

Wednesday, January 9, 1878

ABSTRACT OF THE PROCEEDINGS

COUNCIL OF THE GOVERNOR GENERAL OF INDIA

LAWS AND REGULATIONS.

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ABSTRACT OF THE PROCEEDINGS

OF THE

Council of the Government of India,

ASSEMBLED FOR THE PURPOSE OF MAKING

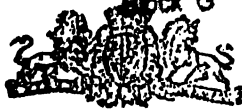
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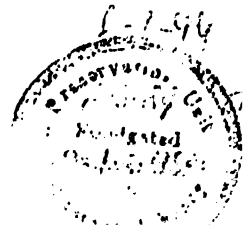


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CALCUTTA:

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1879.



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, 21 & 25 Vic., cap. 67.

The Council met at Government House on Wednesday, the 2nd January 1878.
The Council adjourned to Wednesday, the 9th January 1878.

CALCUTTA :	}	D. FITZPATRICK,
The 2nd January, 1878.		Secretary to the Government of India, Legislative Department.

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, 21 & 25 Vic., cap. 67.

The Council met at Government House on Wednesday, the 9th January 1878.

PRESENT :

His Excellency the Viceroy and Governor General of India, G.M.S.I.,
presiding.

His Honour the Lieutenant-Governor of Bengal, C.S.I.

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

The Hon'ble Sir E. C. Bayley, K.C.S.I.

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

Colonel the Hon'ble Sir Andrew Clarke, R.E., K.C.M.G., C.B.

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

Lieutenant-General the Hon'ble Sir E. B. Johnson, K.C.B.

The Hon'ble Whitley Stokes, C.S.I.

The Hon'ble F. R. Cockerell.

The Hon'ble B. W. Colvin.

The Hon'ble Maharaja Jotindra Mohan Tagore.

The Hon'ble T. O. Hope, C.S.I.

The Hon'ble the Raja of Sirmur, K.C.S.I.

The Hon'ble Mumtaz-ud-Daola Nawab Sir Muhammad Faiz Ali Khan
Bahadur, K.C.S.I.

The Hon'ble G. O. Paul.

The Hon'ble E. C. Morgan.

NEW MEMBER.

The Hon'ble THE RAJA OF SRIMUR took his seat as an Additional Member.

HUSAINABAD ENDOWMENT

OPIUM ACT, 1876, AMENDMENT BILL.

The Hon'ble Mr. HORE moved that the Report of the Select Committee on the Bill to amend the Opium Act, 1876, be taken into consideration. He had given a very full explanation of the objects of this Bill on the occasion when leave was given to him to introduce it. The Select Committee had thought it best to go a step further than was intended at the time of the introduction of the Bill and to embody the entire Act of 1876, and in doing so they had found it necessary to make a variety of amendments merely of the nature of redrafting. He did not think that the transformation which the Act had undergone in that process had seriously affected its scope or intention. The Committee had rather improved the provision for facilitating grants of farms of opium-revenue and for the recovery of dues from farmers and their licensees. They had also provided that, if in any case a dispute arose between a farmer and his licensee, the execution of any process issued by the Collector or other officer for the recovery of arrears should be stayed if the licensee instituted a suit in the Civil Court to try the demand of the farmer. He did not think he need trouble the Council with any further remarks.

The Motion was put and agreed to.

The Hon'ble Mr. HORE also moved that the Bill as amended be passed.

The Motion was put and agreed to.

HUSAINABAD ENDOWMENT BILL.

The Hon'ble Mr. STOKES moved for leave to introduce a Bill to make better provision for the management of the Husainabad endowment at Lucknow. He said that, in order to put the Council in possession of the circumstances which led to legislation in the present case, he would have to begin with events which occurred no less than forty years ago, when Oudh was still under its Native Rulers, and the British Government was represented at Lucknow by a Resident.

In the year 1838, the third King of Oudh, Muhammad Ali Shah, built at Lucknow a mosque called Husainabad Mubarak, for the purpose of the celebration therein of certain religious ceremonies, and for the ultimate interment of himself and his mother.

In November 1839, Muhammad Ali Shah deposited the sum of twelve lakhs of Lucknow sicca rupees in the treasury of the late East India Company at the Residency at Lucknow; and, by a contemporaneous deed of gift, he declared that the annual interest on this sum at the rate of four per cent. per annum, together with the rent of certain shops and the income of certain religious offerings, should be applied to the payment of the pensions

of certain persons therein mentioned and their descendants, and to defraying the expenses of the mosque and the repairs of a road therein mentioned ; and by the same deed the King appointed two of his servants, and after them their descendants, generation after generation, to be Superintendents (*mut'ualis*) of the mosque, and another Muhammadan gentleman, and his descendants after him, to be Agent of the pensioners, and the expenses of the mosque were to be paid in perpetuity from the treasury of the East India Company to the two Superintendents and their descendants after them, and the pensions were to be paid through the Agent. The deed further provided that, in the event of failure of heirs of the Superintendents or Agent, the British Resident for the time being at Lucknow should, with the concurrence of three-fourths of the pensioners, appoint one of their number to the vacant post. The deed also contained the following provisions :—

“As the pensioners enumerated in this deed are objects of our peculiar consideration and favour, it is necessary that the Resident for the time being, owing to the union and friendship subsisting between the two Governments, treat them with kindness, and, considering them deserving of the support of the British Government, always afford them his aid and assistance.

“The undermentioned items of income are hereby remitted and shall be devoted to the expenses of the Husainabad Mubarak and its dependencies, and all the property in it is given by us as a gift. It shall not be optional with the sovereigns of Oudh, at any time, on any account whatsoever, to interfere in any way with it, and let the Resident for the time being at the request of the *mut'ualis* or Superintendents, in this particular matter, give his countenance and support that this good work may continue in existence for ever.”

The items of income so referred to were the rents of certain shops attached to the mosque and the income from religious offerings thereto.

On the 5th December 1839, Colonel Caulfield, the British Resident at Lucknow, addressed a letter to Muhammad Ali Shah in which he acknowledged the receipt of the deed of gift, and stated that His Majesty might rest satisfied that every attention would be paid by the Resident to the wishes therein expressed, that his relatives would ever meet with the utmost attention, and that their interests would always be attended to by the Resident so far as his official duty permitted.

Some time after the date of the deed of gift, Muhammad Ali Shah added to the endowment so created Government promissory notes amounting to the sum of sicca rupees 2,117,500, but he did not expressly declare any trusts of such further endowment. These notes were believed to have been in September 1841 converted into Government promissory notes for Company's rupees, and to have been then endorsed in favour of the Superintendents and the Agent ;

and at some time between that date and the month of February 1856, certain surplus-funds of the endowment were invested in Government promissory notes, some in the names of the Superintendents and Agent, and some in the names of the Superintendents only.

After the Mutiny of 1857 and the re-occupation of Lucknow, the mosque was found to have been stripped off all its valuable property, and the promissory notes of which the endowment then consisted were missing; and it appeared on enquiry that the Agent had joined the mutineers and been killed during an attack on the city, and that the Superintendents had sold certain of the promissory notes.

The Government of India thereupon removed the existing Superintendents from their office, and called upon the existing pensioners to appoint under the deed of trust two other Superintendents and an Agent.

The Nawabs Moshin-ud-Daola and Mumtaz-ud-Daola were accordingly appointed Superintendents, and Sakamatulla Khan was appointed Agent, and such appointments were confirmed by the then Chief Commissioner of Oudh in the year 1860.

In the meanwhile most of the missing promissory notes were recovered and of some of the others duplicates were granted by Government.

The Superintendents and Agent appointed as last aforesaid, subsequently obtained from the Civil Court at Lucknow a declaration of their title to the arrears of interest which had accrued due on the promissory notes then constituting the said endowment; and in the month of June 1864, the promissory notes and arrears were assigned to the Superintendents and Agent free from all restrictions.

Nawab Moshin-ud-Daola had recently died, but the deed of trust conferred no power to appoint any other person to be a Superintendent in his stead.

It was doubtful whether the aforesaid appointment of Superintendents and Agent was a regular and valid appointment, and whether there existed any person who could exercise the power of appointment conferred on the Resident by the deed of gift.

If the Council had followed him (MR. STOKES) in this necessarily tedious story, it would, he was sure, agree with him that, owing to the changes which had happened since the death of Muhammad Ali Shah, it was expedient to provide for the management of the endowment; and that it was also desirable

to settle a scheme for the payment of the pensions referred to in the trust-deed, and for the application of the surplus-income of the endowment in defraying the expenses of the trust and in support of the mosque, road and other objects contemplated by Muhammad Ali Shah.

Should the Council allow him to introduce this Bill, he would at their next meeting describe the provisions which it contained. He would only say at present that the Bill had been approved, not only by the Local Government, but also by the persons concerned.

The Motion was put and agreed to.

SEA CUSTOMS BILL.

The Hon'ble Mr. MORE moved that the Hon'ble Sir A. J. Arbutnot be added to the select Committee on the Bill to consolidate and amend the law relating to the levy of Sea Customs-duties.

The Motion was put and agreed to.

SUNDRY BILLS.

His Excellency THE PRESIDENT said,—“ Before adjourning the Council, I wish to take this opportunity of informing Hon'ble Members, that I have requested my Hon'ble friend Sir John Strachey, on the occasion of our next meeting, to explain to the Council the course we propose to follow with reference to the taxation Bills which he obtained leave to introduce on the 27th of last month, and I understand from him that he will be then in a position to do so. I may mention, also, that as my Hon'ble colleague Sir Andrew Clarke is obliged to leave Calcutta for a short period on public business, he will also take advantage of the same occasion to make a statement on the policy of the Government in the administration of the Department over which he himself presides.”

His Honour THE LIEUTENANT-GOVERNOR said that, with reference to what His Excellency the President had just said, he might perhaps be permitted to express a hope that no unnecessary delay would occur in passing these Bills into law. Local legislation depended very much on the shape which these Bills would take, and naturally until their shape was finally settled, there was great doubt and unsettlement in men's minds as to the exact extent to which their interests would be affected by fresh taxation, and he thought this doubt and unsettlement were mischievous to the public mind, and embarrassing to the Government, and it would be well, therefore, for the public to know exactly the form which taxation would take. His Hon'ble friend's measures had been well received, and the necessity for further taxation had been loyally recognised, and therefore His Honour believed there was no real reason why these

measures should not be pushed through the Council as speedily as might be. It would assist the Local Government very much if these Bills were passed, not only by getting rid of the doubt to which he had referred, but as the cold season was drawing to an end, it was desirable that district-officers should take measures for the assessment of the license-tax and the performance of the work under their immediate eye. If the passing of these measures was deferred, we should have the hot weather setting in; district-officers would no longer be in camp, and the work would fall a good deal into the hands of Native subordinates. He also hoped his Hon'ble friend would take the opportunity of explaining definitely the scheme the Government of India had under consideration in respect to the expenditure of funds raised for famine-relief. As he understood his Hon'ble friend, the money which was to be raised by the Local Governments and paid to the Government of India would, to some extent, take the place of loans which would otherwise have to be raised for extraordinary works, and would be expended on works of a remunerative character in the Provinces finding the money, loans being reduced to the extent to which it would be unnecessary to have recourse to them, in consequence of the increased revenue from fresh taxes. Some doubt was experienced on this point in His Honour's Council, and he was hardly in a position to explain exactly what the views of the Government were.

His Excellency THE PRESIDENT felt quite sure that the views of His Honour the Lieutenant-Governor, and the grounds on which those views had been expressed, would be duly borne in mind by his Hon'ble friend Sir John Strachey when he made his statement at the next meeting of the Council, and that he would take that opportunity of explaining the views of the Government of India in regard to those matters.

The Council adjourned to Wednesday, the 16th January 1878.

CALCUTTA:
The 9th January 1878. }

D. FITZPATRICK,
Secretary to the Government of India,
Legislative Department.