

*Friday,
14th July, 1899*

ABSTRACT OF THE PROCEEDINGS
OF THE
Council of the Governor General of India,

LAWS AND REGULATIONS

Vol. XXXVIII

Jan.-Dec., 1899

ABSTRACT OF THE PROCEEDINGS
OF
THE COUNCIL OF THE GOVERNOR GENERAL OF INDIA
ASSEMBLED FOR THE PURPOSE OF MAKING
LAWS AND REGULATIONS

1899

VOLUME XXXVIII



Published by Authority of the Governor General.



CALCUTTA
PRINTED BY THE SUPERINTENDENT OF GOVERNMENT PRINTING, INDIA,
1900

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 the Viceregal Lodge, Simla, on Friday, the 14th July, 1899.

P R E S E N T :

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

His Honour Sir W. Mackworth Young, K.C.S.I., Lieutenant-Governor of the Punjab.

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

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

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

The Hon'ble Mr. C. E. Dawkins.

The Hon'ble Mr. T. Raleigh.

The Hon'ble Lieutenant-Colonel R. Gardiner, R.E.

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

MARRIAGES VALIDATION (PUDUKKOTTAI AND TRAVANCORE)
BILL.

The Hon'ble MR. RALEIGH moved that the Bill to validate certain marriages solemnized in the Native States of Pudukkottai and Travancore in India be taken into consideration. He said:—"I explained, on asking leave to introduce this Bill, that it is intended to validate marriages contracted in good faith by Native Christians in those States, but which have been solemnized by persons who have not legal authority."

The motion was put and agreed to.

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

The motion was put and agreed to.

NORTHERN INDIA CANAL AND DRAINAGE (AMENDMENT)
BILL.

The Hon'ble MR. RIVAZ moved that the Bill further to amend the Northern India Canal and Drainage Act, 1873, be taken into consideration. He

[*Mr. Rivas.*]

[14TH JULY, 1899.]

said :—“ I explained, when I introduced this Bill at the last meeting of Council, that its object is merely to enable the Local Governments of the North-Western Provinces and the Punjab to determine what persons, or classes of persons, are to be deemed to be occupiers and to be liable for payment of the occupier's rate, that is, the charge which is made for canal water supplied for purposes of irrigation.”

The motion was put and agreed to.

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

The motion was put and agreed to.

INDIAN REGISTRATION (AMENDMENT) BILL.

The Hon'ble MR. RIVAZ moved that the Bill further to amend the Indian Registration Act, 1877, be taken into consideration. He said :—“ This also is a very simple Bill. Its object is to give power to Local Governments to provide, by rule, that the provision in section 21 of the Registration Act, in respect of specifying the survey-number in documents presented for registration, which relate to land, may be made obligatory in certain cases.”

The motion was put and agreed to.

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

The motion was put and agreed to.

LAND IMPROVEMENT LOANS (AMENDMENT) BILL.

The Hon'ble MR. RIVAZ moved that the Bill to amend the Land Improvement Loans Act, 1883, be taken into consideration. He said :—“ The object of this Bill is merely to remove a defect in the language of section 6 of the Land Improvement Loans Act.”

The motion was put and agreed to.

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

The motion was put and agreed to.

[14TH JULY, 1899.]

[*Mr. Raleigh.*]

CHURCH OF SCOTLAND KIRK SESSIONS BILL.

The Hon'ble MR. RALEIGH moved for leave to introduce a Bill to provide for the Incorporation of Kirk Sessions of the Church of Scotland in British India. He said:—"The proposal to incorporate the Kirk Sessions of the Church of Scotland in British India belongs to the Home Department, but my Hon'ble friend, Mr. Rivaz, has asked me to take charge of the Bill. I ought, perhaps, to explain that the Session of a Presbyterian church is the body of elders to whom the teaching and the oversight of the congregation are committed. The minister is in theory an elder, but he always acts as moderator or president of the Session, and the conduct of business is largely left to him and to those of the lay elders who fill the offices of Treasurer and Sessions Clerk. In Scotland the Kirk Sessions has never been incorporated, the reason, I take it, being this, that the endowment of the established Church there consists mainly of land; all questions relating to endowments and property of the Church usually have to be settled between the minister and the heritors, that is, the owners of land in the parish. Also in Scotland the Session is only one of the Church Courts. There are the superior authorities of the Presbytery and General Assembly, whose powers are defined and recognized by the law. In British India the circumstances of a congregation belonging to the Church of Scotland are totally different. The congregations here are nominally under the Presbytery of Edinburgh; but I need hardly say that they are widely separate, that they can have but little common organization, and that for almost all practical purposes they must be regarded as self-governing communities. Therefore, in meeting the request of the Church of Scotland that the Kirk Sessions here should be incorporated, we are only recognizing their self-governing character. I need not say anything at this stage of the particular provisions of the Bill."

The motion was put and agreed to.

The Hon'ble MR. RALEIGH introduced the Bill.

The Hon'ble MR. RALEIGH moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India and in the local official Gazettes in English.

The motion was put and agreed to.

[*Mr. Raleigh; Major-General Sir Edwin Colten.*] [14TH JULY,

INDIAN REGISTRATION OF SHIPS BILL.

The Hon'ble MR. RALEIGH moved for leave to introduce a Bill to make better provision for the Registration of British Ships in British India. He said :—" Your Lordship is aware that there has been a good deal of correspondence between the Government of India and the Imperial Government in regard to the Merchant Shipping Act of 1894. According to the view taken by the authorities in England that Act was intended to be a code applying to the British Empire. One result of that view is that our legislative powers in regard to Merchant Shipping are in some points restricted, and that they must be exercised only within the limits prescribed for us by the Act. A general Merchant Shipping Act for British India, which was projected some years ago, has had to meet a good deal of criticism, and the difficulties are still too great to permit of the introduction of a general Act; but there are certain parts of the subject which we have power to deal with and which we ought to deal with. It is quite evident that such matters as the registering of British ships, or the measurement of native coasting-ships, are matters which should be provided for by this Legislature. A Bill for the registration of ships has accordingly been prepared, the provisions of which, we think, are within the limits laid down for us. The Bill might have been regarded as belonging to the Finance and Commerce Department, but my Hon'ble friend Mr. Dawkins wishes that I should take charge of it."

The motion was put and agreed to.

The Hon'ble MR. RALEIGH introduced the Bill.

The Hon'ble MR. RALEIGH moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English and in the Fort St. George Gazette, the Bombay Government Gazette, the Calcutta Gazette and the Burma Gazette in English and in such other languages as the Local Governments think fit.

The motion was put and agreed to.

CURRENCY CONVERSION (ARMY ANNUAL) BILL.

The Hon'ble MAJOR-GENERAL SIR EDWIN COLLEN moved for leave to introduce a Bill to provide for the conversion into British Indian currency of sums expressed in British currency in the Army Act. He said :—" The questions connected with this Bill have been discussed by the Government of India

1899.] [Major-General Sir Edwin Collen ; Mr. Rivas.] -

and Her Majesty's Government, and the subject has received much consideration. The Statement of Objects and Reasons is so full that a very short explanation will be needed from me. The British soldier receives his pay in India converted and calculated at the official rate of exchange of the year. It has been deemed reasonable, equitable and necessary that the sums which are mentioned in the Annual Army Act in the shape of recoveries to be made from the soldier should be translated, so to speak, into Indian money, and it has been decided that these recoveries of fines, etc., shall be made at the annual rate of exchange at which the soldier receives his pay. For this purpose, an annual Act will be passed. This Bill is only to provide for the unexpired portion of the present financial year up to the 31st March, 1900."

The motion was put and agreed to.

The Hon'ble MAJOR-GENERAL SIR EDWIN COLLEN introduced the Bill.

The Hon'ble MAJOR-GENERAL SIR EDWIN COLLEN moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India and in the local official Gazettes in English.

The motion was put and agreed to.

TELEGRAPHIC PRESS MESSAGES BILL.

The Hon'ble MR. RIVAZ moved for leave to introduce a Bill to provide for the protection of certain telegraphic press messages. He said:—"The question of affording proper protection to newspaper telegrams received from abroad has been under the consideration of the Government of India, from time to time, during the past 27 years; and a Bill to amend the law of copyright in India which was prepared in 1885 contained a provision which proposed to protect foreign press telegrams for a period of 24 hours after publication. That Bill was, however, dropped; as it was considered expedient not to initiate legislation on the whole subject of copyright in this country until the law of copyright had been dealt with comprehensively by Parliament. The amendment of the general law of copyright in India is still suspended for the reasons I have mentioned, but the question of protecting foreign press telegrams has again been recently brought forward, and the Government of India think that a good case has been made out for dealing with this particular matter without further delay. Legislation on the subject has been undertaken of late in several important British colonies, and the present Bill is, to some extent, framed on the model of the most recent of these enactments—the Ceylon 'Telegram Copyright Ordinance, 1898'. The period of protection now proposed is 36 hours."

The motion was put and agreed to.

[*Mr. Rivaz ; Mr. Raleigh.*] [14TH JULY, 1899.]

The Hon'ble MR. RIVAZ introduced the Bill.

The Hon'ble MR. RIVAZ 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.

TRANSFER OF PROPERTY BILL.

The Hon'ble MR. RALEIGH moved for leave to introduce a Bill to amend the Transfer of Property Act, 1882. He said:—"The Transfer of Property Act of 1882 was intended to provide a code of property law for those parts of British India to which it might be applied. In order to complete the somewhat ambitious plan on which the measure was drafted, the learned draftsman thought it necessary to insert a chapter—Chapter VIII—dealing with the difficult subject of actionable claims. The sections of that chapter are expressed in very wide and general terms, and I may say that their interpretation has given a good deal of trouble to the Judges. Some of them were so wide that they seemed to go beyond what the policy of the law requires and to make unnecessary differences between the law of England and the law of British India. The opinions of Local Governments and the authorities representing the legal profession have been taken in regard to the amendment of this chapter, and on the basis of the opinions and suggestions received, a re-draft of the whole chapter was prepared by my predecessor, Mr. Chalmers. That re-draft I now adopt, and I ask leave to introduce it as a Bill."

The motion was put and agreed to.

The Hon'ble MR. RALEIGH introduced the Bill.

The Hon'ble MR. RALEIGH 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.

The Council adjourned to Friday, the 28th July, 1899.

J. M. MACPHERSON,

SIMLA;

The 18th July, 1899.

Secretary to the Government of India,

Legislative Department.