

*Wednesday,
18th August, 1886*

ABSTRACT OF THE PROCEEDINGS

OF THE

Council of the Governor General of India,

LAWS AND REGULATIONS

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OF
THE COUNCIL OF THE GOVERNOR GENERAL OF INDIA
ASSEMBLED FOR THE PURPOSE OF MAKING
LAWS AND REGULATIONS

1886

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1887.

*Abstract of the Proceedings of the Council of the Governor General of India,
assembled for the purpose of making Laws and Regulations under the pro-
visions of the Act of Parliament 24 & 25 Vic., cap. 67.*

The Council met at Viceregal Lodge, Simla, on Wednesday, the 18th August,
1886.

P R E S E N T :

His Excellency the Viceroy and Governor General of India, K.P., G.C.B.;
G.C.M.G., G.M.S.I., G.M.I.E., P.C., *presiding*.

His Honour the Lieutenant-Governor of the Punjab, LL.D., K.C.S.I., C.I.E.

His Excellency the Commander-in-Chief, Bart., G.C.B., C.I.E., V.C.

The Hon'ble C. P. Ilbert, C.S.I., C.I.E.

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

The Hon'ble Sir T. C. Hope, K.C.S.I., C.I.E.

The Hon'ble Sir A. Colvin, K.C.M.G., C.I.E.

The Hon'ble Major-General G. T. Chesney, R.E., C.S.I., C.I.E.

The Hon'ble W. W. Hunter, C.S.I., C.I.E., LL.D.

The Hon'ble Colonel W. G. Davies, C.S.I.

SUITS VALUATION BILL.

The Hon'ble MR. ILBERT moved that the Bill to prescribe the mode of valuing certain suits for the purpose of determining the jurisdiction of Courts with respect thereto be referred to a Select Committee consisting of the Hon'ble Sir A. Colvin and the Mover. He explained that he proposed to nominate merely a skeleton Committee on this and the following Bill, because it was not probable that the Committees would begin their labours during his term of office and it might be more convenient that their constitution should be settled by his successor.

The Motion was put and agreed to.

INDIAN EVIDENCE ACT, 1872, AMENDMENT BILL.

The Hon'ble MR. ILBERT also moved that the Bill to amend the Indian Evidence Act, 1872, be referred to a Select Committee consisting of the Hon'ble Sir S. Bayley and the Mover.

The Motion was put and agreed to.

DEKKHAN AGRICULTURISTS' RELIEF BILL.

The Hon'ble SIR THEODORE HOPE moved for leave to introduce a Bill to amend the Dekkhan Agriculturists' Relief Acts, 1879 to 1882. He said :—

“ About four years have elapsed, I am happy to say, since it was last my duty to come before this Council on the subject of the Dekkhan Agriculturists' Relief Act. During this period the Act has undergone a twofold ordeal. In the first place, its whole working was subjected to a special inquiry made by an officer appointed by the Bombay Government to investigate how far its provisions were really beneficial, or the reverse. This inquiry was analysed and scrutinised by a number of competent officers and eventually referred to the Secretary of State, and the discussions which took place have resulted in certain conclusions of which we now have the benefit. But, besides this ordeal of a special inquiry, the Act has likewise passed through four years of practical working, and during that time we have received four annual reports by two very able officers—Dr. Pollen and the Hon'ble Mahadeo Govind Ranade—who filled the office of Special Judge. The result of this ordeal may be stated in a very few words. In the first place, the general working of the Act has been found, on the whole, to be extremely satisfactory; in the second place, the general phraseology of the Act, about which considerable differences at first arose, has now become, or been made, sufficiently intelligible to be worked by the Courts without conflicting decisions, and without either injustice or the indefinite postponement of the final decision on cases; and, thirdly, there are still a few improvements in the law apparent which it will be desirable to effect on the present occasion. It is in order therefore to take a certain amount of action under these three heads that I have come before the Council today.

“ In consequence of the generally satisfactory working of the Act, which is, I believe, now established with scarcely any question from any quarter, the Government of Bombay propose that power should be taken to extend either the whole Act, or certain portions of it, to other parts of the Bombay Presidency. As to what parts such extension will be desirable for, it is not for me at present to say; that is a matter for the Executive Local Government, but I believe I may indicate that no large or sweeping extension is contemplated at present, and that only such tracts will gradually be brought under the Act as are found to be more or less afflicted with the same evils and difficulties as led to the original legislation in the case of the four Dekkhan Collectorates. Moreover, I think I may add that it is very probable that in some instances the whole Act would not be extended, but only certain portions,—I cannot specify exactly which,—but portions such

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[*Sir Theodore Hope.*]

as those which require the history of transactions with agriculturist-debtors to be investigated, or those which relate to the mode of taking accounts, which have been found to be of enormous value in any suit, would be the first to be applied.

“ In regard again to the phraseology, there is only one small improvement contemplated—that is, a better definition of the word ‘ lease ’.

“ As to the improvements which are still found desirable in the Act, I need not detain the Council long. One of them is to make the examination of the defendant ordinarily compulsory in all suits under Chapter III, just as it now is under Chapter II, and, consequently, to provide against *ex parte* decrees in such suits, which everybody admits to be an evil.

“ Again, it is found desirable that standing crops should not, for the purposes of this Act, be treated as immoveable property, and consequently be exempted from being taken in execution of a decree. They are usually the legitimate security for an advance for the purposes of cultivation, and it seems only fair that the persons who make the advances should look to the standing crops for their recoument if necessary.

“ Moreover, it is found desirable, as a matter of administrative convenience, to relieve the Village-Registrars of the duty of registering such documents as are liable to registration under the ordinary Registration Act. It is proposed to confer it on what are called Taluka-Registrars, who will, however, follow the peculiar procedure provided under the Dekkhan Agriculturists' Relief Act when the executants are agriculturists. Again, there is a small alteration desired in section 72 of the Act with regard to the time of limitation.

“ The only other alteration which I ought to mention, as being of importance, is with reference to the powers of Conciliators to require the attendance of persons against whom applications are made under section 39 of the Act. This proposal to give Conciliators the power of requiring attendance was negatived by this Council in 1882, contrary to the advice of the Local Government and of a considerable number of other authorities. At the same time the question then certainly was one which was reasonably open to doubt and difference of opinion, and it is just as well that we should have had four more years in order to obtain more conclusive data and opinions upon it. The result of this lapse of time is that the Bombay Government are still of opinion that this power should be given, and that it appears to us now desirable that the legislature should no longer hesitate to confer it. With regard to the details of the subject

[*Sir Theodore Hope.*] [18TH AUGUST, 1886.]

"I will reserve my remarks till the next occasion when the Bill comes before the Council."

The Motion was put and agreed to.

The Hon'ble SIR THEODORE HOPE also introduced the Bill.

The Hon'ble SIR THEODORE HOPE also moved that the Bill and Statement of Objects and Reasons be published in the *Gazette of India* in English and in the *Bombay Government Gazette* in English and in such other languages as the Local Government thinks fit.

The Motion was put and agreed to.

The Council adjourned to Wednesday, the 25th August, 1886.

SIMLA ;
 The 20th August, 1886. }

S. HARVEY JAMES,
Offg. Secretary to the Govt. of India,
Legislative Department.