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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 Government House on Friday, the 17th February 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.
 Colonel the Honourable R. STRACHEY, C.S.I.
 The Honourable F. S. CHAPMAN.
 The Honourable F. R. COCKERELL.
 The Honourable J. F. D. INGLIS.
 The Honourable D. COWIE.
 The Honourable W. ROBINSON, C.S.I.

CONSOLIDATED CUSTOMS ACT AMENDMENT BILL.

The Honourable Sir RICHARD TEMPLE introduced the Bill for the further amendment of the Consolidated Customs' Act, and moved that it be referred to a Select Committee with instructions to report in a month. He said that the Council would recollect that, at the last meeting of the Council, when he moved for leave to introduce the Bill, he had submitted, with as much brevity as was possible, the objects sought to be attained by this measure, and if there should be any other points for discussion, he thought they would be best discussed before the Select Committee, to whom he hoped the Bill would be referred.

The Honourable Mr. Cowie said there was only one feature of the Bill to which he should take exception. He had just learnt that the Honourable Mover intended to place him and his colleague, Mr. Bullen Smith, on the Committee, and he would therefore confine himself at present to merely stating the objection that he had. The point was the proportion of duty which the Government should retain on the re-exportation of goods on which duty had been paid on their importation. The Government had hitherto been contented for many years to take one-eighth of the duty, and they now proposed to take one-fourth. He objected to this increase of duty, but he would be content to discuss the point in Committee.

The Motion was put and agreed to.

BROACH TALUQDA'RS RELIEF BILL.

The Honourable Mr. Chapman introduced the Bill to relieve from incumbrances the estates of Taluqdárs in Broach, and moved that it be referred to a Select Committee with instructions to report in a month. He would endeavour, in the first place, very briefly to explain the principal provisions of the Bill.

At any time within twelve months of its becoming law, the Local Government might, on an application from a taluqdár or his heir, appoint a manager. After such appointment had been notified, all proceedings pending in any Civil Court were to be barred, and the taluqdár was to be exempted from arrest. The first duty of the manager would be to issue notices calling upon all creditors to prefer their claims; and he would then proceed to determine the amount of the several debts and liabilities. One appeal would be allowed to the Commissioner of the District against a refusal or admission of a claim. After the total amount of debts and liabilities had been determined, a scheme for their settlement would be submitted to the Local Government. In the present instance, it was intended that Government should advance the requisite funds, retaining as security for repayment a lien on the estate. Eventually, the taluqdár would be restored to the possession of his unencumbered property.

Such were the main provisions of the Bill. The Bill itself was a mere re-enactment of the Oudh law, and as the provisions contained in it embodied the most recent deliberations of the Council on the subject, he presumed no exception would be taken to them.

The point for consideration was, whether there were sufficient grounds for applying this exceptional law to the case of these Broach Taluqdárs.

He had on a former occasion stated that these men were five in number. They were the representatives of the most ancient Rájput family in Western India. From the very earliest times they had been the proprietors of the soil. He admitted that, as a class, they had been improvident. They were rude, unlettered men, and had fallen an easy prey to the designing and dishonest persons by whom they had been surrounded. The result was that their estates were heavily encumbered by mortgages, and it was calculated that a sum of nearly five lákhs would be required to clear them, which money Government had already agreed to advance.

To give the Council some idea of the gross way in which these taluqdárs had been robbed by their creditors, he would quote one or two cases reported by the officer appointed to inquire into the condition of their affairs.

1st.—Manaklál Bápubháí claims rupees 4,999 on a bond under which he has been in possession of land of which the annual value is now rupees 862. The original transaction dates from about 1837, and this creditor has drawn about rupees 20,000 from the estate on personal and other bonds, representing transactions of old date.

2nd.—Kásirám Narbhirám and Anoprám Kissendás hold a bond for rupees 3,501, under which they have enjoyed land of a present rental of rupees 840 for the last twenty years.

3rd.—Naudkishor Raujíbhái claims rupees 17,874 under two bonds. The original transaction dates thirty-three years back and was for rupees 8,001. He has received more than rupees 40,000 from land mortgaged in his possession, the present yearly income of which is about rupees 2,300.

It was to release these unfortunate men from the grasp of creditors of this description that special legislation was required. The majority of the creditors were strongly averse to receive payment, and give up lands that yielded them an enormous interest on the money advanced. It would be a hopelessly tedious and expensive task to take each into Court. All we asked for was power to oblige them to receive payment. Surely this ought not to be considered a hardship by a righteous creditor! A specially qualified officer would be appointed to adjudicate on these claims, and an appeal would be allowed to the Commissioner.

This was no novel experiment. The same course had been adopted, with the most beneficial results, in the case of the taluqdárs in the adjoining Collectorate of Ahmedábád. There, 180 villages and 469 estates were brought under the operation of the Bombay law, with claims against them to the extent of nearly 24 lákhs. By a return dated as far back as 1867, he (Mr. CHAPMAN) found that 57 villages and 228 estates had already been restored to their owners, freed from encumbrances. It was in consequence of the marked success which attended these proceedings that the Government were induced to take the Bombay Act as a model when passing the Oudh law, and to promise to advance the requisite funds to relieve the Broach Taluqdárs. It was to enable them to carry out this promise that he now introduced this Bill. He did not know that they would have consented to the measure had it not been for the special circumstances of these men, and the fact that they had already promised to advance the funds.

He had been thus particular in guarding against saying anything that might be understood as committing the Government to any opinion on the general question, for the very simple reason that he was ignorant of their views on the subject.

But he desired to take this opportunity of emphatically stating it as his individual opinion that perhaps one of the greatest wants of the day was a general law to provide for the relief of encumbered estates.

If he had his way, he would empower the Governor General in Council to apply a law similar to that now under consideration to any class of ancestral proprietors whom he might consider worthy of such protection. A proviso might be made, limiting the application of the law to estates of a certain value, and which had been in the possession of the same family for a certain period of years. He had heard it stated as one of the principal objections to such a project, that it would have the effect of depreciating the value of the security of landed property throughout the country. He did not attach much weight to this objection. As regards the past, creditors like those it was proposed to deal with under this Bill ought, supposing them to be honest, to be only too thankful to get their debts paid promptly; while, as regards the future, people who made advances on property of this description would know the conditions under which they did so.

When his Honourable friend Mr. Strachey introduced the Oudh Bill he made the following remarkable statement. He said—

“He did not intend to defend this measure on economical grounds, but even on those grounds much might be said in its favour; for he believed that, if it was certain that a thing was politically inexpedient and wrong in any country it was impossible that that thing could in that country be at the same time economically right, whatever it might be in some other country under different conditions.”

These were, in his (Mr. CHAPMAN'S) humble opinion, words of the highest wisdom. He wished not only Honourable Members of this Council, but every officer engaged in whatever capacity in the work of administration in this country would take heed of them. We were too prone to set up a rigid standard of what we believed to be theoretically sound principles, and having done so, to apply these principles indiscriminately, and without regard to their being suited to the requirements of the country, or to the sentiments of the people. Judged by what occurred in the North-Western Provinces in 1857, he believed no policy that the Government had ever adopted had been more unpopular than that in accordance with which they had passively looked on while the ancestral lands of ancient proprietors had been wrested from them by the action of our Civil Courts.

The Honourable Mr. COCKERELL said that the primary objection to the motion of his honourable friend (Mr. Chapman) as it seemed to him, was that the adoption of this Bill was inconsistent with the action taken by the Council only a few months ago when the Oudh Taluqdárs' Relief Act was under consideration.

It would probably be within the recollection of those members who served on the Select Committee to which that measure was referred before it became law, that the whole case of these Broach Taluqdárs was then under consideration, supported by a strong recommendation from the Government of Bombay that the Bill then before the Council should be applied to these persons.

That proposal was then deliberately rejected, and the Honourable Member (Mr. Strachey) who had charge of the Oudh Taluqdárs Bill, when moving the adoption of the Report of the Select Committee, said, in especial reference to the rejection of that proposal, that—

“He did not deny that strong political reasons for similar interference might exist in some cases in other provinces, and on more than one occasion, lately, the Government had endeavoured to assist the heads of ancient families to whom the people looked up as their natural heads, with the object of relieving them from their difficulties. A law, however, which might be applied generally or arbitrarily at the will of the Executive Government to *save landholders from the consequences of their own improvidence, would hardly be justifiable.*”

In the position thus taken by the Honourable Member to whom Mr. COCKERELL had just referred, in regard to this matter, he entirely concurred, and had not the exceptional character of the Oudh Bill and the inexpediency of any general extension of its operation been thus practically acknowledged, he should certainly not have voted for the passing of that enactment.

It would be said, perhaps, that this Bill involved no *general* extension of the principle of the Oudh enactment, as it was intended to apply only to a very few persons. But, he asked, if this Bill became law, in what cases could the legislature hereafter consistently decline to grant a similar measure of relief? There was nothing in the case of the Broach Taluqdárs, so far as we were informed, that distinguished them from a large number of other embarrassed chiefs and landholders distributed over every province of the empire.

The Honourable Mover of the Bill had dwelt solely on the antiquity of the race of these Taluqdárs and their misfortunes, but he had not told us that they were extraordinarily influential, or that there were any political considerations applying to their case which would take it out of the ordinary category of distressed landholders, and put them on a footing similar, as regards their special claims to relief, to the Oudh Taluqdárs.

He (Mr. COCKERELL) must say that he regarded the extension of this sort of special legislation with great apprehension; he entertained a very strong conviction that the proposed measure was inconvenient, and he could not consequently give his vote for the reference of the Bill to a Select Committee.

The Honourable Mr. ELLIS said that the remarks that had fallen from the Honourable Member who spoke last, in reference to what took place when the Oudh Taluqdárs' Bill was before the Select Committee, induced him to say a few words upon those remarks, as his impression as to what took place in Committee was not the same as that of the Honourable Mr. Cockerell. Had it been decided there that no general measure of the character which the Honourable Mr. Chapman advocated was in any case desirable, Mr. ELLIS would certainly not have given his adhesion to that decision; but his belief was that the Committee reported in favour of confining the Act to the Oudh Taluqdárs for the reason that, whereas there must be differences of opinion on the general question whether a Bill empowering the Government to deal generally with such cases was desirable or not, there could be no difference of opinion with regard to the extension of the principle to the Oudh Taluqdárs, because the Government was pledged to the measure; and therefore, in order to ensure unanimity, the question was confined in that Bill to the Taluqdárs of Oudh, and to them alone. He did not therefore conceive that the Honourable Mr. Cockerell was justified in his inference that the Council, or even the Select Committee, had within the last six months decided against the propriety of a measure such as was now proposed being extended to the Taluqdárs of Broach. The Honourable Mr. Cockerell had also objected that there was no special ground in this case to justify the application of a general principle which he condemned. But Mr. ELLIS thought there were such special grounds, not altogether dissimilar from those which existed in the case of the Oudh Taluqdárs; because the Government had virtually promised to introduce a measure of this kind, or at least to do what would have the effect of this measure. Inquiries had been carried on in detail by the local authorities, and after reference to the Government of India it was decided by the Government to advance a sum of money to clear off the encumbrances, and there was a distinct and implied pledge that relief would be afforded. It was found impossible to give this relief without having recourse to legislation, and legislation was the necessary consequence of the pledge thus given or implied. Nor did he admit that there were no other reasons in this case. As had been stated, these families were amongst the most ancient of Gujarát; and with regard to what had been said as to political influence, he knew that there was a general feeling of sympathy in their favour. The encumbrances on their estates, in some cases at least, had been brought about, not by the improvidence of the owners, but by the action of our Civil Courts. He would not enter into details that could hardly interest the Council; but in one case the impoverished condition of the present holder was entirely attributable to long and worrying suits which had been carried on through a combination of dishonest persons (of whom he was sorry to

say one was a vakíl connected with the Courts) to foist a supposititious child upon the family as heir to the Thákurship. The case resulted in several parties being sentenced to rigorous imprisonment, and in that instance, at all events, there could be no doubt that it was not the improvidence of the holders of the estate, but the action of our Courts alone, which brought about the embarrassed condition of the estate.

He would not refer at length to the general question opened by the Honourable Mr. Chapman, because, as there were special grounds in this case, it was not necessary to urge the expediency and policy of some such measure as the Honourable Mr. Chapman advocated. But if such a measure was deemed by the Government, or a majority of the Government to be a desirable one to introduce into this Council, he could only say that it would have Mr. ELLIS' most hearty support. He did not mean to say that we should recklessly enable all holders of land to escape from the consequences of their improvidence by special measures in their behalf, but there was a sufficiently numerous class to whom such legislation would be appropriate, just and expedient. We were apt to overlook the effect of a strict application of our laws and regulations when brought to bear on old families and old estates in this country, and to forget that the holders of these estates were not like the holders of landed estates in Europe—a people brought up under a system of law such as we would administer here. They were the immediate descendants of men who had been accustomed to assert their rights by a process which we had most rigorously and properly put down, and although at some future period—very distant it might be—it would be quite proper to apply general principles, deemed to be right in more advanced countries, it would be premature to apply them now to such a state of things as still existed in many parts of India.

The Honourable Mr. STEPHEN thought it his duty to make a few observations upon this matter, because, contrary to his expectations, it appeared to him that this debate had taken what might prove to be a very serious turn indeed, and was opening out a question which it was quite impossible for the Council to discuss at present. He was prepared to support this particular Bill on the ground stated by the Honourable Mr. Ellis—which he thought was conclusive in itself—that the Government had given what might be considered a distinct pledge to see these particular five persons out of their difficulties. Now, whether that pledge was or was not wisely given, was a question which he need not now discuss; it had been given, and having been given, it must be redeemed. He looked upon the act of the Legislative Council on this occasion as analogous to a private Bill introduced in the House of Commons in order to get over a special technical difficulty, and for no other purpose whatever. He thought that any one who would take the trouble of looking through the file of papers connected with this proposal, would see that great difficulties would arise in enforcing, through the ordinary agency of the Civil Courts, the effectual redemption of these estates. It would be extremely expensive; it would lead to no good results, and would greatly delay the settlement of the matter. On the other hand, if the course were adopted of passing this Bill, he believed that the matter would be brought in a short time to a satisfactory issue. The whole transaction stood on the same footing as that of the Oudh Taluqdárs; for in that case, before the Council was asked to legislate, that which amounted to a pledge had been given. That pledge had to be redeemed, and the object of the Oudh measure was to enable the Government to redeem its pledge in the cheapest and most effectual manner. He regretted that the present measure, so limited in its application, affecting as it did only five persons, and which appeared to him, as he said before, in the light of a private Act of Parliament, should be made the occasion of a discussion on a very wide subject. He would himself carefully abstain from making any remarks on that subject, beyond protesting, as strongly as he could, that this measure involved the Government in no liability whatever to carry out such a general scheme as Mr. Chapman had suggested. After saying that he was not going to break through the rule which he should wish to prescribe to others, Mr. STEPHEN would not state his views on the general question of interfering between debtor and creditor where land was made the security for the debt. But he could not help making one or two remarks in answer to the statements made by Mr. Ellis. Mr. Ellis had stated his belief (and Mr. STEPHEN knew that the belief was a popular one) that the misfortunes of these Taluqdárs were directly due to the action of our Civil Courts; and the illustration he gave was this:—A particular person had become involved in great difficulties, because a certain vakíl got up a history of a supposititious child, and declared him to be the true heir to the property of that person, and invoked the aid of the Civil Courts to establish the claim, and thus involved the owners of the estate in great expense. No doubt the fraud of the vakíl, which appeared to have been properly dealt with by the Criminal Courts, was the cause of the impoverishment of these persons; but to say that, because the vakíl had committed perjury and

other crimes, the Civil Courts were to blame, was to say quite a different thing. He did not see how such a view could be at all compatible with the administration of justice. If the Civil Courts were to be held responsible because people committed fraud and perjury, you might as well shut up the Civil Courts altogether. There was no country in the world in which litigation did not give rise to more or less fraud, but the Courts were not answerable for it. He might add that, although he fully perceived the weight of some of the remarks made by Mr. Ellis on the subject, and although he could quite understand that it might not be desirable to enforce in this country the ordinary rules with regard to taking land in execution, now accepted in Europe, he thought there was a good deal to be said on the other side. We must recollect that we must choose between two things. We must either have a legal system under which people were made to pay their debts, or we must have no law and no means of enforcing the payment of debts; and he did not suppose any one was prepared to advocate such a state of things in this country. He could not understand how any regular Government could exist anywhere unless effectual security was taken to enforce the maxim that a man was bound to perform his contract. If a man would be extravagant, or extremely improvident, he must suffer for it.

There was another question connected with the subject, which would require separate consideration. Although it was important that every one should pay his just debts, it was quite open to argument whether or no you should allow ancestral land to be taken in execution; for it was easy to imagine a case in which, according to the practice and habits of the people, the owner had little more than a life-interest in the estate. If a man were only a tenant for life, no one would consent to lend money on the security of the estate, beyond the value of his life-interest in it. No doubt it was very unjust to take from the children what the father had no right to spend, and this was done if what was substantially a life-estate was taken in execution absolutely. If however the Government of India undertook absolutely to protect against himself every landholder in the country, they would have to keep them in tutelage. To put forward such a proposal as a general scheme for the government of this country appeared to him more bold than wise. He could imagine no measure which it would be more undesirable to discuss incidentally and so as to hold out vague hopes to the landholders of India, which, if indulged, would probably be disappointed. He would confine himself, in regard to the particular matter before the Council, to saying that this was a very unimportant Bill, standing on its own particular merits, affecting the properties of only five persons; pledging the Government to nothing, and not requiring the Council to form any opinion of any kind on any general principle. Whether the Government might think it necessary to discuss a broader measure of this kind, and what course should be taken on such a matter, was a question upon which he would rather reserve his opinion.

Colonel the Honourable R. STRACHEY said that, when leave was asked to introduce this Bill, he stated that he was opposed generally to asking the aid of the legislature in the manner proposed by the Bill, but he also said that the only ground on which, in his judgment, legislation of this kind could be justified was that of policy. He should also state that he had thought it right to make those remarks at that time, because he was not in possession of any of the facts which had induced the Government to allow this Bill being laid before the Council. All that was stated on the subject was to be found in the Statement of Objects and Reasons appended to the Bill, which merely said that there were five Taluqdárs in Broach who were heavily in debt, and that the Bombay Government desired the Bill to be passed. Not a word more was said on the subject. Not having been himself on the Select Committee on the Oudh Taluqdárs' Bill, and knowing nothing of the subject, and no papers on the subject having been placed before the Council, he was wholly ignorant of the grounds on which the measure was based. But after what had been explained this morning as to the actual state of things, he had no difficulty in saying that in his opinion the policy which the Government had accepted was a safe and correct policy; that there were reasons for allowing the introduction of this Bill, and if possible, having it passed. He continued to think that there were objections of a general character to legislation of this kind, which set aside the operation of the ordinary Courts of the country. But while this objection should be considered, it was perfectly right to consider what were the inducements to take an opposite course. And this question arose—What was in effect the policy which induced the Government, or which induced him, to support this Bill? And he said without any doubt at all that the policy was this, that the very first duty of the Government in this country was to see that justice was done to its subjects. He thought it was impossible for anybody who had heard the statement made by the Honourable Mr. Chapman regarding the position of these unfortunate men, not to be satisfied that the greatest injustice had been done them. There was no question in the present case of forcing men to pay their debts: what had been done was to force them to pay

their debts ten times over. Colonel STRACHEY said there could be no policy more justifiable than one that was calculated to prevent a continuance of such a state of things. The Bill, in his opinion, would more correctly have represented its true nature, if it had been described as a Bill to remove these Taluqdárs from the tyranny and legalized injustice of the Civil Courts, and place them under a Court which would really do them justice. On these grounds he felt that he had a perfect right to support the Bill. The substance of the Bill, apart from its being special and exceptional, was he believed, perfectly satisfactory. He thought, further, that it was his duty to say that such consequences as we had heard described to-day in relation to these Taluqdárs having occurred in a country which had been nearly three-fourths of a century under British rule, were not at all creditable. That difficulties should have arisen in the case of the Taluqdárs of Oudh—a country which had then been just released from an abominably bad Government—one might reasonably have expected. But that proceedings of the sort described should have taken place in any portion of British territory was certainly very remarkable; the circumstances were such as appeared to him to call for the most serious inquiry on the part of the Government, and whatever measures were necessary to put an end to this state of things for the future should in his opinion be taken. It was not for him to say what those measures should be, but in his judgment, it was the duty of the Government of India to see that a remedy, if possible, should be provided.

The Honourable Sir RICHARD TEMPLE said he quite concurred in deprecating the extension of this discussion into subjects which were really not before the Council. As had been justly shown by the several speakers who had preceded him, the question before the Council merely related to a limited number of Taluqdárs. Of course, he presumed that when honourable members carried the discussion into a broader range, what they meant was that every one of these cases of special legislation was apt to form a precedent, and undoubtedly it did form a precedent. Then the real question further arose, was there any danger from these precedents being followed? The danger was that the precedent might be abused. If there was any danger of such abuse arising, of such measures being carried to an injudicious extent, then it would be pre-eminently his duty to raise his voice against any such measure, and to see what the financial consequences might be. But he submitted that there was really no danger of such a precedent being followed to an injudicious extent. The precedent could not be followed without the introduction into this Council of a special Act. That in itself was a very considerable check; for what did such a proceeding involve? It meant this, that there must be a recommendation from the Local Government; then the concurrence of the Government of India; then a Bill must be introduced and criticised: and if all that did not constitute a sufficient check on injudicious proposals, he did not know what did. Well, it might be that amongst the measures taken would be one for advances from the General Treasury for the relief of improvident landlords. Under such circumstances as he had described, a recommendation of the Local Government ought, he thought, to be favourably considered. After that, the Exchequer would demand that the security for the advance to be made should be actually sufficient, and that a proper rate of interest should be provided. If that were done, the parties would be most welcome to the advance from the General Treasury, and the advance thus made, it would be followed by great political advantages, without any risk to the State.

The Honourable Mr. STRACHEY said that repeated reference had been made to-day to the Act passed a few months ago for the relief of the Taluqdárs of Oudh. He himself had charge of that measure and to a certain extent, perhaps, he had therefore been specially responsible for it. He thought therefore that he ought to say something with regard to the present measure, which, as the Honourable Mr. Chapman had explained, was identical with the Oudh Taluqdárs' Relief Act. The Honourable Mr. Cockerell appeared to think that the Government generally, and Mr. STRACHEY himself in particular, were guilty of some sort of inconsistency in supporting the present Bill, after what he had said regarding the Act for the relief of the Taluqdárs of Oudh. Now, he must not only deny that there had been any such inconsistency, but he must affirm in a positive way that the present measure was in all respects completely consistent with everything said by any member of the Government when the Oudh Taluqdárs' Bill passed through its various stages. The whole upshot of what was said came to this, that the Government did not think it right that any general measure should be passed, which should give to the Executive Government any power generally or arbitrarily to advance money to save landlords from the consequences of their own improvidence; but that, in peculiar and exceptional circumstances, strong political reasons might exist to make such interference proper. He himself, when the Oudh Bill was passed, distinctly said that similar reasons might exist in other provinces. The Honourable Mr.

Cockerell had said that this very question of the Broach Taluqdárs was before the Government when the Oudh measure was under discussion. That was perfectly true; but it was also true that the question was never discussed in any way by this Council whether relief ought or ought not to be given to the Broach Taluqdárs. And as the Honourable Mr. Ellis had said, the Executive Government had actually promised, before the Oudh Bill was passed, to advance the money necessary for saving these ancient families from ruin: consequently, it was no exaggeration to say that, so far at least as the Executive Government was concerned, the present measure had virtually been resolved on before the proposition was made to pass the Oudh Bill into law.

The Honourable Mr. Stephen had said that the Government having given a pledge to advance this money, the propriety of that pledge need not be discussed by this Council. Although it might be true that there was no necessity for such discussion, the question of the policy of interfering in this case was one from which, in his (Mr. STRACHEY'S) opinion, the Government had no reason whatever to shrink. He for his own part thought that circumstances could hardly be conceived in which it would be more right for the Government to interfere, than the circumstances which existed in the present instance. Although the particular circumstances of Broach and Oudh were widely different, in reality the justification of the measure of relief that was now proposed was identical in principle with that adopted in the case of Oudh. In both cases it was considered politically desirable to save the ancient families of the country from ruin, and the Government in both cases came to that conclusion for very special reasons. The Honourable Mr. Stephen had referred to the operation of the Civil Courts, but Mr. STRACHEY was satisfied that under a proper system of administration and under a proper system of law, such things could by no possibility have come to pass as those which had come to pass in Broach. Mr. Chapman had shown that for many years past a system of what he might call organized plunder had been going on under the protection of our own Courts, and he entirely agreed with the remarks made by the Honourable Colonel Strachey, that it was most discreditable to our administration that such things had happened. The Honourable Mr. Chapman had referred to several of the cases that had occurred. Mr. STRACHEY saw another case, which he was not sure that Mr. Chapman mentioned, in which, many years ago, a vakíl of the Civil Courts managed, Mr. STRACHEY did not know how, to get the uncontrolled management of the most important of these estates. During this time, the vakíl apparently contrived not only to get nearly the whole profits of this estate permanently in his own hands, but he made the unfortunate proprietor, who seemed to have had no voice in the matter, enter into bonds to the extent of thousands of rupees. This man, to use the words of the official report, had in one generation raised his family from poverty to affluence. As far as appeared from the papers, there was no reason to suppose that any debt at all really existed. This man got the estate in his possession, and simply plundered it for twenty or thirty years, and in that plunder he was assisted by our own Courts. He saw another case which was far from creditable to our administration. An estate was for twelve years in possession of a minor. It was clearly the duty, he presumed, of our own officers (it was so, at any rate, in the parts of the country with which Mr. STRACHEY was acquainted) to look to the interests of this minor; but apparently his property had been dissipated to such an extent that his own agents did not know what land he could claim, nor by what title. It was perfectly true that it was very discreditable that all this should happen; but the mischief had been done, and the mischief could not be undone without legislation. There was no question here of bolstering up improvident landholders, or injuring the interests of creditors. The real question was should the Government be given the means of performing an act of justice and saving these estates from the clutches of plunderers? It seemed to him that the greatest stickler for the application of so-called economical principles ought to have no sort of doubt, that it was infinitely better that these important estates should be properly, honestly, and well managed for a time and be restored hereafter to their owners, than that this wretched work of plunder should go on and these ancient families perish.

The Honourable Mr. Cowie said that he was content to vote for the introduction of this Bill solely on the ground that a pledge had been given, as the Honourable Mr. Stephen had said, and not on account of the principle involved in the measure, which he was inclined to say was an erroneous one. The Honourable Mr. Chapman and the Honourable Mr. Strachey had referred to some cases, which, Mr. Cowie was bound to say, were the worst that he had ever heard of. It might be important to rescue these estates from the "clutches of plunderers," but he had never heard of any such measures being taken for the relief of ancient landed proprietors in any other part of Her Majesty's dominions. It might be through his ignorance of Broach, but he could not see that there was such a difference between the

circumstances and the lauded interests of two countries as to make such a measure justifiable in the one and not in the other.

The Honourable Mr. CHAPMAN said with reference to the remarks that had fallen from the Honourable Mr. Stephen and the Honourable Sir Richard Temple, he desired to explain that his connection with this Bill had been simply this. Owing to his connection with Bombay, he was requested by the Government to introduce it, and he confidently appealed to His Lordship and the other Members, whether, in doing so he did not scrupulously abstain from saying anything that could be construed as committing the Government to any opinion on the general question of policy. But as an individual Member, he considered it not only his right but his duty to express, with the utmost freedom, his opinion on such general questions; and he altogether declined to accept any censure for having done so.

The Honourable Sir RICHARD TEMPLE disclaimed any intention of casting censure on the Honourable Mr. Chapman.

The Honourable Mr. STEPHEN also said that he had no intention whatever of censuring the Honourable Mr. Chapman.

The Motion was put and agreed to.

The following Select Committees were named:—

On the Bill for the further amendment of the Consolidated Customs Act—The Honourable Messrs. Stephen, Chapman, Cowie, and Robinson, and the Mover.

On the Bill to relieve from incumbrances the estates of Taluqdárs in Broach—The Honourable Messrs. Stephen, Cowie, and Robinson, and the Mover.

The Council adjourned to Friday, the 24th February 1871.

WHITLEY STOKES,

Secretary to the Government of India.

CALCUTTA,

The 17th February 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 Government House on Friday, the 24th February 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.
 Colonel the Honourable R. STRACHEY, C. S. I.
 The Honourable FRANCIS STUART CHAPMAN.
 The Honourable J. R. BULLEN SMITH.
 His Highness Sarámade Rájáhée Hindústán Ráj Rájendra Srí Mahárájádhiráj Sivái Rám Sing Bahádur, of Jaypur, G. C. S. I.
 The Honourable F. R. COCKERELL.
 The Honourable J. F. D. INGLIS.
 The Honourable D. COWIE.
 The Honourable W. ROBINSON, C. S. I.

INDIAN CONTRACT LAW BILL.

The Honourable Mr. STEPHEN moved that the Bill to define and amend the law relating to Contracts, Sale of Moveables, Indemnity and Guarantee, Bailment, Agency and Partnership be re-committed. He wished to make a few observations on the condition of this measure. The Statement of Objects and Reasons was dated so far back as July 1867, so that the Bill having been received from England as drawn up by the Indian Law Commissioners some time before, had now been four years, in one shape or another, under the consideration of the Indian Government and the Secretary of State respectively.

He had to make two remarks on this subject; first, he wished to explain how the delay arose; and secondly, he wished to point out why it was necessary that the Bill should be re-committed, which would involve some additional delay before the matter was finally disposed of.

The Bill was published with its Statement of Objects and Reasons in July 1867. It was forwarded in the usual way to the Local Governments for their opinions, and the receipt of these opinions occupied a considerable time throughout the year 1868. There were certain provisions in the Bill which gave rise to considerable discussion and some difference of opinion between those who were responsible for the Bill in this Country and those who framed the Bill in England. Much time was lost in this discussion and in the reference of the matter to the Secretary of State; and when Mr. STEPHEN came out here, about a year and a quarter ago, he found that the Bill was still before the Committee. The Committee continued their investigation of the subject during the early part of the year 1870; and after mature deliberation they agreed to a report which was transmitted to the Secretary of State. The Bill was further considered at Home, and the answer on the subject to which the report of the Select Committee referred was not received till a very short time ago. That explained how the delay with regard to the present Bill had arisen. He thought, however, that it was now expedient to proceed with the Bill. If it were passed into law, it would greatly shorten and simplify one of the most important parts of the law.

He now came to the question, which might naturally be asked, why should there be more delay in the passing of this Bill? There were several obvious answers to that. It might be sufficient to mention one which was conclusive in itself. Many of the members of the Select Committee which originally sat on the Bill had either left or were on the point of leaving the Council. Of course, the Committee which he hoped would finally discuss the matter would be composed in part of the remaining members of the former Committee, but still it would be impossible that the Bill could be passed without giving those who would be

responsible for it an opportunity of fully considering its provisions. The opportunity might be taken of making alterations, not so much in substance, as in arrangement and definition.

We were now not very far from the time when the Government would have to leave Calcutta, and it was too late to pass the Bill into law before its return to Calcutta. The necessary alterations would be maturely considered in the course of the summer, and the Bill might be finally disposed of in the winter. He hoped that it would not be necessary to trouble the Local Governments for further opinions on this Bill, inasmuch as the opinions already received would fill a considerable volume, and provided ample materials for the full consideration of the subject.

The Motion was put and agreed to.

PENSIONS BILL.

The Honourable Mr. COCKERELL moved for leave to introduce a Bill to consolidate and amend the law relating to Pensions. He said that there was on the Statute book at the present time a considerable number of Regulations and Acts relating to this subject. These enactments contained much that was now obsolete, and much in the nature of administrative rules and instructions as to the mode of disbursing pensions, which would be more conveniently and appropriately left to be put in operation by means of executive orders.

The leading principle of the main provisions of the law was, that as the bestowal of pensions and similar allowances was an act of grace or State policy on the part of the ruling power, the Government reserved to itself the determination of all questions affecting the grant or continuance of these allowances; and the cognizance of claims relating thereto by the Courts of Judicature was, as between the grantor and grantee, absolutely barred.

This principle governed the law which applied specifically to the Regulation Provinces of the Bengal and Madras Presidencies, and which was also practically in force in the Non-Regulation Provinces. In some parts of the Bombay Presidency also, namely, the Dekhan, Khandeish and Southern Mahratta Divisions, claims against the Government in the matter of pensionary grants and allowances were declared to be not within the cognizance of the ordinary Courts of Judicature; but in other parts of that Presidency, in the absence of any such legal restrictions, the Courts had assumed a jurisdiction expressly denied to them throughout the rest of British India.

It was thought that this state of things should not be allowed to continue, and that it was expedient to assimilate the law as regards this portion of the Bombay Presidency to that which prevailed in all other parts of the Empire. There were no exceptional circumstances which called for the exercise by the Civil Courts, in any particular province, or provinces, of a jurisdiction which, under the operation of a principle of universal application, was not accorded to them elsewhere.

The opportunity, moreover, for rectifying the omission to extend to the Bombay Presidency generally the provisions of the law regarding pensions had now arrived, the law on this subject having been specifically referred to in this Council as one of the branches of the general scheme of consolidation which was now in progress.

The object of the present Bill, therefore, was to re-enact, in a consolidated form, the operative provisions of the law in regard to the grant of pensions and similar allowances, and to apply the consolidated enactments to the whole of British India.

The Motion was put and agreed to.

INDIAN REGISTRATION BILL.

The Honourable Mr. COCKERELL asked leave to postpone the presentation of the report of the Select Committee on the Bill for the Registration of Assurances.

Leave was granted.

The Council adjourned to Friday, the 3rd March 1871.

WHITLEY STOKES,

Secretary to the Government of India.

CALCUTTA,

The 24th February 1871.