

*Thursday,
25th July, 1895*

ABSTRACT OF THE PROCEEDINGS

OF THE

Council of the Governor General of India,

LAWS AND REGULATIONS

Vol. XXXIV

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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,

1895

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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).

The Council met at the Viceregal Lodge, Simla, on Thursday, the 25th July, 1895.

P R E S E N T :

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 the Punjab, 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., C.S.I., Q.C.

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

The Hon'ble Sir J. Westland, K.C.S.I.

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

The Hon'ble A. C. Trevor, C.S.I.

PILGRIM SHIPS BILL.

The Hon'ble SIR ALEXANDER MACKENZIE moved that the Bill to make better provision for the regulation of Pilgrim Ships be referred to a Select Committee consisting of the Hon'ble Sir Alexander Miller, the Hon'ble Sir James Westland, the Hon'ble Mr. Trevor, the Hon'ble Dr. Lethbridge and the Mover, with instructions to report after one month.

The Motion was put and agreed to.

CIVIL PROCEDURE CODE AMENDMENT BILL.

The Hon'ble SIR ALEXANDER MILLER moved that the Bill to amend sections 632 and 652 of the Code of Civil Procedure be taken into consideration. He said:—"The Council will remember that a small Bill was introduced for the purpose of giving somewhat greater laxity to the chartered High Courts in respect of rules of procedure affecting their original civil jurisdiction. The ordinary time within which the receipt of criticisms might be expected has not yet elapsed, but I caused the two High Courts who were affected, other than the Calcutta High Court at whose request the Bill was introduced, to be communicated with by telegraph; and I have received answers—I am not quite sure of the exact words, but

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the effect is—that the High Court of Bombay cordially approves of the Bill and the High Court of Madras strongly approves of the proposed amendment. Consequently, as the High Court of Calcutta is very anxious to get this Bill, in order to make new rules before the Court closes for the vacation, I have not thought it necessary to wait for any further communications, and I therefore now move that the Bill be taken into consideration at once.”

The Motion was put and agreed to.

The Hon'ble SIR ALEXANDER MILLER also moved that the Bill be passed. He said:—“I should like to take the opportunity of saying, what I ought to have said a minute ago, that I did not think it necessary to refer to the High Court at Allahabad, although technically affected by the Bill, because that Court has at present no original civil jurisdiction. It has no real interest in the matter in hand, although, as I have said, it is technically affected by it.”

The Motion was put and agreed to.

CROWN GRANTS BILL.

The Hon'ble SIR ALEXANDER MILLER also moved for leave to introduce a Bill to explain the Transfer of Property Act, 1882, so far as relates to grants from the Crown. He said:—“The Transfer of Property Act introduced certain provisions by which limitations over in transfers of property to persons not born at the date of transfer are made absolutely void, and the question originally arose with reference to the Porahat Estate as to whether such provisions bound the Crown, which is not specially mentioned in the Act; and although I was personally of opinion that, looking at the general principles of the law and the language of the Act, the Government were not bound by the Act, I thought it was desirable that that should be expressly stated, because the point might be raised, and it was perfectly possible that other people just as competent to form an opinion as I am might come to a different opinion. Further, with reference to the same estate the Advocate-General of Bengal expressed an opinion, with which I am not at all inclined to differ, that the Crown has no power at common law to create an impartible and inalienable estate in land which has not hitherto by custom been impartible and inalienable; but it has been considered desirable that the Crown should have that power, which it need not exercise except in any case in which it thinks proper. This Bill, therefore, has been introduced to declare, first, that the Transfer of Property Act does not apply and never has applied to grants from the Crown;

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[*Sir Alexander Miller.*]

and, secondly, that notwithstanding any rule of law to the contrary, every grant from Her Majesty, or the Secretary of State in Council, of land in India shall be construed according to its tenor and shall take effect according to the grammatical meaning of the limitations whether it creates new estates or not."

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.

The Council adjourned to Thursday, the 15th August, 1895.

J. M. MACPHERSON,

Offg. Secy. to the Govt. of India,

Legislative Department.

SIMLA; }
The 26th July, 1895. }