

Friday, February 11, 1870

ABSTRACT OF THE PROCEEDINGS

COUNCIL OF THE GOVERNOR GENERAL OF INDIA

LAWS AND REGULATIONS.

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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 Government House on Friday, the 11th February 1870.

P R E S E N T :

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

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

The Hon'ble G. Noble Taylor.

Major General the Hon'ble Sir H. M. Durand, C. B., K. C. S. I.

The Hon'ble John Strachey.

The Hon'ble Sir Richard Temple, K. C. S. I.

The Hon'ble J. Fitzjames Stephen, Q. C.

The Hon'ble D. Cowie.

Colonel the Hon'ble R. Strachey, C. S. I.

The Hon'ble Francis Steuart Chapman.

The Hon'ble J. R. Bullen Smith.

The Hon'ble F. R. Cockerell.

REGULATIONS AND ACTS CONSOLIDATION BILL.

The Hon'ble MR. COCKERELL, in moving for leave to introduce a Bill to consolidate and amend the law relating to the local extent of the general Regulations and Acts and to the local limits of the jurisdictions of the High Courts and the Chief Controlling Revenue Authorities, said that the immediate cause of the present proposal to legislate in this matter was the discovery that the district or tract of country called the Dehra Doon was not subject to the general Regulations.

A case instituted in that district under Act X of 1859 (An Act to amend the law relating to the recovery of rent in the Presidency of Fort William in Bengal) recently came before the High Court of the North-Western Provinces in appeal, in which it was contended that, as the Act just mentioned was not legally in force in the Dehra Doon, the Court had no jurisdiction in the matter.

The High Court in its judgment held that the enactment referred to was simply an amending Act and contained no special provision by which it could, *per se*, have a wider application than the Regulations which it superseded.

As there was nothing to show that the Act had been put in force in the Dehra Doon district by any special procedure, the question of its legal operation therein turned upon the issue of the broader question as to whether the district was subject to the general Regulations. On this point the Court found that the effect of the several enactments relating to this district, passed between 1817 and 1829, was to place it in the category of districts not subject to the general Regulations.

For the past thirty years, the administration of justice had been carried on in the Dehra Doon in the belief that the general Regulations were legally applicable to that district, and it now became necessary to give, by legislative enactment, validity to proceedings which had taken place under an erroneous impression as to the state of the law, as well as to provide for the future legal operation of those Regulations within that locality.

The present need for legislation in this matter was thought to offer a fit opportunity for consolidating the law as to the local application of the general Regulations and Acts.

About two years ago a Repealing Act was passed in this Council, by which a very large number of obsolete Regulations and Acts was removed from the Statute-book. The avowed main object of that action of the Legislature was to clear the way for the work of consolidating the extant Regulations, which, it was hoped, might be undertaken at no distant period.

There was perhaps no single branch of that work in relation to which more could be done towards disencumbering the Statute-book than that which was comprised in the subject of this Bill. The older provinces of the empire were formed into Presidencies and subjected by Acts of Parliament to such Regulations as might be passed by the Governor General of India from time to time; but in the case of all subsequent acquisitions of territory, the operation of those Regulations was secured by special local enactment, and the result of this practice was that there was now a large accumulation of Regulations and Acts, enacted solely to provide for the extension of the operation of the general laws, and to define the local limits of the jurisdiction of the several Courts established in these newly acquired provinces or districts.

It would be the aim of the Bill to dispense with the necessity for retaining these extending enactments, by declaring, in concise form, what provinces were subject to the general Regulations and Acts of the Indian Legislature.

The Bill contemplated no extension of those laws to places in which they were not already in force, except in so far as might be found necessary to remedy any mistakes which might have occurred, as in the case of the district of the Dehra Doon.

The Hon'ble MR. STEPHEN asked permission to make a single remark on the principle of the Bill, because it formed part of an extensive scheme to which he hoped to refer more particularly at some future time. The present Bill was a proposal for the consolidation of the laws defining the local extent of the general Regulations and the local limits of the jurisdictions of the High Courts and the Boards of Revenue: it would consolidate into one Act, he could not at present exactly say how many, but certainly not less than a hundred, enactments scattered throughout the Statute-book, and would reproduce in a single measure what now had to be searched for in a dozen volumes. That would give some idea of the extent to which consolidation might be carried. He could hardly imagine any legal reform in this country greater than that of consolidating the Written Law, inasmuch as, after a careful consideration and examination of the subject, he had arrived at this amongst other results, that in British India there were no less than twenty-one classes of laws, enacted by nine different authorities for nine different provinces. This shewed how intricate and complicated the Written Law of British India had become. He thought that, if the matter were fairly managed, it would be possible to digest the Written Law in such a manner as to show that, although intricate and complicated to a person fresh to the subject, it was really of much smaller extent, and was less unsystematic than it appeared to be. This Bill was a step in that direction, and he hoped to be able soon to submit a comprehensive scheme for the consolidation of the un repealed Regulations and Acts.

The Motion was put and agreed to.

EMIGRANTS' REGISTRATION FEE BILL.

The Hon'ble MR. CHAPMAN introduced the Bill to enable the Governor General in Council to increase the fees payable under section 31 of Act No. XIII of 1864 (*to consolidate and amend the law relating to the Emigration of Native Labourers*). He said that this Bill would empower the Governor General in Council, at his discretion, to increase the fee of one rupee now leviable in the Mofussil for the registration of emigrants, to two rupees. By this means the Government would be reimbursed the expense they were now put to in supervising emigration. The measure was of so simple a character that he would not move that it be referred to a Select Committee, and he proposed to ask the Council to pass it at their next meeting.

WEIGHTS AND MEASURES BILL.

Colonel the Hon'ble R. STRACHEY asked leave to withdraw his motion for leave to introduce a Bill to regulate the weights and measures of British India.

Leave was granted.

NATIVE PASSENGER SHIPS' BILL.

The Hon'ble MR. CHAPMAN moved for leave to introduce a Bill to make further provision for the regulation of Native Passenger Ships. He said that it had been brought to the notice of the Government of India that the practice of over-crowding pilgrim-ships from the British ports to Jedda prevailed to a frightful extent. The way in which the law was evaded was this: A ship cleared out of a British port with all her papers in regular order, and with the proper number of passengers. She put in at other ports not under British jurisdiction, and there took in any number of pilgrims. The miseries to which these unfortunate people were subject in these overcrowded vessels, would best be perceived by a perusal of a recent report on the subject to the Government of India. The first case cited was that of a ship which MR. CHAPMAN thought was miscalled the *Day Dream*, but which should rather be called the *Nightmare*. She was licensed at Singapore to carry 216 passengers. She took 150 pilgrims from Singapore; but, instead of proceeding direct to her destination, she took twenty-three from Malacca, fifty from Pinang, one hundred and fifty from the Peder Coast (Diamond Point), sixty-three from Passangan, ninety-one from Jonkow, thirty-five from Peder, fifty from Acheen; thus carrying upwards of 613 passengers, when she was licensed to carry only 216. The sufferings of these unfortunate people were thus described by the chief officer of the vessel. He said—

“With regard to the space allowed to the passengers, the hold was full and the cabins were also full, and a small temporary house, a little better than a box, was put on board, wherein nearly forty women were stowed. This box was about ten feet in length and ten in breadth, and three to four feet high. In the round-house there were about twenty-four women with their husbands. The squares of all the hatches, which ought to have been left free for ventilation, were all lumbered up with jars of oil, and the pilgrims could but hardly creep out of the between-decks. The horrible state of the vessel was indescribable, and the stench arising from the hold was insufferable. There was no opportunity, from the crowdedness of the vessel, and the luggage being thrown over all the decks, to keep her clean, and she was consequently in the most filthy and dangerous condition.”

Another case was that of a vessel which apparently bore an Arab name, the *Atiet Rahmán*, of 704 tons burden, from Jedda to Calcutta, whose space was registered at 23,364 cubic feet; but, after deducting for encumbrances, there

remained only 14,700 feet, and allowing only fifty-four cubic feet for each person, there was barely accommodation for 272 persons; yet there were 461 pilgrims on board. The Master Attendant at Cochin thus described the condition of this vessel and the pilgrims it carried :—

“The effluvium escaping from the hatches was indescribable, and it is a matter of surprise that no contagious disease had generated. What prophylactic power the cargo of salt on board may have exercised, I am not prepared to say; but certain it is that the state of things was most favourable to the production of disease.”

* * * *

“The men appear wretchedly weak and sickly, and their emaciated and squalid condition seems to support the complaint made by them of want of food, room, and general comfort. The women were mostly of very advanced age, and in a state of decrepitude that renders it surprising how they could have ventured upon these tedious and harassing expeditions. These unfortunate beings were so deplorably helpless, as to be scarcely able to go on deck for the purposes of nature. The children were poorly in the extreme, apparently from exposure and want of food. There were two infants in arms.”

There was a mortality of thirty-one on board. MR. CHAPMAN thought that Hon'ble Members who knew what the temperature of the Red Sea was, even under the most favourable circumstances, in the commodious and well ventilated vessels of the P. and O. Company, need hardly be told of the miseries of the people in the cases to which he had just referred. It was high time that such practices were put a stop to, and he hoped the Bill he now moved for leave to introduce, would have the effect of doing so.

The Motion was put and agreed to.

The Council adjourned to Friday, the 18th February 1870.

WHITLEY STOKES,

Secy. to the Council of the Govr. Genl.

for making Laws and Regulations.

CALCUTTA, }
The 11th February 1870. }