

*Thursday,
21st October, 1886*

ABSTRACT OF THE PROCEEDINGS

OF THE

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
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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 Thursday the 21st October, 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*.
 The Hon'ble C. P. Ilbert, 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 Major-General G. T. Chesney, R.E., C.S.I., C.I.E.
 The Hon'ble J. B. Peile, M.A., C.S.I.
 The Hon'ble Colonel W. G. Davies, C.S.I.

SIR HERBERT MACPHERSON'S DEATH.

HIS EXCELLENCY THE PRESIDENT SAID:—Before the Council proceeds to its ordinary business I desire to take this opportunity of expressing, in the name of the Government of India, the deep sorrow and concern with which we have heard of the death of one of our most distinguished Generals—Sir Herbert Macpherson. Until yesterday morning we had received no intimation even of his being unwell. On first reaching Mandalay, indeed, he noted in one of his letters to the Commander-in-Chief that he had suffered from a slight touch of the sun, but he spoke lightly of the matter, and from his subsequent correspondence there was no appearance of its having produced any inconvenient effects.

“During the short time that he has remained in command in Burma he devoted himself unremittingly to the arduous duties which he had undertaken, and he travelled about the country in various directions, and eventually went up to Bhamo. It is to be presumed that on his return he must have contracted the fatal fever of which he died. It was on his way out to sea, whither he was being taken in the hope of the sea air proving beneficial to him, that he expired.

In Sir Herbert Macpherson both India and England have lost a most talented and trustworthy officer, as well as a gallant and noble soldier. He has died in the discharge of his duty, and I have taken upon myself to communicate to the family in the name of my colleagues our deep sympathy and regret. I have received a

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telegram from Her Majesty the Queen in which She also expresses Her deep sorrow at the calamity—for it is no less—which has, thus suddenly overtaken Herself and the country.”

DEKKHAN AGRICULTURISTS' RELIEF BILL.

The Hon'ble SIR THEODORE HOPE presented the Report of the Select Committee on the Bill to amend the Dekkhan Agriculturists' Relief Acts, 1879 to 1882.

The Hon'ble SIR THEODORE HOPE also moved that the Report be taken into consideration. He said :—

“ In making this motion I have merely to state that the Select Committee have found very little to alter in the Bill as originally introduced. On the suggestion of the Governor of Bombay in Council we have, I think, I may say *ex majore cantela*, defined the expression 'standing crops' so as to make it perfectly clear that it includes garden-produce attached to trees or to the soil. We have also made an amendment (which is perhaps the only amendment worthy of specific notice) in the section relating to documents which are registered by the Village-Registrar. In the Bill it was contemplated that the Village-Registrar should no longer make an exact transcript of a deed into his register, but merely an abstract. From further consideration, however, and communication with the local authorities of Bombay, it appears doubtful whether persons of the comparatively scant education and want of legal knowledge, which may not unfairly be considered characteristics of the Village-Registrars, would be able to make a trustworthy summary of documents. We have therefore thought it better to leave the law as it is, and to let the documents still be transcribed *verbatim* into the books. At the same time this does not alter the provision originally contemplated that any person who wishes to have a copy of what has been registered shall receive one, but now, instead of getting a copy merely of the abstract made by the Village-Registrar, he will get one of the documents itself whenever he desires to have it.

“ We have taken the opportunity of correcting a trifling misprint which, singular to say, seems to have survived from 1879 up to the present time the scrutiny of all officers concerned.

“ We have likewise added what I may term a somewhat routine section in order that persons having claims of a certain description, mentioned in section 3, clause (x), may not be prejudiced by the application of the special rules of limit-

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ation prescribed in section 72 being restricted to suits of the kind mentioned in section 3, clause (w).

“ The papers which we have received from Bombay contain a variety of very interesting remarks upon the Act itself, introduced apparently *apropos* of section 3 of the Bill, by which the Local Government receives power to extend it, with the previous sanction of the Governor General in Council, to other parts of the Bombay Presidency. To a very large extent these comments are satisfactory ; in certain cases the opinion is not so favourable to such an extension ; but after carefully considering them I venture to think that such objections as have been brought forward are not in any respect different from those which on previous occasions have been laid before this Council and have not been hold to justify hesitation in extending the benefits of the Act.”

The Hon'ble MR. PEILE said :—“ I think that the amendments in the Dekkhan Agriculturists' Relief Acts proposed in this Bill should be adopted. I was concerned, as a member of the Bombay Government, in the inquiries and discussion which preceded the introduction of this Bill ; and though observation of the working of the Act did not fall within my special province, yet as a measure affecting the interests of the agricultural classes I have given attention to it. The exceptional character of this legislation imposes caution in declaring it a confirmed success, but I think that, with some conflict of opinion, the balance of evidence is distinctly in favour of the Act. Its procedure, as it will be amended by this Bill, appears to me so beneficial that in part at least it may well be extended to other districts under the power given by the third section of this Bill. That procedure is acceptable to the agricultural classes because it is simple and intelligible cedure is acceptable to the agricultural classes because it is simple and intelligible to them, and in conformity with their customs and traditions. The principles of that procedure are that the debtor and creditor should be brought face to face. That can always be done under the amendment in section 8 of this Bill—a section which will no doubt require to be carefully watched in its effect. They are then led, if possible, to an amicable compromise, and if that is not possible their confused accounts are turned inside out by the Court, the agriculturist is told what he owes, instalments are fixed if necessary according to his means, and he is required to pay them out of the produce which he raises from his land. This latter obligation will be enforced by the amendment made in section 7 of this Bill, and I trust that that amendment will remove any sense of grievance under which the creditors have hitherto suffered. The great advantage of the Act is that, while providing for the payment of debt, it maintains the agriculturist in the possession and use

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of his holding. In this sense this legislation is a complement of the revenue law and practice in Bombay, which ensures to the holder of land under Government a position of exceptional stability and security. It is held that the merits of the Act can only be finally tested by a famine, and that in that case loans may not be forthcoming. No doubt famine puts a severe strain on agricultural credit and temporarily depreciates the value of land as a security. But a load of ancestral debt has been cleared off, and if perhaps under that process some hardship has been felt by creditors yet the provisions of the Act are not prohibitive of fair money-dealing in the future. Sahukars are not sentimental, and I presume that a business man would not consider an agricultural holding a less desirable security for a loan because it has been cleared from previous encumbrances."

The Motion was put and agreed to.

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

The Motion was put and agreed to.

ELECTRICITY SUPPLY BILL.

The Hon'ble SIR THEODORE HOPE also moved for leave to introduce a Bill to regulate the supply of electricity for lighting and other purposes. He said :—

"In making this motion I should explain that the necessity for this Bill was demonstrated about three or four years ago, when we suddenly had an influx into India of companies and promoters of companies for the purpose of electric lighting. These companies proposed to start operations, and actually did in some cases start them, in some of the principal towns of India. But when we desired to regulate their proceedings with a view of the safety of the public and the prevention of interference with our own telegraphic system, we found that we were without the legal means of doing so. As regards the public, it is probably well known that there is considerable danger arising from electric light connections in consequence of the currents used in the production of the light being of very great strength. They are so powerful as to cause instant death to any person who comes in contact with them, or to set fire to any inflammable material which lies on the wires while the currents are passing. Again, when electric light wires pass within a certain distance of telegraph or telephone wires, obstructive currents are liable to pass from one to the other, which of course entirely put a stop to the use of the telegraph and telephone for the time being. In order to meet these two difficulties the Bill proposes, as regards protection, that the wires or communications should

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be put in such a position that contact is impossible, or that they should be so covered with insulating material that contact with them will produce no evil result. As regards interference with the telegraph and telephone wires, the only thing that can be done is to take care that the electric light wires are placed sufficiently far off. That again is an extremely technical matter, and is dependent on the strength of the current used and local circumstances. The Bill therefore provides, in order to secure all these purposes, that any company which desires to supply electricity must take out a license from the Governor General in Council ; in this license regulations and conditions will be provided suitable for the particular circumstances of the occasion."

The Motion was put and agreed to.

The Hon'ble SIR THEODORE HOPE also introduced the Bill.

The Hon'ble SIR THEODORE HOPE also moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English and 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.

GLANDERS AND FARCY BILL.

The Hon'ble MR. ILBERT moved that the Bill to extend the Glanders and Farcy Act, 1879, to the Bombay Presidency be taken into consideration. He explained that the Bill had received the approval of the Bombay Government, and he thought there was no reason why it should not be passed into law without further delay.

The Motion was put and agreed to.

The Hon'ble MR. ILBERT also moved that the Bill be passed.

The Motion was put and agreed to.

BENGAL CIVIL COURTS BILL.

The Hon'ble MR. ILBERT also presented the Preliminary Report of the Select Committee on the Bill to amend the law relating to Civil Courts in Bengal, the North-Western Provinces and Assam. He said :—

" This Bill was introduced by my predecessor in 1881 with a view of removing certain minor defects in the Bengal Civil Courts Act. It was referred to a

Select Committee and circulated for opinion, but its further progress was suspended by the revival of a scheme for establishing local Appellate Benches in Bengal—a scheme which is still in abeyance in consequence of financial and other difficulties. The amendments proposed by the Bill, though useful, can hardly be described as of urgent importance, and I should have been content to leave the measure to slumber a little longer in the archives of the Legislative Department but for the circumstance that there is before the Legislative Council another Bill which ought to be passed at an early date and which may affect the Bengal Civil Courts Act. I refer to the Bill to amend the law relating to Provincial Small Cause Courts. Under these circumstances I have taken upon myself, as the single representative of the Committee on the Bengal Civil Courts Bill, to have that Bill revised in accordance with the opinions that have been received, and to prepare a Report explaining the nature of the amendments which have been made, and recommending that the Bill, as amended, be re-published. And I propose to move that the Select Committee be reinforced by the addition of those members of the Committee on the Small Cause Courts Bill who are connected officially or otherwise with the Provinces to which the Civil Courts Act applies, in order that the two measures—the Civil Courts Bill and the Small Cause Courts Bill—may be considered together. Whether a single member of the Committee is technically competent to submit a Report on behalf of the whole Committee may possibly be open to doubt; but in view of the obvious convenience of the course which I propose for adoption, and of the fact that it will not in any way fetter the action either of my successor or of the Council or of any one else, I trust that the irregularity, if any, may be condoned.”

The Hon'ble MR. ILBERT also moved that the Bill to amend the law relating to Civil Courts in Bengal, the North-Western Provinces and Assam be re-published.

The Motion was put and agreed to.

The Hon'ble MR. ILBERT also moved that the Hon'ble Mr. Peile, the Hon'ble Mr. Quinton and the Hon'ble Babu Peari Mohan Mukerji be added to the Select Committee on the Bill.

The Motion was put and agreed to.

The Council adjourned *sine die*.

S. HARVEY JAMES,
Offg. Secretary to the Govt. of India,
Legislative Department.

SIMLA;

The 27th October, 1886.