

Legislative (1897) Department.

ORDINARY MS.

G.O., No. /

DATED 21 January 1897

INDEXED.

[Despatch Abstract.]

Legislation in local legislative Councils

Recording letter from the Govt. of India forwarding for information + guidance copy of Despatch from the Rt Honble the Secretary of State for India regarding the form which ———— should take off when it is found necessary with the previous sanction of the Govt. Genl under Section 5 of the Indian Councils Act 1892 to repeal or amend or to ~~that~~ province concerned any Law or regulation made by any authority in India other than the local legislature undertaking the legislation

These Proceedings
have been subsequently printed.

BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

Government {1897} of Madras.

LEGISLATIVE.

MISCELLANEOUS.

Recd.

Regd.

} 1897.

Enclosures

Spare copies

G.O., No. 1, 21st January 1897.

JANUARY.

Legislation in local Legislative Councils.

Recording letter from the Government of India forwarding copy of despatch from the Secretary of State regarding the form which — should take when it is found necessary, with the previous sanction of the Governor-General under section 5 of the Indian Councils Act, 1892, to repeal or amend as to the province concerned any law or regulation made by any authority in India other than the local legislature undertaking the legislation.

GOVERNMENT OF MADRAS.

LEGISLATIVE DEPARTMENT.

READ—the following paper:—

From J. M. MACPHERSON, Esq., Secretary to the Government of India, Legislative department, to the Chief Secretary to the Government of Madras, dated Calcutta, 13th January 1897, No. 100.

I am directed to forward, for information and guidance, copy of a despatch from Her Majesty's Secretary of State for India, No. 44, Legislative, dated the 3rd ultimo, regarding the form which legislation in local Councils should take when it is found necessary, with the previous sanction of the Governor-General under section 5 of the Indian Councils Act, 1892 (55 and 56 Vict., c. 14), to repeal or amend as to the province concerned any law or regulation made by any authority in India other than the local legislature undertaking the legislation.

A copy of the Bill mentioned in the despatch is enclosed for reference.

ENCLOSURES.

DESPATCH from the Right Hon'ble Lord GEORGE HAMILTON, Her Majesty's Secretary of State for India, to His Excellency the Right Honourable the Governor-General of India in Council, dated India Office, London, 3rd December 1896, No. 44, Legislative.

I have to acknowledge the receipt of your Government's letter No. 44, dated the 4th ultimo, regarding the Bill before the Legislative Council of Bombay amending Act VIII of 1870 which was passed by the Council of the Governor-General.

2. I am aware that the Indian Councils Act, 1892, empowers the local legislature of any province, after having obtained your sanction, to repeal or amend, as to that province, a law which has been passed by Your Excellency's Council. My objection related not to the substance, but to the form, of the measure which has been introduced into the Council of the Governor of Bombay.

3. It appears inconvenient to incorporate, as part of a general Act, sections which are passed by a local legislature, and are only intended to have a local application. I suggest that in such cases the new provisions should be framed as a separate Act of the local legislature to take effect with the sanction of the Governor-General, and notwithstanding anything contained in the general Act.

4. Thus, in the present instance, the section which has been drawn as the 8th section of Act VIII should stand as the 1st section of a Bombay enactment, and similarly the present section 9 should become the 2nd section.

5. A copy of this despatch has been sent direct to the Government of Bombay.

BILL No. III of 1896.

A BILL TO AMEND ACT VIII OF 1870
(AN ACT FOR THE PREVENTION OF THE
MURDER OF FEMALE INFANTS).

(As introduced by publication in the
Government Gazette of 17th September
1896.)

Whereas it is expedient to amend as to the Presidency of Bombay, in manner hereinafter appearing, Act VIII of 1870 of the Governor-General of India in Council, being an Act for the prevention of the murder of female infants: And whereas the previous sanction of His Excellency the Governor-General required by section 5 of the Indian Councils Act, 1892, has been obtained for the passing of this Act; 55 and 56 Vict., c. 14.

1. After section 7 of Act VIII of 1870 (an Act for the prevention of the murder of female infants) there shall be inserted the following, viz.:—

“8. It shall be lawful for the Governor in Council by notification to direct that the whole or any part of any moneys, or of any income or accumulated interest accrued or accruing from any moneys, heretofore or hereafter levied or recovered from, or paid by, any inhabitants of the district of Kaira or of the district of Ahmedabad under or for the purposes of this Act, or any rule made in pursuance thereof, shall be placed to the credit respectively of the local boards established for the said districts under the Bombay Local Boards Act, 1884, and from time to time by notification to cancel or vary any such notification.

“9. Notwithstanding anything contained in section 7, this Act shall be deemed to extend, and from the 21st day of December 1870 to have extended, to the Presidency of Bombay.”

STATEMENT OF OBJECTS AND REASONS.

In 1870 it was directed, with the sanction of the Governor-General of India in Council, that measures for the prevention of female infanticide should be taken under Act VIII of 1870 as regards the Kadva and Lewa Kunbis in the districts of Ahmedabad and Kaira, and in April 1871 rules were made under section 2 of that Act, prescribing the payment of certain fees for the registration of births, deaths and other matters. In 1873 a fund called the Infanticide fund was formed in each district of the fees collected under these rules.

2. Subsequently, on representations received, the rules were placed in abeyance and, in 1889, other rules were framed. These rules contained no provision as to the manner in which the funds should be spent.

3. The accumulated fees could be put to no useful purpose contemplated by the Act, and Government were advised that expenditure on any purposes not contemplated in the Act would, in the absence of special legislative authority, be illegal.

4. The Infanticide funds of the Kaira and Ahmedabad districts now amount to about Rs. 8,736 and Rs. 62,452 respectively. They have been accumulating at interest for more than twenty years, and there appears to be no practicable scheme for spending them in a useful manner and at the same time in a manner free from all legal objections.

5. It is certainly undesirable that these funds should continue to lie idle for an indefinite period, and it is the object of the proposed legislation to free Government from the obligation to spend the funds solely in the way indicated in the Act.

6. The fact that the fees were collected from the Lewa and Kadva Kunbi castes alone cannot be lost sight of. But in view of the practical difficulties connected with any scheme for now apportioning the funds to the persons or even to the castes from whom the fees were collected, and in view also of the fact that expenditure by the local boards of the Kaira and Ahmedabad districts must necessarily benefit the Lewa and Kadva Kunbis who form so important an element of the agricultural population of those districts, it is considered that the best practicable scheme would be to hand over the Kaira and Ahmedabad Infanticide funds to the local boards of the Kaira and Ahmedabad districts, respectively, and to leave those boards full discretionary power to spend the funds on water-supply, sanitation, education, communications and other local improvements.

7. The previous sanction of the Governor-General required by section 5 of the Statute 55 and 56 Vict., c. 14, has been obtained for the introduction of this Bill.

POONA,
14th September 1896.

H. BIRDWOOD.

ORDER—No. 1, Legislative, dated 21st January 1897.

Recorded.

(True Extract.)

G. S. FORBES,
Ag. Secretary to Government.

ADDENDA

TO THE

INDIAN COUNCILS ACT PAMPHLET.

(1) Page 48.—Insert the following after Standing Order No. 18:—

“These instructions are not applicable to the authentic copy of any law submitted for the assent of the Governor-General, under section 40 of the Indian Councils Act, 1861, in which he is to record his assent.”

(Government of India, Legislative, dated 12th August 1897, No. 1390, in G.O., No. 72, dated 23rd August 1897.)

(2) Page 49.—Insert the following as Standing Order No. 23:—

“23. A local Act amending an Act of the Governor-General's Council should not be incorporated into that Act. The new provisions should be framed as a separate Act of the local legislature to take effect with the sanction of the Governor-General and notwithstanding anything contained in the General Act.”

(Despatch from the Secretary of State, No. 44, Legislative, dated 3rd December 1896, in G.O., No. 1, dated 21st January 1897.)

Legislative (1897) Department.

CURRENT No. 19

From

The Govt. of India
Legislative Dept.

Order

this

Recorded.

No. 100

Dated

13

Received

17

Registered

19

Enclosures

2

Spare copies

7 of c.

Note.

The substance of the letter has
been ^{entered as} ~~added to~~ standing over
23. us 23 on page 49 of the
Indian Journal act pamphlet
(2nd edn 1894). See printed
copy attached.

11/12/97

For Secretary's approval of
the addn to the pamphlet
please see note attached
to No. 72 Lye of 23.8.97

CRV

11/12/97

SUBJECT.

Forwarding copy of despatch
from the Secretary of State
re the form which legislation
in local Councils should
take when it is found necessary
to repeal or amend an act of
the Govt. of India.

BACK PAPERS.

G.O.	No.	Department.	Date.

FURTHER PAPERS.

G.O.	No.	Department.	Date.

Bill No. III of 1896.

A Bill to amend Act VIII of 1870 (an Act for the prevention of the murder of Female Infants).

(As introduced by publication in the Government Gazette of 17th September 1896.)

Whereas it is expedient to amend as to the Presidency of Bombay, in manner hereinafter appearing, Act VIII of 1870 of the Governor General of India in Council, being an Act for the prevention of the murder of female infants: And whereas the previous sanction of His Excellency the Governor General required by section 5 of the Indian Councils Act, 1892, has been obtained for the passing of this Act; it is hereby enacted as follows:

55 and 56 Vict.,
c. 14.

1. After section 7 of Act VIII of 1870 (an Act for the prevention of the murder of female infants) there shall be inserted the following, viz. :—

“8. It shall be lawful for the Governor in Council by notification to direct that the whole or any part of any moneys, or of any income or accumulated interest accrued or accruing from any moneys, heretofore or hereafter levied or recovered from, or paid by, any inhabitants of the District of Kaira or of the District of Ahmedabad under or for the purposes of this Act, or any rule made in pursuance thereof, shall be placed to the credit respectively of the Local Boards established for the said Districts under the Bombay Local Boards Act, 1884, and from time to time by notification to cancel or vary any such notification.

“9. Notwithstanding anything contained in section 7, this Act shall be deemed to extend, and from the 21st day of December 1870 to have extended, to the Presidency of Bombay.”

B 1035

(Signed) GEORGE HAMILTON.

Government of Bombay.

LEGISLATIVE DEPARTMENT.

Bill No. III of 1896.

(As introduced by publication in the Government Gazette of 17th September 1896.)

A Bill to amend Act VIII 1870 (an Act for the prevention of the murder of Female Infants).

[THE HONOURABLE MR. H. BIRDWOOD.]

[Price—Half Anna.]

BOMBAY: PRINTED AT THE GOVERNMENT CENTRAL PRESS.

STATEMENT OF OBJECTS AND REASONS.

In 1870 it was directed, with the sanction of the Governor General of India in Council, that measures for the prevention of female infanticide should be taken under Act VIII of 1870 as regards the Kadva and Lewa Kunbis in the districts of Ahmedabad and Kaira, and in April 1871 rules were made under section 2 of that Act, prescribing the payment of certain fees for the registration of births, deaths and other matters. In 1873 a fund called the Infanticide Fund was formed in each district of the fees collected under these rules.

2. Subsequently, on representations received, the rules were placed in abeyance and, in 1889, other rules were framed. These rules contained no provision as to the manner in which the Funds should be spent.

3. The accumulated fees could be put to no useful purpose contemplated by the Act, and Government were advised that expenditure on any purposes not contemplated in the Act would, in the absence of special legislative authority, be illegal.

4. The Infanticide Funds of the Kaira and Ahmedabad Districts now amount to about Rs. 8,736 and Rs. 62,452 respectively. They have been accumulating at interest for more than 20 years, and there appears to be no practicable scheme for spending them in a useful manner and at the same time in a manner free from all legal objections.

5. It is certainly undesirable that these Funds should continue to lie idle for an indefinite period, and it is the object of the proposed legislation to free Government from the obligation to spend the Funds solely in the way indicated in the Act.

6. The fact that the fees were collected from the Lewa and Kadva Kunbi castes alone cannot be lost sight of. But in view of the practical difficulties connected with any scheme for now apportioning the Funds to the persons or even to the castes from whom the fees were collected, and in view also of the fact that expenditure by the Local Boards of the Kaira and Ahmedabad Districts must necessarily benefit the Lewa and Kadva Kunbis who form so important an element of the agricultural population of those districts, it is considered that the best practicable scheme would be to hand over the Kaira and Ahmedabad Infanticide Funds to the Local Boards of the Kaira and Ahmedabad Districts respectively, and to leave those Boards full discretionary power to spend the Funds on water-supply, sanitation, education, communications and other local improvements.

7. The previous sanction of the Governor General required by section 5 of the Statute 55 and 56 Vict., c. 14, has been obtained for the introduction of this Bill.

(Signed) H. BIRDWOOD.

Poona, 14th September 1896.

B 1058

(Signed) GEORGE HAMILTON.

Government of Bombay.

LEGISLATIVE DEPARTMENT.

ANNEXURE

TO

A Bill to amend Act VIII of 1870 (an Act for the prevention of the murder of Female Infants).

Bill No. III of 1896.

[Price—Half Anna.]

BOMBAY : PRINTED AT THE GOVERNMENT CENTRAL PRESS,

FROM

Legislative,
No. 44.

To His Excellency The Right Honourable The Governor
General of India in Council.

MY LORD,

*A local Act amending an Act of the
Government of India not to be incorporated
into that Act.*

I have to acknowledge the receipt of your Government's Letter, No. 44, dated the 4th ultimo, regarding the Bill before the Legislative Council of Bombay amending Act VIII of 1870 which was passed by the Council of the Governor General.

2. I am aware that the Indian Councils Act, 1892, empowers the local legislature of any province, after having obtained your sanction, to repeal or amend, as to that province, a law which has been passed by your Excellency's Council. My objection related not to the substance, but to the form, of the measure which has been introduced into the Council of the Governor of Bombay.

3. It appears inconvenient to incorporate, as part of a general Act, sections which are passed by a local legislature, and are only intended to have a local application. I suggest that in such cases the new provisions should be framed as a separate Act of the local legislature to take effect with the sanction of the Governor General, and notwithstanding anything contained in the general Act.

4. Thus, in the present instance, the section which has been drawn as the 8th section of Act VIII. should stand as the 1st section of a Bombay enactment, and similarly the present Section 9 should become the 2nd section.

5. A copy of this Despatch has been sent direct to the Government of Bombay.

I have the honour to be,
My Lord,

Your Lordship's most obedient humble Servant,
(Signed) GEORGE HAMILTON.

Bombay.

CURRENT No. 19

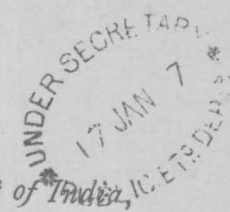
No. 100

FROM

J. M. MACPHERSON, Esq.,

Secretary to the Government of India,

LEGISLATIVE DEPARTMENT,



TO

THE CHIEF SECRETARY TO GOVERNMENT, Madras.

Calcutta, the 13th January, 1897.

SIR,

I AM directed to forward, for information and guidance, copy of a despatch from Her Majesty's Secretary of State for India, No. 44 Legislative, dated the 3rd ultimo, regarding the form which legislation in local Councils should take when it is found necessary, with the previous sanction of the Governor General under section 5 of the Indian Councils Act, 1892 (55 & 56 Vict., c. 14), to repeal or amend as to the province concerned any law or regulation made by any authority in India other than the local Legislature undertaking the legislation.

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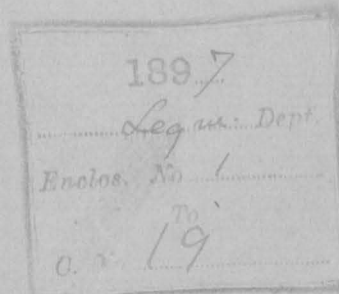
I have the honour to be,

SIR,

Your obedient servant,

J. M. Macpherson

Secretary to the Government of India.



10/11/31

12-5-09

Ref.

Legislation
DEPARTMENT

Government {1897} of Madras.
LEGISLATIVE.

MISCELLANEOUS.

Recd.	}	1897.	Enclosures
Regd.			Spare copies

G.O., No. 1, 21st January 1897.

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POONA,
14th September 1896.

H. BIRDWOOD.

ORDER—No. 1, Legislative, dated 21st January 1897.

Recorded.

(True Extract.)

G. S. FORBES,
Ag. Secretary to Government.

Ed. K. Marugaram.

Ref.
4
8,000—26-9-07.

DEPARTMENT.

Paper taken out of the Records from the charge of the Referencer.

Press
Miscellaneous
Routine

No. 1, dated 21-1-1907

Date taken out.	FOR WHAT PURPOSE.			Initials of clerk taking the paper or of attender.	Date returned.	Initials of attender.
	Department.	C. No.	Year.			
3/8/08	Q No					
	Fees registration from the copy				4-8-08	
15-8-08	Legat. N.C.	2688/08			26-8-08	
		27-7-08				
9 ⁵ /58	B7	8-8-08				
	Restored 2cc. x. 80					