

**COUNCIL OF THE GOVERNOR GENERAL
OF INDIA**

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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 and 25 Vic., Cap. 67.

The Council met at Simla on Wednesday, the 15th July 1868.

PRESENT :

His Excellency the Viceroy and Governor General of India, *presiding*.

His Excellency the Commander-in-Chief, G.C.S.I., K.C.B.

The Hon'ble G. N. Taylor.

The Hon'ble Major General Sir H. M. Durand, C.B., K.C.S.I.

The Hon'ble H. S. Maine.

The Hon'ble John Strachey.

The Hon'ble Sir Richard Temple, K.C.S.I.

The Hon'ble F. R. Cockerell.

NEILGHERRY COMMISSIONER'S SMALL CAUSE JURISDICTION
BILL.

The Hon'ble MR. MAINE moved that the Report of the Select Committee on the Bill for investing the Commissioner and Assistant Commissioner of the Neilgherry Hills with the powers of a Court of Small Causes, be taken into consideration. He said that it was unnecessary to add anything to the explanation given when he had introduced the Bill. It was a mere supplement to the Madras Act for appointing a Commissioner to administer civil and criminal justice on the Neilgherry Hills, and was necessitated by the Local Council's want of legislative power.

The Motion was put and agreed to.

The Hon'ble Mr. Maine moved that in the preamble, the number of the Madras Act there mentioned should be changed from "II" to "I." The change had been suggested by a telegram recently received from Madras.

The Motion was put and agreed to.

The Hon'ble Mr. MAINE then moved that the Bill as amended be passed.

The Motion was put and agreed to.

NON-REGISTRATION OF SETTLEMENT RECORDS BILL.

INOCULATION (KUMAON AND GARHWAL) BILL.

The Hon'ble MR. STRACHEY introduced the Bill to prohibit the practice of inoculation in Kumaon and Garhwál, and moved that it be referred to a Select Committee, with instructions to report in one month. He said that when he moved for leave to introduce the Bill, he had sufficiently explained its object. The Bill had been prepared at the request of the Local Government. Its most important section was taken from the English statute 3 and 4 Vic., C. 29 (*An Act to extend the practice of vaccination*).

The Motion was put and agreed to.

NON-REGISTRATION OF SETTLEMENT RECORDS BILL.

The Hon'ble MR. COCKERELL introduced the Bill to exempt certain Instruments from the Indian Registration Act, 1866, and moved that it be referred to a Select Committee, with instructions to report in one month. He said that the first and third clauses of the schedule related to documents connected with the settlement of the land revenue, the object and grounds of exemption of which were explained when leave was asked for the introduction of the Bill. The proposed exemption of survey records provided for in the second clause was governed by precisely similar considerations. In regard to the sanads covered by the fourth clause, the case was somewhat different. Whilst on the one hand, it might be said that the object of registration was as fully attained, as in the case of settlement papers, by the record which was carefully prepared and preserved in the Collector's office, it must be admitted, on the other, that there was no valid plea for the remission of the obligation to register such instruments on the score of the trouble and expense which the procedure would entail on the individual grantee or holder of them.

The object of the proposed exemption of this class of documents was to rectify past omissions. It appeared that since the 1st January 1865, the date on which the Registration Act came into operation, upwards of 1,400 sanads or instruments of grant had issued in the North-Western Provinces, the holders of which, through ignorance of the requirements of the law, had neglected to register them. The time within which such registration could be legally effected had passed, their registration now was impracticable, and in default of registration, their legal validity, under section 49 of the Indian Registration Act, was liable to be called into question. It was at first proposed to get over the difficulty by granting fresh instruments in lieu of the unregistered sanads; the objections raised to that course were, 1st, that the measure would entail considerable expense on the Government, and, 2nd, that the necessary surrender by the grantees of their original instruments would be likely to excite doubts and fears in their minds as to the good

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faith of the Government in the matter, for they would be slow to comprehend the necessity of any further legal formalities in connection with their grants. In those circumstances, the Government of the North-Western Provinces recommended recourse to legislation either in the form of exempting those documents from registration, or specially extending on their behalf the period of limitation prescribed by the Act. Advantage had accordingly been taken of the opportunity afforded by this Bill for including those sanads in the category of instruments exempted from compulsory registration. This ground of exemption however applied simply to sanads issued since the Registration Act came into operation, the proper period for the registration of which had lapsed. But he thought that there were no less cogent reasons for making the exemption applicable to documents of this class that might be issued hereafter, equally with those which had been heretofore granted. He held that such grants, made by the Government as a reward for special service, stood on a very different footing from ordinary conveyances, and that it was politically inexpedient that the law should admit of any question of the validity of such documents, owing to the non-observance by the grantees of the form of obtaining their registration. The maintenance of the obligation to register those instruments was calculated to weaken their prestige in the minds of the grantees, and as such registration was, as regards the main object and purpose of the Registration Act, unnecessary, it might not unreasonably be dispensed with.

Provision had been made in section 1 for determining the effect of exemption as regards the value to be attached by the Courts to the exempted documents, when put in evidence, and for giving retrospective effect to the privileged status conferred by the Bill.

The Motion was put and agreed to.

TENANCY OF LAND (PANJAB) BILL.

The Hon'ble Sir R. TEMPLE presented the preliminary report of the Select Committee on the Bill to define and amend the law relating to the tenancy of land in the Punjáb. He said it was only necessary to state that, with the general consent of the Council, the Bill would be referred to the Lieutenant Governor of the Punjáb, with a request that he would obtain the opinions thereon of the Judges of the Chief Court and of such local officers as he might think fit to consult.

The following Select Committees were named :—

On the Bill to prohibit the practice of inoculation in Kumaon and Garhwál —the Hon'ble Messrs. Maine, Cockerell and the mover.

TENANCY OF LAND (PANJAB) BILL.

On the Bill to exempt certain Instruments from the Indian Registration Act, 1866—the Hon'ble Messrs. Maine, Strachey and the mover.

The Council adjourned till the 22nd July 1868.

WHITLEY STOKES,

*Asst. Secy. to the Govt. of India,
Home Department (Legislative).*

SIMLA,
The 15th July 1868. }