

Friday,
27th January, 1899

ABSTRACT OF THE PROCEEDINGS
OF THE
Council of the Governor General of India,
LAW AND REGULATION
LAW 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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Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892 (24 & 25 Vict., c. 67, and 55 & 56 Vict., c. 14).

The Council met at Government House, Calcutta, on Friday, the 27th January, 1899.

PRESENT :

His Excellency Baron Curzon of Kedleston, G.M.S.I., G.M.I.E., Viceroy and Governor General of India, *presiding*.

His Excellency General Sir W. S. A. Lockhart, G.C.B., K.C.S.I., Commander-in-Chief in India.

The Hon'ble Sir J. Westland, K.C.S.I.

The Hon'ble Mr. M. D. Chalmers, C.S.I.

The Hon'ble Major-General Sir E. H. H. Collen, K.C.I.E., C.B.

The Hon'ble Sir A. C. Trevor, K.C.S.I.

The Hon'ble Mr. C. M. Rivaz, C.S.I.

The Hon'ble M. R. Ry. Panappakkam Ananda Charlu, Vidia Vinodha Avargal, Rai Bahadur, C.I.E.

The Hon'ble Sir G. H. P. Evans, K.C.I.E.

The Hon'ble Mr. J. J. D. LaTouche, C.S.I.

The Hon'ble Rai Bahadur Pandit Suraj Kaul, C.I.E.

The Hon'ble Mr. Gangadhar Rao Madhav Chitnavis, C.I.E.

The Hon'ble Mr. Allan Arthur.

The Hon'ble Mr. P. M. Mehta, C.I.E.

The Hon'ble Nawab Mumtaz-ud-daula Muhammad Faiyaz Ali Khan.

The Hon'ble Mr. J. K. Spence, C.S.I.

The Hon'ble Mr. G. Toynbee.

The Hon'ble Mr. D. M. Smeaton, C.S.I.

The Hon'ble Mr. J. D. Rees, C.I.E.

GOVERNMENT BUILDINGS BILL.

The Hon'ble MR. RIVAZ presented the Report of the Select Committee on the Bill to provide for the exemption from the operation of Municipal laws of certain buildings and lands which are the property, or in the occupation, of Government and situate within the limits of a municipality. He said he would reserve any remarks he had to make till the next meeting of the Council, when

[*Sir James Westland; Pandit Suraj Kaul; Mr. Chalmers.*] [27TH JANUARY,

he proposed to move that the Select Committee's report be taken into consideration and that the Bill be passed.

INDIAN STAMP BILL.

The Hon'ble SIR JAMES WESTLAND moved that the Bill to consolidate and amend the law relating to Stamps, as amended, be passed.

The Hon'ble PANDIT SURAJ KAUL said :—" My Lord, the Bill now before Your Excellency's Council has been framed by the Hon'ble Member in charge of it after a good deal of careful investigation and consideration, and has, even after the presentation of the Report of the Select Committee, been further considered by him. The few amendments made by the Hon'ble Member in the Bill as altered by the Select Committee and carried by Your Excellency's Council are useful and are calculated to make the reading and application of the sections concerned clearer.

" The Bill, my Lord, is of great importance, and, detailed, lucid and comprehensive as it now stands, it will affect beneficially the interests of both the Government and the public.

" With these few words, my Lord, I beg to support the motion that the Bill as now amended be passed."

The motion was put and agreed to.

PRESIDENCY SMALL CAUSE COURTS ACT (1882) AMENDMENT BILL.

The Hon'ble MR. CHALMERS moved that the Report of the Select Committee on the Bill to further amend the Presidency Small Cause Courts Act, 1882, be taken into consideration. He said that he had one or two brief remarks to make, but that he would make them on the next motion which stood in his name. He would, however, rather have any remarks Hon'ble Members might have to make at this stage.

The motion was put and agreed to.

The Hon'ble MR. CHALMERS moved that the Bill, as amended, be passed. He said :—" In making this motion I desire to make one or two remarks about the Bill. The Bill, as Hon'ble Members are aware, is directed to two objects. In the first place, it gives the Local Government power to appoint, when necessary, a Chief Judge from outside the Court. The Select Committee had before them a

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[*Mr. Chalmers.*]

suggestion that this should not be done when there was any Judge of the Court legally qualified to act. The Select Committee considered that recommendation, but they could not accede to it. They say in their Report, and I fully agree with it :

'As a general rule, no doubt, a Judge already in the Court, if legally qualified, would be the proper person to officiate for the Chief Judge during the latter's absence; but we feel that occasions might arise where the only Judge legally qualified to fill the place of Chief Judge might be a person whom it would be undesirable to appoint over the heads of his seniors on the Bench; and we have, therefore, made no change in clause 3.'

"I may say that the difficulty which the Select Committee refer to is a difficulty which in the case of one Court has already arisen in practice. As Hon'ble Members are aware, the Judges of the Small Cause Court are graded, and it would be clearly inexpedient that a junior Judge, who might have the legal qualification for that position, should be put over the heads of the other Judges to act when the Chief Judge was absent. We might have a junior Judge who was qualified to act but who had not been appointed more than a week. If there is a Judge qualified to act, clearly he is the proper person, and nobody wishes to go outside the Court if, taking all qualifications into consideration, there is a Judge who is qualified to act as Chief Judge.

"The other object of the Bill was to validate certain rules which had been drawn up for the Calcutta Small Cause Court by a Committee of the High Court Judges. That Committee was presided over by Mr. Justice Sale. The rules they framed are designed to accelerate and to make more efficient the proceedings in the Small Cause Court, and I think they are well adapted to effect those objects. They do not go quite so far as I should like myself. They do not make the procedure of the Small Cause Courts anything like so quick, or perhaps I might say so efficient, as the procedure of the County Court at home, but still they do effect a very great improvement in the practice, and they go as far as the Committee of Judges thought it was safe to go in the first instance at any rate. I think I may express our thanks to Mr. Justice Sale for the great care and skill with which he has drafted these rules—rules which undoubtedly will benefit the practice of the Court and make it more efficient. The actual point on which the learned Judges of the High Court suggested legislation was this: in order to facilitate proceedings in the Small Cause Court they suggested that undefended cases and certain formal applications should be disposed of by the Registrar or Deputy Registrar, but they doubted whether under the existing rule-making power rules could empower the Registrar or Deputy Registrar to do this. We have now

22 *AMENDMENT OF PRESIDENCY SMALL CAUSE COURTS ACT, 1882; ARBITRATION; AMENDMENT OF INDIAN EVIDENCE ACT, 1872; PETROLEUM.*

[*Mr. Chalmers; Mr. Rees; Mr. Rivaz.*] [27TH JANUARY, 1899.]

made the necessary amendment in the Act to make the rule-making power sufficient to cover the cases which I have alluded to."

The Hon'ble MR. REES said:—"I have only to add to the special reasons just mentioned by the Hon'ble Member that it seems to me on general grounds also desirable that in such a matter as this the hands of the Local Government should be, as far as possible, unfettered. The Bill produces this effect, as well as those which the Hon'ble Member has detailed."

The motion was put and agreed to.

ARBITRATION BILL.

The Hon'ble MR. CHALMERS moved that the Bill to amend the Law relating to Arbitration be referred to a Select Committee consisting of the Hon'ble Mr. Rivaz, the Hon'ble Rai Bahadur Ananda Charlu, the Hon'ble Sir Griffith Evans, the Hon'ble Mr. Allan Arthur, the Hon'ble Mr. Mehta, the Hon'ble Mr. Spence and the mover. He said that this was a Bill of some little importance and complication, and therefore it had been referred to a large Select Committee in order to have the full strength of the Council represented on it.

The motion was put and agreed to.

INDIAN EVIDENCE ACT (1872) AMENDMENT BILL.

The Hon'ble MR. CHALMERS moved that the Bill to further amend the Indian Evidence Act, 1872, be referred to a Select Committee consisting of the Hon'ble Mr. Rivaz, the Hon'ble Rai Bahadur Ananda Charlu, the Hon'ble Mr. LaTouche, the Hon'ble Rai Bahadur Pandit Suraj Kaul and the mover.

The motion was put and agreed to.

PETROLEUM BILL.

The Hon'ble MR. RIVAZ moved that the Bill to consolidate and amend the law relating to the importation, possession and transport of petroleum and other substances be referred to a Select Committee consisting of the Hon'ble Mr. Chalmers, the Hon'ble Mr. Chitnavis, the Hon'ble Mr. Smeaton, the Hon'ble Mr. Rees and the mover, with instructions to report within one month.

The motion was put and agreed to.

The Council adjourned to Friday, the 3rd February, 1899.

CALCUTTA ; }
The 27th January, 1899. }
H. W. C. CARNDUFF,
Offg. Secretary to the Govt. of India,
Legislative Department.