be qualified as a Director of a Presidency Bank if he merely belonged to a firm holding shares in the Bank to the amount of Rs. 10,000. The Government of India opposed this change on principle. The object of the requirement that

shares should be held by a Director "in his own right" was to guarantee that every Director should personally have a considerable beneficial interest in the well-being of the concern. It was obvious that this security would be weakened if they were to allow a member of a partnership which, under the Indian Companies Act, section 4, might consist of no less than twenty persons, to be qualified as a Director merely because his firm held shares in the Bank to the amount of Rs. 10,000. The whole matter had been carefully considered both in the Financial Department and by himself; and the Government of India declined to make the proposed modifications because one would be useless and the other would be wrong.

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.

BURMA ELEPHANTS BILL.

The Hon'ble MR. THORNTON moved that the Reports of the Select Committee on the Bill to prevent the indiscriminate destruction of wild elephants in British Burma, or, to use the amended title proposed by the Committee, the 'Bill for the preservation of wild elephants,' be taken into consideration.

The Bill, it would be remembered, was originally applicable to British Burma only, but its scope and local operation had been enlarged by the Committee and a revised edition, embodying the amendments of the Committee, had been published under the designation of Bill No. II.

All the Local Governments and Administrations affected, or which might be affected, by the measure in its amended form, had accepted its provisions, with the exception of the Madras Government, which had a not unnatural predilection for its own enactment of 1873. As, however, the present Bill, if it became law, would not operate in the Madras Presidency, unless specially extended thereto by the Madras Government, there appeared no necessity to make any alteration in the present Bill on that account. The only alteration of any importance made in Bill No. II by the Select Committee was the insertion of a provision making the previous concurrence of the Governor General in Council necessary before the Local Government could extend the Act to any local area not specified in the first section. The object of the amendment was simply to provide a security that the Act should not be extended to any new local area without mature deliberation.

The Hon'ble MR. EVANS wished to ask a question of the Hon'ble Member in charge of the Bill. He had an impression that there were some few permanently settled zamíndáris in Bengal where elephants were still caught and that the right to catch them had been enjoyed by the zamíndárs before and since the Permanent Settlement. In some cases he was informed that the papers of the Permanent Settlement shewed that the right had been expressly assessed and permanently settled. It was no doubt necessary to pass a Bill to prevent the indiscriminate destruction of wild elephants; but it might be necessary to make some special provision for such cases as he had referred to. He wished to ask whether there was any provision for such cases, and whether the point had been considered by the Select Committee.

The Hon'ble MR. THORNTON said that the possibility of claims, such as those adverted to by Mr. Evans, being put forward had been considered by the Committee, and it was partly for this reason that a wide discretion was allowed to Local Governments in the matter of levying a royalty on elephants; for the Hon'ble Member would perceive that the levy of the impost was not obligatory but might, if deemed necessary or called for, be remitted altogether.

The main object of the Bill was to assert clearly and distinctly on behalf of the State the right to regulate and control the capture and destruction of wild elephants and the right to demand a royalty on elephants killed or captured. But the manner in which, and the extent to which, these rights were to be enforced were advisedly left in great measure to the Executive Government, by whom any claims to exemption made by individuals or classes would, he felt sure, receive the most careful and the most equitable consideration.

The Motion was put and agreed to.

The Hon'ble MR. THORNTON also moved that the Bill as amended be passed.

The Motion was put and agreed to.

The Council adjourned *sine die*.

CALCUTTA ;
The 19th March 1879. }

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

Exd.—J. G.