

*Thursday,  
7th February, 1895*

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

**Vol. XXXIV**

**Jan.-Dec., 1895**

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

1895

VOLUME XXXIV



Published by Authority of the Governor General.



CALCUTTA  
PRINTED BY THE SUPERINTENDENT OF GOVERNMENT PRINTING, INDIA,  
1895

*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 Indian Councils Acts, 1861 and 1892 (24 & 25 Vict., cap. 67, and 55 & 56 Vict., cap. 14).*

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The Council met at Government House on Thursday, the 7th February, 1895.

PRESENT :

His Excellency the Viceroy and Governor General of India, P.C., LL.D.,  
G.M.S.I., G.M.I.E., *presiding*,  
His Honour the Lieutenant-Governor of Bengal, K.C.S.I.  
His Excellency the Commander-in-Chief, K.C.B., G.C.I.E., V.C.  
The Hon'ble Sir A. E. Miller, Kt., Q.C.  
The Hon'ble Lieutenant-General Sir H. Brackenbury, K.C.B., R.A.  
The Hon'ble Sir C. B. Pritchard, K.C.I.E., C.S.I.  
The Hon'ble Sir J. Westland, K.C.S.I.  
The Hon'ble Sir A. P. MacDonnell, K.C.S.I.  
The Hon'ble A. S. Lethbridge, M.D., C.S.I.  
The Hon'ble P. M. Mehta, M.A., C.I.E.  
The Hon'ble Gangadhar Rao Madhav Chitnavis.  
The Hon'ble H. F. Clogstoun, C.S.I.  
The Hon'ble W. Lee-Warner, C.S.I.  
The Hon'ble P. Playfair.  
The Hon'ble Mahārājā Partab Narayan Singh of Ajudhiā.  
The Hon'ble Prince Sir Jahan Kadr Meerza Muhammad Wahid Ali Bahá-  
dur, K.C.I.E.  
The Hon'ble Mohiny Mohun Roy.  
The Hon'ble Sir G. H. P. Evans, K.C.I.E.  
The Hon'ble Sir F. W. R. Fryer, K.C.S.I.  
The Hon'ble C. C. Stevens, C.S.I.

QUESTIONS AND ANSWERS.

The Hon'ble PRINCE SIR JAHAN KADR MEERZA MUHAMMAD WAHID ALI BAHÁDUR asked :—

" 1. (a) Will the Government state whether they have suggested or will suggest to Local Governments the initiation of schemes for the promotion of friendly relations between the Muhammadan and Hindu communities at all the principal places in the Empire, and specially at those places where in late years friction has actually taken place or riots have occurred ;

[*Prince Sir Jahan Kadr Meerza Muhammad Wahid Ali* [7TH FEBRUARY, Bahádur ; *Sir Antony MacDonnell*.]

"(b) and will the Government state what steps, if any, have been taken by Local Governments for settling such disputes between different religions, or different sects of the same religion, as may exist in different places, like the dispute still existing at Gya between *Shias and Sunnis*."

The Hon'ble SIR ANTONY MACDONNELL replied :—

"The duty of the Government is to preserve the peace, to extend impartial toleration to all creeds, to maintain the lawful liberties of all its subjects, and to repress all persons or classes of persons who infringe such liberties or insult the religion or wound the religious feelings of others. The duty of moderating excitement raised by religious feelings and of promoting a desire for reconciliation in cases in which discord has arisen rests upon the leading members of the different religious bodies themselves. But the Government has endeavoured, and, as occasion offers, always will endeavour, to interest the people in themselves coming to an amicable settlement of such disputes. With this object the Government has in the North-Western Provinces and elsewhere favoured the appointment of committees of reconciliation for the settlement of religious differences, but the successful action of such committees rests, as may be inferred from what has been already said, with the leaders of the conflicting creeds or sects."

The Hon'ble PRINCE SIR JAHAN KADR MEERZA MUHAMMAD WAHID ALI BAHÁDUR asked :—

"Will the Government state what reforms of late have been made or are now contemplated—

- (1) to diminish overcrowding of third class railway carriages ;
- (2) to supply latrine accommodation to such carriages for male passengers, as well as female who may be travelling long distances ;
- (3) to facilitate the sale of third class tickets at large stations ;
- (4) to secure greater privacy at the exposed latrines which now exist at most stations on the Indian railways ;
- (5) to secure a more liberal supply, in the hot season particularly, of filtered or wholesome drinking water at all stations to Native and European passengers alike ;
- (6) and for the further protection and comfort of Native female passengers when travelling by themselves, by the more extensive em-

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ployment of female wardens or ticket-collectors, or by opening special waiting-rooms for Native females at principal stations under female supervision, as are now to be found on certain railways only."

The Hon'ble SIR CHARLES PRITCHARD replied :—

"(1) The Government of India have the subject under consideration and will shortly issue orders dealing with it.

"(2) A similar question was asked in Council on the 8th March, 1894. The reply then given is as follows, and appears to meet the Hon'ble Member's enquiry :—

'The question of the extent to which the provision of latrine accommodation on passenger trains should be made compulsory was carefully examined by this Council at the time when the Indian Railways Act, 1890, was under its consideration, and the result of the Council's deliberations is embodied in section 64 of that Act. Latrine accommodation is now provided on all railways to the full extent required by law. The Government of India, as at present advised, do not propose to proceed to fresh legislation on the subject.'

"(3) The Government of India have instituted enquiries with a view to consideration of the matter.

"(4) This matter is being dealt with by Government together with the subject-matter of question (1).

"(5) The question of an improved supply of filtered water to passengers has been referred to the members of the Railway Conference for discussion, and the Government of India will consider the subject on receiving the recommendations of the Conference.

"(6) Reforms of the kind referred to in this question have not usually been introduced at the suggestion of Government, nor have Government contemplated interference, in regard to them, with the railway administrations, which have in the past introduced on their own motion necessary arrangements of the kind at such large stations as appeared to require them, and have at all times evinced readiness to meet the reasonable requirements of the travelling public where the development of traffic has justified the introduction of additional conveniences."

[*The Maharaja of Ajudhia*; *Sir Antony* [7TH FEBRUARY, 1895.  
*MacDonnell*; *Mr. Playfair*.]

The Hon'ble MAHARAJA PARTAB NARAYAN SINGH OF AJUDHIA asked :—

"Will the Government be pleased to state whether, in consequence of the passing of the Indian Tariff Act (VIII of 1894) and its amending Act (XVI of 1894) it is in contemplation of Government to make any alteration in the orders at present in force under which municipal bodies are empowered to levy octroi-duty on certain articles at the time of their being brought into a town and which are liable to customs-duty on their import into India by sea."

The Hon'ble SIR ANTONY MACDONNELL replied :—

"Enquiries have already been instituted in connection with the subject-matter of this question, but, until all the information asked for has been received and considered, the Government cannot say whether any modification of the existing practice is necessary or desirable."

The Hon'ble MAHARAJA PARTAB NARAYAN SINGH OF AJUDHIA asked :—

"With reference to the recent remarks made by the Hon'ble Sir Alexander Miller and the Hon'ble Sir Antony MacDonnell in the course of the debate on the Bill amending the Dekkhan Agriculturists' Relief Act, will the Government be pleased to state—

- (a) If the question of the indebtedness of the landowners in the different provinces of India has engaged the attention of the Government?
- (b) If so, whether the Government contemplate to take any steps to grapple with this momentous problem, affecting a large number of one of the most important classes of Her Majesty's subjects?"

The Hon'ble SIR ANTONY MACDONNELL replied :—

"The Government of India have nothing to add to the statement made by me on the occasion referred to by the Hon'ble Member."

The Hon'ble MR. PLAYFAIR repeated the question put by him at the meeting of Council held on the 24th January last, as follows :—

"Is it the case that the Bengal police seized Mr. Arthur Rogers's papers as alleged by him?"

7TH FEBRUARY, 1895.] [*Sir Antony MacDonnell; Sir Alexander Miller.*]

The Hon'ble SIR ANTONY MACDONNELL replied :—

"In October, 1893, an emissary, called a swami, connected with the anti-kine-killing agitation, arrived in Durbhanga. On his presence there becoming known to the police, an Inspector of Police went and questioned him. The man thereupon shewed the Inspector a letter in Mr. Rogers's handwriting addressed to the Hon'ble the Mahárájá Bahádúr of Durbhanga, proposing a Pan-Indian Association for the promotion of Mr. Rogers's 'Remedy.' This was, the man said, a copy of a letter which Mr. Rogers had placed in a sealed packet and entrusted to him for delivery to the Mahárájá. The sealed packet had been, the man alleged, already forwarded to its destination. The Inspector made a copy of the letter and placed it before the District Magistrate. The Magistrate, knowing that the Mahárájá had refused to receive the swami, asked to see the original of the copy made by the Inspector, having, it would seem, suspicions as to its genuineness. The swami had meanwhile left Durbhanga for Muzaffarpur, and the Inspector, following him, found him at Somastipur, the railway junction, and asked him for the letter which he had previously copied. The man gave to the Inspector the letter in question, as well as a note to him from Mr. Rogers asking him to come and see him. For these papers the Inspector gave the man a receipt. No other paper, and consequently no paper embodying Mr. Rogers's 'Remedy,' came into the hands of the police. When these facts became known to Mr. Rogers, he remonstrated with the District Superintendent of Police; but the latter officer, who was absent from Durbhanga in camp during the occurrences I have related, and who knew nothing about Mr. Rogers, replied in a discourteous manner. For that discourtesy the District Superintendent was ordered by the Bengal Government to apologise. The papers surrendered by the swami were returned to Mr. Rogers.

"I may add that the Government of India have no reason to believe that Mr. Rogers was, in the action taken by him in connection with the anti-kine-killing agitation, actuated by anything except good intentions. He was no doubt in frequent communication with some local officers upon the subject, but he is mistaken in thinking that the Government of Bengal or the Government of India made use of his remedy."

#### INDIAN PENAL CODE, AND ACT VI OF 1864 AMENDMENT BILL.

The Hon'ble SIR ALEXANDER MILLER moved that the Report of the Select Committee on the Bill to amend the Indian Penal Code and Act VI of 1864 be taken into consideration. He said :—"As the Bill has been a good

[*Sir Alexander Miller.*]

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deal altered in Select Committee, it may be necessary for me to make a few observations.

" The first section of the Bill has been very materially altered. As originally introduced it was intended to meet two cases, or rather to meet one of them, and partly to meet another. The first case was one decided some time ago by the High Court of Calcutta, in which a man who had complained to the police that he had been robbed of a shawl in a village which he named, but did not name any person as his assailant, was indicted under this section for having given false information. The Court decided that, inasmuch as it did not appear that there was any particular person whom he wished to injure or annoy by the false information, the case did not come within the section, and they quashed the conviction. The Select Committee considered that a case of that kind would be sufficiently met by inverting the order of the section so as to put the words 'to use the lawful power of such public servant to the injury or annoyance of any person' at the end instead of the beginning of the section, to show that they do not control the first clause, which they do as the section at present stands, and that they are not for the future to control the earlier part of the section; that is to say, that it is considered that it ought to be made an offence to give false information which misleads a public servant into doing what he ought not to do, whether that can be shown to be intended for the purpose of injuring any particular person or not; and accordingly we propose to invert the clauses of the section and also to add an illustration which will carry out precisely the point I have mentioned.

" The other case to which attention was drawn at the time the Bill was introduced was a case in which a young man had forged a certificate of good conduct in order to enable him to attend a University examination. He was indicted for that, and the Court held he had not committed any offence under this section. The Government of India thought that that was not a case in which they ought to interfere, but upon a further reference made to them arising out of another aspect of that case it was suggested that in cases in which any direct pecuniary advantage was intended to be got by the false document it might not be unreasonable to make the act a punishable offence. The Select Committee considered that even that was unnecessary, and that the law is quite sufficient as it stands, merely amending it so as to get rid of the anomaly which I have mentioned, and I for one am quite satisfied with the decision of the Select Committee, and do not propose to ask the Council to



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interfere with it. Accordingly they struck out the clause which was intended to meet that particular case and the illustration describing it.

"The second section of the Bill is substantially as it was when introduced. It was introduced, as I think I explained, for the purpose of carrying out the Vienna Postal Convention. It appears that as introduced it was more or less defective, and my hon'ble friend Sir James Westland has given notice of an amendment in order to meet this defect, and I will not therefore anticipate what he has to say upon that point.

"The third section has been amended by the Select Committee for the purpose of avoiding what seemed to be carrying the matter too far. As introduced, it proposed that any person who did any obscene act in or near any public place should be punished with imprisonment, or with fine, or with both; but that seems to carry the matter too widely, as there may be many acts which may be done near a public place which are not necessarily nuisances, though they might be so under different conditions, and it was thought sufficient not to alter the law further than by making the act punishable when done in a public place.

"The fourth section remains precisely as it was when introduced. As I explained on a former occasion, it was introduced to meet the celebrated case of fraud which took place about five years ago, and it was introduced—if not in the very words, at least practically—in the words of the corresponding section of the English Act dealing with this matter. There was a good deal of difference of opinion in the Select Committee as to whether the word 'concurr,' which is taken from the English Act, should be retained, or whether the word 'abets' should be substituted for it in order to bring it more into conformity with the Indian Penal Code. On that matter I will say nothing at present as I understand that my hon'ble friend Sir Antony MacDonnell intends to make a motion on the point, except that the Committee were equally divided on the question, and that the word 'concurr' was left in, not as the decision of the Committee, but because, being already in the Bill, it was thought it should stand for the present, and it will be for this Council to determine which of the two words they would prefer to remain in the Act.

"The fifth section has been materially altered, but not substantially; that is to say, as the law stood what was to be intended to be said was that whoever committed a second offence of the same character as the first of certain speci-

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fied offences might be punished with whipping on the second occasion. The words were supposed to be too vague as originally introduced, and, instead of endeavouring to amend them, the Select Committee have recast the whole of the section so as to classify the cognate offences in groups, and then we say that, in case a second offence belongs to the same group as the first, the provisions of the section shall come into force. That really does carry out what was the original intention of Act VI of 1864 and of this Bill as introduced, and I think it carries it out more completely and intelligibly than the way in which it was originally proposed in the Bill.

"The sixth section is one which I think has been somewhat misunderstood. Section 5 of the Act in question deals with juvenile offenders, and there seems to be some question as to what is meant by a juvenile offender. The only object of this section is to explain that a juvenile offender is an offender who in the opinion of the Court is under sixteen years of age; it is not proposed to give the Court any authority to relax that limit of age in any way, but, inasmuch as it is sometimes extremely difficult to determine what the age of a young boy is, it has been thought desirable to add that the Court having come to the conclusion that the boy is or is not under sixteen, that shall not be a matter to be further discussed elsewhere, and the opinion of the Court of first instance is to be taken as final; but it is not intended, as some seem to have thought, to give the Court any discretion to say that 'notwithstanding that you are above sixteen I will treat you as if you were below sixteen;' all that the Court has to do is to determine the fact whether the boy is or is not sixteen.

"The seventh section is entirely new, and was introduced at the instance of the Post-office, in order to carry out the arrangements come to with the Vienna Postal Convention for the purpose of stopping the use of fictitious stamps on letters coming from abroad. This has been the subject of discussion between the postal authorities at home and the other parties to the Convention, and it is very desirable that the arrangements in India should correspond as closely as local circumstances will allow with the arrangements made for the same purpose in the United Kingdom. I believe that some variation in the language is required, but practically this section has been copied from the provisions adopted in England, and it has been added to the Bill in order to carry out the arrangements arising out of the Postal Convention which were ordered when the Bill was introduced."

The Motion was put and agreed to.

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[*Sir James Westland.*]

The Hon'ble SIR JAMES WESTLAND moved the following amendments in the Bill as amended by the Select Committee, namely:—

1. That in section 2 of the Bill (proposed new section 263A, sub-section (3), of the Indian Penal Code) the hyphen after the word "section" and the letter (a) be omitted.

2. That in the same sub-section all the words after "for the purpose" be omitted.

3. That to the proposed new section the following new sub-section be added, namely:—

"(4) In this section, and also in sections 255 to 263 (both inclusive), the word 'Government' when used in connection with, or in reference to, any stamp issued for the purpose of denoting a rate of postage, shall, notwithstanding anything in section 17, be deemed to include the person or persons authorised by law to administer executive government in any part of India, and also in any part of Her Majesty's dominions or in any foreign country."

4. That in section 7 of the Bill (proposed section 66, sub-section (3), of the Indian Post-office Act, 1866), for the words "forwarded by the officer in charge of such post-office to the office of the Post-Master-General of the Presidency, who shall dispose of it" the words "disposed of" be substituted.

He said:—"Of the four amendments which stand in my name I shall ask, with Your Excellency's permission, to move the first three together. These all refer to one subject, No. 3 being the essential part of it, and Nos. 1 and 2 merely literal changes which follow the acceptance of No. 3. The error, or the oversight, of the Select Committee which I ask the Council to remedy is this, that as the Bill has been drawn by the Select Committee the definition of 'Government' in section 2, that is to say, in the new section 263A of the Penal Code, applies to that section only and does not apply to any other section. Now the proposal that I make is that the definition of 'Government,' which is here made to apply to section 263A only, shall apply equally to sections 255 to 263 inclusive of the Indian Penal Code. This was the object which the Post-office, and which the Government of India at the instance of the Post-office, had before them when they proposed to the Legislative Department to draft the present Bill. These sections, 255 to 263, deal with offences relating to the counterfeiting of stamps. The offences are those of making and dealing in counterfeit stamps, and of making and dealing in and possessing the material for the preparation of counterfeit stamps, and of the using of stamps already used, or the removing from them of marks which indicate that they have been used.

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In these sections the words of the Code only refer to stamps issued by Government for the purpose of revenue, and 'Government' is defined in the Penal Code as persons executing executive authority in any part of British India. The consequence is that under these sections, only persons who make or use counterfeit stamps of the Government of India can be punished. There are many of the Native States within India itself which issue postage stamps, and the result of the present law is that the counterfeiting within British India of stamps which are used by the Native States in India itself is not an offence. It is obvious that that is not as it should be. But it is not mainly with reference to this that the Government make the present proposal. The proposal which is now made to the Legislative Council is made by reason of the agreement come to at the Postal Convention of Vienna.

"Hon'ble Members are aware that all the civilised nations have combined for postal purposes to form a postal union, and that their representatives meet occasionally to discuss the questions, and especially the international questions, arising in connection with the postal union. The last of these Conventions was held in 1891 at Vienna, and one of the articles of the Convention—an article which was subscribed to by the whole of the members of the Postal Union—declares that—

'The high contracting parties undertake to adopt, or to propose to their respective Legislatures, the necessary measures to punish the fraudulent use for the prepayment of correspondence of counterfeit postage stamps or stamps already used. They also undertake to adopt, or to propose to their respective Legislatures, the necessary measures to prohibit and repress the fraudulent manufacture, sale, hawking or distribution of embossed or adhesive stamps in use in the postal service, counterfeited, or imitated in such a manner that they might be mistaken for the embossed or adhesive postage stamps issued by the Administration of one of the contracting countries.'

"The Government of India, in common with the other subscribing members of the Postal Convention, are therefore under an obligation to propose to their Legislature the adoption of measures rendering penal the offence of counterfeiting the postage stamps of any of the contracting parties to this Convention. It was with the object of carrying out this obligation of the Government that the Legislative Department was addressed for the preparation of this Bill; but it is obvious that, as matters now stand, and as the law would stand if the Bill were to pass in the form in which the Bill now is, that object would not be attained. Sections 255 to 263 would only refer to postage stamps used by the Government of India, and would not refer to the postage stamps used by

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any other countries or by Native States. I think it will be obvious to Hon'ble Members of this Council that it is just as much an offence on the part of any person to counterfeit and imitate the stamps of any foreign nation for the purpose of fraud as it would be to counterfeit and imitate the stamps of India itself.

"The article of the Vienna Convention which I have read does not provide that the same punishment shall be attached to the counterfeiting of foreign postage stamps as is attached to the counterfeiting of the stamps of the country where the legislation takes place, but, as a matter of fact, that is the direction in which legislation in other countries has taken place. In the United States they have prescribed a higher penalty for counterfeiting the postage stamps of a foreign nation than for those of the United States themselves. The foreign countries which have carried out the stipulations of the Convention are France, the French Colonies, Greece, Switzerland, Belgium, Denmark, Italy, Sweden, Germany and the United States. There are probably more, but these have been announced to the Post-office here by the Postal Union as having carried out the necessary legislation.

"It will be observed that the new sub-section is slightly different in wording from the sub-section as it stands in the Bill as reported. The Bill merely says, in the section referred to, that 'Government' is to have a particular meaning—a meaning which makes it apply to all foreign nations, and even to Native States within India. It is, however, not the desire of the Government in making their present proposal to go beyond the precise limits which render it necessary—that is to say, we desire to apply the new provision only to the question of postage stamps and not to revenue stamps generally. For that reason, in re-drafting the section, it is distinctly stated that we are not merely applying the new definition of 'Government' to the other sections, 255 to 263 inclusive; but we are further providing that this definition of 'Government' is only meant to apply in the case of the application of these sections to postage stamps.

"With these observations I desire to move the amendment which stands in my name, the object of which is to render punishable the offence of counterfeiting the postage stamps of the various countries represented by the Postal Union, and to render the offence punishable in the same way, and to the same extent, as the offence of counterfeiting the postage stamps of British India."

[*Sir Alexander Miller; Sir James Westland; [7TH FEBRUARY,  
Sir Antony MacDonnell.]*

The Hon'ble SIR ALEXANDER MILLER :—"I have no observations to make on the subject, but I merely wish to point out a printer's error in the proposed sub-section (4). The words 'in this sub-section' with which that sub-section commences are a mistake. It should be 'in this section.' Of course, it does not affect at all the provisions of the amendment, and is merely a printer's error."

The three amendments were put and agreed to.

The Hon'ble SIR JAMES WESTLAND said :—"The fourth amendment which I have to propose is hardly more than a literal one. The whole section has been adopted from the legal notification of the British Post-office. This is, as my hon'ble friend Sir Alexander Miller remarked, one of the amendments arising out of the Vienna Convention of various nations regarding postal matters. As the section stands, it provides that, in the case of certain articles of which the Post-office desire to retain possession in order to make inquiries regarding the use of fraudulent postage stamps, the latter shall be forwarded by the officer in charge of such Post-office to the office of the Post-Master-General of the presidency, who shall dispose of it in such manner as may be directed by the Governor General in Council. It may be inconvenient that that precise channel should be employed by the Post-office, and it is desirable therefore simply to order that the article shall be disposed of by the officer in charge of the Post-office in such manner as may be directed, and not that that officer should send it to the Post-Master-General of the presidency, who may be at a considerable distance, for disposal."

The amendment was put and agreed to.

The Hon'ble SIR ANTONY MACDONNELL moved that in section 477A of the Indian Penal Code as proposed to be inserted by section 4 of the Bill as amended by the Select Committee, for the words "concurr in," wherever they occur, the word "abets" be substituted. He said :—"If the Council adopt my amendment, it will be necessary to introduce some further merely verbal changes with the view of making the sentences read grammatically. For instance, the section now runs 'makes or concurs in making any false entry,' and if the Council accept the proposal which I wish to make that will have to run 'makes or abets any false entry,' and subsequently also the words 'or concurs in omitting or altering' would read 'abets the omission or alteration of.' These changes are merely verbal and will be consequent on the amendment."

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"The subject of my amendment is of a somewhat technical character, though it is, I think, none the less important on that account. The Indian law of abetment of crime is contained in Chapter V of the Penal Code, section 107 of which defines abetment as follows:—

'A person abets the doing of a thing who—

*First*,—Instigates any person to do that thing; or

*Secondly*,—Engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing; or

*Thirdly*,—Intentionally aids, by any act or illegal omission, the doing of that thing.

*Explanation 1*.—A person who, by wilful misrepresentation, or by wilful concealment of a material fact which he is bound to disclose, voluntarily causes or procures, or attempts to cause or procure, a thing to be done, is said to instigate the doing of that thing.

*Illustration.*

*A*, a public officer, is authorized by a warrant from a Court of justice to apprehend *Z*. *B*, knowing that fact and also that *C* is not *Z*, wilfully represents to *A* that *C* is *Z*, and thereby intentionally causes *A* to apprehend *C*. Here *B* abets by instigation the apprehension of *C*.

*Explanation 2*.—Whoever, either prior to or at the time of the commission of an act, does anything in order to facilitate the commission of that act, and thereby facilitates the commission thereof, is said to aid the doing of that act.'

"From that section the Council will see that abetment under the Indian Penal Code involves active complicity on the part of the abettor at a point of time prior to the actual commission of the offence, and that it is of the essence of the crime of abetment, as known to the Penal Code, that the abettor should substantially assist the principal culprit towards the commission of the offence. No mere concurrence, such as this Bill provides for, in the criminal acts of another without such participation therein as helps to effect the criminal act or purpose is at present punishable under the Penal Code, as I read it.

"But section 477A, which this Bill proposes to insert in the Penal Code, proposes, as I understand the matter, to make punishable the mere concur-

[*Sir Antony MacDonnell; Sir Alexander Miller.*] [7TH FEBRUARY,

rence in the criminal acts of another, without any substantial participation or any actual participation at all in such acts. No doubt we may think that a bank clerk deserves to be punished who, knowing that a fellow-clerk is engaged in forging the bank books, does not report the facts to the bank manager, and so far concurs in the forgery. Such a clerk would be properly dealt with by dismissal. But he is, so far as I know, under no legal obligation to disclose the facts which may have come to his knowledge, and by punishing him criminally this Bill appears to me to go beyond the scope of the Penal Code: and to introduce into that Code a conception of criminality which is foreign to the system and framework of the Code and to the intentions of its authors. If this innovation is allowed now, there is no guarantee that we shall not have imported by additions to, or, as I should prefer to call them, excrescences on, the Penal Code, the English law of accessories after the fact.

"If I am right, my Lord, in my understanding of the case, I would venture to urge that we should not, by any interpolation of this sort, violate or infringe the fundamental principles on which the Indian criminal law of abetment is founded. The language of this section to which I take exception is taken from the English Statute, and appeals to a different conception of abetment from that which runs through and governs every section of the Penal Code. The nomenclature of the Indian Penal Code was very carefully chosen by the distinguished men who framed it; in connection with the point now before us, it was adopted with the object of giving effect to a particular conception of abetment, and I submit that in any subsidiary additions made to that Code that nomenclature should be carefully followed, especially when deviations from it involve an extension of criminal responsibility which is foreign to the ground principles of the Penal Code."

The Hon'ble SIR ALEXANDER MILLER said :—"As far as I am capable of forming an opinion, I think my hon'ble friend Sir Antony MacDonnell has perfectly accurately described the offence of abetment as laid down in the Indian Penal Code. It corresponds as nearly as one word can be said to correspond to another to the offence which is known in England of being an accessory before the fact. I am rather sorry myself—I always have been—that the framers of the Indian Penal Code chose deliberately to disregard the technical language of the English law and to endeavour to express the same conceptions in words of their own; but, however that may be, I entirely agree in the view ex-



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pressed by my hon'ble friend Sir Antony MacDonnell that mere concurrence—that kind of passive concurrence which is known in England as being an accessory after the fact—is not abetment and is not to be treated as abetment. The question here, however, is somewhat different. It is not whether we are introducing a new idea of abetment at all, but whether, in dealing with the particular offence which this clause is intended to meet, we ought not to make the offence of being an accessory after the fact a crime and punishable although the man is not an abettor. I do not think that it is a reasonable deduction from the fact that the Indian Penal Code expressly excludes concurrence of this kind from abetment to say that under all circumstances it is therefore to be treated as an innocent act: and when we find that in the clause which we are adopting from the English statute-book, and intending to incorporate in the Indian law, the offence of concurrence, which is, I admit, a wider offence than abetment, has been deliberately made a punishable offence in connection with these frauds, I do not think it desirable that we should lag behind the English Legislature in this particular, and say that concurrence not quite amounting to conspiracy but of the character of a conspiracy between two clerks to defraud their employer, which is a criminal act in England, is to be looked upon as an innocent act in India; and, therefore, I oppose the amendment for these two reasons,—one that I wish, as far as possible in such a case as this, to keep the law in India on the same lines as the law in England, and the other that by making the alteration you will be making non-punishable, or at any rate non-criminal, an act which to the common conceptions of men of business is a criminal act, and which has been declared to be a criminal act in England; and you will, I think, be unnecessarily keeping the law of India in an imperfect state; and I do not think that by introducing in the particular section a wider conception of crime than is intended by abetment you will in any way interfere with the fundamental conception of abetment. As I have mentioned in my opening speech, the Select Committee was practically equally divided upon this point, and I was one of those who was desirous of maintaining the words 'concurr in' in the section, and I hope that the Council at large will be of the same opinion."

The Hon'ble SIR GRIFFITH EVANS said:—"I shall support the amendment, not because I do not feel the force of what my hon'ble friend Sir Alexander Miller has said as regards the desirability of giving all possible protection to the mercantile world in the matter of keeping their books. It is most desirable that they should have protection. They have to repose great

[*Sir Griffith Evans; Babu Mohiny Mohun Roy; [7TH FEBRUARY,  
Mr. Lee-Warner; Mr. Mehta.]*

confidence in their clerks, and it is quite right that all breaches of confidence should be punished. But my reasons are of a more technical character. First of all, it is exceedingly difficult to know what the words 'wilfully, and with intent to defraud, concurs in making' will really cover beyond what is abetment, and, there being no definition of them, great difficulty will be found in the way of charging a jury on the subject. Whether they would cover any cases of accessories after the fact seems uncertain. Those cases which might be covered by these words and not by those of the amendment would, I apprehend, be very few; and, looking at the difficulties that would arise as regards the charging a jury as to what would be meant by concurrence in these cases, I think it would be better, on the whole, to put in the word 'abets' and deal with it in the same way as with any other offences. If I thought that keeping the words 'concurs in' would catch any appreciably large class of those people who ought to be caught, I should vote with my hon'ble friend Sir Alexander Miller in spite of the anomaly; but I think that in practice the cases, if any, in which there would be convictions under the word 'concurs' and not under the word 'abets' would be so very small that we may practically disregard them, and that the balance is in favour of substituting the word 'abets'."

The Hon'ble MOHINY MOHUN ROY said:—"I shall also support the amendment that the words 'abets the making of' should be substituted for 'concurs in making.' With the language of the Indian Penal Code we have become quite familiar. The importation of words from the English Statute may create difficulties in the way of interpretation which it is desirable to avoid. I would adhere to the phraseology of the Indian Penal Code and exclude that of the English Statute."

The Hon'ble MR. LEE-WARNER said:—"I also shall support the amendment, and for this reason, in addition to those already alleged, that apart from the fact that the phrase 'concurs in' would extend the criminal law further than if we used the word 'abetment,' there has gathered round the word 'abetment' a certain set of principles as to the evidence, and how abetment is to be proved in India, which has not gathered round the word 'concurrence,' and I apprehend that in India it is very much more difficult than in England to obtain reliable evidence on any such transaction or half-transaction as that which would be included if the proposal to adopt the word 'concurrence' is carried."

The Hon'ble MR. MEHTA said:—"I also support the amendment, and for one more reason than those urged by the Hon'ble Members who have just

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[*Mr. Mehta ; Sir James Westland.*]

spoken. I do not think it will be disputed that, in adding to or amending the Penal Code, it is most important and desirable that the phraseology and nomenclature used in it should be followed as far as possible ; and abetment, to which it devotes a chapter, is one of the most important of such phrases. Now the Hon'ble the Legal Member has argued that the word 'concurr' in the section goes beyond the word 'abets.' If the words 'concurr' stood by itself without any qualifying or modifying terms or context, it may be that it would go beyond abetment, and include what the Hon'ble Member calls, using a phrase of the English criminal law, being accessory after the fact. But Hon'ble Members will perceive that the word in the section in question is not simply 'concurr,' but the words are 'concurr in making any false entry,' and thus, it seems to me, exclude accessories after the fact, and the concurrence thus becomes nothing more or less than abetment. That being so, I think it is right to adhere to the existing phraseology of the Penal Code."

The Hon'ble SIR JAMES WESTLAND said :—"I was one of those members of the Select Committee who voted that this clause should stand in the way it is drafted, and, notwithstanding the opinions which have been expressed by the hon'ble and learned Members of this Council, I still adhere to the opinion I then formed.

"I think the Hon'ble Members in their remarks on 'concurrence' have omitted to observe that the word 'concur' is qualified by the consideration that the person himself must have wilfully, and with intent to defraud, concurred in doing such a thing. The proposal therefore to change the word *concur* into *abet* is practically declaring that the person who wilfully and with intent defrauds shall in this country be considered not necessarily to have committed an offence.

"As the Hon'ble Member who has last spoken said, abetment is something less than concurrence, and the section as drafted includes something more than it will include if the amendment be adopted. The result will be that a certain act which in England is declared to be an offence will in this country be declared to be a harmless act. Now, my Lord, my sympathies are not with criminals, and I confess that I think that in making the proposed alteration in the definition of this offence we are preparing for ourselves another case of the kind which this section was intended to meet—

[*Sir James Westland ; Sir Antony MacDonnell.*] [7TH FEBRUARY,

that is to say, the case of an individual who before all the world was guilty of an offence, but whose offence was of such a flagrant character that it really lay outside the technical provisions of the Codes.

“ Another advantage which it seems to me will accrue if we stick to the wording of the English Act is this, that the various interpretations of the Law Courts in England will apply to the section as it stands. If we alter the word *concur* into the word *abet*, a great part of those decisions of the English Courts will fail us. We will have our own independent decisions, and they may very possibly lead us, as I have just remarked, into a failure of justice.”

The Hon'ble SIR ANTONY MACDONNELL said :—“ I think, my Lord, that my object in bringing this amendment before the Council has been gained, inasmuch as the Council now is in possession of the difference which I endeavoured to establish, namely, that the word ‘concur’ in this section will go beyond the word ‘abet.’ I do not quite agree with the argument of my hon'ble friend Sir James Westland in which he sought to minimise the effect of the argument against the word ‘abet’ by saying that the word ‘concur’ is qualified by the words ‘wilful intent to defraud,’ and that, in so far as these words are operative, they make concurrence synonymous with abetment. But in abetting an act a person must do something towards the commission of the act. If a person with intent to defraud concurs in the doing of the thing, he must go somewhat further—he must help towards the commission of the act in order to abet it. There is another reason why the word ‘concurrence’ should not be made use of. I, of course, speak as a layman as to the legal meaning of the word ‘concurrence,’ but I made it a point to look up the question as to what the rulings of the English Courts were, and I could not find that the matter had been decided ; the word ‘concurrence’ had not been, so far as I could learn, interpreted by the English Courts : so that if you preserve the word ‘concurrence’ here you will be in a difficulty which would not arise if you inserted the word ‘abet’. My main argument is that throughout the whole of this Code wherever you deal with abetment you are referring to abetment in the sense of the definition contained in section 107. If you introduce this word, you introduce a novelty into the Code. It will be an excrescence upon our Indian law, and, inasmuch, as my hon'ble friend Sir Griffith Evans has said, the bulk of all the important cases are covered by the present law, I think

1895.] [Sir Antony MacDonnell; Sir Alexander Miller;  
Prince Sir Jahan Kadr Meerza Muhammad Wahid Ali Bahádur.]

it would be better for us to adhere to the established practice and maintain the word with which we are all familiar."

The Council divided :—

*Ayes.*

The Hon'ble Mr. Stevens.  
The Hon'ble Sir Frederick Fryer.  
The Hon'ble Sir Griffith Evans.  
The Hon'ble Babu Mohiny Mohun Roy.  
The Hon'ble Prince Sir Jahan Kadr Meerza Muhammad Wahid Ali Bahádur.  
The Hon'ble Maharájá Partab Narayan Singh of Ajudhiá.  
The Hon'ble Mr. Playfair.  
The Hon'ble Mr. Lee-Warner.  
The Hon'ble Mr. Clogstoun.  
The Hon'ble Gangadhar Rao Madhav Chitnavis.  
The Hon'ble Mr. Mehta.  
The Hon'ble Dr. Lethbridge.  
The Hon'ble Sir Antony MacDonnell.  
The Hon'ble Sir Charles Pritchard.  
The Hon'ble Lieutenant-General Sir Henry Brackenbury.  
His Excellency the Commander-in-Chief.  
His Honour the Lieutenant-Governor.

*Noes.*

The Hon'ble Sir James Westland.  
The Hon'ble Sir Alexander Miller.

So the Motion was carried.

The Hon'ble SIR ALEXANDER MILLER then moved that the Bill, as amended, be passed.

The Hon'ble PRINCE SIR JAHAN KADR MEERZA MUHAMMAD WAHID ALI BAHADUR said :—" My Lord, in giving my consent to the passing into

154 *AMENDMENT OF INDIAN PENAL CODE, AND ACT VI OF  
1864. AMENDMENT OF CODE OF CRIMINAL PROCEDURE,  
1882 (SECTIONS 366 AND 371).*

[*Prince Sir Fahan Kadar Meerza Muhammad Wahid* (7TH FEBRUARY, 1895.  
*Ali Bahádur; Sir Alexander Miller.*)]

law of this Bill as amended, I cannot help expressing my earnest hope that the great latitude of discretion which is being allowed by section 6 of the amended Bill will be very cautiously exercised by all Courts who may think fit to take advantage of such discretionary powers. It has been observed that 'strict proof of the fact of a person being a "juvenile offender" should not be necessary, as, if whipping is a suitable punishment for an offender just below 16, it would also be a proper punishment for an offender who has passed that age by a few days or months.' But it seems to me there is some ground to apprehend, as pointed out by the District Judge of Mymensing in his opinion, 'that the definition of "juvenile offender" is likely to lead to abuse;' and this, I humbly beg to observe, can hardly be the intention of the present legislation. The Court may well refuse to accept evidence of exact age in a case where in its opinion the offender is still a juvenile, though he may be slightly above 16; but it should on no account consider itself justified in ordering whipping to a person who is apparently no longer a juvenile, whether he is just below or above 16. The finality of the Court's decision in the matter adds to the responsibility of it. With these remarks, I beg to support the motion for passing this Bill."

The Motion was put and agreed to.

CODE OF CRIMINAL PROCEDURE 1882 (SECTIONS 366 AND 371)  
AMENDMENT BILL.

The Hon'ble SIR ALEXANDER MILLER also moved that the Report of the Select Committee on the Bill to amend sections 366 and 371 of the Code of Criminal Procedure, 1882, be taken into consideration. He said :—"The Council will remember that this is a Bill which was introduced for the purpose of making legal a practice which was declared to be illegal, but which was very convenient, by which the convicting Magistrate is exempted from the necessity of reading out the whole of his judgment at the time when he is pronouncing his sentence. It was not intended—and there has been some misapprehension on that point in the papers—in any way to interfere with the provision of the law by which the judgment must be written, and signed at the time the sentence is pronounced. All that is intended is to relieve the Judge from the necessity of reading out his judgment at length; but the Select Committee deferred to a suggestion which came from the Judges of the High Court of Calcutta, to the effect that, when the judgment is read out at full length, there is an opportunity for the parties listening

*AMENDMENT OF CODE OF CRIMINAL PROCEDURE, 1882* 155  
*(SECTIONS 366 AND 371); AMENDMENT OF DEKKHAN  
AGRICULTURISTS' RELIEF ACTS, 1879 TO 1886; AMEND-  
MENT OF CANTONMENTS ACT, 1889.*

7TH FEBRUARY, 1895.] [*Sir Alexander Miller; Mr. Lee-Warner.*]

to it to correct any accidental errors that may have crept into it; the Committee thought that that would be sufficiently met by introducing a proviso that, if either party requests the Judge to read his judgment at length, he is to do so, the real reason for relieving him from this duty being that in ninety-nine cases out of one hundred it is a perfectly useless waste of time and trouble; but, if either party desires it, he must read the judgment. With this alteration it is expected that the provisions of the law as amended will be effective, whereas as they now exist they are ineffective.

"Sub-section (2) has been restored so as to leave the law unaltered. It was thought that the alteration proposed might in some cases give a hint to a man who was out on bail that he might abscond, and that therefore it was better to leave the law as it is, for fear of a possible failure of justice now and then in that way. The remainder of the Bill has not been altered and does not require any observation on my part."

The Motion was put and agreed to.

The Hon'ble SIR ALEXANDER MILLER also moved that the Bill, as amended, be passed.

The Motion was put and agreed to.

**DEKKHAN AGRICULTURISTS' RELIEF ACTS, 1879 TO 1886,  
AMENDMENT BILL.**

The Hon'ble MR. LEE-WARNER presented the Report of the Select Committee on the Bill to amend the Dekkhan Agriculturists' Relief Acts, 1879 to 1886. He said :—"The Council will learn with satisfaction that the Report has been unanimously signed, and I trust that it will be convenient to the Council to take it into consideration at the meeting next week."

**CANTONMENTS ACT, 1889, AMENDMENT BILL.**

The Hon'ble SIR ALEXANDER MILLER moved that the Report of the Select Committee on the Bill to amend the Cantonments Act, 1889, be taken into consideration. He said :—"I do not think I need detain the Council with any account of this Bill, which has been discussed before on more than one occasion. The effect of what has passed in the Select Committee is simply

[*Sir Alexander Miller ; Sir Griffith Evans.*] [7TH FEBRUARY,

that the second section of the Act has been amended in two places, in order to make the language somewhat more definite than it was when introduced, and that in accordance with the undertaking which I gave to the Council on the last occasion when I mentioned the Bill the third section has been entirely removed. I now move that the Report of the Select Committee be taken into consideration."

The Hon'ble SIR GRIFFITH EVANS said :—" As one of the members of the Select Committee and as a member of this Council, I rejoice that the Select Committee have been able to present an unanimous Report and that any further contentious discussion of this Bill is unnecessary. But I desire to say a few words as to what has been done in the Select Committee. The Bill was examined in the Select Committee with two main objects. One was—at any rate as far as I and some others were concerned—to see that no words were left in it so vague as to interfere with the carrying out of the recommendation of the British Army Sanitary Commission. I thought, and still think, this very important, because it seems to me and others that the report of the majority of the Commission of 1893 indicated a tendency to strain the words of the Resolution of the House of Commons of June, 1888, far beyond their natural scope and meaning.

" The other object, for reasons which were fully gone into on the last occasion, was to make as few alterations as possible consistently with this object of avoiding vagueness.

" As regards the word ' compulsory ' the Select Committee decided, and I think rightly, that it was not necessary to define it, because the word has a plain grammatical meaning and the rule of law is that this is to be taken in an Act unless the context forbids it, or renders it desirable to depart from that rule. I, therefore, thought we might safely leave it. I mention this lest it might be supposed that I and other members who think the same in regard to this matter assented to the speculations of the Report as to a possible extended meaning of the word. Those speculations carried to their legitimate issue might render it doubtful whether the sale of poison by Shakespeare's apothecary, coupled with the remark ' my poverty and not my will consents,' was not a compulsory sale. But it did not seem necessary to guard against the acceptance of such a view by a Court of Law. The word ' permitting ' applied to rules seemed clearly to mean ' giving permission for '.

" As regards the word ' periodical,' this no doubt is an addition to the words of the original Resolution of the House of Commons ; but, having regard



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[*Sir Griffith Evans.*]

to the fact that periodical examination had been prohibited for many years by circulars of the Government of India, it did not appear desirable that it should be allowed to object to it.

"The word 'special' was introduced before 'registration' to avoid giving a special exemption to prostitutes from the registration to which all inhabitants of cantonments are subject. The word 'sanctioning' the practice of prostitution seemed vague, and, in view of the tendency to strain words to which I have already alluded, I feared that some indefinite meaning might be attempted to be given which might cause trouble in future. To avoid it, the words 'giving legal sanction to' have been substituted as more definite.

"As it now stands, I do not think that this section can present any obstacle to the carrying out by rules of the recommendation of the Sanitary Commission for the removal of women suspected or known to be diseased out of cantonments. If the executive decide not to carry out this recommendation, the responsibility will be upon them, and not on this Council, nor, as I venture to think, on the House of Commons.

"With these small amendments it seemed to me, on carefully scrutinising this clause, that it did not as a matter of fact put any difficulties whatever in the way of doing whatever it is possible to do consistently with the Resolution of the House of Commons and what had been previously agreed to, and that no practical harm would arise from inserting in the Act itself these limitations to the power of making rules, although it was unnecessary to do so.

"It has been suggested that the non-official members were troubling themselves with regard to matters which they might as well have left alone, inasmuch as the Commander-in-Chief appeared to be satisfied with the Bill and the existing state of things; but I did not so understand him. I understood him to mean that, if it were decided that all attempts to prevent the spread of venereal disease in the Army should be forbidden, the carrying out of that policy should be entrusted to the Law Courts, or some machinery other than the military authorities. Nor did I understand him in the smallest degree to be satisfied with the present state of the Army; in fact, his allusion to what the Hon'ble Sir Henry Brackenbury had said indicated that he entertained the same view of it and was not satisfied with the state of affairs; and I have no reason to suppose that he is satisfied with it or disagrees with the statistics I gave, although he did not on the last occasion express any opinion on the subject."

[*Prince Sir Fahan Kadr Meerza Muhammad Wahid Ali* [7TH FEBRUARY, Bahádur ; *Lieutenant-General Sir Henry Brackenbury.*]

The Hon'ble PRINCE SIR JAHAN KADR MEERZA MUHAMMAD WAHID ALI BAHADUR said :—"My Lord, as the section most strongly and influentially opposed in this Bill, as it was drafted before, has been removed, and as the Bill in its amended form deals with a much-desired reform in the Army Regulations, I congratulate Your Excellency's Government in being able to effect it in this the least offensive manner. Whether the present enactment will in any way prejudice the health and well-being of Her Majesty's soldiers in India, it is not in my humble province to advise; and I presume the Government must have considered the matter well when the Contagious Diseases Act was repealed, and again when this present Bill was introduced in this Council. I therefore see no objection with regard to the passing of this Bill, the expediency of which has been affirmed by the Secretary of State."

The Hon'ble LIEUTENANT-GENERAL SIR HENRY BRACKENBURY said :—"As one of the official members of the Select Committee on this Bill, I wish in the fewest possible words to state distinctly why I accepted two of the amendments which have been made by the Select Committee. The insertion of the word 'special' before 'registration' I consider to have been both desirable and necessary. In every cantonment it is essential that there should be a register of all the inhabitants of the cantonment, with their names and their places of residence. In that register prostitutes find their place with all the other inhabitants. It might have been possible to argue, had the word 'special' not been inserted, that any rule made authorising the keeping of such a register as I have described, if prostitutes were included in the register, would be an illegal rule. It was not the intention of the Government of India or of the Secretary of State for India to prohibit such a register as that. It was solely intended to prohibit the special separate registration of prostitutes. The insertion of the word 'special' here, I think, has met all that is necessary in this respect.

"As regards the second amendment, the substitution for the word 'sanctioning' of the words 'giving legal sanction to,' I confess that I myself am unable to see any difference between the two expressions. Any rule made under the Cantonments Act has the force of law; anything which that rule sanctions has legal sanction given to it; therefore, if it is prohibited to sanction a thing under the Act, it is prohibited to give legal sanction to it under the Act. It was, however, considered by members of the Select Committee, to whose opinions I pay the greatest deference, that it was desirable to make this change of words

1895.] [*Lieutenant-General Sir Henry Brackenbury; the Commander-in-Chief.*].

with the view of making the wording more precise. I could see absolutely no objection to the amendment, feeling convinced in my own mind that there was practically no difference between the two expressions, and I therefore accepted it."

His Excellency the COMMANDER-IN-CHIEF said :—"My Lord, the words that have just fallen from my hon'ble colleague on the opposite side of the table seem to me to be open to the interpretation that the extent to which disease obtains in the Army has not been fully put before the House of Commons, and that if it had been so put we should have been saved from the consequences of the Resolution of the House of Commons, 1888, which has been given effect to first by executive order under instructions from Her Majesty's Government, and is now about to be established by legislation.

"I can assure my hon'ble and learned friend that the extent to which disease prevails in the Army, and the probability that the removal of restrictions that could formerly be enforced would increase the extent of this disease, and the consequent inefficiency of the Army, have been exhaustively put before Her Majesty's Government.

"How necessary such a representation is, may be inferred from the fact, now notorious, that in the year 1893 the admissions to hospital for disease alone among our British soldiers in India were 466 per thousand.

"This is practically 50 per cent. of strength. For a rough and ready calculation this proportion may be adopted, and it gives us out of a total of 70,000 British soldiers 35,000 admissions to hospital for diseases every year.

"The average period of treatment is about thirty days, and a simple sum in arithmetic will show that a total of 1,050,000 days' duty paid for by the taxpayers is every year lost to the public service. Nor does this anything like exhaust the case.

"The same figures show that in two years the whole British Army in India will have been treated in hospital for disease. The inefficiency that this wholesale infection must bring about under the hardships and exposure of a campaign I cannot reduce to figures, but at the same time I cannot contemplate it without the gravest apprehension. The statistics I have given are those of 1893, and I believe that those of 1894 will show even worse results, especially as regards

[*The Commander-in-Chief; Mr. Lee-Warner; the Com- [7TH FEBRUARY, 1895  
mander-in-Chief; Sir Alexander Miller.]*

the virulence of the disease; because in 1893 the prostitute class had scarcely realised what they now know, that there is no restriction on them in plying their trade short of actual physical suffering and decay.

"Knowing these statistics,—and they are very indelibly impressed on my memory,—I would be very sorry that any word I have spoken or any act I have done should be misinterpreted to mean that I personally, and as the representative of the Army, am in favour of the removal of what I believe to have been most useful restrictions; but the will of the nation has found lawful expression in the now well-known Resolution of the House of Commons, and as long as it remains uncanceled on our Parliamentary records, we are bound to give effect to it, and perhaps the very last officer under the Crown who can constitutionally put himself in opposition to the will of the nation legitimately established is the Commander-in-Chief of the Army in India, however much he may differ from the policy which it enforces."

The Hon'ble MR. LEE-WARNER said:—" Might I ask whether the statistics of admissions quoted by His Excellency the Commander-in-Chief include re-admissions of the same diseased patient which are counted fresh admissions?"

His Excellency THE COMMANDER-IN-CHIEF:—" Yes."

The Hon'ble MR. LEE-WARNER:—" And whether then it is possible to differentiate the statistics?"

His Excellency THE COMMANDER-IN-CHIEF:—" I have not come prepared to supply statistics, but, as I said in the course of my remarks just now, the figures which I have given are deeply impressed upon my memory, and there will be no difficulty in obtaining the figures asked for by the Hon'ble Member if he should wish to see them."

The Motion was put and agreed to.

The Hon'ble SIR ALEXANDER MILLER moved that the Bill, as amended, be passed.

The Motion was put and agreed to.

7TH FEBRUARY, 1895.] [*Sir Alexander Miller.*]

## INDIAN RAILWAY COMPANIES BILL.

The Hon'ble SIR ALEXANDER MILLER moved for leave to introduce a Bill to provide for the payment by Railway Companies registered under the Indian Companies Act, 1882, of interest out of capital during construction. He said :—"I do not think it is necessary for me to say much about this Bill. It is very well known to Hon'ble Members who are interested in such matters that great difficulty has been found both in England and in India, I believe wherever the English law prevails, arising from the fact that persons who wish to invest their money in railway extension were obliged to wait three, four, five, and sometimes ten years, without getting any interest upon the money, so that unless a man had some other local interest as an inducement to him to further the construction of a railway in any given quarter, the original subscribers had no sufficient return for their money looked upon as an investment. Under these circumstances an Act of Parliament was passed in the last session enabling Companies registered in England for the purpose of constructing railways in India to charge interest under certain restrictions on the subscribed capital during construction, and to the end of the first half-year after the line is open for working. It was represented, and I think very reasonably represented, that the same advantages ought to be given to Companies registered in India, and under the Indian law, for the construction of railways in India, that were given to English Companies for that construction. The object of this Bill is simply to put Companies registered in this country on the same footing in this respect as they would be if instead of being registered in India under the Indian law they were registered in the United Kingdom under the English law. The Bill is practically, but not entirely, copied from the Act of Parliament I have mentioned, and I now ask leave to introduce it in this Council."

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.

*VALIDATION OF PROCEEDINGS (PEGU AND TENASSERIM).*

The Hon'ble SIR FREDERICK FRYER moved for leave to introduce a Bill to remove certain doubts as to the validity of certain proceedings and acts of certain officers of the Pegu and Tenasserim Divisions in Lower Burma and to prevent their being raised in the future. He said :—" My Lord, this is a small Bill of a non-contentious character which is designed to remove any doubts as to the validity of certain proceedings and acts of the Commissioners of the Pegu and Tenasserim Divisions and of the Deputy Commissioners and other civil officers of the Hanthawaddy and Amherst Districts of Lower Burma, and to prevent such doubts from being raised in the future. The court-houses of the two Commissioners and of the Deputy Commissioners and other civil officers referred to are situated in the Rangoon Town and Moulmein Town districts, and, though these court-houses have been notified from time to time as being excluded from the Rangoon Town and Moulmein Town Districts and included in the Hanthawaddy and Amherst Districts, the Government Advocate of Burma is of opinion that the effect of these notifications is very doubtful. The question of the jurisdiction of the officers named has never been raised in a Court of law, so this Bill is precautionary only.

" The Senior Subordinate Magistrate at the head-quarters of the Hanthawaddy District is Joint Sub-Registrar of three townships in the Hanthawaddy District, though his office is in the Rangoon Town District, and there is no authority for establishing the office of a Joint Sub-Registrar outside the sub-district for which he is appointed to act. There are considerable advantages in having a Joint Sub-Registrar for three sub-districts of the Hanthawaddy District at the head-quarters of the district, and it is, therefore, advisable to take power to appoint one Joint Sub-Registrar for the three sub-districts and to remove any doubts which may arise owing to the registration of documents affecting property outside of the limits of his own sub-district by this officer in the past.

" At the same time it is expedient to provide for all kinds of work in the various departments. The Chief Commissioner of Burma proposed to attain the object in view by adding a section to the Lower Burma Courts Act, but it seems to be more convenient to make a separate and independent enactment to provide for this one point."

The Motion was put and agreed to.

The Hon'ble SIR FREDERICK FRYER also introduced the Bill.

The Hon'ble SIR FREDERICK FRYER also moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English, and in the Burma Gazette in English and in such other languages as the Local Administration thinks fit.

The Motion was put and agreed to.

The Council adjourned to Thursday, the 14th February, 1895.

CALCUTTA ;  
The 15th February, 1895. }

J. M. MACPHERSON,  
*Offg. Secy. to the Govt. of India,*  
*Legislative Department.*