

Thursday, July 4, 1878

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 Government of India,

ASSEMBLED FOR THE PURPOSE OF MAKING

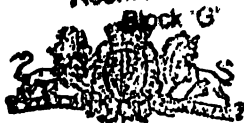
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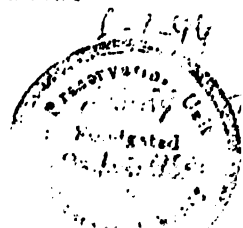


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1879.



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 Thursday, the 4th July, 1878.

PRESENT :

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

His Honour the Lieutenant-Governor of the Punjab, C.S.I.

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

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 Sir J. Strachey, G.C.S.I.

Lieutenant-General the Hon'ble Sir E. B. Johnson, K.C.B.

The Hon'ble Whitley Stokes, C.S.I.

The Hon'ble A. R. Thompson, C.S.I.

The Hon'ble B. W. Colvin.

The Hon'ble Mumtáz-ud-Daulah Nawáb Sir Muhammad Faiz Alí Khán
Bahádur, K.C.S.I.

The Hon'ble T. H. Thornton, D.C.L., C.S.I.

The Hon'ble F. R. Cockerell.

BRITISH BURMA ELEPHANTS BILL.

The Hon'ble MR. THORNTON introduced the Bill to prevent the indiscriminate destruction of wild elephants in British Burma, and moved that it be referred to a Select Committee consisting of the Hon'ble Messrs. Stokes and Thompson and the Mover. He said that the circumstances which had rendered legislation necessary to prevent the indiscriminate destruction of wild elephants in British Burma had been explained by him at the last meeting of the Council. Copies of the Bill, with a Statement of Objects and Reasons, were now in the hands of Hon'ble Members. The Bill, as he had previously mentioned, was based upon a similar enactment passed for the Madras Presidency. It prohibited the destruction or injury of wild elephants without a license from the district officer, except in defence of human life, or when elephants were found in the act of injuring houses or crops, or upon, or in the immediate vicinity of, any main public road or railway. Licenses to shoot wild male elephants on Government lands might be granted by district officers under rules to be made by the Chief Commissioner of

British Burma; and all persons found shooting, or attempting to shoot, wild elephants on Government lands, were bound to produce their licenses, on the requisition of any Police or Revenue officer. Breaches against the law were punishable by fine and, in certain cases, on second conviction, by fine, or imprisonment, or both.

Such were the main provisions of the Bill as introduced : but it was right that he should mention that, late on the preceding evening after the papers had been circulated, he received from the Department over which the Hon'ble Mr. Thompson presided, certain suggestions for the improvement of the Bill. Time had not permitted the embodiment of those suggestions in the Bill now before the Council; but, as the amendments proposed did not affect the principle of the measure, it had not been considered necessary to postpone its introduction on that account. One of the suggestions was to the effect that the scope of the proposed enactment should be so far extended as to enable the Local Government of British Burma to regulate, not only the destruction, but also the capture, of wild elephants; and another suggestion was that, except when otherwise specially allowed, all persons shooting wild elephants should be bound to make over to the Government the tusks of the animal destroyed, the object of this provision being to remove what had been practically found to be the great incentive to that indiscriminate slaughter of elephants which had led to the initiation of the present measure. He need hardly say that the above mentioned suggestions would receive careful consideration in Committee, together with any other suggestions or criticisms that might be received from the local authorities of British Burma.

The Hon'ble SIR JOHN STRACHEY only wished to take the opportunity of saying, with regard to this measure, that, while he had no doubt whatever of the necessity of passing such a law for British Burma, he was under a strong impression, from what he had seen in his own experience as Lieutenant-Governor of the North-Western Provinces, and from what he had heard went on elsewhere in other parts of the Bengal Presidency, that an enactment of this kind for the prevention of the destruction and capture of wild elephants was hardly less necessary in parts of that Presidency than it was in British Burma; and, although he was not in a position at that moment to enter into any details on the subject, he thought it was deserving of consideration whether the scope of the present Bill might not, with great public advantage, be extended.

His Excellency THE PRESIDENT suggested that the question was one which might be made the subject of communication between the Government of India in the Departments concerned the Local Governments, and that the

views thus obtained might advantageously be considered in the Committee on the Bill.

The Motion was put and agreed to.

The Hon'ble MR. THOMPSON moved that the Hon'ble Mr. Colvin, as the representative of the North-Western Provinces, be added to the Select Committee on the Bill.

The Motion was put and agreed to.

The Hon'ble MR. THORNTON moved that the Bill be published in the *British Burma Gazette* in English and in such other languages as the Local Government should think fit.

The Motion was put and agreed to.

CIVIL PROCEDURE CODE AMENDMENT BILL.

The Hon'ble MR. STOKES introduced the Bill to amend the Code of Civil Procedure, and moved that it be referred to a Select Committee consisting of the Hon'ble Sir A. Arbuthnot and the Hon'ble Messrs. Thornton and Cockerell and the Mover. He had nothing now to add to the remarks which he had made when moving for leave to introduce the Bill, save that the opportunity had been taken to cancel the reference (now obsolete) in section 4 of the Code to a pair of Acts, XIX of 1865 and IX of 1873, which had been repealed, after the passing of the Code, by the Punjab Courts Act, 1877.

The Motion was put and agreed to.

The Hon'ble MR. STOKES also moved that the Bill be published in the local official Gazettes in English and in such other languages as the Local Governments should think fit.

The Motion was put and agreed to.

FERRIES BILL.

The Hon'ble MR. STOKES presented the Preliminary Report of the Select Committee on the Bill to regulate Ferries in the Punjab, North-Western Provinces and Oudh. He said that, although there was no motion before the Council, he would just mention, with His Excellency the President's permission, that the Bill, as introduced, only extended to the Punjab, the North-Western Provinces and Oudh; but since its publication a letter had been received from the Chief Commissioner of the Central Provinces, requesting that the Bill might be extended to those territories. The Secretary to the Chief Commissioner said:—

“The Chief Commissioner has noticed in Part V of recent issues of the *Gazette of India* a Bill to regulate Ferries in the Punjab, North-Western Provinces and Oudh, and a careful perusal of the Bill convinces him that its provisions are suitable to these Provinces.

"Here also Bengal Regulation VI of 1819 has regulated the establishment, etc., of ferries, and the Chief Commissioner would be glad to see it replaced by the Bill now before Government."

The Committee had done that, and had also declared that the tolls and rents raised in the Central Provinces under the Bill were to be credited to the Local Government, and applied at its discretion to any of the purposes specified in the second clause of section 5 of the Central Provinces Rates Act, X of 1878.

Besides these, other important changes had been made which it was right to mention to the Council. In the first place the Committee had empowered the lessee of tolls under the Bill to surrender his lease on the expiration of two months' previous notice and on payment of such fine as the local authorities might direct. In the second place the Committee had introduced a section compelling the Police, when required, to aid the lessee or other person authorised to collect the tolls of a public ferry in the collection of his tolls. This provision was analogous to the rule contained in the Roads and Bridges Act, VIII of 1851, section 5. The Committee had not, however, thought it necessary to give power to seize carriages and animals for non-payment of toll on demand. Thirdly, it was proposed to empower the Local Government to cancel leases of ferry-tolls where misconduct was proved on the part of the lessee, or where he made default in paying his rent. This of course might be done by inserting proper provisions in the lease: but it was thought better to provide for the matter in the Bill. When the lease was cancelled the Committee had, at the suggestion of the Government of the North-Western Provinces, authorised the Magistrate of the District to retain the ferry-boats (paying suitable compensation) until other arrangements could be made. Fourthly, it was proposed, at the suggestion of the Lieutenant-Governor of the Punjab, to whom the Committee were much indebted for a valuable paper on the Bill, to provide a penalty for an offence which Mr. Stokes understood was of very common occurrence, that, namely, of persons refusing to leave an already overcrowded ferry-boat at the request of the toll-collector, and thus endangering human life. This particular offence was not provided for by the Penal Code.

The Committee had also provided a penalty for causing damage to bridges of boats (which the definition of 'ferry' included) by the careless navigation of vessels or rafts, and had enabled the toll-collector in such cases to seize and detain the vessel or raft pending the award of compensation for the damage.

In compliance with another suggestion of the Punjab Government, the Committee had enabled the local officers, in certain cases of urgency, to

impress boats at ferries. The Punjab Government thought that Magistrates of Districts should be expressly empowered to impress boats when it was necessary to temporarily increase the means of transit at a ferry for the conveyance of troops or of a large camp. Experience had shewn that action of this kind must occasionally be necessary, and it seemed best to legalise a course which in practice it would be impossible to avoid. The requisite provision for compensation to the owners of impressed boats had of course been made.

If the Committee had merely made those alterations in the substance of the Bill it would be desirable to publish the amended draft; but the fact that it had not yet been submitted to the officials and the people of the Central Provinces, to which territories it would now apply, seemed to render republication imperatively necessary.

The Hon'ble SIR EDWIN JOHNSON enquired whether there was any provision in the Bill giving Military officers precedence in the use of ferries. If not, he would suggest that such provision should be made. If it was considered necessary by the Military authorities to make use of a ferry,—of course only in case of emergency—he thought that they should have the right to do so to the exclusion of all others.

The Hon'ble MR. STOKES said that the Bill at present contained no such provision: a clause very like that which his hon'ble and gallant friend suggested would be found in the Indian Railway contracts and was recognised in the Railway Act (XVIII of 1854, section 2); and he would propose that the Military Department should address the Legislative Department and make the suggestion, when the Committee would take it into careful consideration.

ASSIMILATION OF POWERS (NORTH-WESTERN PROVINCES AND OUDH) BILL.

The Hon'ble MR. STOKES asked leave to postpone the presentation of the Report of the Select Committee on the Bill to assimilate certain powers of the Local Governments of the North-Western Provinces and Oudh.

Leave was granted.

The Council adjourned to Thursday, the 18th July, 1878.

D. FITZPATRICK,

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

SIMLA :

The 4th July, 1878.