

Wednesday,
22nd July, 1885

ABSTRACT OF THE PROCEEDINGS

OF THE

Council of the Governor General of India,

LAWS AND REGULATIONS

Vol. XXIV

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Council of the Governor General of India,

ASSEMBLED FOR THE PURPOSE OF MAKING

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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 Act of Parliament 24 & 25 Vic., cap. 67.

The Council met at the Viceregal Lodge, Simla, on Wednesday, the 22nd July, 1885.

P R E S E N T :

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

His Honour the Lieutenant-Governor of the Punjab, LL.D., K.C.S.I., C.I.E.

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

Lieutenant-General the Hon'ble T. F. Wilson, C.B., C.I.E.

The Hon'ble C. P. Ilbert, C.I.E.

The Hon'ble Sir S. C. Bayley, K.C.S.I., C.I.E.

The Hon'ble T. C. Hope, C.S.I., C.I.E.

The Hon'ble Sir A. Colvin, K.C.M.G., C.I.E.

The Hon'ble W. W. Hunter, C.S.I., C.I.E., LL.D.

CENTRAL PROVINCES COURTS BILL, 1885.

The Hon'ble MR. ILBERT moved for leave to introduce a Bill to amend the Law relating to Civil Courts in the Central Provinces. He said :—

“Mr. Crosthwaite, the Chief Commissioner of the Central Provinces, has been for some time engaged in working out a scheme for the judicial re-organization of the provinces under his administration, with the object, among other things, of effecting gradually, and as circumstances permit, that separation between executive and judicial functions which it is our desire to introduce everywhere, but which is only possible to a very limited extent in the more backward provinces of the Empire. It appears that the result of the arrangements now in force in the Central Provinces is that the Tahsildár, who is both a Revenue-officer and also the officer who presides over the lowest Courts of civil jurisdiction, is very much overburdened with original civil work, and that the Deputy Commissioners and Commissioners, who also combine executive with judicial functions, are overburdened with appellate civil work; and the problem which Mr. Crosthwaite is trying to solve is how to afford to these three classes of officers that amount of relief which will enable them to devote proper attention to their other duties. We propose to give this relief partly by taking power to appoint officers who are to be styled

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Judicial Assistants to the Commissioner, Subordinate Judges and Munsifs, and who are to take over the whole, or part, of the civil judicial work of the Commissioners, Deputy Commissioners and Tahsildárs respectively. These officers are, as I understand, only to be appointed where, and for so long as, they are absolutely needed, and nothing like a uniform or final arrangement is to be attempted throughout the whole of the aggregate districts, the circumstances of which differ so materially from each other and all of which are passing somewhat rapidly through a period of transition.

“ Then Mr. Crosthwaite also proposes to make some modification in the system of appeal, which, as we all know, constitutes the crux of all our judicial arrangements. Under the existing Act for the Central Provinces, the course of appeal is regulated exclusively by the powers of the officer from whom the appeal lies. Consequently, when it is necessary to transfer certain sets of appeals from one appellate tribunal to another, the Chief Commissioner is obliged to resort to the clumsy device of increasing or reducing the powers of the officer presiding over the Court from which the appeal lies, without reference to his fitness for exercising those powers, merely in order to change the Court of appeal, and with the result that all the cases decided by that officer must necessarily go on appeal to the same Court, no matter what their intrinsic value or importance may be. It is now proposed to regulate the course of appeal by reference to the nature of the subject-matter in dispute, in accordance with the system which prevails in Bengal and other Provinces. Mr. Crosthwaite finds that most of his proposals can be carried into effect by executive order, and without any alteration of the law, but that there are some provisions of the Central Provinces Courts Act, especially those relating to appeals, which it is absolutely necessary to modify. Those provisions are not very numerous, but Mr. Crosthwaite is of opinion—and I entirely agree with him—that it would be desirable to take this opportunity of re-casting the language and arrangement of the Civil Courts Act for the Central Provinces in order to bring them into closer conformity with more recent Acts of the same nature in force in other Provinces. Accordingly we propose to repeal the Act of 1865 and to re-enact it with the necessary modifications.”

The Motion was put and agreed to.

**CRIMINAL PROCEDURE CODE, 1882, BOMBAY DISTRICT POLICE
ACT, 1867, PENAL CODE AND PRISONERS' ACT, 1871,
AMENDMENT BILL.**

The Hon'ble Mr. ILBERT also introduced the Bill to amend the Code of Criminal Procedure, 1882, the Bombay District Police Act, 1867, the Indian

Penal Code and the Prisoners' Act, 1871, and moved that it be referred to a Select Committee consisting of the Hon'ble Sir S. C. Bayley, Mr. Hunter and the Mover.

The Motion was put and agreed to.

The Hon'ble MR. ILBERT also moved that the Bill and Statement of Objects and Reasons be published 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.

SEA PASSENGERS' BILL, 1885.

The Hon'ble MR. ILBERT moved that the Report of the Select Committee on the Bill to amend the law relating to the carriage of passengers by sea be taken into consideration. He said:—

“This Bill applies to voyages from Indian ports certain provisions for the relief of shipwrecked and distressed emigrants which are embodied in two English Acts of Parliament. We have received from the Chambers of Commerce and other authorities whom we have consulted various suggestions for the amendment of the proposals embodied in our Bill; but in almost every case we have found that those suggestions are inadmissible, for the simple reason that the special authority under which we are legislating in this particular case merely enables us to apply the provisions of the English Acts and does not empower us to amend them. Under these circumstances, the only alterations which we have been able to make in the Bill as introduced are such as are strictly warranted by the language of the English Acts. For instance, we have gone as far as is practicable in meeting the suggestion of the Madras Chamber of Commerce by inserting in the Bill a provision expressly legalising insurances against the liabilities imposed upon shipowners by the Bill, and we are able to do this because that provision is simply copied from a section of one of the English Passenger Acts. We have also, at the instance of General Blair, the Resident at Aden, made the Bill apply to voyages to ports on the East Coast of Africa and in the Gulf of Aden; but we have taken care in all the alterations that we have made not to go beyond the four corners of the English Acts of Parliament which we are authorised to apply.”

The Motion was put and agreed to.

[*Mr. Ilbert; Mr. Hope.*]

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The Hon'ble MR. ILBERT also moved that the Bill, as amended, be passed.

The Motion was put and agreed to.

INDIAN TELEGRAPH BILL, 1885.

The Hon'ble MR. HOPE moved that the Report of the Select Committee on the Bill to facilitate the construction of Telegraphs, and to amend the Indian Telegraph Act, 1876, be taken into consideration. He said :—

“In making this Motion I think that there are only two points to which it is necessary for me to invite the attention of the Council, all minor ones having been fully explained in the Report of the Select Committee. The first point is that we have provided that the words “telegraph authority” in the Bill shall mean the Government Telegraph Department, and that that authority shall not exercise the power of placing telegraph lines and posts except for the purposes of a telegraph established or maintained by the Government, or to be so established or maintained. We think that most of the objections that were taken to the Bill as introduced, chiefly by commercial bodies in Calcutta, will have been met by our proposal that the power of placing telegraph lines and posts shall only be exercised by the Government Telegraph Department. The exercising of such powers by licensees was, on consideration, admitted to be decidedly open to objection.

“The other point is that, in endeavouring to make this Bill fit in with the existing Telegraph Act, we came to the conclusion that it would be more convenient to the Telegraph Department and to the public that the existing Act should be repealed and re-enacted with the modifications and additions proposed by the present Bill ; and we have accordingly re-drawn the Bill as a consolidating measure.”

The Motion was put and agreed to.

The Hon'ble MR. HOPE moved that the Bill, as amended, be passed.

The Motion was put and agreed to.

BURMA COURTS BILL, 1885.

The Hon'ble MR. ILBERT presented the Report of the Select Committee on the Bill to amend the Burma Courts Act, 1875, and section 360 of the Code of Civil Procedure.

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[*Sir A. Colvin.*]

INDIAN SECURITIES BILL, 1885.

The Hon'ble SIR A. COLVIN asked for leave to postpone the presentation of the Report of the Select Committee on the Bill to amend the law relating to Government Securities.

Leave was granted.

The Council adjourned to Wednesday, the 29th July, 1885.

D. FITZPATRICK,

Secretary to the Government of India,

Legislative Department.

SIMLA;

The 24th July, 1885. }