

*Friday,
3rd February, 1899*

ABSTRACT OF THE PROCEEDINGS

OF THE

Council of the Governor General of India,

LAWS AND REGULATIONS

Vol. XXXVIII

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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 3rd February, 1899.

PRESENT :

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

His Honour Sir John Woodburn, K.C.S.I., Lieutenant-Governor of Bengal.

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, Vidya Vinodha Avargal, Rai Bahadur, 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.

The Hon'ble Maharaja Rameshwara Singh Bahadur of Darbhanga.

NEW MEMBER.

The Hon'ble MAHARAJA RAMESHWARA SINGH BAHADUR of DARBHANGA took his seat as an Additional Member of Council.

QUESTION AND ANSWER.

The Hon'ble MR. ALLAN ARTHUR asked :—“ Are the Government of India aware that the levying of double income-tax, *i.e.*, Indian income-tax and

[*Mr. Allan Arthur; Sir James Westland; Mr. Rivas.*] [3RD FEBRUARY,

English income-tax, on incomes derived from many Indian securities is considered a very great hardship by the holders of Indian securities in Great Britain; and in view of the fact that this double charge on incomes derived from India must to some extent militate against the investment of capital in India, thus inflicting an injury on the country at large; and, with a view to encourage the flow of capital to India, a consideration which Lord George Hamilton has stated on several occasions in the House of Commons is of the utmost importance to this country, will the Government of India move the Secretary of State to endeavour to arrange with the Home Government that income-tax shall not be levied on incomes derived from India, upon which Indian income-tax has already been paid?"

The Hon'ble SIR JAMES WESTLAND replied:—"I have no doubt that people who receive in England an income earned under circumstances which bring it within the purview of the Indian Income-tax Act, feel it a hardship that they are also charged with income-tax under the English Act. But I doubt whether the diminution of about three rupees out of every hundred which is thereby effected upon the return on capital invested in India, has much or any effect in diminishing the flow of capital to India.

"I shall cause the Hon'ble Member's question to be communicated to the Secretary of State for India; but I would call his attention to the remarks made by the present Chancellor of the Exchequer, in the House of Commons on the 13th June last (*Hansard*, VII, 107), when an amendment was moved to the Finance Bill, raising this particular question."

GOVERNMENT BUILDINGS BILL.

The Hon'ble MR. RIVAZ moved that 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 be taken into consideration. He said:—"The object of this Bill is to exempt Government buildings which are situate within municipal limits from the control which the municipal authorities ordinarily exercise over building operations. The Select Committee have made no material alterations in the Bill as introduced, but we have in the first place by a slight amendment of wording made it clear that the exemption claimed by Government is only from building regulations, and that the Bill does not deal in any way with other municipal matters, for instance, with the question of the taxation of Government property in municipalities. We have also confined the operation of the Bill to buildings which are

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[*Mr. Rivas ; Sir James Westland.*]

used or which may be required for the public service or for any public purpose, as there is no need for any interference with the ordinary municipal control in the case of private buildings which may happen to be erected on land belonging to Government. And while maintaining the provision about notice being given to the municipal authorities before any Government building is constructed or materially altered, in order to allow them an opportunity, under certain conditions, of inspecting the building and the plans connected with it, and of submitting any objections or suggestions, we have expressly excluded from the purview of such provision all buildings connected with Imperial defence, or any other Government building, the plan or construction of which ought, in the opinion of Government, to be treated as confidential or secret. Such exclusion is so obviously necessary that the matter requires no explanation or further comment on my part. There are no other points in the Bill which I need notice."

The Hon'ble SIR JAMES WESTLAND said:—"I confess to feeling some regret that the Select Committee have restricted the scope of the Bill in every way in which they practically could do so. There are some other matters which I think might reasonably have been included in this legislation but which partly were not within the intention of the Bill in its original shape and are certainly not within its intention now. The Hon'ble Member has referred, for example, to the question of taxation. The question of taxation, as Hon'ble Members are aware, is regulated by the Act of 1881, and the Hon'ble Member in the Home Department and the Select Committee have, reasonably enough, left that Act to regulate the question of taxation on Government buildings; but still I wish to point out that this question is regulated by some special legislation in England which does not apply to this country. For example, it is specifically laid down in the statute law in England that light-houses shall not be subject to municipal taxation. That is a provision which does not apply to this country, and unless we fall back upon the general principle—the extent of whose operation I am unable to define—the general principle that the Crown and that property of the Crown is not subject to legislation unless expressly included, the result is that a municipality can in this country, to an extent to which it cannot certainly at home, levy rates upon buildings which are in the occupation of Government. The Hon'ble Member has referred to certain considerations in connection with buildings for military and naval defence. I certainly would have liked to have seen some provision made with reference to them. I think it is manifestly unfair and unjust that when the Government, for military reasons, puts down a fort for the defence of a big city, the first operation should

[*Sir James Westland; Mr. Rivaz; Mr. Chalmers.*] [3RD FEBRUARY, 1899.]

be that the municipality pounce upon that fort and require the Government to pay so much per mensem as municipal rates upon it. However, I am perfectly willing to leave the matter to the regulation of the Act of 1881, and I have not proposed, and certainly do not intend to propose, any amendment in the Bill which I perfectly accept."

The motion was put and agreed to.

The Hon'ble MR. RIVAZ said :—" Before moving that the Bill be passed I have to move three small amendments which are all merely formal ones. The first of such amendments is that in the proviso to clause 3 of the Bill as amended, after the word 're-erection' the word 'construction' be inserted. The word 'construction' is used in the clause itself, and it is obviously required in the proviso and was omitted by mistake."

The motion was put and agreed to.

The Hon'ble MR. RIVAZ moved that from sub-section (1) of clause 4 of the Bill as amended, the word "said" be omitted. He explained that the word had slipped in by some mistake and was obviously not wanted.

The motion was put and agreed to.

The Hon'ble MR. RIVAZ moved that in sub-section (1) of clause 4 of the Bill as amended, after the words "construction or", in both places where they occur, the words "material structural" be inserted. He explained that these words had been inserted in the proviso to clause 3 and that they ought also to be in clause 4.

The motion was put and agreed to.

The Hon'ble MR. RIVAZ moved that the Bill, as now amended, be passed.

The motion was put and agreed to.

INDIAN CONTRACT ACT (1872) AMENDMENT BILL.

The Hon'ble MR. CHALMERS presented the Report of the Select Committee on the Bill to amend the Indian Contract Act, 1872.

INDIAN EVIDENCE ACT (1872) AMENDMENT BILL.

The Hon'ble MR. CHALMERS presented the Report of the Select Committee on the Bill to further amend the Indian Evidence Act, 1872.

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PETROLEUM BILL.

The Hon'ble MR. RIVAZ presented the Report of the Select Committee on the Bill to consolidate and amend the law relating to the importation, possession and transport of petroleum and other substances. He said that he proposed to allow a fortnight before moving that the Bill be passed.

INDIAN CONTRACT ACT (1872) AMENDMENT BILL.

The Hon'ble MR. CHALMERS:—"It may be convenient to Hon'ble Members if I explain that I propose to take the Indian Contract Bill into consideration this day fortnight."

The Council adjourned to Friday, the 10th February, 1899.

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| | | H. W. C. CARNDUFF, |
| CALCUTTA; | } | <i>Offg. Secretary to the Govt. of India,</i> |
| <i>The 3rd February, 1899.</i> | | <i>Legislative Department.</i> |