

*Thursday,
10th October, 1895*

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,

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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 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 10th October, 1895.

P R E S E N T :

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

His Excellency the Commander-in-Chief, G.C.I.E., K.C.B., 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.

The Hon'ble A. S. Lethbridge, C.S.I., M.D.

CROWN GRANTS BILL.

The Hon'ble SIR ALEXANDER MILLER moved that the Bill to explain the Transfer of Property Act, 1882, so far as relates to grants from the Crown be taken into consideration. He said:—"On the last occasion I stated that I did not think it would probably be necessary to send the Bill to a Select Committee, and that unless there were some special reasons I thought it might be passed without going through such a formality. I have since seen Sir Griffith Evans and spoken to him on the subject, and with his concurrence I have now to propose a few amendments which will be the only points in connection with the Bill."

The Motion was put and agreed to.

The Hon'ble SIR ALEXANDER MILLER said:—"As I have just explained, I have one or two small amendments to make. The first is an addition to the title of the Bill. It was pointed out in one of the papers that whereas the title only referred to the Transfer of Property Act the substantive provisions of the Bill went further and dealt with Crown grants generally and got rid of a possible restriction on the part of the common law on the power of the Crown to create new estates. Accordingly I wish to propose to add to the title the words 'and

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to remove certain doubts as to the powers of the Crown in relation to such grants.' That will show that the Bill is not confined to the Transfer of Property Act but relates to all Crown grants, and deals with certain limitations supposed to be imposed otherwise than by that Act.

" Then, as incidental to that, in the preamble to the Bill it is desirable, after ' 1882,' that the following words be added :—' and as to the power of the Crown to impose limitations and restrictions upon grants and other transfers of land made by it or under its authority.' That is merely a similar amendment to carry out the proposed alteration in the title.

" Then I thought it better, on consideration, for the purpose of emphasising that this is a general Bill and not merely confined to the Transfer of Property Act, that section 2 should be altered into sections 2 and 3, the sub-section numbers being omitted. By this arrangement what is now sub-section (2) will become section 3 as a general provision and not limited by reference to the previous sub-section.

" Then in section 2, as it will then stand, it has been suggested that the words ' grant or transfer of land ' in the fourth and fifth lines would look as if a grant was not a transfer, and that a conceivable difficulty might arise in the case of the grant of leases, and therefore I propose to add after the words ' grant or ' the word ' other ' to show that every grant or instrument whereby land is conveyed from one person to another is a transfer.

" Finally, in the fourth line of what will now become section 3 if these amendments are passed, I have to move that after the word ' law ' the word ' statute ' be inserted. One of the Judicial Commissioners suggested that the expression ' enactments of the Legislature ' might be considered so as not to apply to English Statutes—such as the Statutes of Uses and Wills, which presumably affect all British land in the hands of European British subjects, and that it would be better to insert the word ' statute,' which would clearly accord with our established nomenclature and would leave the expression ' an enactment of the Legislature ' to apply to the Indian Acts, and I propose to insert it accordingly."

The amendments were 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.

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LOWER BURMA VILLAGE ACT, 1889, AND LOWER BURMA TOWNS
ACT, 1892, AMENDMENT BILL.

The Hon'ble SIR ALEXANDER MACKENZIE presented the Report of the Select Committee on the Bill to amend the Lower Burma Village Act, 1889, and the Lower Burma Towns Act, 1892. He said :—“ The only section in which the Select Committee have thought it necessary to make any changes is the first section of the Bill, which relates to the provision of supplies for travellers and others moving about in Burma. The Chief Commissioner wished to give the section a wider scope than the Committee thought desirable, but we have made it clear in the first clause that it is to cover the provision of ‘ supplies of food, carriage and means of transport for any troops or police, posted in or near, or marching through, the village.’

“ We have also provided that *guides* should be supplied. In a country like Burma that is a very necessary provision.

“ We have also inserted an explanation that ‘ a servant of the Government proceeding on or returning from authorised leave shall be deemed to be on duty for the purposes of this clause.’ It was pointed out in some of the local criticisms received on the Bill that it was very necessary that an officer under these circumstances should have the advantage of the section, and it was doubtful whether he could be held to be travelling on duty : so we have made that clear.

“ The only other change is that we have left out the third proviso to the section on the Chief Commissioner's recommendation. The effect of that proviso was to prohibit the headman from making any requisition for any cart, boat, labourer or animal that was at the time in actual use for or engaged on agricultural work. The Chief Commissioner pointed out that this proviso would raise some difficulties and cause inconvenience. It is not really required in Burma, where agricultural labour is not of the same close and continuous description as in other less fertile or more densely populated provinces. We thought we might safely accept this opinion, and that no real hardship and no appreciable loss would be entailed on any one if the proviso were omitted, while its retention might give rise to litigation, obstruction and ill-feeling. On the whole, therefore, we thought it best to omit the proviso. These are the only changes made in the Bill.”

REPEALING AND AMENDING BILL (BOMBAY).

The Hon'ble SIR ALEXANDER MILLER moved that the Bill to repeal certain obsolete Enactments and to amend certain other Enactments be taken into consideration. He said :—“ As I explained before, this is a purely formal

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Bill, merely making way for the new edition of the Bombay Code, and there is nothing in it which at all requires any reference to a Select Committee."

The Motion was put and agreed to.

The Hon'ble SIR ALEXANDER MILLER said :—" As it at presents stands the Bill proposes to repeal the whole of Schedule R of Bombay Act III of 1888 ; but the Bombay Government pointed out that section 7 of that schedule is not entirely spent, and section 528, the only effect of which is to refer to and enact Schedule R, and which therefore it was intended to repeal along with the schedule, must be retained if section 7 is to be kept. We propose therefore to confine the repeal to the whole of this schedule except section 7.

" The other amendment which I have to move is one of course. The fifth column of each of the schedules is introduced by way of explanation to Council why we propose to repeal the words and figures in the fourth column : but these reasons would not properly form any part of the Act as passed, and therefore I move before the Bill is passed that this column be omitted from each of the schedules."

The amendments were 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.

MARRIAGE VALIDATION BILL (BANGALORE).

The Hon'ble SIR ALEXANDER MILLER also moved that the Bill to validate certain marriages solemnized in the Civil and Military Station of Bangalore be taken into consideration. He said :—" On the last occasion I explained the object of this Bill, and I do not think I need trouble the Council in going over the same matter. It is a simple Bill with one particular object, and it does not require any special consideration in Committee."

The Motion was put and agreed to.

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

The Motion was put and agreed to.

The Council adjourned to Thursday, the 17th October, 1895.

J. M. MACPHERSON,

Offg. Secy. to the Govt. of India,

Legislative Department.

SIMLA ;

The 11th October, 1895.