

*Friday,  
31st 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,

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

The Council met at Government House on Friday, the 31st 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.

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.

REVENUE RECOVERY BILL.

The Hon'ble MR. CROSTHWAITE presented the Report of the Select Committee on the Bill to make better provision for recovering certain public demands. He said:—

“This Bill was introduced more than two years ago by the Hon'ble Mr. Quinton, and, as his remarks can scarcely now be within the recollection of the Council, I will, with Your Lordship's permission, describe briefly the scope of the measure. Its principal object is to remedy defects in the law regarding the realization of arrears of land-revenue. The various Land-revenue Acts which are now in force in the different Provinces do not provide for the realization in one Province of land-revenue which is payable in another Province. Consequently, when an arrear of land-revenue is due on account of land situate in one Province and the person from whom the arrear is due is in another Province

and has property there, there is no way of enforcing the demand against the person of the defaulter or against the property which he has in the other Province. It may be that the arrear could be easily realized by summoning the defaulter or attaching his moveable property in the other Province; but, as neither of these processes can be resorted to, the Collector is obliged to have recourse to the harsher and more troublesome processes against the land on which the arrear accrued. This defect in the law may place still greater difficulties in the way of realizing a tax or other sum which is recoverable as an arrear of land-revenue. In that case, by transferring himself and his property to another Province, the defaulter may be able successfully to evade payment.

"It appears also that in the land-revenue laws in force in some Provinces there is no provision enabling the Collector of one district to realize from a defaulter in his district revenue which is payable on account of land situate in another district of the same Province. There can be no reason why an arrear of land-revenue should not, like a judgment-debt, be recoverable beyond the limits of the Province or district in which it became payable. The Bill accordingly is intended to supply these defects in the law. It provides that the Collector of one district who wishes to realize land-revenue, or a sum recoverable as an arrear of land-revenue, payable to him from a defaulter who is or has property in another district may send to the Collector of that other district a certificate stating the name of the defaulter, the amount payable by him and the account on which it is due. On receiving the certificate the Collector of the other district may proceed to recover the amount as if it were an arrear of land-revenue which had accrued in his own district. This procedure is similar to that authorized by a law in force in the Province of Bengal, and to that by which a decree of one Civil Court can be transferred for execution to another Civil Court.

"A minor matter with which the Bill deals is the realization of sums which are recoverable as an arrear of land-revenue by a public officer other than a Collector or by a local authority. As the Hon'ble Member who introduced the Bill pointed out, it may happen that the public officer or local authority by whom the sum is recoverable is unacquainted with the land-revenue law and is not in a position to enforce its provisions. The Bill therefore enables the Collector at the request of the officer or local authority to recover the sum as if it were an arrear of land-revenue which had accrued in his own district and was payable to himself.

"I will, my Lord, notice on a future occasion the amendments which have been made in the Bill by the Select Committee."

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[Mr. Scoble.]

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

The Hon'ble MR. SCOBLE presented the Report of 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*). He said :—

“As this Bill was introduced by me at Simla, I take advantage of the presentation of the Report of the Select Committee to state briefly, for the information of the Council generally, the purposes which it is intended to accomplish.

“The first is to make certain administrative arrangements with regard to the offices of Official Trustee and Administrator General in Bengal. These will only come into effect upon the occurrence of vacancies, when the Governor General in Council will be empowered to divide the enormous territory now subject to the charge of those officers into Provinces, having Calcutta, Allahabad, Lahore and Rangoon for their respective centres, and to appoint a separate officer in whom the two offices may be combined for each Province. This proposal has met with practically unanimous approval, and I cannot do better than quote the opinion of Mr. Broughton, the present Administrator General of Bengal, so far as the division of his own office is concerned. ‘Assuming that the rules now in force are effectually applied to the new condition of things,’ he says, ‘I see no reason why other Administrators General should not be established in convenient centres with a prospect of their ultimately becoming very useful. . . . The actual administration of estates, the collection of the assets, and the ascertaining and disposing of claims, in the place where the deceased person last resided, is the more convenient; it certainly is so in the interests of the creditors, and they, in my experience, are very largely interested in the estates of Europeans, &c., dying in India, especially with the estates of persons dying at a distance from the Presidency-towns.’ Mr. Broughton, however, fears that in the beginning, and probably for some time, the Administrators in the smaller provinces would not find their offices remunerative.

“This difficulty is to some extent met by the second proposal of the Bill, to which I have already adverted, and which carries out a recommendation made by the Finance Committee that the offices of Administrator General and Official Trustee should, where possible, be amalgamated. The High Court at Calcutta deprecates any such amalgamation, on the ground that though there is ‘a certain surface similarity’ between the duties discharged by the offices in ques-

[*Mr. Scoble.*]

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tion, 'the objects in view are entirely different,' and that confusion, mistakes and expense would follow if a separate ministerial staff for each office were not maintained. 'No ordinary body of clerks and other subordinates,' they say, 'could be expected to understand and remember that the powers of their chief and their duties were totally different, according to the capacity in which he had the control of an estate.' In answer to this objection it seems sufficient to say that the two offices have already been combined for some years in Madras and Bombay, without any evil or inconvenient result; and that the combination is not compulsory, but permissive. Mr. Broughton says it would be quite impossible now to amalgamate the office of Administrator General with that of Official Trustee in Calcutta, inasmuch as the time of the latter officer is, he believes, fully occupied. If that is the case, the offices will remain separate in the future as in the past. The Bill imposes no necessity for their combination.

"The third proposal of the Bill is to add Upper Burma to the domain of the Administrator General of Bengal, and British Baluchistan to that of the Administrator General of Bombay. The original proposal was to place both districts under the former officer; but his Bombay colleague has given three good reasons why British Baluchistan would be more appropriately attached to the Bombay than the Bengal Presidency, and the Select Committee has altered the Bill accordingly.

"The next proposal was not in the Bill as originally drafted, but has been introduced in Select Committee, and relates to the remuneration of the Official Trustee. Two different modes are provided under the present law for fixing his commission. He is entitled to make his own terms in regard to all trusts non-existing at the time when he consents to act; but in regard to subsisting trusts he is limited to a rate of commission fixed by section 11 of Act XVII of 1864. This scale, says Mr. Miller, the Official Trustee of Bengal, is so low as to be non-remunerative save in trusts of large amount; and the consequence is that the object of the Legislature in constituting the office is defeated by the officer declining to act. Even if beneficiaries are desirous to pay an adequate remuneration to make it worth the while of the Official Trustee to undertake such trusts, the provisions of the law preclude him from accepting any such proposal; and the usefulness of the office is thus greatly impaired. To remedy this inconvenience, the Select Committee propose to empower the High Court, in making an order for the transfer of any subsisting trust to the Official Trustee, to allow a higher rate of remuneration than that fixed by the Act should the circumstances of the case render it proper to do so.

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[*Mr. Scoble; Mr. Hutchins.*]

"Another new proposal in the Bill as amended relates to section 64 of the Administrator General's Act, which provides that when any person not belonging to certain excepted classes dies, leaving assets within the limits of the jurisdiction of a District Judge, the District Judge shall report the circumstance without delay to the Administrator General of the Presidency, and 'shall retain the property under his charge,' or appoint an officer to take and keep possession of it, until the Administrator General has obtained letters of administration, or some other person has obtained such letters or a certificate under the Act, 'when the property shall be delivered over to the person obtaining such letters or certificate, or, in the event of a will being discovered, to the person who may obtain probate of the will.' It is obvious that a strict construction of this section, which mainly affects Europeans, might work great hardship, especially where the deceased had left a widow or children. The Select Committee has therefore added a proviso to the section, enabling the District Judge to do such acts as may be done by any person who intermeddles with an estate without thereby making himself an executor of his own wrong; that is to say, he may pay the expenses of the funeral, and provide for the immediate necessities of the family and property of the deceased; and, in addition, he may pay servants' wages to a limited extent, and advance such funds as may be necessary for the purpose of obtaining probate or administration.

"Lastly, the Bill proposes to enable an executor or administrator in British India to remit to the proper representative of the deceased's estate in the country of his domicile any residue or surplus of the Indian estate for distribution among the persons entitled thereto outside British India. This will admittedly be a great convenience, especially in the case of small estates. My learned friend, Mr. Latham, the Advocate General of Bombay, proposed to make it obligatory to remit the balance if the executor or administrator of the domicile so required; but the Select Committee agree with the Bombay Government in thinking that 'the existing law affords a sufficient remedy in case of failure of duty on the part of the local administrator,' and that to give a discretionary power in such cases will be practically sufficient."

#### PREVENTION OF CRUELTY TO ANIMALS BILL.

The Hon'ble MR. HUTCHINS moved that the Bill for the Prevention of Cruelty to Animals be referred to a Select Committee consisting of the Hon'ble Mr. Scoble, the Hon'ble Muhammad Ali Khan, the Hon'ble Mr. Halliday and the Mover, with instructions to report within six weeks.

The Motion was put and agreed to.

## FACTORIES ACT, 1881, AMENDMENT BILL.

The Hon'ble MR. SCOBLE moved for leave to introduce a Bill to amend the Indian Factories Act, 1881. He said :—

“When the Indian Factories Act was passed in 1881, its provisions were limited strictly to those points for which legislation had been shown to be necessary ; and the present measure, in like manner, embodies only such amendments and additions as the experience of nine years has proved to be clearly desirable. Much attention has been given in the meantime both in India and in England to the working of the Act, and the condition of the operatives who are affected by it. In 1884 the Bombay Government appointed a Commission to carefully consider the subject in all its bearings, and that Commission presented an exhaustive report in the following year. In 1887 Mr. Jones, who had been Inspector of Factories at Bombay, prepared a special report on Indian factories at the request of Mr. Redgrave, the Chief Inspector of Factories in England, which was printed as an appendix to the general report of that officer for the year. Questions have been asked in the House of Commons as to the hours of labour of Indian operatives, and it has more than once been suggested that it would be expedient to extend the provisions of the English Factory Acts to this country. The Government of India on its part has been occupied in making enquiries of Local Governments and other authorities as to the particulars in which the existing law has been shown to be defective, and as to the restrictions on the employment of labour which could fairly be introduced with a due regard to the interests of the operatives themselves, and without unnecessary interference with the development of manufacturing industries in India.

“It may, I think, be at once admitted that the English Factory Acts are inapplicable, as regards many of their provisions, to the conditions of labour in Indian factories. Mr. Jones, who speaks from experience as an Inspector in both countries, states his opinion that ‘the English Factory Acts could not with fairness be put in force in India, the condition of the country, climate and people being so different.’ In a despatch to the Secretary of State of 5th March, 1889, which has been laid before Parliament, the Government of India wrote :—

‘It is a well-attested fact that the employes in Indian factories reach a standard of comfort and content which is not attained by persons in their own rank of life who are engaged in pursuits of a different nature. Machinery moreover is, owing to the comparative absence of competition, driven in the factories in India at a pace so slow that it would not be tolerated in England ; and it is estimated that in many of the mills in India about twice



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as many operatives are employed as would be employed in mills of the same capacity in England. It follows that the work of the operative in an Indian factory is far more desultory and less exhausting than that of an operative working in England, and that provisions which are rendered necessary by the exacting nature of the labour in English mills are not demanded in the interest of the Indian operatives, who would indeed be prejudicially affected by them.'

"Holding this opinion, it has become the duty of the Government to consider, in the light of the great mass of evidence which has been collected and placed at their disposal, the various suggestions which have been made for the amendment of the Act; and the result of this consideration is contained in the Bill which I now ask leave to introduce. Our proposals are eight in number :—

- (1) to extend the operation of the Act to factories in which not less than twenty persons are employed ;
- (2) to raise the minimum age at which children may be employed in any factory from seven to nine years ;
- (3) to limit the hours of employment for women to eleven hours a day ;
- (4) to secure to women, as well as to children, proper intervals for food and rest during the day, and not less than four days holiday in each month ;
- (5) to secure a proper supply of water for the use of operatives ;
- (6) to ensure proper ventilation and cleanliness in factories ;
- (7) to prevent overcrowding likely to be injurious to health ;
- (8) to give Local Governments greater power to obtain returns and make rules for the purpose of carrying out the objects of the Act.

"I will not now detain the Council by stating at length the grounds on which these proposals are supported. I shall have an opportunity of doing so, if necessary, at a later stage. They are, I venture to think, simple and moderate, and will, I hope, be accepted as sufficient by this Council, as well as by the industrial community generally."

The Motion was put and agreed to.

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

[Mr. Scoble.]

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The Hon'ble MR. SCOBLE also moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English, and in the 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 14th February, 1890.

S. HARVEY JAMES,

*Secretary to the Govt. of India,*

*Legislative Department.*

FORT WILLIAM;

*The 31st January, 1890. }*