

Tuesday, December 31, 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 General of India,

ASSEMBLED FOR THE PURPOSE OF MAKING

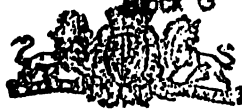
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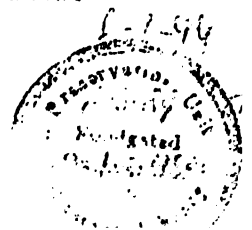


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1879.



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 Tuesday, the 31st December 1878.

P R E S E N T :

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

His Honour the Lieutenant-Governor of Bengal.

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

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

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

The Hon'ble Rivers Thompson, C.S.I.

Lieutenant-General the Hon'ble R. Strachey, B.E., C.S.I., F.R.S.

The Hon'ble B. W. Colvin.

The Hon'ble Mahárájá Jotindra Mohun Tagore.

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

The Hon'ble G. O. Paul.

The Hon'ble E. C. Morgan.

The Hon'ble F. R. Cockerell.

The Hon'ble Sayyad Ahmed Khan Bahádur, C.S.I.

The Hon'ble T. O. Hope, C.S.I.

RANGOON PORT COMMISSIONERS BILL.

The Hon'ble MR. RIVERS THOMPSON introduced the Bill to appoint Commissioners for the Port of Rangoon, and moved that it be referred to a Select Committee consisting of the Hon'ble Messrs. Stokes, Morgan and the Mover. He said that he had the honour to submit this Bill, for the introduction of which he had obtained sanction at the last meeting. He had endeavoured on that occasion to show that the rapid growth of the trade of the Port of Rangoon, reflecting, as it did, the general prosperity and progress of the Province of British Burma, which had been promoted within the last twenty years by the opening out of roads, and especially by the recent construction of the Irrawaddy Valley State Railway, had led the local authorities to consider the greater conveniences and appliances which were now necessary for facilitating the trade of the port and for placing the administration of it on a better footing. It was contemplated that what hitherto had been almost entirely under the executive administration of officers of Government, should now receive the sanction of a

legal enactment, both for the security of the increasing revenues of the port, and also for the better management of its much more extended business. With this object it was intended that resident members of the mercantile community should be associated with Government officers and be formed into a corporation vested with full powers for the control of the port. He might say that what had been proposed by the Chief Commissioner of British Burma had received the cordial concurrence of all those who were interested in the commercial enterprise of the place, and from what he knew of those gentlemen from his recent connection with Burma, he could give the Council the assurance that their co-operation would be wisely and intelligently directed to promote the best interests of the Port of Rangoon. In preparing the Bill which he had the honour to introduce, they were fortunate in possessing, as a precedent to guide them, a somewhat similar measure which had been in operation in Calcutta during the last seven or eight years and the experience which had been gained in the working of that measure. Indeed, one of the first steps which was taken by the Department which was immediately under his charge, on receiving the draft Bill from the Chief Commissioner, was to ask, through His Honour the Lieutenant-Governor of Bengal, for an expression of opinion from the Calcutta Port Commissioners regarding this Bill; and valuable suggestions had been made regarding it which had been adopted in the present Bill. The Statement of Objects and Reasons which was attached to the Bill now before the Council gave generally the outline of the provisions which it was proposed to enact. It provided, in section 5, for the appointment by the Local Government of a body of Commissioners, not more than twelve and not less than nine in number, of whom a certain proportion was to be non-official. Subject to the control of the Government, these Commissioners would in future conduct the entire administration of the port. The Commissioners were empowered to construct wharves, jetties, tramways, warehouses and other conveniences for the landing, storing and shipping of goods, to lay down moorings, to improve the port by reclaiming the banks and deepening the river bed, and, if necessary, to provide tug-steamers. They would have the control of the Conservator appointed under the Indian Ports Act and of the pilots within the port limits. Their functions with regard to the landing and shipping of goods being of special importance, were provided for by certain sections which were based upon the Calcutta Port Commissioners' Act. Under those sections, when the Commissioners had provided sufficient wharf-accommodation, they were empowered, with the previous sanction of Government, to order that all goods should be shipped and landed at those wharves, and through the agency of the Commissioners' servants, and to levy tolls and charges for the use of such wharves and for services rendered,

With reference to the practice which obtained in Rangoon as to the manner of shipping rice for export, exception had been taken to these compulsory clauses. It was known that the large staple exports from Rangoon were connected with the rice and timber trade. Large mills had been constructed on the banks of the Pegu river, a branch of the main river, and, ordinarily, vessels when loading with rice were anchored in close proximity to those mills as a matter of convenience. It had been pointed out that, having regard to the arrangements and to the necessity which often existed of taking in cargo on both sides of the vessel, the compulsory enforcement of approaching the wharves would be a hardship upon the mercantile community. This objection had been brought to the notice of the Chief Commissioner by the Chamber of Commerce at Rangoon, and provision had been made for introducing into the Bill a clause which authorized the Chief Commissioner to exempt certain classes of vessels from this compulsory obligation to which he had alluded. He might add, however, that every year there was a diminution in the practice of ships resorting to the Pegu branch, upon which the mills were situated; and they often now took up their berths in the main river, and rice was brought down to them in cargo-boats and then shipped on board. It was also found that, with the opening of the railway, there was a prospect of the establishment of rice-cleaning mills in the interior of the country, and all rice husked and passed down by the railway (which would shortly be connected with the wharves) would of course be more conveniently and cheaply shipped from the wharves to the vessels directly. Even for those vessels which were anchored in the mid-channel of the main river, the absence of all moorings in a very dangerous tidal way would necessitate action on the part of the Commissioners to provide better security for vessels in the port. The sections under which powers had been reserved to the Chief Commissioner to exempt certain vessels from using the wharves had been accepted by the local mercantile community as quite sufficient to meet their wishes; and it might be accepted that, setting aside the export-trade altogether, the large and increasing import-trade from foreign countries would already afford regular employment to the wharf-accommodation and appliances in the port.

To enable the Commissioners to discharge the duties which were imposed upon them, all Government lands required for port purposes by section 12 were vested in them; and in addition to the tolls and charges above referred to, the port-dues and other revenues under the Indian Ports Act would be made over to them. They were also empowered to borrow money, with the sanction of the Governor General in Council, to carry out further improvements; and

he had no doubt that in a short period the Commissioners to be appointed would be able to render a good account of their trust and to show results worthy of the chief port in the Province.

The Motion was put and agreed to.

The Hon^{ble} MR. RIVERS THOMPSON also moved that the Bill be published in the *British Burma Gazette*, in English and in such other languages as the Local Government thinks fit.

The Motion was put and agreed to.

STAMP BILL.

The Hon^{ble} MR. COCKERELL presented the final Report of the Select Committee on the Bill to consolidate and amend the law relating to Stamps. He said that, as this Bill was of some importance to the public, he thought it might be convenient that he should state, now, that he hoped to be in a position to move that the two reports of the Select Committee be taken into consideration, and, no objection arising, that the Bill be passed, at the next meeting of the Council.

CIVIL PROCEDURE CODE AMENDMENT BILL.

The Hon^{ble} MR. STOKES moved for leave to introduce a Bill to amend the Code of Civil Procedure, section 4. He said that section 4 of the Code of Civil Procedure saved "any local law prescribing a special procedure for suits between landlord and tenant." It had been held that the local laws here referred to were only local laws in force when the Code was passed; and this opinion was supported by the fact that, when the legislature wished to save future laws, it said so, by inserting words such as "now or hereafter in force" (Act XV of 1877, section 6). The result of the present wording of section 4 of the Code was, therefore, to debar the local legislatures from dealing with suits between landlord and tenant. But this kind of litigation was pre-eminently matter for the local legislatures to regulate. The Bill accordingly amended section 4 so as to save clearly all laws of local legislatures, dealing with such suits whether passed before or after the date of the Code. It also saved laws relating to the procedure in suits between landholders and their agents, such, for example, as suits for the recovery of money or the delivery of accounts or papers (Bengal Act VIII of 1869, ss. 30, 32).

The Motion was put and agreed to.

The Hon^{ble} MR. STOKES then introduced the Bill. He believed it had been for some days in the hands of Hon^{ble} Members; but as they might have overlooked it, and as it was very brief, he would read it to the Council:

"Whereas it is expedient to amend the Code of Civil Procedure, section four; It is hereby enacted as follows :—

1. In the said section, for the words 'local law' in each of the places where they occur, the words 'any law heretofore or hereafter passed under the Indian Councils Act, 1861, by a Governor, or a Lieutenant-Governor, in Council' shall be substituted; and for the words 'landlord and tenant,' the words 'landholders and their tenants or agents' shall be substituted."

The Hon'ble MR. STOKES applied to the President to suspend the Rules for the Conduct of Business. He said the matter was one of some urgency, as the Bengal Council were desirous of dealing at once with the subject of the recovery of rent, and he believed that the Hon'ble Mr. Mackenzie had already obtained leave to introduce a Bill for that purpose.

The PRESIDENT declared the Rules suspended.

The Hon'ble MR. STOKES then moved that the Bill be taken into consideration.

The Motion was put and agreed to.

The Hon'ble MR. STOKES then moved that the Bill be passed.

The Motion was put and agreed to.

BURMA COAST-LIGHTS BILL.

The Hon'ble MR. STOKES also moved for leave to introduce a Bill to amend the law relating to the maintenance of Coast-lights in the eastern part of the Bay of Bengal. He said that the present coast-light dues of one anna per ton, levied under section 3 of Act XIII of 1867 (*An Act to provide for the establishment and maintenance of Coast-lights in the eastern part of the Bay of Bengal*), had been found insufficient to pay a fair rate of interest on the capital expended on the lights which at present existed on the coast of British Burma and to provide for their maintenance. Moreover, the recent total destruction of the Krishna Shoal Light-house would immediately entail a large expenditure. It had therefore been determined to raise the present coast-light dues from one anna per ton to one anna six pie, and to subject to the dues vessels making certain voyages not mentioned in the Act but in the course of which they benefited by the lights.

The Bill would repeal Act XIII of 1867 (which had already been amended) and re-enact it with the requisite alterations in respect of the coast-light dues and a few desirable changes in wording and arrangement.

The Motion was put and agreed to.

OUDH LAND-REVENUE ACT, 1876, AMENDMENT BILL.

The Hon'ble Mr. COLVIN moved for leave to introduce a Bill to amend the Oudh Land-Revenue Act, 1876. He said that the Bill, a copy of which was on the table to-day, was merely a supplement to the Bill for amending the North-Western Provinces Land-Revenue Act. It consisted of a single section, by which certain advances made to agriculturists by the State (not being advances made under the Land Improvement Act of 1871) were declared to be recoverable in the same manner as arrears of land-revenue. A provision to this effect had been inserted in the Bill for amending the North-Western Provinces Land-revenue Act which was now under the consideration of the Council; and, as the Local Government desired that a similar change should be made in the law for Oudh, the present Bill had been framed with that object. Their wishes could not be met by the addition of any words to the Bill for the North-Western Provinces, because, although the administration of the two Provinces had been united, their codes of law remained distinct; and it would obviously be inconvenient to amend the law of one province by a section inserted in the code of another. A separate Bill therefore was necessary. The propriety of the change in the law which the Bill was intended to effect would come before the Council for consideration when the corresponding part of the measure for the North-Western Provinces was dealt with by it; and if it was determined that the change was a proper one to make, the Council would then be asked to pass the measure which he wished to introduce to-day.

The Motion was put and agreed to.

The Council adjourned to Wednesday, the 15th January, 1879.

CALCUTTA ;
 The 31st December, 1878. }

D. FITZPATRICK,
 Secretary to the Government of India,
 Legislative Department.