

*Wednesday,  
14th July, 1886*

ABSTRACT OF THE PROCEEDINGS

OF THE

Council of the Governor General of India,

LAWS AND REGULATIONS

Vol. XXV

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ABSTRACT OF THE PROCEEDINGS  
OF  
THE COUNCIL OF THE GOVERNOR GENERAL OF INDIA  
ASSEMBLED FOR THE PURPOSE OF MAKING  
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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.*

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The Council met at Viceregal Lodge, Simla, on Wednesday, the 14th July, 1886.

**PRESENT :**

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, Bart., G.C.B., C.I.E., V.C.

The Hon'ble C. P. Ilbert, C.S.I., C.I.E.

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

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

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

The Hon'ble Colonel O. R. Newmarch.

The Hon'ble W. W. Hunter, C.S.I., C.I.E., LL.D.

The Hon'ble Colonel W. G. Davies, C.S.I.

**PUNJAB LAND-REVENUE BILL.**

The Hon'ble COLONEL DAVIES introduced the Bill to declare and amend the Land-revenue Law of the Punjab, and moved that it be referred to a Select Committee consisting of the Hon'ble Mr. Ilbert, the Hon'ble Sir S. Bayley, the Hon'ble Sir A. Colvin and the Mover, with instructions to report within nine weeks. He said :—

“ At the last meeting of the Council, in moving for leave to introduce this Bill, I explained briefly the grounds on which it is proposed to amend the land-revenue law of this Province, and I have now to describe the more important changes and additions which the Bill, prepared with this object, makes in that law. In doing this it will not be necessary for me to take up the time of the Council to the same extent as I did when introducing the Bill to amend the Tenancy Act; for there is this broad distinction between the two measures, that while the latter deals with valuable rights of property, this Bill is concerned chiefly with matters of procedure, the adjustment of which largely depends on considerations of administrative convenience and rarely involves the decision of questions of principle.

" I would first explain that this Bill is the outcome of the discussions of the past three years. Like the Tenancy Bill, the original draft of this Bill was prepared by Mr. Barkley and circulated for opinion to a number of the most experienced Revenue-officers of the Province. When their replies were received it was discussed and amended by a Committee consisting of the framer, Colonel Wace and myself, and lastly it underwent further revision at conferences held last year over which the Lieutenant-Governor himself presided. The two Bills, I may add, are closely connected, and this one has been so framed as to cover the entire jurisdiction of Revenue-officers, whether of a judicial, fiscal or executive character.

" I may pass over without notice the first chapter, which contains the usual definitions and other preliminary matters, and proceed at once to Chapter II, which deals with Revenue-officers and Revenue Courts. The more important changes in this chapter are two—*first*, in the jurisdiction of Revenue-officers to try certain classes of suits, and *secondly*, in the course of appeal from decisions in suits, and from orders on applications. These matters are at present dealt with in Chapter V of the Punjab Courts Act, which it is proposed to repeal, and in section 65 of the Land-revenue Act. By section 45 of the former Act revenue-suits are divided into two groups, the first of which is by clause (1) of section 46 reserved for the exclusive jurisdiction of Deputy Commissioners, while suits in the second group are by clause (2) triable by Assistant Commissioners and Tahsildárs. The chief aim of these novel distinctions of jurisdiction was, I believe, to reduce the number of appeals. If so, they have perhaps answered their object, but they have at the same time caused much inconvenience. No such distinctions existed before the passing of the Courts Act, and there seems no good reason why Assistant Commissioners and Tahsildárs should not try suits of the kind mentioned in the first group. It is therefore proposed to revert to the former practice in this respect, and base distinctions of jurisdiction on the value rather than on the character of suits. The Local Government, by rules under section 13 of the Bill, will determine by what officers or classes of officers, and up to what limits of value, suits cognizable by Revenue-officers shall be tried. These alterations in jurisdiction to try original revenue-suits have necessitated changes in the course of appeal, and, in place of the somewhat complicated system of appeal prescribed in sections 47 and 48 of the Courts Act, the more simple system set forth in sections 19 and 20 of the Bill has been devised. It will put an end to second appeals in all cases in which the Appellate Court confirms the original decision, and where that Court interferes in any way a further appeal will lie to the Financial Commissioner.

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[Colonel Davies.]

In addition to this the powers of revision given to this officer by section 65 of the Land-revenue Act have been enlarged so as to include decisions of subordinate Revenue-officers when acting in their judicial capacity, but in all such cases an opportunity will be given to the parties of being heard before an order is passed affecting questions of right. There is one other provision to which I ought perhaps to draw attention. Experience since the passing of the Courts Act of 1884 having shown that the subordinate Civil and Revenue Courts do not always succeed in avoiding mistakes as to the respective limits of their jurisdictions, a section (11) has been introduced by which the inconvenience and expense to the parties of setting aside the proceedings, where a Court has decided a suit without jurisdiction, will be avoided by a reference to the Chief Court, who will cause the decree to be registered in the Court which had jurisdiction, if satisfied that the suit was determined in good faith and the parties have not been prejudiced by the mistake of jurisdiction.

“ In the next chapter (III), which treats of kánúngos, zaildárs and village officers, the only point that requires notice is that section 36, which authorises the levy of a cess for the payment of village-officers, remedies a defect in the present law which formed the subject of correspondence with the Government of India some years ago, by enabling the cess to be levied on the owner's and water-advantage rates.

“ After this come two chapters (IV and V) which deal with (1) the preparation and maintenance of records-of-rights, and (2) the assessment of the land-revenue. In drafting these chapters the language of the existing law, which describes these two operations under the general term “ settlement,” has been departed from. This change has been made to bring the law into harmony with the altered policy of the Government of India in regard to revisions of assessment. Briefly stated, the object of this policy is to so organise the ordinary revenue-establishments in each province as to enable them to maintain for each estate a continuous record of its financial and agricultural condition, from which the information required for the assessment of the land-revenue may at any time be obtained, and thereby to save the State from some part of the expense, and the people from the trouble and anxiety, which the existing system of periodical settlements by special establishments entails on them. But it is, I think, right to point out that a change of this magnitude, involving as it does the most careful training and constant supervision of the subordinate revenue-establishments, must be gradually worked up to, and cannot be suddenly introduced. Moreover, it is believed that there are still some districts of which the records are so imperfect that

they must be revised on the old system in order to furnish a good basis for future operations under the new one. And entirely new records have to be prepared from time to time as new estates come into existence. Accordingly provision has been made for this purpose in Chapter IV. The only other point which appears to me to call for notice in this part of the Bill is the addition of a section (48) which gives power to the Local Government to direct that the whole or a portion of a village-cess may be expended on conservancy or other object for the benefit of the estate in which the cess is levied. This is an authority which the Local Government often exercised in connection with the earlier settlements of the Punjab, it is one which is still occasionally needed, and it is to be found in the revenue laws of other Provinces.

“ Chapter V, which deals with the assessment of the land-revenue, is so drafted that, while continuing all the provisions of the existing Act relating to this subject, it supplies some important omissions in that law. Among other important points, it expressly declares that the land-revenue is the first charge on the land, its rents and its produce, and further provides securities against the intercepting of any of these sources of income before the Government demand has been satisfied. The absence of clear provisions of this nature has been the cause of inconvenience in the past. It has not unfrequently happened that a decreeholder has attached the rents or produce of a landowner before the latter has paid his revenue, thus leaving the Revenue-officers no remedy except that of proceeding against the produce of the coming harvest, or against the land itself. The only other change in this chapter to which I think I need invite particular attention is in the procedure for giving effect to revised assessments. This will be found in sections 60 to 63. It dispenses altogether with the formality of taking from the landowners or their representatives written engagements accepting the new assessments. But, while doing this, it still leaves the owners at liberty to refuse to pay these assessments, and the consequences of refusal are the same as those which follow on the non-acceptance of an assessment under the present law. Refusals of this kind, however, seldom occur in the Punjab, and the really important point in the procedure lies less in the provisions dealing with these refusals than in the sections (61 and 62) which provide for the hearing of objections and appeals, and thereby obtaining modifications of assessments prior to their confirmation. In a country of small holdings, like the Punjab, an owner cannot afford to decline to pay the assessment fixed; hence the only remedy against over-assessment practically open to him is to appeal and get his assessment reduced; and this is the remedy which he almost always adopts.

“ In the following chapter (VI), which describes the various processes which may be resorted to for the recovery of arrears of land-revenue, the

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alterations which deserve mention are only three. By section 78 the period during which a defaulter may be imprisoned has been reduced from one year to one month. By the following section the exemptions from attachment and sale of moveable property specified in section 266 of the Civil Procedure Code are extended, in the case of a revenue-defaulter, to seed-grain, and to so much of the produce of his land as may be necessary for the support of himself and his family and the maintenance of his cattle until the harvest next following on the execution of the process. And with a view to render this chapter complete in itself, the procedure for the sale of a defaulter's land, instead of being described, as in the present Act, by reference to the sections of the Civil Procedure Code relating to the sale of immoveable property, has been set out in full by incorporating those sections, with some necessary modifications, in this part of the Bill.

“ Chapter VII supplements the provisions of the preceding collection chapter by providing for the recovery, as arrears of land-revenue, of a number of other Government demands. This is probably one of the most useful chapters of the Bill, but there is nothing in it that that seems to call for special notice at my hands.

“ I pass on to Chapter VIII, the provisions of which are altogether new, but of which the general policy is believed to be entirely in accordance with the views of the Government of India as set forth in a circular on the formation of fuel and fodder reserves issued in March, 1883. The chapter has been so framed as to secure in estates, where the conditions are suitable, the management of a portion of their waste-lands for the production of wood and grass. The areas to be so treated are not to exceed one-fifth of the waste in each estate, and power is taken to make rules for their management on behalf of the owners. All rules and orders under this chapter must be made and issued by the Local Government, and it is further provided that, before any order is issued declaring that an area is reserved, objections shall be invited and considered. There can be little doubt that a power of this kind is very much wanted in the interests of both the State and the people, and from my own experience I think I may confidently state that in many parts of the Punjab the intervention of the Government, to bring about the results aimed at by this chapter, will be welcomed by the people.”

“ Chapter IX, on Survey and Boundaries, contains the usual provisions for facilitating the survey of land for revenue-purposes. Similar provisions are to be found in most of the land-revenue laws of other provinces, and there

is nothing in this part of the Bill which seems to call for comment or explanation.

“ The last chapter (X) deals with matters for which provision could not conveniently be made in other parts of the Bill. Of these a few are of sufficient importance to require special notice. The first is contained in sections 126 and 127, which provide for the execution by Revenue-officers of decrees and orders of Civil and Criminal Courts. So long as civil, criminal and revenue jurisdiction was vested in the same officers, the subordinate revenue-establishments, from the Tahsildár downwards were at the disposal of the Courts for the execution of processes relating to land and its produce; but civil and revenue jurisdiction now vests in different officers; hence the officers presiding over Civil Courts have no longer at their command any agency by which orders of this kind can be carried out. The object of these sections is to supply the deficiency by continuing the practice which existed before the passing of the Courts Act of 1884. Next comes the provision made by section 133 for meeting the uncertainties of jurisdiction which frequently arise in cases relating to alluvial lands on the banks of the larger rivers, where those rivers form the boundary between districts. The want of a provision of this kind has been much felt, especially on the rivers where the *hadd-i-sikandari*, or deep-stream rule, prevails. And the last I shall notice is contained in section 134, which declares that all records and papers which a village-officer is required by law to prepare or keep shall be the property of Government, and makes provision for their production and proof. The chief object of this section is to avoid the too frequent summoning of patwáris to Court.

“ I have now, my Lord, accomplished my task, and trust that I have sufficiently explained the more important additions and amendments which this Bill proposes to make in the land-revenue law of this Province, and that the measure will meet with the general approval of this Council and of the Select Committee for whose consideration it has been referred.”

The Hon'ble MR. ILBERT said :—“ I believe that this Bill will prove to be an extremely useful measure, and I say so with the greater readiness because my personal share in its preparation has been very slight. The credit for it is mainly due to Colonel Davies and Colonel Wace, the Financial Commissioners of the Punjab, who have supplied the substantive proposals on which it is based, and to Mr. Harvey James, the Officiating Secretary in the Legislative Department, who has, after several protracted conferences with the Punjab officials, completely revised and re-cast the draft submitted by



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the Punjab Government, and has reduced it to a series of clearly expressed and well-arranged enactments.

“ On comparing the Bill now before the Council with the Act of 1871, which it is intended to supersede, I am struck by two chief differences, one of addition and the other of omission. In 1871 the revenue law of the Punjab was to be found in a mass of executive instructions, based on the numerous Acts and Regulations then in force in the North-Western Provinces, of which the most important was the well known Regulation VII of 1822. It was extremely difficult to ascertain what was the law in force in the North-Western Provinces, and still more difficult to determine how much of that law had been imported into the Punjab. The task which my eminent predecessor Sir James Stephen undertook was to explore this mass of instructions, to pick out from it such provisions as could properly and conveniently be given the force of law, to express them in legislative language and to embody them in an Act. He thus produced a law which in point of expression and arrangement was an enormous advance on anything then existing either in the Punjab or in the North-Western Provinces. But this first edition of directly enacted Punjab revenue law was necessarily incomplete. The framers of the Act wisely selected for enactment only the more important provisions of the law, and left a great quantity of subsidiary matter to be regulated by rules made under the Act. Since 1871 much has been done to make the revenue law for those parts of British India which have borrowed their principle of revenue settlement and administration from the North-Western Provinces more complete in substance, more satisfactory in form and more generally intelligible. In 1873 a comprehensive Revenue Act of 259 sections was passed for the North-Western Provinces, and it repealed, as I find from the schedule to the Act, no less than 53 Regulations and 8 Acts previously in force on the same subject. Eight years afterwards—in 1881—an equally comprehensive Revenue Act was passed for the Central Provinces. During the same period a great number of rules have been framed under the Punjab Act, and the experience of 15 years has shown which of them work well in practice and which of them are of sufficient importance to be embodied in an Act of the legislature. And last, but not least, Mr. Baden-Powell's admirable *Manual of Indian Land-revenue System* has done much towards making the revenue law and practice of different parts of India not merely intelligible to experts but even interesting to the general reader.

“ Under these circumstances the task imposed on the draftsman of a revenue law is wholly different from what it was fifteen years ago, but it is none the less of a very laborious character. In the present case it has consisted, first, of giving legislative form to a selected number of rules framed

under the existing Act, and secondly, of comparing the law proposed for the Punjab with the law now in force in the North-Western Provinces and the Central Provinces, with the view of making the law for the three Provinces uniform, so far as their differing circumstances will permit. Hints for improvement of the law have also been derived from the study of the Acts for other parts of British India, such as Bengal and Bombay, where a different revenue-system is in force. The intimate acquaintance of my friend Mr. Harvey James with the revenue law of the North-Western Provinces has made him eminently qualified to perform this latter task, and a glance at the marginal references on the Bill will show how carefully and exhaustively it has been performed. The result of these two processes has been to increase the bulk of the measure, which has been expanded from an Act of 67 sections to a Bill of 140 sections.

“ But notwithstanding this growth in the size of the law, some important provisions of the Act of 1871 find no place in the Bill. Chapter II of the existing Act is entitled ‘ Of Settlements,’ and describes the various kinds of settlements which may be undertaken—summary settlements, first regular settlements and re-settlements. There is no corresponding chapter in the Bill, and those who study its provisions will find that the phrases ‘ settlement ’ and ‘ Settlement-officer ’ have been carefully expunged. I gather from what has fallen from my hon’ble colleague in charge of the Bill, and from some paragraphs in the Statement of Objects and Reasons, that this omission implies something more than an alteration of language, and is intended to give expression to an important and salutary policy. It means, as I understand, that the great work of settling the revenue of the country and compiling a Domesday record of the several rights and interests in the land, if not yet completed for the Punjab, is within a measurable distance of completion; that when the settlement of the districts now remaining to be settled has been finished, the work will, it is hoped, have been substantially done once for all; that within a not far distant future revisions of settlement on the old system will, save under exceptional circumstances, have become things of the past; and that, instead of the tedious, harassing and expensive settlement-operations which have heretofore periodically taken place, an effort will be made to maintain, chiefly through the agency of village-officers, a continuous record of agricultural facts such as will make revision of assessment a comparatively easy and inexpensive task. This is a policy which the Revenue and Agricultural Department of the Government of India have for many years had at heart, and I am glad to see that it has found such significant expression in the Bill now before the Council.”

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His Excellency THE PRESIDENT said :—" Before putting this Motion, I should like to take the opportunity of expressing, not only on my own behalf but on behalf of all the other members of the Council, our very high appreciation of the exceptionally able manner in which our hon'ble colleague has explained the provisions not only of this Bill but of the previous important measure which he laid before us a meeting or two ago. I am sure that it must be a matter of congratulation to His Honour the Lieutenant-Governor that he should have at his disposal the services of so very capable an officer and colleague."

The Motion was put and agreed to.

The Hon'ble COLONEL DAVIES also moved that the Bill and Statement of Objects and Reasons be published in the *Punjab Government Gazette* in English and in such other languages as the Local Government thinks fit.

The Motion was put and agreed to.

INDIAN COMPANIES ACT, 1882, AMENDMENT BILL.

The Hon'ble MR. ILBERT moved that the Bill to amend the Indian Companies Act, 1882, be referred to a Select Committee consisting of the Hon'ble Sir S. Bayley, the Hon'ble 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.

LOWER BURMA GAOLS DELIVERY BILL.

The Hon'ble SIR S. BAYLEY moved that the Bill to make provision for the more speedy trial of certain accused persons in custody in Lower Burma be taken into consideration. He said :—

" I explained the provisions of this Bill at the last meeting of the Council, and I have only now to say that, since then, we have been in telegraphic communication with the Chief Commissioner of Burma, and that he has replied both for himself and for the Judicial Commissioner, whom he consulted. They have both accepted the Bill in the shape in which we have put

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it, but have asked that there should be introduced into it three amendments. These three amendments are, first, that, instead of making the Bill run to the end of March, we should make it run to the end of June next; secondly, that the period of appeal should be further reduced from 30 to 15 days; and, thirdly, that, with regard to cases which have been heard up to a certain point, the presiding officer, on receiving his new powers under the Bill, should be able to take up such cases at that point and should not be obliged to commence the proceedings *de novo*. Hon'ble members will see from the notices which are on this paper in my name that the first and third of these proposals have been accepted by us. The second one—for the further reduction in the period of appeal—did not commend itself to us, and accordingly we do not propose to make any alteration on that point.”

The Motion was put and agreed to.

The Hon'ble SIR S. BAYLEY also moved that the following sub-section be inserted after sub-section (3) of section 3 of the Bill, namely :—

“ (4) Proceedings pending before a Magistrate under Chapter XVIII of the Code of Criminal Procedure at the time of the conferment on him of those powers of a Court of Session may be continued by him under Chapter XXI of that Code as if they had been commenced under the latter Chapter :

“ Provided that the accused person may demand that any witness who has given evidence before the conferment of the powers be re-summoned and re-heard.”

The Motion was put and agreed to.

The Hon'ble SIR S. BAYLEY also moved that sub-section (4) of section 3 of the Bill be numbered (5).

The Motion was put and agreed to.

The Hon'ble SIR S. BAYLEY also moved that in section 8 of the Bill the words and figures “ thirtieth day of June, 1887,” be substituted for the words and figures “ thirty-first day of March, 1887.”

The Motion was put and agreed to.

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

The Motion was put and agreed to.

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[*Mr. Ilbert.*]

## UPPER BURMA LAWS BILL.

The Hon'ble MR. ILBERT moved for leave to introduce a Bill to declare the law in force in Upper Burma. He said :—

“ The object of this Bill is to lay the foundation of a system of law for the new province of Upper Burma. The present condition of the law in that Province resembles that which prevailed in the Punjab for several years after its annexation, and which was described by Sir Stephen when he dealt in this Council with the several measures introduced in 1871 for consolidating and codifying portions of the Punjab law. The civil administration of the country is being conducted under instructions which have been issued by Sir Charles Bernard, and by which civil officers are enjoined, amongst other things, to be guided, as far as possible, by the provisions of the Indian Penal and Procedure Codes, and, in matters relating to succession, inheritance, marriage, caste and religious usages and institutions, to observe the personal law of the parties except in so far as it is modified by local custom, or, in the absence of any such law or custom, to act according to justice, equity and good conscience. It was of course necessary to make immediate arrangements for administering the country, maintaining order and dispensing justice, and it was only by means of such instructions that these arrangements could be made. But the intention was that the instructions should be of a temporary and provisional character, and it is desirable that they should as soon as practicable be superseded by laws more formally enacted and more precisely expressed. The Bill which I am now asking leave to introduce will be the first stage of this process, and will possibly be the only stage that will come before this Council. Upper Burma has been constituted a scheduled district and brought under the operation of the Statute of 1870, which provides for those districts a more summary form of legislation than that conducted through the machinery of the Legislative Council. Consequently, such further laws as are required will take the form either of Regulations framed under the Statute of 1870 or of enactments extended under section 5 of the Scheduled Districts Act. There will be a Civil Procedure Regulation, a Criminal Procedure Regulation, a Revenue Regulation and possibly one or two others; and it may be found desirable hereafter to add to the list of enactments scheduled to the present Bill. I need hardly say that it is not the intention of the Government to force upon the country any artificial, elaborate or unsuitable system of law. No greater body of law will be introduced than is believed to be necessary for the purpose of enabling the officers charged with the administration to understand the limits within which they can safely exercise their

powers, and of assisting the people to understand the general character of the law to which they are to be subject; and in adapting Indian law to Burmese requirements care will be taken to study the real needs and conditions of the country and the customs and usages of the people.

“ After this preface I may describe shortly the provisions of the Bill. It begins by defining the Province of Burma as consisting of Upper and Lower Burma—the former being the newly acquired territories, the latter those previously administered by the Chief Commissioner of what has up to the present been known as British Burma. But it adds a power to transfer border tracts from Upper to Lower Burma, and *vice versa*. The reason for giving this power is that the old boundary was, as may be seen from the map, drawn roughly in a straight line from east to west, disregarding the natural features of the country, and breaking rudely through the old limits of townships and circles; and it would be for the convenience both of the administration and of the people that some of the fragments thus unnaturally severed should be reunited. Then comes a section which declares that in existing enactments references to British Burma must be read as referring to Lower Burma. Then, after a repealing section, to which I will refer hereafter, follows one which enumerates by reference to a schedule the Indian enactments which are to be in force in Upper Burma, and bars the application of other enactments except in pursuance of powers to be hereafter exercised. The passing of these three sections is a necessary preliminary to the legislation contemplated under the Statute of 1870. Regulations under that Statute must be proposed either by a Governor, a Lieutenant-Governor or a Chief Commissioner. But it would be inconvenient to constitute Upper Burma a separate Chief Commissionership, and the effect of placing it immediately under the Chief Commissioner of British Burma as such would be to extend to Upper Burma all the Acts which are expressed to extend to the territories for the time being under the administration of that functionary, and many of which are unsuitable to the conditions of the upper part of the province. At present there is no Chief Commissioner for the province as a whole or for the upper part of the province separately. Sir Charles Bernard is Chief Commissioner for the lower part of the province, and he is, as I understand, Agent for the Governor General without any distinctive appellation in the upper part of the Province. Before a Chief Commissioner for the whole province is appointed we propose to make it quite clear that the appointment will not involve any inconvenient legislative consequences. The schedule of the Indian enactments which are to be applied to Upper Burma has been prepared by the local authorities, and is based on the schedule of Acts declar-

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ed to be in force in the Arakan Hill District, but with such differences as the circumstances of Upper Burma seem to require. Power is given by the Bill to withdraw any enactment if it is found to be unnecessary or unsuitable. I ought to add that the schedule consists of two parts—one enumerating the Acts which are to apply to Upper Burma generally, and the other specifying a few Acts the application of which is to be confined to the district of Mandalay.

“ The only material modifications which it is proposed to make in the enactments scheduled for application are specified in section 6 of the Bill. They are three in number, and the only one of them to which I need refer is that which extends the number of cases in which whipping may be inflicted as a punishment. The Local Administration considers this extension necessary in the present state of the country, both because of the scarcity of jails, and because the crimes of violence with which justice has mainly to contend can be more effectually and suitably visited by corporal punishment, with or without a short term of imprisonment, than by imprisonment for a lengthened period. The infliction of the punishment is, as in the measure which has just been passed for the disturbed districts of Lower Burma, made subject to the conditions and exemptions laid down by sections 390 to 395 of the Criminal Procedure Code. I have said that all the material modifications proposed to be made in the applied enactments are specified in the Bill; but of course when Acts passed for one part of the country are applied to another, the language employed and machinery indicated will not always precisely fit. To go through each of the scheduled Acts and specify in detail the verbal modifications which must be made in order to adapt it to Upper Burma would be a work of considerable labour and doubtful utility; and I think the necessities of the case will be met by a section which I have borrowed from one of the Orders in Council recently passed by Her Majesty under the Foreign Jurisdiction Acts, and which directs the Courts to construe the enactments applied with such alterations not affecting the substance as may be necessary or proper to adapt them to the matter before the Court.

“ I referred previously to the repealing section. It repeals certain enactments relating to frontier posts and transit dues which have been made unnecessary by the abolition of the old frontier.

“ The only other provisions of the Bill consist of two confirming sections. The first contains an indemnity in the usual form for acts done by officers of Government or persons acting under their authority since the date at which British troops entered Upper Burma; and the other declares that Sir Charles

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Bernard's instructions to local officers are to have the force of law until they are superseded by more regular enactments.

"The Bill will be sent to Sir Charles Bernard and his officers, and will not be passed until we have received their criticisms upon it."

The Motion was put and agreed to.

The Hon'ble MR. ILBERT also introduced the Bill.

The Council adjourned to Wednesday, the 28th July, 1886.

<p>1 - SIMLA; The 16th July, 1886. }</p>	<p>S. HARVEY JAMES, <i>Offg. Secretary to the Government of India, Legislative Department.</i></p>
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