

Thursday August 2, 1877

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 under the provisions of the Act of Parliament 24 & 25 Vic., Cap. 67.

The Council met at Simla on Thursday, the 2nd August 1877.

PRESENT:

His Excellency the Viceroy and Governor General of India, G.M.S.I.,
presiding.

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

His Excellency the Commander-in-Chief, K. C. B.

The Hon'ble Sir E. C. Bayley, 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.

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

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

The Hon'ble F. R. Cockerell.

The Hon'ble B. W. Colvin.

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

BOMBAY REVENUE JURISDICTION ACT AMENDMENT BILL.

The Hon'ble SIR ALEXANDER ARBUTHNOT moved that the Bill to amend the Bombay Revenue Jurisdiction Act, 1876, be taken into consideration. He said that the only communication which the Government had received with reference to this Bill was one from the Government of Bombay, dated the 11th of last month, in which it was stated that "under the circumstances of the case, and having regard to the facts and considerations set forth in the proceedings of the Council of the Governor General for making Laws and Regulations in June last, when the Bill was introduced, His Excellency in Council has no remarks or suggestions to offer to the Bill being passed as soon as may be convenient." The Bill, he might add, had been published in the *Bombay Government Gazette*, both in the English, Maráthí, Guzaráthí, and Kanarese languages. He had no further remarks to make now in addition to those which he had made on the occasion of introducing the Bill.

The Hon'ble MR. HOPE asked the Hon'ble Mover if he would be so good as to inform him why Act XI of 1852 and Bombay Act II of 1863 were named in this Bill. As far as he was aware they had no relevancy to the subject of the measure; but he should be glad to have the explanation regarding them which the Hon'ble Member would no doubt be able to afford.

The Hon'ble SIR ALEXANDER ARBUTHNOT said he was sorry that, not having had any previous notice of the Hon'ble Member's question, and not having by him the Acts to which it referred, he could not at that moment afford him the information for which he asked. If Mr. Hope had informed him beforehand, he would have looked into the matter and been prepared to reply to his question.

The Hon'ble MR. HOPE said that possibly his Hon'ble friend Mr. Stokes could give the information asked for.

The Hon'ble MR. STOKES said that the clause in which reference was made to the Acts in question had been substantially framed by Sir Arthur Hobhouse, who was unlikely to have inserted them without a good reason. He had not the Acts by him: they would require careful examination; and he was therefore unable at present to answer Mr. Hope's question. At the worst, however, the mention of them in the Bill was merely superfluous, and could not possibly do any harm. As a matter of drafting he thought the Bill would be improved by omitting mention, not only of Act XI of 1852 and of Bombay Act II of 1863, but also of Act XXIII of 1871 and Bombay Acts VII of 1863 and III of 1874. The clause would then run thus: "and nothing in section four shall be held to prevent the Civil Courts in the Districts mentioned in the second schedule hereto annexed from exercising such jurisdiction as, according to the terms of any law in force on the 28th day of March 1876, they could have exercised over" the three classes of claims specified in the Bill.

The Hon'ble MR. HOPE said that Mr. Stokes' suggestion would entirely meet the case.

His Excellency THE PRESIDENT asked Mr. Hope whether he had got the two Acts which he had mentioned.

The Hon'ble MR. HOPE replied that he had, and enquired of Mr. Stokes whether he would like to look at them.

The Hon'ble Mr. STOKES replied in the negative.

The Hon'ble Mr. HOPE continued, observing that, so far as he understood the subject, the two Acts had no operation whatever in the districts named in the second Schedule of the Bill. It was perfectly true that they could do no very serious harm, but appearing as they did in a Bill of this description, which was well known to have been most carefully considered by both the Government of India and the Secretary of State, they might lead various parties to suppose all sorts of applications and meanings in the Bill which were never intended, and might even lead to troublesome and useless litigation. It would, he thought, be admitted that if the Acts had no more relevancy to the subject than the Post Office or the Railway Act, their insertion in the Bill was very undesirable, even if it did not do absolute harm. He did not venture to say that they had no relevancy, but he could not see what relevancy they had.

His Excellency THE PRESIDENT asked Mr. Hope whether he wished to make any motion.

The Hon'ble Mr. HOPE said that if he might move that the words referring to those Acts should be struck out, he should be happy to do so. Of course he had not been able to give three days' notice of this motion; but then three days' notice had not been given of the meeting of the Council itself.

The Hon'ble SIR ALEXANDER ARBUTHNOT thought that, under the circumstances, the best course would be to defer the consideration of the Bill in order that the point under discussion might be looked into. He should mention that the Bill was drafted by their late colleague, Sir Arthur Hobhouse, and he could not but believe that he had some valid reason for inserting in the Bill the words to which Mr. Hope had taken exception. He should not like, therefore, to assent to their excision without further considering the matter, and inquiring into it with his hon'ble colleague, the Law Member.

The Hon'ble Mr. HOPE said he should regret the postponement of the passing of the Bill, and was quite satisfied with the solution suggested by the Hon'ble Mr. Stokes.

His Excellency THE PRESIDENT expressed his opinion that the matter had better be allowed to stand over for further consideration, as suggested by his Hon'ble friend Sir A. Arbuthnot.

The consideration of the Bill was postponed.

*NEGOTIABLE INSTRUMENTS.**NEGOTIABLE INSTRUMENTS BILL.*

The Hon'ble Mr. STOKES moved that the Hon'ble Sir Edward Bayley and the Hon'ble Mr. Cockerell be added to the Select Committee on the Bill to define and amend the law relating to Promissory Notes, Bills of Exchange and Cheques.

The Motion was put and agreed to.

The Council adjourned to Thursday, the 9th August 1877.

SIMLA ;
The 2nd August 1877. }

A. PHILLIPS,
Secretary to the Government of India,
Legislative Department.