

*Thursday,
16th January, 1890*

ABSTRACT OF THE PROCEEDINGS
OF THE
Council of the Governor General of India,
LAWS AND REGULATIONS

Vol. XXIX

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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,

1890

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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 under the provisions of the Act of Parliament 24 & 25 Vict., cap. 67.

The Council met at Government House on Thursday, the 16th January, 1890.

PRESENT :

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

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

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

The Hon'ble Lieutenant-General Sir G. T. Chesney, K.C.B., C.S.I., C.I.E.,
R.E.

The Hon'ble A. R. Scoble, Q.C., C.S.I.

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

The Hon'ble P. P. Hutchins, C.S.I.

The Hon'ble Sir D. M. Barbour, K.C.S.I.

The Hon'ble Sir Pasupati Ananda Gajapati Razu, K.C.I.E., Mahārājā of
Vizianagram.

The Hon'ble Syud Ameer Hossein, C.I.E.

The Hon'ble Rājā Durga Churn Laha, C.I.E.

The Hon'ble Muhammad Ali Khan.

The Hon'ble R. J. Crosthwaite.

The Hon'ble Sir A. Wilson, Kt.

The Hon'ble F. M. Halliday.

The Hon'ble Rao Bahádur Krishnaji Lakshman Nulkar, C.I.E.

NEW MEMBERS.

The Hon'ble MR. HALLIDAY and the Hon'ble RAO BAHÁDUR KRISHNAJI LAKSHMAN NULKAR took their seats as additional Members.

REVENUE RECOVERY BILL.

The Hon'ble MR. CROSTHWAITE moved that the Hon'ble Mr. Hutchins, the Hon'ble Mr. Halliday, the Hon'ble Rao Bahádur Krishnaji Lakshman Nulkar and the Mover be added to the Select Committee on the Bill to make better provision for recovering certain public demands.

The Motion was put and agreed to.

6 AMENDMENT OF CENTRAL PROVINCES CIVIL COURTS ACT, 1885; AMENDMENT OF ACTS XVII OF 1864, X OF 1865, II OF 1874 AND V OF 1881; FORESTS; PREVENTION OF CRUELTY TO ANIMALS.

[Mr. Crosthwaite; Mr. Scoble; Mr. Hutchins.] [16TH JAN., 1890.]

CENTRAL PROVINCES CIVIL COURTS ACT, 1885, AMENDMENT BILL.

The Hon'ble MR. CROSTHWAITE also moved that the Bill to amend the Central Provinces Civil Courts Act, 1885, be referred to a Select Committee consisting of the Hon'ble Mr. Scoble, the Hon'ble Mr. Hutchins, the Hon'ble Rao Bahádúr Krishnaji Lakshman Nulkar and the Mover, with instructions to report within one month.

The Motion was put and agreed to.

ACTS XVII OF 1864, X OF 1865, II OF 1874 AND V OF 1881
AMENDMENT BILL.

The Hon'ble MR. SCOBLE moved that the Hon'ble Rao Bahádúr Krishnaji Lakshman Nulkar be added to the Select Committee on the Bill to amend Acts XVII of 1864 (*Official Trustee*), X of 1865 (*Indian Succession*), II of 1874 (*Administrator General*) and V of 1881 (*Probate and Administration*).

The Motion was put and agreed to.

FOREST BILL.

The Hon'ble MR. HUTCHINS moved that the Hon'ble Maung On and the Hon'ble Rao Bahádúr Krishnaji Lakshman Nulkar be added to the Select Committee on the Bill to amend the Indian Forest Act, 1878, the Burma Forest Act, 1881, and the Upper Burma Forest Regulation, 1887.

The Motion was put and agreed to.

PREVENTION OF CRUELTY TO ANIMALS BILL.

The Hon'ble MR. HUTCHINS also moved for leave to introduce a Bill for the Prevention of Cruelty to Animals. He said:—

“The printed Statement of Objects and Reasons which I will lay on the table along with this Bill is very concise, and as it will enable the Council to see at a glance the general purport of the proposed measure it may be convenient that I should commence what I have to say by reading it:

“In different parts of British India there are more than twenty enactments in force relating to cruelty to animals, but the local extent of most of these enactments is very

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limited, while the necessity imposed by others of proving cruelty to an animal, to have caused obstruction, inconvenience, annoyance, risk, danger or damage to the public renders it very difficult to maintain a prosecution.

“The object of the present Bill is to provide an easily enforceable law which may be applied by any Local Government to any part of the territories under its administration, either in addition to, or to the exclusion of, any other enactment in force in such part for the suppression of cruelty to animals.”

“The very number of the enactments referred to shows that the Provincial Councils have given great attention to the prevention of cruelty to animals, and it is right that this should be cordially acknowledged. In Bengal there is a special Act (I of 1869) which also applies in Assam. The Madras Council has lately passed a Towns Nuisances Act, under which the provisions of section 53 and other sections of the Madras City Police Act connected with the same subject may be extended to towns and other areas beyond the limits of the presidency-town. The District Police Bill in Bombay contains somewhat similar provisions, and in the North-Western Provinces the Legislative Council has before it a Bill which repeats the provisions of the Bengal Act and seems intended to have general application. If these four provinces constituted the whole of British India, I should hardly have desired to press the matter further at present.

“But there are other important provinces which have no local Legislature, but depend for their laws on this Council. There are the Punjab, the Central Provinces and Burma, besides the minor Administrations in Ajmere, Coorg and Baluchistan. Apart from certain Imperial Acts relating to cruelty in cantonments or in connection with stage or hackney carriages, or with gambling, the only enactment of the kind in force in these provinces is section 34 of the Police Act (V of 1861), which runs as follows:—

“Any person who, on any road or in any street or thoroughfare within the limits of any town to which this section shall be specially extended by the Local Government, commits any of the following offences to the obstruction, inconvenience, annoyance, risk, danger or damage of the residents and passengers, shall, on conviction before a Magistrate, be liable to a fine not exceeding fifty rupees, or to imprisonment not exceeding eight days; and it shall be lawful for any police-officer to take into custody, without a warrant, any person who within his view commits any of such offences.”

“And the second of such offences is this:—

“Any person who wantonly or cruelly beats, abuses or tortures any animal.”

[*Mr. Hutchins*.]

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"It will be seen, first, that this section can only be extended to a town; secondly, that even within the limits of a town it cannot reach any act of cruelty, however barbarous, which is not committed on a road or in a street; thirdly, that it must have caused at least inconvenience to passers-by, and the tribunals are sometimes rather exacting with regard to the evidence of such inconvenience; and fourthly, that only actual beating, abuse or torture is made punishable. In all these respects the present law of the provinces in question is more or less unsatisfactory, and, as it can only be amended by the Supreme Legislature, I have thought it best to prepare a general law which can be adopted by any Local Government over such areas as it may from time to time consider expedient.

"I think what I have said will be enough to satisfy the Council that some measure of the kind is desirable. In these days fortunately there is no need to insist on the right—nay, the duty—of the Legislature to interfere for the protection of dumb animals, and the only difficulty which I feel, or which is likely to be felt by any Hon'ble Member here present, is whether cruelty to animals should be made a criminal offence in every case, or whether regard should be had to such considerations as the publicity of the place, the proximity of a Magistrate capable of disposing of the case, and the like.

"The English law on the subject is contained in 12 & 13 Vict., c. 92, and is of course perfectly general—any person who cruelly beats, and so forth, who keeps a place for baiting animals or causing them to fight, who so conveys an animal as to cause it needless suffering, shall forfeit and pay such and such penalties. And doubtless it is perfectly true that such brutality is equally deserving of reprobation and punishment, whether committed in public or in private, in a town or in a village, in the busy thoroughfares of a city or in a remote field in an agricultural district. But neither English law nor abstract morality is a safe index of what may properly be made penal in this country.

"No Provincial Legislature has yet ventured to pass a law of such general application as the English Statute. The habits of the people, the varying character of the agency by which the law will have to be enforced, the enormous size of the rural tracts, the paucity of competent tribunals—these and many other things have to be borne in mind, and therefore it is that most of the existing enactments can only be put in force in towns, while in all the Executive Government has retained in its own hands the power of prescribing the places to which alone they shall apply. In a matter of this kind it seems to me essential

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that we should both proceed with caution and endeavour to carry the people with us. We shall have to consult Local Governments as to the local extent of the measure, and if we wish them to give it anything like general application we must see that its provisions are framed with due moderation.

“ Passing now to the details of the Bill, I think I shall be able to show that the bounds of moderation have not been transgressed. Sub-section (2) of section 1 provides that the Act shall extend to such local areas as the Local Government directs, while section 3 makes certain acts of cruelty punishable only if committed in a street or place of public resort, or within sight of any person in a street or such place. I have introduced these two limitations for the reasons which I have just indicated; but Local Governments will be specially consulted, first, as to whether it would not be safe, seeing that these acts are only punishable when done in public, to give the enactment immediate operation everywhere, or at all events in all towns; and, secondly, if this is not considered safe and if the local extent is to be regulated by the Local Governments' own orders, whether these particular acts of cruelty may not be declared penal wherever committed, like other classes of acts to which I shall presently refer. Meanwhile, however, I have preferred framing the Bill in this way because I expect that Local Governments will be much more chary about extending its operation if we give a right of entry into private houses, and because I anticipate far more good from the prevention of open cruelty over a wide area than from conferring power to prevent private as well as public cruelty within more restricted limits.

“ The acts to which section 3 relates are as follows :—

- “ (a) cruel and unnecessary beating, overdriving, overloading or otherwise ill-treating any animal;
- “ (b) binding or carrying any animal in such a manner or position as to subject the animal to unnecessary pain or suffering;
- “ (c) offering, exposing or having in possession, for sale any live animal which is suffering pain by reason of mutilation, starvation or other ill-treatment, or any dead animal which has been killed in an unnecessarily cruel manner.’ * . *

“ It will be noted that nearly all these are acts which from their very nature can hardly be committed otherwise than in public. Such at all events are overdriving, overloading, conveying animals in a painful position and offering or exposing for sale. As regards such acts it is no restriction at all to say that they

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shall only be punishable if committed in a street or place of public resort. Practically, therefore, this condition will only control the general words 'beating and ill-treatment,' and I think it should be maintained for this purpose. As to all acts covered by this section the police are given power to arrest, but there will be no power to enter or search private houses.

"On the other hand, sections 4 and 5 relate to acts which may well be made punishable wherever committed. If sufficient cause can be shown I should have no objection to add other specific acts to this category; but at present only two are provided for, namely, the killing of an animal in an unnecessarily cruel manner, and the employment of an animal on work for which it is unfitted by disease, infirmity, wounds or sores.

"As to these acts the Bill authorizes the grant of a search-warrant upon information duly sworn before a Magistrate of the first class. We have recently heard of butchers flaying live goats in their own houses, and I venture to think that brutality of this description must be prevented at any cost. I am informed too that it is a common practice to cut out the tongues of turkeys and allow the birds to bleed slowly to death in order to whiten their flesh. Such acts will be covered by section 4. Section 5 is taken from the Bengal Act (I of 1869) to which I have already referred. So also is section 6, which provides a penalty for permitting diseased animals to go at large or to die in a street. Lastly, the concluding section limits the period within which prosecutions may be instituted under the Act to three months from the date of the commission of the offence.

"The opinions of all Local Governments as well as of all associations for the prevention of cruelty to animals will, of course, be duly considered in Select Committee; but, if I may assume that the Bill will be maintained on its present lines, I venture to anticipate that it will be put in force at once wherever the more limited local Acts have been applied, and that it will continue to be extended over ever-widening areas until it embraces at least all the populous parts of the country."

The Motion was put and agreed to.

The Hon'ble MR. HUTCHINS also introduced the Bill.

The Hon'ble MR. HUTCHINS also moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English, and in the

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local official Gazettes in English and in such other languages as the Local Governments think fit.

The Motion was put and agreed to.

The Council adjourned to Friday, the 31st January, 1890.

S. HARVEY JAMES,

Secretary to the Govt. of India,

Legislative Department.

FORT WILLIAM;

The 17th January, 1890.