

*Friday,
14th February, 1908*

ABSTRACT OF THE PROCEEDINGS

OF THE

Council of the Governor General of India,

LAWS AND REGULATIONS

Vol. XLVI

April 1907 - March 1908

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OF
THE COUNCIL OF THE GOVERNOR GENERAL OF INDIA

ASSEMBLED FOR THE PURPOSE OF MAKING

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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 14th February, 1908.

PRESENT :

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

His Honour Sir Andrew Fraser, K.C.S.I., Lieutenant-Governor of Bengal.

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

The Hon'ble Mr. H. Erle Richards, K.C.

The Hon'ble Mr. E. N. Baker, C.S.I.

The Hon'ble Major-General C. H. Scott, C.B., R.A.

The Hon'ble Sir Harvey Adamson, Kt., C.S.I.

The Hon'ble Mr. J. O. Miller, C.S.I.

The Hon'ble Munshi Madho Lal.

The Hon'ble Mr. Gangadhar Rao Madhav Chitnavis, C.I.E.

The Hon'ble Mr. H. W. W. Reynolds.

The Hon'ble Mr. F. A. Slacke, C.S.I.

The Hon'ble Mr. H. A. Sim, C.I.E.

The Hon'ble Tikka Sahib Ripudaman Singh of Nabha.

The Hon'ble Dr. Rashbehary Ghose, C.I.E., D.L.

The Hon'ble Mr. A. A. Apcar, C.S.I.

The Hon'ble Mr. S. Ismay, C.S.I.

The Hon'ble Maung Bah Too, K.S.M.

The Hon'ble Mr. W. W. Drew.

The Hon'ble Mr. W. R. H. Merk, C.S.I.

CORONERS (AMENDMENT) BILL.

The Hon'ble SIR HARVEY ADAMSON moved that the Report of the Select Committee on the Bill further to amend the Coroners Act, 1871, and the Prisoners Act, 1900, be taken into consideration.

The motion was put and agreed to.

The Hon'ble SIR HARVEY ADAMSON moved that the Bill, as amended, be passed.

The motion was put and agreed to.

[*Mr. Erle Richards.*] [14TH FEBRUARY, 1908.]

CODE OF CIVIL PROCEDURE BILL.

The Hon'ble MR. ERLE RICHARDS:—"My Lord, I have the honour to present the Report of the Select Committee on the Bill to consolidate and amend the laws relating to the procedure of the Courts of Civil Judicature, and annexed to it a copy of the Bill in which the amendments suggested by the Committee are shown in italicised type.

"It will be seen from these papers that the Committee recommend no alterations of a radical kind in the Bill as settled by the Committee which sat at Simla during the past summer. There are a number of amendments of detail suggested which taken together effect a substantial improvement; but the main lines of the Bill have been accepted.

"The principal feature of novelty in the Bill as introduced is the rearrangement of the clauses and the relegation of minor provisions to a schedule which can be amended or added to by High Courts subject to the advice of Rule Committees. This proposal has met with general acceptance. Local Governments and High Courts are at one in thinking that it will effect a valuable improvement in the machinery of our civil procedure, and the Committee agree with them.

"Two amendments have been introduced in that part of the Bill which deals with the rule-making power. The first is the insertion of a proviso that rules before being made are to be published, with the result that under section 23 of the General Clauses Act there will be an opportunity for the public to criticise any proposals before they become law. This suggestion was put forward by the British Indian Association, and the Committee think that it is one of value. The second change is in the composition of the Rule Committees. It has been pointed out that the Rule Committees ought to have among their members some gentlemen in touch with mufassal practice. The Bill as introduced provided that one of the Judges on the Committee should have had mufassal experience, but the Committee think that this in itself is hardly sufficient. They suggest therefore that there should be a Subordinate Judge on each Rule Committee and that there should be power also to appoint a vakil or pleader practising in the mufassal. They further recommend that the Bill should not come into operation at once on passing but that there should be an interval allowed in order that the public and profession may make themselves acquainted with the new arrangement.

"The amendments of the other provisions of the Bill do not call for any special mention on the present occasion. Many of them are in the nature of

[*Mr. Erle Richards.*] [14TH FEBRUARY, 1908.]

corrections or improvements of drafting. Since the Bill was introduced in this Council it has been once more examined and revised by some of our Colleagues and the criticisms on it have been carefully considered and digested in the Legislative Department. In that way the work of the Committee has been much lessened. This is the fourth Committee which has now deliberated on civil procedure, and it is safe to say that there is no conceivable point which has not been fully discussed during those deliberations. I would point out, my Lord, that the present Committee, like the Simla Committee, are unanimous in their approval of this Bill."

INDIAN LIMITATION BILL.

The Hon'ble Mr. ERLE RICHARDS moved that the Bill to consolidate and amend the Law for the Limitation of Suits and for other purposes be referred to a Select Committee consisting of the Hon'ble Sir Harvey Adamson, the Hon'ble Munshi Madho Lal, the Hon'ble Mr. Chitnavis, the Hon'ble Dr. Rashbehary Ghose, the Hon'ble Mr. Ismay and the mover, with instructions to report within two months.

The motion was put and agreed to.

The Council adjourned to Friday, the 6th March, 1908.

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

CALCUTTA;
The 14th February, 1908.