

*Thursday,
13th October, 1892*

ABSTRACT OF THE PROCEEDINGS
OF THE
Council of the Governor General of India,

LAWS AND REGULATIONS

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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,

1892

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1893

*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 Viceregal Lodge, Simla, on Thursday, the 13th October,
1892.

P R E S E N T :

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 the Punjab, K.C.S.I.

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

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

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

The Hon'ble Sir A. E. Miller, K.T., Q.C.

The Hon'ble Lieutenant-General H. Brackenbury, C.B., R.A.

The Hon'ble Sir C. H. T. Crosthwaite, K.C.S.I.

The Hon'ble J. L. Mackay, C.I.E.

The Hon'ble G. R. Elsmie.

GOVERNMENT MANAGEMENT OF PRIVATE ESTATES BILL.

The Hon'ble SIR PHILIP HUTCHINS presented the Report of the Select Committee on the Bill to provide for the levy of a rate on private estates under the management of Government to meet the cost of superior supervision and management.

LOWER BURMA TOWNS BILL.

The Hon'ble SIR CHARLES CROSTHWAITE presented the Report of the Select Committee on the Bill to further provide for the Administration of Towns in Lower Burma. He said that the Committee had received no criticisms on the Bill.

BILL TO LEGALIZE EXECUTION IN BRITISH INDIA OF CAPITAL SENTENCES PASSED BY BRITISH COURTS IN FOREIGN TERRITORY.

The Hon'ble SIR ALEXANDER MILLER moved for leave to introduce a Bill to legalize in certain cases the execution within British India of capital

98 *LEGALIZATION OF EXECUTION IN BRITISH INDIA OF
CAPITAL SENTENCES PASSED BY BRITISH COURTS IN
FOREIGN TERRITORY; LANSDOWNE BRIDGE.*

[*Sir Alexander Miller.*] [13TH OCTOBER, 1892.]

sentences which have been passed by British Courts exercising in or with respect to foreign territory jurisdiction which the Governor General in Council has in such territory. He said:—

“ In the Prisoners Act of 1871 power is given for the detention of prisoners in British India in cases where they have been sentenced by British Courts in the Native States, but no power is given by that Act for the execution of death sentences pronounced by such Courts. It appears that there are several small Native States, in connection with the Bombay Presidency particularly, in which no proper machinery exists either for the detention or the execution of prisoners who have been condemned to death; and, after a good deal of correspondence with the Bombay Government, an arrangement has been agreed upon, by which, under particular circumstances—in cases where it has been made clear that there is no proper machinery in the State itself for carrying the sentences into execution, and where, the State being very small, the circumstances are such that it would be unreasonable to expect it to provide that machinery—in those cases, and in those only, it is proposed to authorise the deportation of criminals to British India for the purpose of having the sentences passed on them carried into effect. This is the object for which I ask leave to introduce the Bill.”

The Motion was put and agreed to.

The Hon'ble SIR ALEXANDER MILLER also introduced the Bill.

The Hon'ble SIR ALEXANDER MILLER 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.

LANSDOWNE BRIDGE BILL.

The Hon'ble SIR ALEXANDER MILLER also moved for leave to introduce a Bill to remove doubts as to the levy and collection of tolls upon the Lansdowne Bridge over the Indus at Sukkur in the Presidency of Bombay, and for other purposes. He said:—

“ The necessity for the Bill arises out of what I may call a draftsman's trap. By Act VIII of 1851 power was given to the Governors of the three Pre-

13TH OCTOBER, 1892.] [Sir Alexander Miller.]

sidencies, and the Lieutenant-Governor of the North-Western Provinces, respectively, to levy and provide for the administration of tolls on all roads and bridges made and maintained at Government expense. So long as that Act remained in force—and it does so remain everywhere except in the Presidency of Bombay—no difficulty could arise in respect to any of those roads and bridges : whether the ‘ Government ’ in question was the Imperial or the Local Government, the right of taxation and control was vested in the same persons. In the year 1875, however, an Act was passed by the Legislature of Bombay repealing this Act, and providing in somewhat similar terms an Act of their own, with very slight variations. Unfortunately the draftsman of that Act overlooked the fact that in the meantime one of those traps for unwary draftsmen called a ‘ General Clauses ’ Act had been passed in Bombay which confined the meaning of the word ‘ Government ’ when used in an Act passed by the Legislature of Bombay to the Government of Bombay ; and consequently, when the Bombay Act of 1875 gave power to impose tolls upon roads and bridges made and maintained by Government, it meant in that Act—what it did not mean in the old one—the Government of Bombay only ; and, as the Lansdowne Bridge was not made at the expense of the Bombay Government but at that of the Government of India, the result is that, by the merest accident, the provisions of the Bombay Act do not extend to this bridge.

“ What I propose now is that, notwithstanding the repeal of the Act of 1851 by the Bombay Act of 1875, that Act shall apply to every bridge no matter where situate which has been made and built by the Government of India, and in regard to which no other adequate provision for the levy and collection of tolls has been made, and that in such cases the Governor General in Council shall be the authority to impose and regulate the tolls. I do not believe there is any other similar case in India, but, in case there should be, a clause has been inserted in the Bill to the effect that if there should be any road or bridge in India, made and maintained by Government, as to which no adequate provision has been made for the levy and collection of tolls thereon, the provisions of the Bill shall apply to such road or bridge.

“ I further propose, in order to prevent any chance of dispute in the matter, expressly to legalise the tolls which have been levied up to the present on the Lansdowne Bridge, notwithstanding any legal doubts which may arise as to whether there was any authority to levy such tolls or not.”

The Motion was put and agreed to

[*Sir Alexander Miller.*] [13TH OCTOBER, 1892.]

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The Hon'ble SIR ALEXANDER MILLER 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 Thursday, the 20th October, 1892.

S. HARVEY JAMES,

SIMLA ;
The 14th October, 1892. }

Secretary to the Government of India,
Legislative Department.