Thursday, September 5, 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 Governor General of India,

ASSEMBLED FOR THE PURPOSE OF MAKING

LAWS AND REGULATIONS.

1878.

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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, 24 & 25 Vic., cap 67.

The Council met at Government House on Thursday, the 5th September, 1878.

PRESENT:

His Excellency the Viceroy and Governor General of India, G.M.S.I., *presiding.*
His Honour the Lieutenant-Governor of the Panjáb, C.S.I.
His Excellency the Commander-in-Chief, G.C.B.
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 Whitley Stokes, C.S.I.
The Hon'ble A. R. Thompson, C.S.I.
Lieutenant-General the Hon'ble R. Strachey, R.E., C.S.I., F.R.S.
Lieutenant-General the Hon'ble Sir S. J. Browne, K.C.S.I., C.B., V.C.
The Hon'ble B. W. Colvin.
The Hon'ble T. H. Thornton, D.C.L., C.S.I.
The Hon'ble F. R. Cockerell.
The Hon'ble G. H. M. Batten.

ACT IX OF 1878 AMENDMENT BILL.

The Hon'ble SIR ALEXANDER ARBUTHNOT moved for leave to introduce a Bill to amend Act No. IX of 1878 *(for the better control of Publications in Oriental languages)*, and which was commonly known as the "Vernacular Press Act." The Bill which he desired to introduce, had been framed in consequence of instructions received from the Secretary of State in a despatch in which he conveyed the assent of Her Majesty's Government to the Act which was passed in March last, but requested the Government of India to refrain from putting into operation that portion of the Act which enabled the publishers of vernacular newspapers to withdraw themselves from its restrictive provisions by submitting their proofs to a Government officer; and desired that, if necessary, the Government of India should, by fresh legislation, either suspend or abandon that portion of the Act. With His Excellency's permission he would read to the Council the paragraph of the Secretary of State's despatch which contained the instructions in question. It was as follows:—

"9. I entertain very grave doubts of the expediency of putting into action the portion of the Act which enables, and indeed, encourages, the publishers of vernacular newspapers to withdraw themselves from its restrictive provisions by submitting their proofs to a Government officer. In India the difficulty of executing it would be unusually great. The verna-

cular newspapers are printed in a great variety of languages; no one officer could probably superintend them with effect. Every person charged with the duty of supervision must be acquainted with the niceties of Native dialect, and most of these persons would probably have to be natives of the country. Such a system might give rise to great abuses. It is defended, I observe, in the Statement of Objects and Reasons, on the ground of the hardship which the requirement of a bond and of the deposit of security might inflict on some of the owners of vernacular journals; but it seems to me that these provisions of the Act might be accommodated to the circumstances of each newspaper. The difficulties of establishing Government newspapers in the vernacular tongues were much dwelt upon in the debate in your Council, and I fully appreciate them; but I cannot but see that any censor of proofs will in fact write the newspaper which he revises. Her Majesty's Government request that you will refrain from putting this part of the Act into operation, taking power, by fresh legislation, to suspend or abandon it if you deem this necessary."

The Government of India had given very careful consideration to the instructions contained in the paragraph which he had just read, and had come to the conclusion that if that portion of the Act to which the Secretary of State had taken exception was not to be brought into operation, it was on every account expedient, and in fact necessary, that it should be repealed; otherwise very serious embarrassments might occur in the event of circumstances arising under which a proprietor of a newspaper might elect to avail himself of the provisions in question.

The Motion was put and agreed to.

The Hon'ble SIR ALEXANDER ARBUTHNOT then introduced the Bill, and moved that it be taken into consideration on the 26th September, 1878. He said that on that occasion he should take the liberty to offer to the Council some remarks on the working of the Act on the discussions which had taken place both in this country and in England with reference to it.

The Motion was put and agreed to.

HUSAINÁBÁD ENDOWMENT BILL.

The Hon'ble MR. STOKES presented the Report of the Select Committee on the Bill to make better provision for the management of the Husainábád Endowment at Lucknow, and moved that it be taken into consideration. He said that as this Bill was about a year old, it might be convenient to recall to the recollection of the Council some of the leading facts connected with it. Its object was to provide for the due administration of what was called the Husainábád Endowment, the property of which, speaking roughly, now amounted to two and a half crores of rupees. The endowment was created about forty years ago by the third King of Oudh, Muhammad Alí Shah. Its trusts were three—firstly, to provide for the payment of certain pensions; secondly, to defray the expenses of a mosque called Husainábád Mubárak; and thirdly, to

repair a certain road. It was to be managed by two Superintendents and an Agent and their descendants for the time being. In 1857 the mutiny broke out; the then Agent joined the mutineers and was killed at Lucknow, and the property disappeared, some of it having been improperly disposed of by the Superintendents. The property, or most of it, was, however, after some time recovered, and new Superintendents and a new Agent were appointed by the pensioners.

Since then one of these new Superintendents had died, and on looking at the trust-deed (which was not, he need hardly say, framed by a professional conveyancer) it appeared that the appointment of these new trustees after the mutiny was altogether unauthorized, and that there was now no power to appoint a new trustee in place of the one who had died. Hence the necessity for the present Bill.

The Committee, which consisted, besides Mr. Basset Colvin and himself, of their hon'ble colleague Nawáb Sir Faiz Ali Khán, had fixed the number of the trustees at three, as it had been urged by the pensioners that it would be more convenient and more in accordance with the views of the founder to keep it as small as possible. It was right to say that the Local Government would have had only two trustees, with the Commissioner of Lucknow as referee in case of disagreement. But it had long been held inexpedient to connect the Executive with the management of Native religious institutions, and this opinion had received a legislative expression in Act XX of 1863.

Where a vacancy occurred in the office of trustee after the first appointment, the Committee had declared that such vacancy should be filled, not as provided in the original Bill, by a person to be appointed by the Government at its pleasure, but by a person to be selected by the Government from a number nominated by the pensioners and the descendants of Muhammad Ali Shah. They had further provided that the number of persons to be nominated, whether under section 1 or section 2, should not be less than double the number of vacancies, and that in the event of the pensioners and descendants of Muhammad Ali Shah neglecting for one month to nominate (an event which he need hardly say was very unlikely to occur), the Government might appoint any person it pleased.

They had omitted the provisions made in sections 5 to 7 of the original Bill for regulating the proceedings of the trustees (with the exception of that making the majority of votes decisive), as the Local Government had represented to them "such precise rules are unsuited to Native gentlemen who have not business habits."

Sections 12 and 18 of the original Bill were intended chiefly to provide for the institution of proceedings for the settlement of a scheme for the endowment and for the recovery of trust funds. It now appeared that there was no necessity at present to attempt any remodelling of the scheme as settled by the founder; and as it was urged that the idea of making any provision on this point was distasteful to those concerned, those sections had been struck out altogether. The other matter, as to the recovery of property belonging to the endowment, would be sufficiently met by the general law of the country.

The Council would see that the effect of the principal changes the Committee had made would be to simplify the management of the endowment, and to put it on a footing more in accordance with the views of the founder and with the wishes of those interested than it would have been under the Bill as originally introduced.

In conclusion, he thought it right to mention the objections taken to the Bill by two Native gentlemen, 'Áshiq Husain and Pandit Srí Krishna.

'Áshiq Husain said:—

"I and the Shias residing at Bareilly read the whole Bill relating to the Imámbára Husainábád, Lucknow. It interferes in some points with our religious doctrines. For there is nothing left, not even a single point, by the leaders of any faith with respect to the doctrines of wills and endowments, for which provision is made to a large extent in the Muhammadan law."

Mr. Stokes had read the last sentence at least six times without getting even a glimmer of the meaning, and the old saying had occurred to him,—*Si non vis intelligi debes negligi.* Perhaps 'Áshiq Husain would reply with the dilemma made by Thomas Anglus when accused of obscurity: "Either the Council understand me, or they do not. If they understand me and find me in error, it is easy for them to refute me; if they do not understand me, it is unreasonable for them to exclaim against my dogmas." As to the allegation that the Bill interfered in some points (none of which were, or could be, specified) with religious doctrine, he would not waste the time of the Council by disproving it: he need only point out to the Muhammadan public generally that the report of the Committee had been signed by an orthodox Muhammadan nobleman,—Nawáb Sir Faiz Ali Khán—who had taken an intelligent and active part in settling the Bill.

Pandit Srí Krishna was a lawyer, and, naturally, took quite a different objection. He said:—

"If then, the founder of the endowment did not require the interference of the Sovereigns of Oudh in any way whatever in clear and unambiguous words, it is respectfully submitted

that the British Government, as the present Sovereign of Oudh succeeding the last deposed Sovereign, is legally prevented from interfering with this endowment and legislating for it contrary to the will of the founder."

MR. STOKES wished to speak with all respect of Pandit Srí Krishna, to whom the Council were indebted for a careful and learned opinion on the Transfer of Property Bill; but he thought that the Pandit, when he made that objection, had overlooked the twenty-second section of the Indian Councils Act, which gave express power to the Governor General in Council to make laws and regulations "for all persons, whether British or Native,..... and for all places and things whatever" within British India. No doubt, the intention of the author of a charitable or religious trust should, so far as was proper and practicable, be strictly observed. But he could not decide irrevocably as to what would be best for the trust at all future periods; and where the literal performance of his intention would be inexpedient or impossible, in every civilized country the legislature, and in many places the Courts, had the right to modify his specific design.

The Motion was put and agreed to.

The Hon'ble MR. STOKES then moved that the Bill as amended be passed.

The Motion was put and agreed to.

STAMP BILL.

The Hon'ble MR. COCKERELL in presenting the preliminary Report of the Select Committee on the Bill to consolidate and amend the law relating to Stamps and Court-fees desired, with the permission of the President, to make a few remarks in regard to the presentation of the Report, and also to some of the chief points of distinction between the provisions of the amended Bill and that previously introduced. He said that the object of presenting this Report at the present time and place was to secure an early publication of the amended Bill, and thus afford sufficient time and opportunity for the proposed amendments of the existing law to become generally known, and for the submission of opinions in regard to any of these proposals which might be thought, on examination by experts, to be not likely to work satisfactorily, or which might on other grounds be objected to by persons who considered their interests or the interests of the public prejudicially affected by them; for, as the amendment of the Stamp law had now been under discussion or consideration for nearly three years, he (MR. COCKERELL) thought it very desirable that the Council should be in a position to deal finally with the recommendations of the Committee soon after the Council met in Calcutta, so that the new law might come into force on the date mentioned in the amended Bill—the 1st January, 1879.

In regard to the amended Bill, the first point to which he would draw attention was the elimination of all provisions relating to the subject of Court-fees, and the restriction of the present measure to stamp-duties only.

There was much doubtless to be said on both sides of the question, as to whether the convenience of the public was better secured by the consolidation of the law relating to Court-fees and general stamp-duties, or by the maintenance of the present system under which these subjects were regulated by separate enactments; and, although a majority of the Select Committee had advocated the course now proposed on the score of general convenience, it might well be doubted whether, on the question being raised as a distinct issue, the weight of opinion on the part of those who, from their practical experience, were most competent to form a correct judgment in this matter, would be on the side of dealing with these subjects by separate legislation.

One Hon'ble Member of the Committee, now absent (Mr. Hope), had been strongly opposed to the omission of the provisions relating to Court-fees, on the ground that the convenience of the public and those engaged in the administration of the law would be gravely prejudiced by any departure from the original scheme of consolidation.

But there was an additional consideration, and this in his (MR. COCKERELL'S) opinion presented the most cogent argument in support of the continued separation of the legislation relating to general stamp-duties and that regulating Court-fees. In the former Bill provision had been made for three material changes, besides others of minor importance, in the law relating to Court-fees.

1*st*. The assimilation of the institution-fee leviable in respect of suits instituted in the Small Cause Courts of the Presidency-towns and the mufassal by the reduction of the former and increase of the latter from 12½ and 7½ per centum, respectively, to a uniform rate of 10 per centum.

2*nd*. The substitution of a uniform fixed fee for the service of each kind of Court process for the fluctuating rates prescribed by the rules in force under the existing law.

3*rd*. The addition of one-half per centum to the fees heretofore chargeable on probates and letters and certificates of administration.

The communications received from the Local Governments and authorities consulted negatived the expediency of the first, assented in general terms to the second, and represented that the time had not yet come for the adoption, with any material advantage to the revenue, of the last of the above proposals. The qualified approval of the projected uniform fixed rate of fee chargeable on

the service of processes would almost certainly have been withdrawn, now that most of the Local Governments had to meet their expenditure from provincial revenue in respect of stamp-duties and Court-fees. Under the central system of finance a universal rate for each description of process-fee was practicable, as any deficiency in the receipts as compared with the charges in one province was likely to be balanced by a corresponding surplus in another; but a rate which would have been sufficient to guard against an excess of expenditure over income in respect of the service of Court-processes in every province of the Empire would have been too high for general adoption. The former Bill, though dealing in a general way with Court-fees, made no alteration in the *ad valorem* fees levied on the institution of suits in the ordinary Civil Courts. No revision of these fees had been specifically recommended by the authorities; but it was well known that in some quarters the existing rates of institution-fees were regarded as unnecessarily high. Comparisons between the receipts from Court-fees in, and the charges incurred in the maintenance of, the subordinate Civil Courts throughout the country had been freely made with the object of showing that, as a net result of the present system, the administration of justice had practically become a source of revenue. In this state of feeling on the subject, it would have been impolitic to affirm the propriety of the continued maintenance of these rates by their re-enactment in a law which might be expected to remain in force for a considerable period.

For all these reasons he thought the conclusion inevitable, that the law relating to Court-fees could not yet advantageously be dealt with in a comprehensive manner, and he was chiefly on this account satisfied that the Committee had done wisely in recommending that the present legislation should be confined to the subject of stamp-duties.

Turning now to the details of the amended Bill and taking them in the order in which they appeared there, he would draw attention to the circumstance that the apparent considerable reduction in the number of the interpretation-clauses was in great measure due to the transfer to the schedule of the definition of all instruments mentioned or referred to in the schedule only: by this arrangement not only had much repetition been avoided, but persons who had to consult the law as to the proper duty payable in respect of any instrument would have to look to one place instead of two for the required information.

The term "Bond" had been made to include instruments having the conditions of the Native "khátá" or "tamassuk" as now framed. Those instruments differed from the ordinary promissory note in this respect, that they were invariably, according to the existing practice, attested by witnesses.

Such attestation obviously gave them an increased value as evidence. No increase of taxation was involved in this extension of the application of the term; for as a matter of fact, the "khátá" or "tamassuk" had always been considered to require a bond stamp.

The word "receipt" had been so defined as to make all receipts for the payment of money in excess of twenty rupees primarily liable to stamp-duty, but an exemption had been provided in favour of all such payments when made gratuitously. The existing law and the Bill as introduced made receipts for money when paid in satisfaction of a debt or demand alone liable; but there could be no reasonable ground for excluding from the stamp liability receipts for money payments when made for due consideration.

The term "settlement" had in the former Bill been described as including "assurances for religious and charitable purposes," but in its technical sense it applied only to dispositions of property made in contemplation of marriage. Such dispositions did not operate as absolute transfers, but were designed to take effect on some more or less remote contingency, and in this respect they might be said to resemble simple mortgages, and were reasonably charged with stamp-duty at the same rate as the latter instruments. Assurances for religious purposes on the other hand operated as conveyances, taking immediate effect, and they were properly classed with deeds of gift. It was a mistake to have included these instruments in the category of settlements when a special and different rate of duty had been imposed on instruments of gift.

He would not have thought this change of sufficient importance to call for special comment had not one of their hon'ble colleagues, a member of the Select Committee, recorded his dissent to the manner in which this item had been treated. His hon'ble friend had not based his objection to the provisions of the Bill in regard to this subject as creating an innovation on the existing law and practice, and this was a point deserving notice; for he (MR. COCKERELL) believed—although a place in the settlement-class of documents was now claimed for these assurances—that at the present time when "deeds of settlement" were subject to duty and "instruments of gift" were not so liable, instruments creating an endowment for religious or charitable purposes were invariably held to be, and treated as, "deeds of gift!"

In the former Bill no provision had been made for enforcing the conditions and directions contained in sections twelve, thirteen, fourteen, and fifteen of the amended Bill in regard to the mode of stamping instruments. This omission was supplied by the definition of the condition "duly stamped," the non-fulfilment of such condition bringing an instrument within the penal provi-

sions of chapter IV. Inasmuch, however, as a non-compliance with those directions was perfectly compatible with an honest intention, and even absence of carelessness or indifference to the requirements of the law, on the part of the holder of any instrument, a power had been given to the Collector to remit at his discretion the whole of the penalty incurred where the improper stamping consisted solely of neglect or failure to comply with the conditions of those sections.

The principal amendments contained in the fourth chapter of the Bill were designed to check evasions of the payment of stamp-duties without frequent resort to criminal prosecutions.

The main defect of the deterrent provisions contained in the corresponding part of the former Bill was the too great dependence on a resort to criminal prosecutions which they entailed. There were, it might well be conceived, a very large number of cases in which the neglect to use the proper stamp involved no great criminality, and in regard to which Collectors would be found unwilling to send the offenders before a Magistrate. The revised Bill contained provisions in sections thirty-five and thirty-eight by which Civil Courts were required to realize a much larger fine than that fixed by the former ere unstamped or improperly stamped documents could be admitted in evidence, and Collectors were empowered to levy within certain fixed maximum and minimum limits a similar penalty in respect of instruments sent to or otherwise coming before them, and not being "duly stamped."

The power of instituting criminal prosecutions had been retained, but was absolutely restricted to the two classes of cases specified in section forty-one—(1), where the person responsible for the duty and penalty leviable under section thirty-five refused or neglected to pay the same; and (2), where it appeared to the Collector that the omission to use a proper stamp was due to an intention to evade the payment of the duty chargeable, and thus to defraud the Government.

There was another new provision in this chapter of considerable importance. It was proposed to enact as a third proviso to section thirty-five that the validity of any instrument which had been once admitted in evidence should not be called into question simply on the ground that it was not properly stamped. The question as to whether the improper reception in evidence of an unstamped or insufficiently stamped document constituted a legal ground of appeal against the decision in the case in connection with which such document had been admitted had frequently been raised; and although he believed that the rulings of the superior Courts had generally been against the validity of such ground of appeal, the point was not free from doubt, and it was desirable to have the

question conclusively determined in the new law relating to stamp-duties. It would be clearly inexpedient to allow decisions in suits to be disturbed solely on a question affecting the interests of the stamp-revenue; those interests would, he thought, be sufficiently guarded by the provisions of section fifty-one, which empowered an Appellate Court to take cognizance of and impound any instrument not duly stamped coming before it, although the instrument had been admitted in evidence by the lower Court. The superior Court was also empowered to record a declaration as to the extent of the deficiency of stamp-duty and the penalty which the previous holder of the impounded instrument was liable to pay, and then the Collector would have the same powers for recovering the amount due as he would have had if the instrument had been produced before him originally. It must not be supposed that this provision had been introduced for the purpose of giving a right of appeal, as it were, to the Government in cases where the lower Court, on a full consideration of the question of the proper stamp to be used in respect of any instrument, had made a wrong decision, whilst no such power of appeal was given, in the converse case, to the holder of any instrument. It was not intended to meet such cases, which were comparatively rare, but applied rather to the cases of the frequent occurrence of which he (MR. COCKERELL) had cited a good deal of evidence from the reports of judicial officers when he introduced the former Bill,—cases in which the admissions of instruments not duly stamped were allowed by the Judges of the Courts of first instance entirely through negligence or inadvertence.

The schedules *of advalorem* and fixed rates of stamp duty had been amalgamated, and the alphabetical order of arrangement of instruments had been substituted for the classification according to rates; the latter arrangements obviously did not meet the need of a person about to execute an instrument who had no knowledge even as to the kind of duty to which his instrument was liable.

Of course the value of an alphabetical arrangement was lost in any translation of the Act into another language; but as a very large and increasing proportion of the people who were likely to be concerned in the execution of instruments studied the law in the language in which it was enacted, the arrangement of the schedule as now proposed would, he felt confident, be found more useful and intelligible than that which it superseded.

The proposed changes in the amount of stamp-duty to be imposed on instruments would be found to be almost entirely on the side of reduction, and consequently in favour of the tax-paper. Perhaps the most important of these reductions was that made in the case of bonds and instruments similarly

chargeable. The effect of it was to restore, or rather maintain, the two annas rate prescribed by the existing law in respect of bonds for an amount not exceeding ten rupees. The originally proposed four annas rate would be applied to bonds for an amount exceeding ten rupees. It had been thought that the class of persons who chiefly execute these bonds of very small amount possess very limited means, and that to them the extra two annas tax on every such instrument would be a real hardship. The reasons for the proposed reduction in the case of Policies of Insurance had been stated in the Report.

The proposed new rate in the case of instruments guaranteeing the repayment of loans for short periods, obtained on the hypothecation of movable property, gave also a substantial measure of relief, inasmuch as it would cover documents relating to cash advances for a season made on the hypothecation of growing crops, such instruments being at present liable to the duty chargeable on deeds of mortgage.

The Government had thought fit, in consequence of the introduction of the license-tax, which fell exclusively on the trading interest, to give up the proposed extension of the receipt-duty to all money payments exceeding ten rupees; and the abandonment of the proposed increase of duty on Bills of Exchange might be said to have been indirectly due to the same cause.

When he (MR. COCKERELL) introduced the Stamp Bill nearly a year ago, he gave an estimate of the additional revenue to be expected if the Bill became law in the shape in which it then stood; that estimate would, in consequence of the reductions above referred to, have to be largely cut down. The abandonment, for the present, of fresh legislation in regard to Court-fees and the surrender of the proposed increase on Bills of Exchange and extension of the receipt-duty would cause a loss of about ten lákhs, whilst a further deduction from the former estimate of about five lákhs must be made in respect of the alterations in the duties chargeable on bonds and other instruments, so that the net result of the proposed amendments in the duties fixed by the former Bill would be to give an additional revenue of about twelve or thirteen lákhs only, instead of the twenty-seven or twenty-eight lákhs originally anticipated.

ALLUVION BILL.

The Hon'ble MR. STOKES moved for leave to introduce a Bill to define and amend the law relating to alluvion, islands and abandoned river-beds. He said that this measure, like the Transfer of Property Bill and the Negotiable Instruments Bill, was intended to form a chapter of the Indian Civil Code, and its object was to state, in a concise, accurate and accessible form, the law relating to the ownership of alluvial lands, of the islands (commonly called

chars) formed in rivers or in the sea, and of abandoned river-beds. In Madras, Bombay and Burma there was no statutory law on the subject: in Sindh there were only some executive rules framed in 1852 by Sir Bartle Frere which were held to have the force of law: in the rest of British India the law was contained partly in legal text-books, partly in the Bengal Regulation XI of 1825 and the Bengal Act IV of 1868, sections 2 and 4, but chiefly in the numerous decisions of the High Courts and the Judicial Committee of the Privy Council with which the former enactment was encrusted.

Bengal Regulation XI of 1825 provided rules for land gained from a river or the sea by gradual accession; for avulsion; for islands formed in navigable rivers and the sea; for islands formed in "small and shallow rivers, the beds of which with the julkur [or] right of fishery might have been heretofore (*i.e.*, before 26th May, 1825) recognised as the property of individuals." But it did not provide for the case when an alluvial deposit took place on a site of which though it had been submerged, the ownership was ascertained. It declared that an island formed in a navigable river belonged to the adjoining proprietor or to the Crown, according as the channel between it and the adjacent land was fordable or unfordable. But it did not define "fordable," nor state the time with reference to which the question of fordability or non-fordability was to be decided; nor show when an island could be said to be formed. It declared that an island formed in a navigable river should, where the channel was fordable, be an accession to the land "of the person or persons whose estate or estates might be most contiguous to it." But this did not, apparently, provide for cases where the island was partly on one side and partly on the other of the thread of the stream, nor for cases where there were several riparian owners, and the island could not be said to be nearer to the property of one than to that of another.

The Regulation was also deficient in not embodying the doctrine of what Roman lawyers called *agri limitati*, according to which, when land belonging to the State was granted in plots with a fixed area, and the plots were enlarged by alluvion, the increase did not become the property of the grantees. Such a provision was especially required in the Presidency of Bombay.

The Bill attempted to supply these defects.

As regards the rights of riparian owners to islands, the Bill applied the same rules to an island formed in the sea or a navigable river when the channel between it and the adjacent land was fordable, and to an island formed in a river which was not navigable.

Lastly, the Bill declared that when any river formed a new course, abandoning its ancient bed, the owners of the ancient banks were entitled to the an-

cient bed in proportion to their respective frontages. It was believed that this was in accordance with the existing law as declared by the High Court at Fort William, and it seemed less likely to encourage litigation than to provide (as was done by some systems) that the owners of the land newly occupied should take the ancient bed, each in proportion to the land of which he had been deprived.

The Bill advisedly left untouched the law relating to the assessment of alluvial lands and lands diminished by diluvion; to the rent payable in respect of such lands, and to the rights of tenants and mortgagees to alluvial lands. Such matters were obviously more fitly provided for in special enactments dealing with revenue, rent, mortgages and leases.

In conclusion, he had only to state that a rough draft of the Bill had been in circulation to the Local Governments and Administrations for the last six months, and a valuable body of commentary had been the result. To the Lieutenant-Governors of Bengal and the Panjáb and the Chief Commissioner of Assam, MR. STOKES, as draftsman of the Bill, felt personally indebted for the careful criticisms with which they had favoured him; and if he obtained leave to introduce the Bill, they would see that he had given due attention to those criticisms.

The Motion was put and agreed to.

The Council adjourned to Thursday, the 26th September, 1878.

SIMLA;
The 5th September, 1878.

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

NOTE.—The Meeting which was originally fixed for Thursday, the 15th August, 1878, was adjourned to Thursday, the 5th September, 1878.

Government of India Central Printing Office.—No. 186 L. D.—11-7-84.—70.