



Bombay Government Gazette.

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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 7th February 1868.

PRESENT:

His Excellency the Viceroy and Governor General of India, *presiding*.
 His Honour the Lieutenant Governor of Bengal.
 His Excellency the Commander-in-Chief, G.C.S.I., K.C.B.
 The Honourable G. NOBLE TAYLOR.
 The Right Honourable W. N. MASSEY.
 The Honourable Major General Sir H. M. DURAND, C.B., K.C.S.I.
 The Honourable Sir W. MUIR, K.C.S.I.
 The Honourable H. SUMNER MAINE.
 The Honourable E. L. BRANDRETH.
 The Honourable M. J. SHAW STEWART.
 The Honourable J. SKINNER.
 The Honourable STEUART GLADSTONE.
 The Honourable KHWAJA 'ABD-UL-GHANI.
 The Honourable F. R. COCKERELL.
 The Honourable J. I. MINCHIN.
 The Honourable RAJA SHEORAJ SINGH, C.S.I.

CIVIL SUITS' (PANJA'B) BILL.

The Honourable Mr. BRANDRETH moved that the Report of the Select Committee on the Bill to enable the Lieutenant Governor of the Panjáb to invest any person with the powers of an Assistant Commissioner for the trial of civil suits, be taken into consideration. A slight alteration, which he had mentioned as having been suggested to him when he introduced the Bill, had been made in the third section by the Select Committee, and one or two verbal amendments had also been made.

The Motion was put and agreed to.

The Honourable Mr. BRANDRETH also moved that the Bill as amended be passed.
The Motion was put and agreed to.

COMMISSIONER'S POWERS' (SIND) BILL:

The Honourable Mr. SHAW STEWART introduced the Bill to enable the Government of Bombay to delegate to the Commissioner in Sind certain of the powers of a Local Government, and moved that it be referred to a Select Committee with instructions to report in a fortnight.
The Motion was put and agreed to.

EXEMPTION OF VILLAGES (BOMBAY) BILL.

The Honourable Mr. SHAW STEWART also presented the Report of the Select Committee on the Bill to exempt certain villages in the Bombay Presidency from the operation of the Regulations and Acts in force in that Presidency.

HIGH COURT FEES' BILL.

The Honourable Mr. COCKERELL, in moving for leave to introduce a Bill to provide for the collection, by means of stamps, of fees payable in the High Court of Judicature at Fort William, said that in the late Supreme Court, the fees levied on proceedings in, and business coming before, that Court were originally appropriated by the officers employed in its several offices and departments, in payment of their services and their establishments; and this system remained in force till 1833, when an arrangement was made by which the Government undertook the payment of those officers and their establishments, and the fees which were collected as before by those officers were paid to Government.

On the amalgamation of the late Supreme and Sadr Courts, it became necessary to make some provision for continuing the practice of levying fees and stamp-duties, which had previously obtained in those Courts, and making such practice applicable to the new constitution of the amalgamated Courts under the Letters Patent.

By the fifteenth section of the Statute establishing the High Courts, it was provided that these Courts should have power to settle tables of fees to be collected therein, subject to the sanction of the Government; and it was proposed that fees should be levied in accordance with the practice of the late Supreme Court on all proceedings in and business coming before, the High Court in the exercise of its ordinary original civil jurisdiction, and that, in regard to matters coming before the Court in the exercise of its new appellate jurisdiction, the system of levying stamp-duties in accordance with the scale laid down in the existing Stamp Act should, in conformity to the practice of the late Sadr Court, be adopted.

Doubts were entertained as to the practicability of carrying out this proposal without legislative authority. Act XX. of 1862 was therefore passed, by which it was enacted that court fees and not stamp-duties should be paid in respect of proceedings in the High Court in the exercise of its original civil jurisdiction, and that stamp-duties in accordance with the scale prescribed by the then stamp law should be levied on instruments and writings filed, exhibited, or recorded in, or furnished by, the Court in the exercise of its new appellate jurisdiction.

So much of that Act, at least, as related to the levy of court fees was professedly only a temporary enactment, to remain in force pending the consideration of the expediency of substituting stamp duties for those fees, and of the propriety of establishing an uniform system of assessment of duty on litigation on both sides of the Court.

It had been felt, however, that, having regard to the totally different character of the proceedings in, and business coming before, the High Court in the exercise of its separate jurisdictions, an uniform system of assessment of duty on litigation would be inapplicable to the circumstances of the case and inexpedient on financial grounds.

At the same time it was felt that the levy of stamp-duties was more simple than the fee-system, was better calculated to secure the punctual realization of the dues of the State, whilst it obviated the necessity of keeping complicated accounts and of maintaining a check over the collecting officers by subjecting their accounts to audit. It was stated as a matter of fact that under the present system, many attorneys were constantly in arrear in the payment of these fees, and the difficulty of enforcing regular payments was found to be very great.

The substitution of stamps would secure the prepayment of the Court dues, and do away with the necessity for keeping up detailed accounts and checks upon the fee-collecting officers. The change had been of late years universally made in the English Courts, where the practice of levying fees was almost extinct.

The Bill was designed on the model of an English Statute passed in 1865 for a similar purpose, in regard to the superior Courts of Law at Westminster. If leave was obtained for its introduction, the Bill would probably be made applicable to the High Courts of Judicature at Madras and Bombay, and, possibly, also extended so as to include the Small Cause Courts of the presidency towns.

The Motion was put and agreed to.

MUNICIPAL COMMITTEES' (N. W. P.) BILL.

The Honourable Mr. BRANDRETH moved that the Honourable Rájá Sheoráj Singh be added to the Select Committee on the Bill to make better provision for the appointment of Municipal Committees in towns in the North-West Provinces, and for other purposes.

The Motion was put and agreed to.

The following Select Committee was named :—

On the Bill to enable the Government of Bombay to delegate to the Commissioner in Sind certain of the powers of a Local Government—The Honourable Messrs. Maine and Cockerell, and the Mover.

The Council adjourned till the 14th February 1868.

CALCUTTA, }
The 7th February 1868. }

WHITLEY STOKES,
Asst. Secy. to the Govt. of India,
Home Department (Legislative).

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 7th February 1868, and is hereby promulgated for general information:—

Act No. III. of 1868.

An Act to authorise the Local Government of the Punjab to invest any person with the powers of an Assistant Commissioner or Tahsildar.

1. The Local Government may, by notification in the official *Gazette*, invest any person with the powers of an Assistant Commissioner with full powers, or of an Assistant Commissioner with ordinary powers, or of a Tahsildar, as described in Act No. XIX. of 1865, within such local limits as it may think proper, and may from time to time withdraw any of such powers.

The Local Government may also by such notification as aforesaid direct that any of the powers conferred under this Act shall be exercised only

with reference to such class of suits as may be specified in the notification.

2. When any of the powers conferred under this Act shall be exercised by three or more persons, sitting together as a Court, and each invested with the same powers, the decision of the majority of such persons shall be deemed to be the decision of the Court.

3. All decrees and proceedings heretofore passed Savings of past decrees. and taken by any person invested by the Local Government, otherwise than under Act No. XIX. of 1865, with powers to try and decide civil suits, shall be as valid as if this Act had then been passed and such powers had been conferred hereunder.

4. This Act shall extend only to the territories for the time being under the Government of the Lieutenant Governor of the Punjab.

WHITLEY STOKES,
Asst. Secy. to the Govt. of India,
Home Dept. (Legislative).