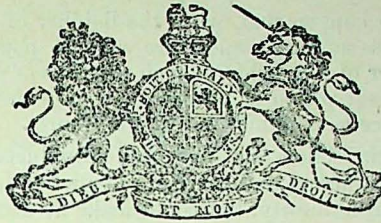


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Separate paging is given to this Part, in order that it may be filed as a separate compilation.

PART V.

PROCEEDINGS OF THE COUNCIL OF THE GOVERNOR GENERAL OF INDIA.

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 Simla on Tuesday, the 8th August 1871.

PRESENT:

His Excellency the VICEROY and GOVERNOR GENERAL OF INDIA, K.P., G.M.S.I., *presiding*.
 His Excellency the COMMANDER-IN-CHIEF, G.C.B., G.C.S.I.
 The Honourable JOHN STRACHEY.
 The Honourable Sir RICHARD TEMPLE, K.C.S.I.
 The Honourable J. FITZJAMES STEPHEN, Q.C.
 The Honourable B. H. ELLIS.
 Major-General the Honourable H. W. NORMAN, C.B.
 The Honourable F. R. COCKERELL.
 The Honourable R. E. EGERTON.

PENSIONS' BILL.

The Honourable Mr. COCKERELL moved that the Report of the Select Committee on the Bill to consolidate and amend the law relating to Pensions be taken into consideration. He said that the only amendments of any importance proposed by the Select Committee were in regard to (1st) the reference of claims to pensions or grants of money or land-revenue under certain circumstances to the Civil Courts for adjudication, and (2nd) the extension of the protection from sequestration now afforded to pensions, to charitable or compassionate allowances.

The fundamental principle of the Bill, which in this respect was, as regards its application to the whole of British India, with the exception of a portion of the Bombay Presidency, a mere recapitulation of the existing law, was that as the bestowal of pensions, money-grants, or assignments of land-revenue was a pure act of grace on the part of the ruling power, so the

latter justly and necessarily reserved to itself absolute freedom of action in regard to the disposal of all claims respecting such allowances; hence no power could be left to the Civil Courts to act adversely to the interests or policy of the Government in such matters.

But it might frequently happen that, when the liability of the Government to pay any pension or grant of money was admitted, and there were no political considerations affecting the determination of the order of succession to such pensions or grant, the Government might wish to leave the question of succession or participation to be determined in accordance with the ordinary law of inheritance as administered by the Courts.

To meet such cases, a new section (six) had been introduced, the legal effect of which was that the Civil Courts must accept and exercise jurisdiction in regard to cases of this kind referred to them by competent authority, but could make no decree by which the admitted liability of Government could in any way be increased or adversely affected. The decree of the Court would be binding in such cases as between A and B, the rival claimants, but could not operate as regards the Government, except with the consent of the latter.

The expediency of extending the protection accorded to pensions to compassionate allowances was too obvious to admit of question. The considerations which led to the exemption from attachment by civil process of the pensions of discharged public servants applied with equal force to the case of pensions or portions of pensions continued to the family of a deceased pensioner, or a compassionate allowance granted to the family of a person who had died in the public service.

The only other alteration which called for any special remark was the provision contained in section nine of the amended Bill. It was intended to meet the probably numerous cases of grantees who, under the conditions of their grants, were left to recover the revenue assigned to them from the occupiers of the land, of which the revenue was so assigned, in the same way as the proprietor of land recovered the rent of such land from his tenants.

It was necessary to declare that the want of power in the Civil Courts to entertain suits relating to an assignment of land-revenue, and the provision of the Bill in regard to the mode of payment of grants, should not apply to such cases. It might be said, indeed, in one quarter at least it had been implied, that the subject of this Bill was one which might reasonably have been left to be dealt with by local legislation as regards the provinces in which there were local Councils.

The extension of the existing law to that part of the Bombay Presidency in which it was not at present in force, which was the prominent feature of the Bill, could not have been effected by the local legislature, inasmuch as it involved an interference with the jurisdiction of the High Court.

As the action of this Council was required to provide for that necessary extension, the opportunity had been taken for a general consolidation of the very numerous and diffuse enactments on the subject of pensions, and a comparison of the enacting matter of the Bill with its repealing schedule would show what a very considerable saving of statutory substance had been accomplished by that operation.

Nor was the course which had been adopted in regard to this measure in any way calculated to prejudice the public convenience, for the practical effect of sections five, eight, and fourteen of the amended Bill was to transfer future legislation on all matters of detail connected with the subject of pensionary allowances from the ordinary legislature to the local executive, and he apprehended that this was by far the most convenient and satisfactory manner of dealing with such matters.

The Motion was put and agreed to.

The Honourable Mr. ELLIS moved that, in section eleven, instead of the words "No pension granted by Government in consideration of past services," the words "No pension granted or continued by Government on political considerations or on account of past services," be inserted. He said that the original intention had been to extend the provisions of section eleven to this class of pensions, but that it had unintentionally been overlooked in Committee. He believed that the policy of the Government with reference to this subject, might be seriously interfered with, if pensions granted on political grounds were not exempted from the ordinary process of the Courts. He also proposed the introduction of the words "or continued," so as to provide for cases in which pensions had been "continued," though not in the first instance granted by Government.

The Motion was put and agreed to.

The Honourable Mr. COCKERELL then moved that the Bill as amended be passed.

The Motion was put and agreed to.

OATHS AND DECLARATIONS AMENDMENT BILL.

The Honourable Mr. STEPHEN presented the Report of the Select Committee on the Bill to amend Act No. V. of 1840 (concerning the Oaths and Declarations of Hindoos and Mahometans).

The Council adjourned to Tuesday, the 15th August 1871.

H. S. CUNNINGHAM,

*Officiating Secretary to the Council of the Governor General
for making Laws and Regulations.*

SIMLA :

The 8th August 1871.

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 Simla on Tuesday, the 15th August 1871.

PRESENT:

His Excellency the VICEROY and GOVERNOR GENERAL OF INDIA, K.P., G.M.S.I., *presiding.*

The Honourable JOHN STRACHEY.

The Honourable Sir RICHARD TEMPLE, K.C.S.I.

The Honourable J. FITZJAMES STEPHEN, Q.C.

The Honourable B. H. ELLIS.

Major-General the Honourable H. W. NORMAN, C.B.

The Honourable F. R. COCKERELL.

The Honourable R. E. EGERTON.

His Highness the Sarámade Rájáháe Hindústán Ráj Rájendra Srí Mahárájádhiráj Sivái Rám Sing Bhádúr, of Jaypúr, G.C.S.I.

His Highness the Mahárájá of Jaypúr made a solemn declaration of allegiance to Her Majesty, and that he would faithfully fulfil the duties of his office.

INDIAN TARIFF ACT (AMENDMENT) BILL.

The Honourable Sir RICHARD TEMPLE, in moving for leave to introduce a Bill to amend the Schedule of the Indian Tariff Act, 1871, said that the necessity for legislation had arisen in the following manner: The Indian Tariff Act, 1871, imposed an *ad valorem* duty of one per cent. on the export of indigo. Their French neighbours at Pondicherry had evaded this tax by exporting indigo leaf (on which no duty at present was levied) to Pondicherry, where, on reaching the factories, it was manufactured into indigo; and since the French Government levied no duty on exported indigo, the French manufacturer obtained a slight advantage over those who exported from British territory. This state of things naturally gave rise to complaints, and the present Bill was intended to remedy an admitted hardship, by imposing a duty on indigo leaf, and thus placing the French and English manufacturer on a footing of equality.

The Motion was put and agreed to.

INDIAN WEIGHTS AND MEASURES OF CAPACITY BILL.

The Honourable Mr. STEPHEN moved for leave to introduce a Bill to regulate the Weights and Measures of capacity of British India. He said that the Bill had been placed in his hands, not because he was in any way especially familiar with the subject, but under somewhat peculiar circumstances, of which it was right that he should inform the Council. His Excellency the President having signified to the Council the disallowance of the Weights and Measures Act passed last year, it was right that the grounds of that disallowance should be publicly known, and that it should be understood that there was not any difference of opinion as regarded matters of principle between the Secretary of State and those with whom this measure had originated. All parties were agreed as to the great desirability of

establishing an uniform standard of weights, and it was unnecessary to repeat the instances brought forward by Colonel Strachey last year to show the confusion and inconvenience to which the existing diversity of standards in various parts of the country at present gave rise. The Act, however, had gone somewhat beyond the original scheme in dealing with measures of length, and the Secretary of State had, in the exercise of that abundant caution which such a matter demanded, shrunk from sanctioning a measure which might seem in any manner to interfere with the existing customs and tastes of the people. If any such result was likely to ensue, the Government of India entirely concurred that it was too high a price to pay for any conveniences and advantages which the Act might have secured. The difference between the Government of India and the Secretary of State was, accordingly, one of degree rather than of principle; and since it had been resolved to postpone the passing of the measure in its entirety, the course proposed was to re-enact those parts of the Act as to which no difference of opinion existed. This would precisely carry out the views of the Secretary of State, those provisions which he considered undesirable being omitted. This was the object of the present Bill. It was believed that the introduction of a recognized standard of weights and measures would offend no existing custom, and would gradually make its way among the people as the advantages of uniformity on such a subject came to be generally appreciated. The Railway and other great Companies had already adopted an uniform standard, and, he believed, that, in no long time, the people at large would spontaneously follow their example. On these grounds he hoped that leave would be given.

His Excellency the PRESIDENT said—"As the Indian Weights and Measures Act of 1870 has been disallowed by Her Majesty, and will, from the date of this my signification of that disallowance, cease to have any legal validity, I wish to say a few words as to the position of the Government of India with reference to it, and to the measure by which it is contemplated to replace it. It never was the intention of the Government to force any measure on the public against the wishes and tastes of the community at large. Those who proposed the original measure did not intend that such of its provisions as were other than permissive should come into operation till it appeared that the public mind was ready to accept them. I am well aware that the forcible introduction of a measure of this sort before the public was alive to its advantages, might be calculated only to defeat the hopes and intentions of those who advocate it. The Government of India has never had any intention of attempting any such forcible introduction. I trust, however, that the present disallowance of the measure will not have the effect of indefinitely postponing what I believe to be a most useful reform; but that the Bill, for the introduction of which leave is now asked, will practically lay the foundations of a system of uniform weights and measures throughout the empire. The Railway Companies have shown that they are anxious to second the Government in the attempt to introduce the new system, and I hope that the present Bill will be found to arm Companies, Municipalities and other bodies with adequate powers to facilitate the gradual and permissive adoption of a system which I believe to be likely, at no distant time, to conduce to the public convenience."

The Motion was put and agreed to.

CRIMINAL TRIBES BILL.

The Honourable Mr. STEPHEN also presented the Report of the Select Committee on the Bill for the Registration of Criminal Tribes and Eunuchs.

The Council adjourned to Tuesday, the 29th August 1871.

H. S. CUNNINGHAM,

*Officiating Secretary to the Council of the Governor General
for making Laws and Regulations.*

SIMLA;

The 15th August 1871.