

ABSTRACT OF THE PROCEEDINGS

COUNCIL OF THE GOVERNOR GENERAL OF INDIA

LAWS AND REGULATIONS.

VOL 14

Jan to Dec

1875

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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.

1875.

WITH INDEX.

VOL. XIV.



Published by the Authority of the Governor General.

Gazettes & Enactments Section
Parliamentary Library Building
Room No. FB-026
Block V

CALCUTTA:

OFFICE OF THE SUPERINTENDENT OF GOVERNMENT PRINTING.

1876.



*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 Wednesday, the 29th September, 1875.

PRESENT :

His Excellency the Viceroy and Governor General of India, G.M.S.I.,
presiding.

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

Major-General the Hon'ble Sir H. W. Norman, K.C.B.

The Hon'ble Arthur Hobhouse, Q.C.

The Hon'ble Sir W. Muir, K.C.S.I.

The Hon'ble Ashley Eden, C.S.I.

The Hon'ble Sir A. J. Arbuthnot, K.C.S.I.

Colonel the Hon'ble Sir Andrew Clarke, R.E., K.C.M.G., C.B.

The Hon'ble T. C. Hope.

LAW REPORTS BILL.

The Hon'ble MR. HOBHOUSE presented the Report of the Select Committee on the Bill for the improvement of Law Reports. He said that the Committee had made no change in the Bill and had recommended that it be passed.

PANJAB CHIEF COURT APPEALS BILL.

The Hon'ble MR. HOBHOUSE also introduced the Bill to provide an appeal from certain decrees of the Chief Court of the Panjab, and moved that it be referred to a Select Committee with instructions to report in a week. He said that Act IV of 1866, which regulated the Chief Court of the Panjab, provided no appeal from decrees made by a single Judge of the Court in the exercise of original civil jurisdiction. The consequence was that appeals from such decrees would only lie to the Judicial Committee of the Privy Council, and much waste of time and money was caused by this state of things. The Bill which he now introduced was intended to supply the defect which he had indicated, and the opportunity had been taken to enable the Appellate Court to remand suits and order retrials, and to empower the Judges to make references to a full Bench as to points of law. The Bill had been prepared in close communication with Mr. Justice Boulnois and Mr. Justice Campbell,

and he (MR. HOBHOUSE) desired to express his obligations to those learned persons for the assistance which they had afforded. That circumstance also justified his proposing so short a time for the Committee's report. It was desirable to pass the Bill quickly, because the hearing of several cases had been postponed in expectation of this alteration in the procedure of the Chief Court. And seeing the nature of the Bill, and with whose assistance it had been prepared, it was difficult to suppose that anything would be gained by publication or any lengthened consideration.

The Motion was put and agreed to.

MERCHANT SEAMEN'S LAW AMENDMENT BILL.

The Hon'ble MR. HOBHOUSE also introduced the Bill to amend the law relating to Merchant Seamen, and moved that it be referred to a Select Committee with instructions to report in three months. He said that the object of this Bill was to make a number of small but important changes in the law relating to Merchant Seamen, which could not conveniently be postponed until that law was consolidated and amended. He had mentioned the points when he procured leave to introduce the Bill and had now to show how the Bill dealt with them.

The first object was to determine disputes whether or not a seaman was "distressed" within the meaning of the sections of the Merchant Shipping Act, 1854, relating to distressed seamen. For that purpose, section 3 provided that the Local Government might certify of any seaman that he was distressed, and that the Master of a ship should be bound to receive such a seaman, and it imposed a penalty in case of refusal.

The next object was to put a check upon the practice of discharging European seamen, which, it was alleged, was often done merely for the purpose of supplying their place with lascars. Sections 4 and 5 were directed to this object. Section 4 repeated the existing law to the effect that no Master should discharge a seaman without written sanction from a Government officer. But it somewhat varied the terms of the existing law in order to preclude a doubt which had been raised whether the officer had complete discretion to give or withhold his sanction. And whereas at present there was no special penalty for breach of this law, it was now proposed to impose one. Section 5 gave the Local Government power to prohibit a Master from engaging Native seamen. This would put a great reserve of power into the hands of the Government, which would probably be used seldom, but which it might use on finding that improper and causeless discharges of European seamen were taking place.

By section 6 provision was made that where a European seaman deserted, the Master or owner should report the desertion to the Local Government.

Sections 7 and 8 extended the provisions of section 88 of Act I of 1859, and contained certain rules as to European seamen imprisoned for breaches of discipline or other petty offences on the complaint of the Master. The previous sanction of the Local Government was in that case rendered necessary to the engagement of Natives of India. The Local Government was also empowered to tender an imprisoned seaman to the Master, and, if the Master refused to receive him, the Master might be required to deposit, not only the wages, etc., due to the seaman, but also such sum as might be sufficient to defray the cost of his passage home and of his lodging and subsistence till he started.

The Bill then contained a clause (section 9) slightly increasing the space required by Act I of 1859, section 70, for European and for Native seamen.

Lastly, a clause had been added to remove a doubt which had been raised as to the meaning of an expression in section 54 of that Act. That section declared in effect that where a seaman's wages were payable in India under an agreement wherein the wages were expressed to be payable in pounds sterling or some other non-Indian denomination of coin, the seaman was entitled to the amount estimated according to the "established par value" of the coin. The Bill declared that the expression in question should be taken to mean the rate of exchange for the time being fixed by the Secretary of State for India in Council to regulate transactions between himself and the Government of India. Mr. HOBHOUSE believed that this was the true construction the Act, and it certainly was the one which had been acted on; but it was not clear. A high legal authority had expressed a contrary opinion, and it was desirable to place the matter beyond question.

The Motion was put and agreed to.

The Hon'ble Mr. HOBHOUSE also moved that the Bill be published in the *Fort St. George Gazette*, the *Bombay Government Gazette*, the *Calcutta Gazette*, and the *British Burma Gazette*.

The Motion was put and agreed to.

BOMBAY REVENUE JURISDICTION BILL.

The Hon'ble Mr. HORE moved that the Hon'ble Sir W. Muir and the Hon'ble Sir A. J. Arbuthnot be added to the Select Committee on the Bill to limit the jurisdiction of the Civil Courts throughout the Bombay Presidency in matters relating to the Land-Revenue.

The Motion was put and agreed to.

OBSOLETE ENACTMENTS REPEAL BILL.

The Hon'ble Mr. HOBHOUSE moved for leave to introduce a Bill for the repeal of certain obsolete enactments. He said that the Council were aware that the Legislative Department had undertaken the task of producing a revised edition of the Acts and Regulations now in force in British India. Of this work the first volume, containing the general Acts of the Governor General in Council from 1834 to 1863, both inclusive, was now in the hands of Hon'ble Members; the first half of the second volume had already been printed; and it was hoped that the remainder of the general Acts (by which he meant Acts extending or extendible to the whole of British India or to the Presidency towns) would be published early next year. It was proposed then to publish a volume containing (a) the unrepealed Madras Regulations, (b) the Acts of the Governor General in Council relating exclusively to the Madras Presidency, and (c) the Acts of the Local Council. In preparing for this volume it had been ascertained that, notwithstanding the numerous repeals effected by Acts X of 1861, XVII of 1862 and III of 1873, and also by Madras Act II of 1869, there still remained in the surviving Madras Regulations a not inconsiderable amount of obsolete matter. The primary object of the Bill which he now asked leave to introduce was to excise this matter. At the same time the opportunity would be taken to remove from the Indian Statute-book certain Acts and portions of Acts of the Governor General in Council, and certain fragments of Bombay Regulations and Acts, which might now be safely dispensed with.

The Motion was put and agreed to.

The following Select Committees were named :—

On the Bill to provide an appeal from certain decrees of the Chief Court of the Panjab : The Hon'ble Mr. Hope and the Mover.

On the Bill to amend the law relating to Merchant Seamen : The Hon'ble Mr. Eden, the Hon'ble Sir A. J. Arbuthnot and the Hon'ble Mr. Hope and the Mover.

The Council then adjourned to Wednesday, the 13th October, 1875.

WHITLEY STOKES,

*Secretary to the Government of India,
Legislative Department.*

SIMLA;

The 29th September, 1875.