

*Friday,
30th January, 1903*

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

LAWS AND REGULATIONS

Vol. XLII

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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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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., c. 67, and 55 & 56 Vict., c. 14).

The Council met at Government House, Calcutta, on Friday, the 30th January, 1903.

PRESENT:

His Excellency Baron Curzon, P.C., G.M.S.I., G.M.I.E., Viceroy and Governor General of India, *presiding*.

His Honour Mr. J. A. Bourdillon, C.S.I., Lieutenant-Governor of Bengal.

His Excellency General Viscount Kitchener of Khartoum, G.C.B., O.M., G.C.M.G., Commander-in-Chief in India.

The Hon'ble Mr. T. Raleigh, C.S.I.

The Hon'ble Sir E. F.G. Law, K.C.M.G., C.S.I.

The Hon'ble Major-General Sir E. R. Elles, K.C.B.

The Hon'ble Mr. A. T. Arundel, C.S.I.

The Hon'ble Sir Denzil Ibbetson, K.C.S.I.

The Hon'ble Mr. Gopal Krishna Gokhale.

The Hon'ble M. R. Ry. Panappakkam Ananda Charlu, Vidia Vinodha Avargal, Rai Bahadur, C.I.E.

The Hon'ble Mr. L. P. Pugh.

The Hon'ble Sayyid Husain Bilgrami.

The Hon'ble Rai Bahadur B. K. Bose, C.I.E.

The Hon'ble Sir Rameshwara Singh, K.C.I.E., Maharaja Bahadur of Darbhanga.

The Hon'ble Sir M. C. Turner, Kt.

The Hon'ble Mr. G. C. Whitworth.

The Hon'ble Mr. R. F. Rampini.

The Hon'ble Mr. G. F. T. Power.

The Hon'ble Rai Sri Ram Bahadur.

The Hon'ble Mr. A. W. Cruickshank, C.S.I.

His Highness Agha Sir Sultan Muhammad Shah, Agha Khan, G.C.I.E.

The Hon'ble Mr. C. W. Bolton, C.S.I.

NEW MEMBERS.

The Hon'ble MR. WHITWORTH, the Hon'ble MR. POWER, the Hon'ble RAI SRI RAM BAHADUR, the Hon'ble MR. CRUICKSHANK, HIS HIGHNESS AGHA SIR SULTAN MUHAMMAD SHAH, AGHA KHAN, and the Hon'ble MR. BOLTON took their seats as Additional Members of Council.

*ELECTRICITY; PROVIDENT FUNDS (AMENDMENT);
PROBATE AND ADMINISTRATION.*

[*Mr. Arundel; Sir Denzil Ibbetson.*] [30TH JANUARY, 1903.]

INDIAN ELECTRICITY BILL.

The Hon'ble MR. ARUNDEL moved that the Bill to make better provision for facilitating and regulating the supply and use of electrical energy for lighting and other purposes be referred to a Select Committee consisting of the Hon'ble Mr. Raleigh, the Hon'ble Sir Edward Law, the Hon'ble Mr. Gokhale, the Hon'ble Mr. Bilgrami, the Hon'ble Sir Montagu Turner, the Hon'ble Mr. Cruickshank and the mover. He said:—"This Bill, which I had the honour to introduce into the Council last February, has been freely criticised by those to whom it has been referred. A good many suggestions and amendments on matters of detail have been received and will be considered in Select Committee."

The motion was put and agreed to.

PROVIDENT FUNDS (AMENDMENT) BILL.

The Hon'ble SIR DENZIL IBBETSON moved that the Bill further to amend the Provident Funds Act, 1897, be referred to a Select Committee consisting of the Hon'ble Mr. Raleigh, the Hon'ble Sir Edward Law, the Hon'ble Mr. Arundel, the Hon'ble Sir Montagu Turner, His Highness the Agha Khan, the Hon'ble Mr. Bolton and the mover.

The motion was put and agreed to.

PROBATE AND ADMINISTRATION BILL.

The Hon'ble SIR DENZIL IBBETSON moved for leave to introduce a Bill to empower District Judges in certain cases to grant Probates of Wills and Letters of Administration having effect throughout British India. He said:—"The object of the proposed legislation is fully set forth in the Statement of Objects and Reasons, and it will be sufficient if I briefly explain to the Council the origin of the proposal.

"Some eighteen months ago, it was brought to the notice of the Government of India, both by articles in the public Press and by letters from private individuals, that the present state of the Probate law involved a distinct hardship to the poorer class of widows, orphans and others who succeed to small estates. Under that law, probate may be granted either by the District Judge or by the High Court. But a probate granted by the former takes effect only within the province to which he belongs; so that, if ever so small a portion of the estate is situated outside that province, it becomes necessary to take out probate in

[30TH JANUARY, 1903.] [*Sir Denzil Ibbetson; Sir Montagu Turner.*]

the High Court in order to give it effect all over India. This provision, it was stated, is often unknown or overlooked, with the result that a poor widow (for instance) goes to considerable trouble and expense in taking proceedings before the District Judge, only to find that the orders obtained do not cover the whole of the small estate to which she is succeeding. The particular case cited in illustration was the very common one in which a man residing, say, in the Punjab, insures his life under a policy, taken out indeed at a Punjab office, but payable only in one of the Presidency-towns. In such a case, no probate granted by a Punjab District Judge would cover the amount of the policy.

“The proposal put before the Government of India was that all probates granted by District Judges should take effect all over India, just as do those granted by High Courts. This was clearly too wide. But it was thought that, within certain moderate limits, and subject to reasonable precautions, extended effect might be given to the District Judge's order, as it is given within such limits, in England, to the similar order of a County Court Judge. Local Governments and High Courts were accordingly consulted on this proposal, and very generally approved of it, while suggesting certain precautions which have been embodied in the Bill. The real danger to be guarded against is the absence of general publicity which attends the proceedings of District Judges. But the narrow limits within which the present proposals are confined, and the provision that the citation which the law prescribes is to be published by all District Judges within whose jurisdiction any portion of the assets is situated, will, it is believed, sufficiently safeguard the interests of those concerned.”

The motion was put and agreed to.

The Hon'ble SIR DENZIL IBBETSON introduced the Bill.

The Hon'ble SIR DENZIL IBBETSON moved that the Bill, together with the Statement of Objects and Reasons relating thereto, 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.

INDIAN TEA CESS BILL.

The Hon'ble SIR MONTAGU TURNER moved for leave to introduce a Bill to provide for the levy of customs-duty on Indian tea exported from British India, and to amend section 5 of the Indian Tariff Act, 1894. He said:—

"My Lord, this Bill is the outcome of action taken by the Committee of the Indian Tea Association, commencing in December, 1900, with correspondence with the Government of Bengal and culminating in a petition addressed to Your Excellency in March, 1902, signed by a very large number of tea-garden proprietors and others representing an acreage of tea of 416,000 acres as against the total area under cultivation in British India of 520,000 acres. The memorialists prayed that legislation might be introduced whereby an export-duty on Indian tea would be levied, the proceeds of this tax to be devoted to pushing the sale and increasing the consumption of Indian tea in foreign countries.

"In acknowledging the memorial, the Government of India pointed out that the request was both novel and unusual, but that it would be granted if it was shown to the satisfaction of Government that the tea industry was substantially of one mind, and that no weighty or widely entertained objections were received. It is quite true, as described in the Resolution referred to, that the request for compulsory legislation for self-taxation from any body of producers is both novel and unusual; but I contend that the circumstances have justified both the making of the request by the petitioners and the consent of the Government of India to legislate. The justification is the necessity for extending the consuming markets of tea, grown in British India, the production of which has for the time being outrun the demand. The tea industry is quite a sound one. It is an industry which demands and obtains the sympathetic consideration of Government, and I believe it will, before many years have passed, re-assume its former flourishing condition.

"It might reasonably be argued that payment of the tea cess should be purely voluntary. But this, as you are aware, my Lord, has been tried without sufficient success to justify its continuance. At no time did the whole industry subscribe as it should have done, and latterly there were indications that in due time the voluntary fund would become extinct. The cause of this decrease in subscriptions was perhaps indifference on the part of some proprietors and dissatisfaction on the part of those who subscribed for the benefit of their more selfish (or less enterprising) neighbours. The Committee who had the management of these funds were hampered in their action by the smallness of the funds and the uncertainty as to the continuance of the subscriptions. For to be successful the efforts made to capture foreign markets must be persistent and continuous. Spasmodic ventures in foreign countries result in no permanent benefit to the trade. Furthermore, it has been proved by experience

[30TH JANUARY, 1903] [Sir Montagu Turner.]

in Ceylon that the imposition of such a compulsory tax as is now proposed can be entirely successful.

"In 1893, to provide funds for making a suitable exhibit of Ceylon tea to the Chicago Exhibition, a cess of 10 cents. on every 100 lbs. tea exported was, at the request of the planters, levied by Government and set apart for that particular purpose, *viz.*, expenditure at the Chicago Exhibition. This proved so successful that the levy of the cess was repeated in the following year and raised to 20 cents. per 100 lbs. for the purpose of increasing the consumption of Ceylon tea in foreign lands. The system is still in force, but the cess has been raised from 20 to 30 cents. per 100 lbs.

"To prove the success of the system in Ceylon the following figures may be quoted:—

"In 1896, foreign markets took $12\frac{1}{2}$ per cent. of the Indian crop; in 1900, 17 per cent.; in 1901, 18 per cent.; in 1896, foreign markets took $21\frac{1}{2}$ per cent. of the Ceylon crops; in 1900, 33 per cent.; in 1901, 40 per cent. The result has been that the amount expended from 1895 to 1901 has been some 18 lakhs of rupees devoted to the exploiting of foreign markets.

"In the Bill which I am about to introduce, it is proposed that a cess at the rate of $\frac{1}{4}$ of a pie per lb. shall be levied on all tea produced in British India when exported by sea to any foreign port, or when exported by land to any territory to which the provisions of section 5 of the Indian Tariff Act, 1897, may apply. The Bill if passed will be in force for five years, to be extended to a further term if Government, on the recommendation of the Committee, shall so direct, and the proceeds of the tax, which will be collected (as in the case of other export taxes) by Government agency, will be made over month by month to the Tea Cess Committee of twenty members, who will be a most representative and reliable body possessing the entire confidence of the contributors to the Fund. Finally, the expenditure of the Committee will be subject to an annual Government audit."

The motion was put and agreed to.

The Hon'ble SIR MONTAGU TURNER introduced the Bill.

The Hon'ble SIR MONTAGU TURNER moved that the Bill, together with the Statement of Objects and Reasons relating thereto, 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.

[*Sir Edward Law.*] [30TH JANUARY, 1903.]

MADRAS COAST-LIGHTS BILL.

The Hon'ble SIR EDWARD LAW moved for leave to introduce a Bill to authorize the levy of dues on vessels for the provision of lights on the coast of the Province of Madras. He said :—"The object of this Bill is to authorize the levy of dues on vessels for the provision of lights on the coast of the Province of Madras. An extensive and costly scheme of light-house construction and illumination has been undertaken, and it is proposed to meet the cost by levying dues on vessels, of the burden of thirty tons and upwards, deriving benefit from the lights. The *maximum* rates at which the dues may be levied are specified in the schedule annexed to the Bill, and are subject to reconsideration. The rates at which the dues will be levied will be fixed by the Government, subject to these *maxima* as ultimately settled, and will be so fixed from time to time as to meet the interest on capital outlay, maintenance charges, and a small sinking fund charge."

The motion was put and agreed to.

The Hon'ble SIR EDWARD LAW introduced the Bill.

The Hon'ble SIR EDWARD LAW moved that the Bill, together with the Statement of Objects and Reasons relating thereto, be published in the Gazette of India in English, and in the Fort St. George Gazette, the Bombay Government Gazette, the Calcutta Gazette and the Burma Gazette in English and in such other languages as the Local Maritime Governments think fit.

The motion was put and agreed to.

The Council adjourned to Friday, the 13th February, 1903.

CALCUTTA;
The 2nd February, 1903.

J. M. MACPHERSON,
Secretary to the Government of India,
Legislative Department.