

**COUNCIL OF THE GOVERNOR GENERAL
OF INDIA**

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P. L.

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 Simla on Wednesday, the 8th October 1873.

The Council adjourned to Friday, the 10th October 1873.

The Council met at Simla on Friday, the 10th October 1873.

P R E S E N T :

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

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

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

The Hon'ble B. H. Ellis.

Major-General the Hon'ble Sir H. W. Norman, K.C.B.

The Hon'ble A. Hobhouse, Q.C.

The Hon'ble E. O. Bayley, C.S.I.

The Hon'ble R. E. Egerton.

The Hon'ble J. F. D. Inglis, C.S.I.

His Highness Sarámade Rájáhée Hindústán Ráj Rájendra Srí Mahárájá-
dhiráj Sivái Rám Singh Bahádur, of Jaypur, G.C.S.I.

NAWÁB NAZIM'S DEBTS BILL.

The Hon'ble MR. HOBHOUSE introduced the Bill to provide for the liquidation of the debts of the Nawáb Názim of Bengal, and for his protection againt legal process, and moved that it be referred to a Select Committee with instructions to report in a month. He had explained the objects and scope of this Bill so recently and so fully to the Council that he did not think it necessary to make any preface to its introduction upon this occasion. He would only mention to the Council the effect of the various sections of the Bill as it was now drawn, and as he proposed to introduce it. In the first place, the Bill was prefaced by some recitals showing the embarrassed state of the Nawáb Názim, and expressing the desire of the Government to free the Nawáb Názim and his property from the suits and attachments which were in existence against them, and of discharging such

of the claims against him as were proper to be paid. It was then proposed to give the Governor General in Council power to appoint a Commission to investigate the claims, and that was done by Section two of the Bill. This Commission was directed to publish certain notices to claimants, and every debt or liability to which the Nawáb Názim was subject, which was not duly notified to the Commissioners within a certain specified time, would be barred, but the Commissioners had power, on sufficient cause being shown, to enlarge the time. Then followed certain sections mentioning some matters of procedure by which the Commission should be guided and which it was thought desirable to specify. By Section ten, it was provided that the Commissioners should, by agreement with the claimant or otherwise, determine the amount which, on the consideration of all the circumstances, they might consider to be, in fairness and justice, due to each claimant. He thought it right to prescribe in the Bill that they should proceed in accordance with fairness and justice. We knew that claims of this nature against very needy men were usually of a very extravagant character, and that fairness and justice were best consulted, not by proceeding according to the exact tenor of written documents which each party might produce, but upon other grounds than those of strict contract and strict law. It was proposed, then, that the Commissioners should certify the amount in each case, and upon the Governor General in Council paying to any claimant the amount so certified, all claims of such claimant against the Nawáb Názim should be held to be satisfied and extinguished. By Section twelve we took the power necessary in making an arrangement of this sort, for stopping the ordinary processes of law against the Nawáb Názim. The section provided that no suit should be commenced or prosecuted, and no writ or process should at any time be sued for, against the person or property of the Nawáb Názim, excepting with the consent of the Governor General in Council. Then followed an important provision in Section thirteen to the effect that the Nawáb Názim should be incapable of entering into any contract that might give rise to any pecuniary obligation on his part. These were the most important provisions of the Bill; the other two remaining sections were of a formal character which it was unnecessary to refer to.

The Motion was put and agreed to.

The Hon'ble Mr. HOBHOUSE also moved that the Bill be published in the *Calcutta Gazette* in English, Hindústání, and Bengálí.

The Motion was put and agreed to.

BOMBAY REVENUE JURISDICTION BILL.

The Hon'ble Mr. ELLIS introduced the Bill to limit the jurisdiction of the Civil Courts throughout the Bombay Presidency in matters relating to the Land-Revenue, and moved that it be referred to a Select Committee with instructions to report in three months. He said that on a former occasion he had explained to the Council the object of the Bill and he had then mentioned the reasons which had led the Bombay Government to request the Government of India to introduce the Bill into this Council. He would now briefly explain its provisions. Since the date when leave to introduce the Bill was given, there had been a correspondence with the Government of Bombay as to the way in which the object of the Bill could be best effected. The Bombay Government had made certain suggestions, some of which had not been adopted, because they seemed to deal with matters which were hardly within the scope of the present measure. Others were perfectly in accord with the principle of the Bill, but were matters of detail, and might therefore very properly be considered when the Bill came before the Select Committee. In its general tenor the Bill appeared to meet the views of the Government of Bombay.

The principle of the Bill was, briefly, to exclude the Civil Courts from the jurisdiction which they now possessed in certain parts of the Bombay Presidency in respect to matters affecting the land-revenue. To this proposed exclusion, however, certain exceptions were made in the Bill. Revenue proceedings in the Presidency Collectorate were excluded, they being under a wholly different and separate law of their own. All matters relating to towns and cities, the Revenue law of which was regulated chiefly by Bombay Act IV of 1868, it was also proposed to leave untouched in this Bill, there having been recent legislation on the subject. Also it was proposed to exclude from the operation of this Bill all holdings of land partially or wholly exempt from the payment of land-revenue under Acts II and VII of 1863.

The reason for this was that it was not designed to interfere with the privileges of holders of revenue-free, or partially revenue-free, lands in this Presidency, as secured to them under Acts of the Legislature so recent as 1863. Similarly, no interference was made in this Act with holdings under Act XI of 1852; such holdings would remain on the same footing as they now were, and, in fact, all Acts in force relating to holdings of alienated land, whether under the Acts of 1863 or under the Act of 1852, were unaffected by the provisions of the present Bill. In the first instance some slight amendments in Act VII of 1863 had been proposed in order to make the law on the subject wholly consistent, but at the suggestion of the

Bombay Government those proposed amendments had been omitted, so that those Acts would remain intact and would not be interfered with by the passing of this Bill.

In the Presidency of Bombay, generally, as MR. ELLIS had explained before, different laws prevailed in regard to jurisdiction in revenue matters. What was proposed was that these laws should, in future, be uniform throughout the Presidency. There was nothing in the present circumstances of the several districts to justify any difference of jurisdiction, and, as it was not expedient that the general policy of Government in relation to the land-revenue should be discussed in, or that the details of revenue assessment should be questioned by, Civil Courts, it had been thought right to adopt that system which now prevailed in the Dekkhan, Khándesh, and the Southern Mahratta Country, in preference to that which was the law in the rest of the Presidency; and the Bill which MR. ELLIS now introduced, accordingly excluded the Civil Courts from jurisdiction in the matters set forth in Section three, namely:—

- (1.)—Claims against the Government to ináms or to hold land wholly or partially free from payment of land-revenue; excepting always those expressly excluded under the previous section of the Bill which he had just mentioned;
- (2.)—Objections to the amount or incidence of any assessment of land-revenue, or to the mode of assessment, or to the principle on which such assessment had been fixed;
- (3.)—All disputes regarding public rent or revenue payable to Government, or complaints of exaction of district or village officers, stipendiary or hereditary.

The proposed course was also in conformity with the most recent legislation in respect to other provinces, as might be seen by reference to the Panjáb Revenue Act (XXXIII of 1871), Section sixty-five.

MR. ELLIS had only to add that the second object to be provided for, namely, the rectification of an error in the passing of the Land Improvement Act of 1871, was secured by the fourth Section of the proposed Bill. In that the form had been adopted of substituting for words which now stood part of the Land Improvement Act, other words which would bring matters back to the footing upon which they stood before the passing of the Act. This form had been adopted instead of reviving the old section, in order that no interference might be had with the power of the Legislature of

Bombay to deal with the subject, in the event of their deeming it right at any future period to alter the law; whereas if this Council re-enacted the old section, it would not be competent to the Local Legislature to deal with the law on any future occasion.

The Motion was put and agreed to.

The Hon'ble Mr. ELLIS also moved that the Bill be published in the *Bombay Government Gazette* in English; and in such other languages as the Local Government might deem fit.

The Motion was put and agreed to.

ACTS X OF 1859 AND XIV OF 1863 EXPLANATORY BILL.

The Hon'ble Mr. HOBHOUSE asked leave to postpone his Motion for leave to introduce a Bill to declare the true meaning of Acts X of 1859 and XIV of 1863.

Leave was granted.

The following Select Committees were named :—

On the Bill to provide for the liquidation of the debts of the Nawáb Názim of Bengal, and for his protection against legal process,—The Hon'ble Messrs. Ellis and Bayley and the Mover.

On the Bill to limit the jurisdiction of the Civil Courts throughout the Bombay Presidency in matters relating to the Land-Revenue,—The Hon'ble Messrs. Hobhouse, Bayley and Inglis and the Mover.

The Council then adjourned to Wednesday, the 15th October 1873.

SIMLA,
The 10th October 1873.

} WHITLEY STOKES,
Secretary to the Government of India,
Legislative Department.