

Wednesday,
10th June, 1885

ABSTRACT OF THE PROCEEDINGS

OF THE

Council of the Governor General of India,

LAWS AND REGULATIONS

Vol. XXIV

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Council of the Governor General of India,

ASSEMBLED FOR THE PURPOSE OF MAKING

LAWS AND REGULATIONS

1885

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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 Viceregal Lodge, Simla, on Wednesday, the 10th June, 1885.

P R E S E N T :

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

His Honour the Lieutenant-Governor of the Punjab, LL.D., K.C.S.I., C.I.E.

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 O. P. Ilbert, C.I.E.

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

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

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

REGISTRATION ACT, 1877, AMENDMENT BILL.

The Hon'ble MR. ILBERT introduced the Bill to amend the Registration Act, 1877, and moved that it be referred to a Select Committee consisting of the Hon'ble Sir S. Bayley, Mr. Hunter and the Mover.

The Motion was put and agreed to.

The Hon'ble MR. ILBERT also moved that the Bill and Statement of Objects and Reasons be published in the local official Gazettes in English, and in such other languages as the Local Governments think fit.

The Motion was put and agreed to.

BURMA COURTS BILL.

The Hon'ble MR. ILBERT also introduced the Bill to amend the Burma Courts Act, 1875, and section 360 of the Code of Civil Procedure, and moved that it be referred to a Select Committee consisting of the Hon'ble Sir S. Bayley and the Mover, with instructions to report in one month. He said that he had suggested that the Committee be instructed to report in a month because he understood that the Chief Commissioner was anxious that the measure should

be brought into operation as speedily as possible, and, unless some instruction of this kind was given, the Committee could not, under the standing rules, report before the expiration of three months.

The Motion was put and agreed to.

The Hon'ble MR. ILBERT also moved that the Bill and Statement of Objects and Reasons be published in the *British Burma Gazette* in English, and in such other languages as the Local Administration thinks fit.

The Motion was put and agreed to.

OUDH ESTATES ACT, 1869, AMENDMENT BILL.

The Hon'ble SIR STEUART BAYLEY moved that the Bill to amend the Oudh Estates Act, 1869, be taken into consideration. He said :—

“ This Bill was introduced into the Council by my hon'ble friend Mr. Quinton in October last, and it is owing to his absence that it has devolved upon me to proceed with it now.

“ It will be in the recollection of the Council that the grounds for making this alteration were explained by Mr. Quinton at the time. They were that under the Oudh Estates Act the taluqdárs have the power to make bequests of their estates under certain conditions by will when duly executed and registered. But the Registration Act provides two different processes. It provides for registration, which involves a copy of the document being kept, and also of its being kept open for inspection; and it provides for the simple deposit of a will in a sealed cover. Many of the Oudh taluqdárs were under the impression that depositing a will in a sealed cover was sufficient, and in a certain number of instances action has been taken on wills so deposited, and the property has passed accordingly into other hands; but in 1882 a case came before the Judicial Commissioner in which it was decided that the depositing of a will was not, within the meaning of the law, duly registering a will. The case went up to the Privy Council on appeal, and the decision of the Judicial Commissioner on the point was upheld, so that there can be no doubt as to how the law stands. The Lieutenant-Governor, Sir Alfred Lyall, pointed out to us the great inconvenience likely to arise from this decision, not only in regard to the past, because a certain number of properties had already changed hands, but also in regard to the future, because the taluqdárs would have to give publicity to their wills beforehand, the result of which would be to diminish the value and utility of their power of bequest; and it was in accordance with Sir Alfred Lyall's views that this legislation was undertaken. It will be

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

seen that the law provides practically that wills so deposited shall be deemed to be duly registered, and that it operates absolutely in regard to the future and with certain limitations in regard to the past. Those limitations, as they stood in the Bill as introduced, were that the law should not interfere with any decree passed or any suit instituted before the introduction of the Bill.

“The Bill was sent to the Local Government, and by them was referred to the Taluqdárs Association of Oudh; and it is in accordance with the wishes of the Association and the Lieutenant-Governor that the first Motion for amendment which stands in my name is proposed.

“That Motion merely alters the limitation to this effect, that, instead of saving decrees passed before the introduction of this Bill, we save all decrees passed before the passing of this Act. The Bill in its present shape has the approval of the Lieutenant-Governor and the taluqdárs, who are the persons principally concerned.

“The second Motion for amendment which stands in my name has for its object merely to make the meaning of the clause clearer.”

The Motion was put and agreed to.

The Hon'ble SIR STEUART BAYLEY also moved that in section 2 (a), for the words “twenty-third day of October, 1884,” the words “passing of this Act” be substituted.

The Motion was put and agreed to.

The Hon'ble SIR STEUART BAYLEY also moved that in section 2 (b), after the word “is” the words “at the time of the passing of this Act” be inserted.

The Motion was put and agreed to.

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

The Motion was put and agreed to.

SUNDRY BILLS.

The Hon'ble MR. ILBERT moved that the Hon'ble Sir S. Bayley and the Hon'ble Mr. Hunter be added to the Select Committee on the Bill to amend and define the law of Testamentary and Intestate Succession to Khojás.

The Motion was put and agreed to.

[*Mr. Ilbert.*]

[10TH JUNE, 1885.]

The Hon'ble MR. ILBERT also moved that the Hon'ble Sir S. Bayley be added to the Select Committee on the Bill to amend section 265 of the Indian Contract Act, 1872.

The Motion was put and agreed to.

The Council adjourned to Wednesday, the 24th June, 1885.

D. FITZPATRICK,

Secretary to the Government of India,

Legislative Department.

SIMLA;

The 19th June, 1885. }