Thursday,
26th October, 1882

ABSTRACT OF THE PROCEEDINGS

OF THE

Council of the Governor General of India,

LAWS AND REGULATIONS

Vol. XXI

Jan.-Dec., 1882

ABSTRACT OF THE PROCEEDINGS

OF THE

Council of the Governor General of India,

ASSEMBLED FOR THE PURPOSE OF MAKING

LAWS AND REGULATIONS.

1882.

VOL. XXI.

Published by the Authority of the Governor General.

CALCUTTA:
OFFICE OF THE SUPERINTENDENT OF GOVERNMENT PRINTING, INDIA.
1883.

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, Simla, on Thursday, the 26th October, 1882.

PRESENT:

His Excellency the Viceroy and Governor General of India, K.G., G.M.S.I., G.M.I.E., *presiding*.
His Excellency the Commander-in-Chief, G.C.B., C.I.E.
The Hon'ble J. Gibbs, C.S.I., C.I.E.
Major the Hon'ble E. Baring, R.A., C.S.I., C.I.E.
Lieutenant-General the Hon'ble T. F. Wilson, C.B., C.I.E.
The Hon'ble C. P. Ilbert, C.I.E.
The Hon'ble Sir S. C. Bayley, K.C.S.I., C.I.E.
The Hon'ble T. C. Hope, C.S.I., C.I.E.
The Hon'ble C. H. T. Crosthwaite.
The Hon'ble W. C. Plowden.

PAPER CURRENCY ACT, 1871, AMENDMENT BILL.

Major the Hon'ble E. BARING moved that the further Report of the Select Committee on the Bill to amend the Indian Paper Currency Act, 1871, be taken into consideration. He said that he explained fully how this matter stood when he moved that the Bill should be referred back to the Select Committee. He had only now to add that the Select Committee had recommended that the provisions of the existing Currency Act regarding the issue of notes in exchange of bullion should be restored in the Bill. The only other alterations made in the Bill were of a purely formal nature.

The Motion was put and agreed to.

Major the Hon'ble E. BARING also moved that the Bill as amended be passed. He said that the Bill had been for a long time under consideration of the Council and of the public. No objection had been made to the Bill in its present form. The Select Committee had stated their opinion that no further alteration was necessary, and had recommended that the Bill as amended be passed.

The Motion was put and agreed to.

MADRAS FOREST ACT VALIDATION BILL.

The Hon'ble MR. ILBERT introduced the Bill to confirm the Madras Forest Act, and moved that it be taken into consideration at the next meeting of the Council. He said:—

"In moving for leave to introduce this Bill I described it as a Bill to confirm the Madras Forest Act, and that description was substantially, but not technically, accurate. Strictly speaking, it is a measure to amend certain general Acts so far as their provisions impede the operation of the local Act, and, as I am moving that the Bill be taken into consideration at the next meeting, I think I had better read it to the Council. It is entitled "A Bill to remove doubts regarding the Madras Forest Act, 1882," and runs as follows:—

"'Whereas doubts have arisen whether the Madras Forest Act, 1882, is consistent with certain Acts of the Governor General in Council, and it is expedient to remove those doubts; It is hereby enacted as follows:—

Enactments of the Governor General in Council not to affect the Madras Forest Act.

"'1. No enactment of the Governor General in Council shall affect, or shall be deemed to have at any time contained anything which would affect, the Madras Forest Act, 1882.'

His Excellency THE PRESIDENT said:—

"As the purpose of this Bill, as is obvious, is simply to give full local effect to the provisions of the Madras Forest Act,—an Act passed by the Madras legislature, which has been fully considered by them, and which the public of Madras have also had an opportunity of considering during its passage through the Legislative Council of that Presidency,—I think there can be no objection, and indeed it is very necessary, that measures should be taken to pass this Bill through the Council as rapidly as possible. No one is more opposed than I am to any unnecessary suspension of the standing orders of the Legislative Council. It is a great security to the public against hasty and ill-considered legislation that those standing orders should be strictly observed, but in this case that necessity does not arise. The Madras Act is one that affects the Madras public only; they have had a full opportunity of considering it, and this measure is one of a purely formal character."

The Motion was put and agreed to.

AGRICULTURAL LOANS BILL.

The Hon'ble MR. CROSTHWAITE moved for leave to introduce a Bill to consolidate and amend the law relating to loans of money for agricultural improvements. He said :—

"The Council is aware that an Act was passed in 1871 for the purpose of enabling Government to make advances of money to the owners and tenants of land for the sole purpose of improving that land. After some eleven years' experience, it is universally admitted that the Act is a failure. The total advances under the Act for the whole of India do not come to more than four-and-a-half or five lákhs at the outside during the year, and the Famine Commission, in chapter 4 of the second part of their report, have called attention to this subject, and suggested that the Act might be made simpler, and the Local Governments might have more power to make the rules under which the Act is worked elastic and suitable to local peculiarities. On the report of the Famine Commission, the Local Governments were asked to give their opinions on these suggestions. Those opinions have now been received, and are almost unanimous that the Act and the rules framed under it require simplification. The North-West Government are specially anxious that this should be done, and they have pressed it on the notice of the Government of India. In accordance with those opinions, the present Bill has been framed, on the principle of leaving everything that can possibly be thus left to rules to be framed by the Local Government. In the present case, I think this method of framing the Act is not open to objection, because the only interests concerned are those of the Government which advances the money, and it is presumed that in making the rules it will take precautions against loss. In thus amending the law we have also taken the opportunity of endeavouring to encourage the application of private capital to the improvement of land. We propose to follow the method which has been for a long time adopted in the English and the Irish Acts which have been passed for a similar purpose, the method, namely, of empowering companies whose articles of association, and the method of whose business, is approved by the Government to make advances to owners of land for the purpose of executing improvements. We propose that the Government of India should have the power to place conditions on those companies, to ensure that their business shall be carried on in a proper and reasonable manner; and, if those companies fulfil the conditions imposed upon them, the Bill is so drawn as to enable them to take advantage of its provisions for the recovery of the advances; in fact, their loans will be secured and will be recoverable in the same manner as if the money had been advanced by the Government.

"This is the Bill which I ask leave now to introduce, and I hope that the Council will give me permission to introduce it, because, although I think it is open to doubt whether it will lead to a very great extension of advances by Government, I think it is quite probable that it may open the door to private enterprise in the matter. For my own part, I fear that, until the causes which prevent people from improving their lands are removed, namely, in the case of tenants, the want of security that the profits which are derivable from their improvements will not be appropriated by the landlord; I think that, until the provincial laws are altered in this respect, there is not much hope, so far as tenants are concerned, that they will take advances either from the Government or from private companies; but I think that, when this Bill is passed, we shall have done all we can in a direct way to make the system of advances popular."

The Hon'ble SIR STEUART BAYLEY said:—

"I have only a few remarks to make in confirmation of the proposals of my hon'ble friend, Mr. Crosthwaite, in connection with this Bill, which I quite agree with him in hoping the Council will give him permission to introduce to-day.

"He has told us of the origin of the Bill, but there was also another reason for bringing it in which he omitted to mention, which was a small technical omission, regarding the recovery of interest on loans, which was brought to our notice by one of the Local Governments. But, in reading the papers connected with the Bill, I was very much struck by the unanimity of all those consulted as to the fact of the old law having failed in accomplishing the objects with which it was established, though there was considerable difference of opinion as to the reasons of that failure: reasons were given of all kinds. Some gentlemen, I observe, actually stated that the agriculturists did not require loans for the improvement of their land; but that was not general. More commonly it was said that the dealings of the cultivator with officials in matters of this kind were exceedingly troublesome, that at every point he was thrown back, and that it took him an enormous amount of time, and caused him an unreasonable amount of trouble, to get his loan. That was, I think, very generally agreed. Another point was the excessive cost of the application in point of fees; another point was the high rate of interest; another was the shortness of the time within which he had to repay the amount, and there may have been other reasons given, but those were the main ones in regard to the Act as it stood. But the real reason, to my mind, which has prevented the old Act from having anything like the operation which we would have wished for it, was brought out very clearly and lucidly in a report by Mr. Jones, Commissioner of Birár. He explained—and I think every one will agree that his explanation is incontestible—that the raiyat, if he borrows from the Government, cannot also borrow from the village money-lenders. It was a sermon on the old text that you cannot serve two masters. The raiyat comes to the Government and he receives the loan, but, in order to receive it, he must hypothecate his land. Shortly afterwards he wants perhaps to borrow for some other purpose—for marriage, or to pay his revenue, or for any one of the thousand domestic purposes for which he requires money besides agricultural operations. He then goes to the village money-lender; the money-lender turns round upon him and says:—'No, you have already borrowed from the Government; the Government have been ruining my business by charging a lower rate of interest than mine; the Government have already got the first lien on your land, and now you can go to the Government for the other money that you want.' Well, when it comes to a choice, and the raiyat has to decide whether he should borrow from one of two competitors,—one of whom can only lend for one purpose, while the other can lend for all purposes,—there is very small doubt as to what he will do; he will cleave to the one who can lend for all purposes, and despise the other who can only lend for one purpose. That is, I think, the real reason which cuts at the root of any very extended usefulness of the Act as it at present stands. There remains the fact that, though this applies to the cultivators who are indebted, it does not apply to the cultivators who are not indebted. These may require loans for agricultural improvements, and to them the necessity for keeping on good terms with the village money-lender does not apply; but the great majority of cultivators—even those very well off—all over the country, must occasionally have to apply for loans for temporary purposes. Well, I suppose, the logical deduction from this would be—'Then why not give up the whole business and try and arrange a system of companies or banks conducted by private enterprise which shall take over from you the agricultural loans, and at the same time carry out the ordinary domestic and industrial loans which the raiyat wants at all times and in all parts of India?'

"We have given a great deal of attention to this subject, with the assistance of my hon'ble friends, Major Baring, Mr. Crosthwaite and others; we have been practically working at it all the season; it has been thoroughly threshed out, and a scheme up to a certain point has been devised; but the more we worked at it, and the deeper we dug, the greater the difficulties and the more insuperable they seemed. We were met by these two main difficulties, in regard to Northern India especially,—first, that the raiyat in those parts has no transferable interest in his land which he can offer as security, and the only interest he can offer—his crops—are previously hypothecated to the landlord. These were the two points at which we stuck. We got pretty well on with the work, when it was brought to our notice that a gentleman in Bombay—Mr. (now Sir William) Wedderburn—was at work on a similar scheme, and he had the advantage of being in communication with certain bankers at Puna who were apparently willing to assist him in starting an experiment of the kind. It occurred to us that the experiment of an Agricultural Banking Society aided by Government should, in the first instance, if tried at all, be tried in a selected tract of country, and not thrown to be torn in pieces by the fortune or ill-fortune which might attend it under the varying conditions of different parts of India; and, when we came to consider to what tract of country we should apply it, it seemed to us that very obvious advantages existed in regard to the Dekkhan which did not exist in any other part of India. In the first place, the cultivator of the Dekkhan has a transferable interest in his land, and, in the second place, he has no landlord coming between him and the Government. Well, Sir William Wedderburn was good enough to come up to Simla, and we had various conferences with him, and the upshot of it all is that we propose now to consult the Government of Bombay on the possibility of introducing such a scheme into a selected area in the Dekkhan. In the meantime, the necessity remains for amending the existing law, not only on the small technical point which I have mentioned, but also on the various grounds given by Mr. Crosthwaite. We wish to amend the defects in procedure; we wish to simplify the procedure in every direction, to shorten the operations and various processes through which the raiyat has to go before he can get his loan; we wish for permission to reduce fees and stamp-duties; we wish to bring the interest down to the lowest point compatible with justice and fairness to the general taxpayer; and we wish to make the law as elastic as possible, and to leave as much as possible to be provided for by the rules of the various Local Governments.

"These are the objects with which the Bill is brought in, and I have no doubt that, in the hands of my hon'ble friend Mr. Crosthwaite, these objects will be attained. We have also provided experimentally—and these provisions will have to be very carefully considered in Select Committee when leave is given to introduce the Bill—for permission practically for the Government to make over, in any tract in which an agricultural bank may be started, its money-lending business for agricultural operations altogether. Such banks have not yet been started generally; but I was very much interested in having my attention recently called to a report in the Bengal Government Gazette by the Commissioner of the Presidency Division of Bengal, giving an account of an agricultural bank which has been started in Jessore. That bank is conducted entirely by Native managers, and it has been started by Native capital. It is principally concerned with deposits by agriculturists, but it has also a good deal of loan work. Naturally, you will ask, if an agricultural bank in Bengal can do loan work, why should we have been so much hampered with regard to the security of the land and the crops? The answer is given in the Commissioner's report on the bank. The bank lends only on the security of zamíndárís and patní taluqs, that is to say, on what is absolutely, or nearly absolutely, proprietary right, and does not descend to tenures. This, of course, limits to a certain extent the usefulness of the bank from our point of view, but still it is a very useful experiment, and I only hope the example will be followed freely and frequently in other parts of India."

His Excellency THE PRESIDENT said:—

"I have only to say, in regard to this Bill, that it is not a very large measure. I believe, however, that it will remove many of the difficulties which now prevent the practical employment of the existing machinery for Government loans for agricultural improvements, and that, as far as it has that effect, it will, I cannot doubt, be beneficial to the agricultural community.

"The difficulties found to exist in India in this matter are not confined to India alone. We find also at home that loans of this description are not taken advantage of to the extent to which one might naturally suppose they would be, for very much the same reasons as those which have deterred agriculturists from availing themselves of them in this country,—namely, the difficulties created by the very strict rules which have been laid down for the guidance of applicants for loans of this description. These rules have been found to be unpalatable to English landholders, and I am not by any means surprised to find that they have had the same effect in this country. The main object of this Bill is to simplify those rules to the greatest possible extent, to enable them to be applied to the different parts of the country as varying circumstances require; and it is my earnest hope that, although the measure is not one of a very extensive character, it will effect a small and useful reform in the present system of loans for agricultural improvements."

The Motion was put and agreed to.

The Council adjourned to Thursday, the 2nd November, 1882.

D. FITZPATRICK,

Secretary to the Government of India,

Legislative Department.

SIMLA;
The 26th October, 1882.

Government Central Branch Press, Simla.—No. 497 L. D.—8-11-82.—278.