

*Friday,  
21st February, 1890*

ABSTRACT OF THE PROCEEDINGS  
OF THE  
Council of the Governor General of India,  
  
**LAWS AND REGULATIONS**

**Vol. XXIX**

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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,

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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 Vict., cap. 67.*

The Council met at Government House on Friday, the 21st February, 1890.

PRESENT:

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

His Honour the Lieutenant-Governor of Bengal, K.C.S.I., C.I.E.

His Excellency the Commander-in-Chief, Bart., V.C., G.C.B., G.C.I.E., R.A.

The Hon'ble Lieutenant-General Sir G. T. Chesney, K.C.B., C.S.I., C.I.E., R.E.

The Hon'ble A. R. Scoble, Q.C., C.S.I.

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

The Hon'ble P. P. Hutchins, C.S.I.

The Hon'ble Sir D. M. Barbour, K.C.S.I.

The Hon'ble Syud Ameer Hossein, C.I.E.

The Hon'ble Rájá Durga Charn Laha, C.I.E.

The Hon'ble G. H. P. Evans.

The Hon'ble Maung On, C.I.E., A.T.M.

The Hon'ble Muhammad Ali Khan.

The Hon'ble R. J. Crosthwaite.

The Hon'ble Sir A. Wilson, Kt.

The Hon'ble F. M. Halliday.

The Hon'ble Rao Bahádur Krishnaji Lakshman Nulkar, C.I.E.

CHARITABLE ENDOWMENTS BILL.

The Hon'ble MR. SCOBLE presented the Report of the Select Committee on the Bill to provide for the Vesting and Administration of Property held in trust for charitable purposes.

ACTS VI AND VII OF 1884 AMENDMENT BILL.

The Hon'ble SIR DAVID BARBOUR moved that the Report of the Select Committee on the Bill to amend Acts VI and VII of 1884 (*Inland Steam-vessels and Indian Steam-ships*) be taken into consideration. He said:—

“When presenting the report of the Select Committee I explained briefly the alterations which had been made in the Bill, and I stated that those alter-

ations were not of any great importance. I therefore need not take up the time of the Council by going through them again. But there is a proposal of some importance which, although mentioned in the report, was excluded from the Bill by the Select Committee; I refer to the proposal by the Lieutenant-Governor of Bengal to have three classes of certificates of competency, instead of two, for the management of inland steam-vessels. The original proposal was made by the Lieutenant-Governor of Bengal in May last, and as it did not appear at that time that the parties interested generally had been consulted, and as there was some *prima facie* objection to the proposal, it was returned to the Government of Bengal. The Government of Bengal took steps to consult some of the persons chiefly interested in the matter, with the result that the original proposal was dropped and another proposal substituted. Unfortunately the latter proposal did not come before the Select Committee until about the 10th or 11th of the present month; and there were then two courses open to the Committee—either to report the Bill as it stood, leaving this proposal of the Bengal Government to be dealt with hereafter, if necessary, or to postpone their report and to consult Local Governments, especially the Government of Burma, and persons interested in the inland trade of Burma. The Select Committee thought that to postpone the consideration of the Bill might risk its passing this session; they thought it better to make a report at once, and to leave the important questions raised by the Government of Bengal to be dealt with subsequently if it should be found necessary to legislate with regard to it. The result is that the provisions which the Lieutenant-Governor was anxious to see introduced into the law are not contained in the present Bill, and I am afraid that it is impossible, and unfair to the parties interested, to put in any provisions at this moment to meet his wishes. However, I may say that the papers connected with those proposals shall, without any unnecessary delay, be circulated to the persons interested and to Local Governments, and when the Government of India has got full information on the subject it will decide whether or not it is expedient to undertake further legislation. I cannot say that, if the Government of India decide to legislate at all, it will legislate exactly in the direction indicated by the Lieutenant-Governor of Bengal. But I may say that the whole case will be considered afresh, and that there will be no unnecessary delay in coming to a final decision."

His Honour THE LIEUTENANT-GOVERNOR said:—"After what has just fallen from my hon'ble friend Sir David Barbour, it does not seem expedient that I should take up the time of the Council by going fully into the case on which my amendments are based, nor that I should ask the Council to consider

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[*The Lieutenant-Governor ; Mr. Evans.*]

my amendments as they stand. The question is really a technical one and also a very difficult one, and my reason for venturing to put these amendments on the paper and to break into the somewhat monotonous harmony of our weekly meetings by raising a discussion is that the Executive Government is told by the law to do things which I find as the law stands it is almost impossible for the Executive Government to do. I need not explain further than that the objects of my amendments are to divide what are now second class steam-vessels into two classes, for the purpose of giving certificates of competency to masters and engineers ; the difficulty being this, that if you put your qualifications as they ought to be for the higher class of steamers, you disable yourselves from giving certificates to all masters and engineers of the lower class of steam-launches and small steamers ; and it was to meet this that I put these amendments on paper. Since these amendments were put on the paper I learnt from my hon'ble friend the Chairman of the Port Commissioners that the question has been further considered by some of the owners of steam-vessels, and that they have raised what is really an entirely new point. They have strongly expressed the opinion that the whole class of steam-launches and minor steam-vessels plying in the port should not come under the system of certificates and survey at all. That may be right or it may be wrong ; but all I can say is that the present law imposes on the Local Government the duty of surveying these vessels and issuing certificates to them, so that they should not run without licenses. If the Legislature thinks that these classes of steam-vessels ought to be exempted, let them be exempted ; but the executive officers have no power under the law as it now stands to exempt them or to exempt any class of them. And my object ultimately is to have the law put in such a state that, whichever course is taken, the carrying out of the duties imposed upon the Executive Government will not be impossible. After what my hon'ble friend has said that this question will be fully considered later on and more thoroughly threshed out, I see no necessity to press my amendments, and I am perfectly free to confess that the information before the Legislature at the present moment is not sufficient to enable us to consider the matter. Therefore, with Your Excellency's permission, I beg leave to withdraw them."

The Hon'ble MR. EVANS said :—"I would venture to ask one question. We have heard from His Honour the Lieutenant-Governor that the Bill, as it at present stands, imposes upon the Executive Government the performance of an impossible duty. I do not know whether it is really so, but if it be so it seems to me to suggest the postponement of the passing of the Bill."

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The Hon'ble SIR DAVID BARBOUR said:—"Perhaps I had better deal with the question put by the Hon'ble Mr. Evans in replying to what has fallen from His Honour the Lieutenant-Governor. I do not think that the Bill imposes an impossible duty on the Local Government, because the Bill as it now stands imposes no duty in respect to the matter at issue on the Local Government which was not imposed upon it by the Act of 1884—an Act which I think was passed at a time when Sir Steuart Bayley was a member of this Council, though of course that fact does not bind him to an approval of the law as it at present stands. It is a singular fact that, although the Act passed in 1884 made it necessary to issue certificates of competency, up to the present time those provisions of the law have not been acted upon in Bengal." [His Honour THE LIEUTENANT-GOVERNOR:—"Informal certificates of competency have been issued by the Port Commissioners with which they are allowed to work."] "The certificates to which I refer are certificates issued in accordance with the provisions of the Act, and, although such certificates have not been issued, there have been really no serious accidents, and the whole evidence shows that the larger vessels commanded by native commanders have been managed with great ability and success. It is quite true that the Government of Bengal brings forward a difficulty which is said to arise under the Act of 1884, and which is not met by the present Bill, namely, that the second class certificates cover a large range of vessels, some of them large and some of them small. Consequently, if the certificate is just sufficient, and not more than sufficient, as a guarantee for the proper management of small steam-launches, then it is not a sufficient guarantee for the safety of larger vessels. But this difficulty has not been raised by other Local Governments, and I do not think it is correct to say that the present Bill imposes on the Government of Bengal an impossibility. There is inconvenience under the existing law according to the view of the Government of Bengal, but I do not think that there is any serious danger."

The Motion was put and agreed to.

His Honour THE LIEUTENANT-GOVERNOR asked for leave to withdraw the following amendments, which stood in his name:—

(1) That in the proposed section 25A of Act VI of 1884, inserted by section 9 of the Bill as amended, in line 8, the words "first-class or second-class" be omitted.

(2) That for sub-section (2) of the same section the following be substituted, namely:—

"(2) Every certificate of service so granted shall state—

(a) in the case of a master, the limit of gross tonnage within which he is to be deemed competent to command an inland steam-vessel; and

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- (b) in the case of an engineer or engine-driver, the limit of nominal horse-power within which he is to be deemed competent to take charge of the engines of an inland steam-vessel."

(3) That the following be added as sub-section (3) to the same section, namely :—

"(3) A certificate of service so granted shall, within the limit of gross tonnage or nominal horse-power specified thereon in each case, have the same effect as a certificate of competency granted under this Act after examination."

(4) That the following be inserted as section 11 of the Bill, and the numbering of section 11 and following sections be altered accordingly :—

Substitution of new section for section 28, Act VI, 1884.

"11. For section 28 of the said Act the following shall be substituted, namely :—

'28. (1) An inland steam-vessel shall not proceed on any voyage unless she has as her master a person possessing an appropriate certificate of service granted under this Act, or—

Nature of certificates necessary in case of different steam-vessels.

- (a) if she is of the gross measurement of 350 tons or upwards, a person possessing a first-class master's certificate granted under this Act, or a master's certificate granted under Act I of 1859 (*for the amendment of the law relating to Merchant Seamen*), or the Merchant Shipping Acts, 1854 to 1883, or to which the provisions of any such Act have been made applicable under the Merchant Shipping (Colonial) Act, 1869;
- (b) if her gross measurement is less than 350 tons and not less than 100 tons, a person possessing a second-class master's certificate granted under this Act, or a certificate of the higher grade of the nature referred to in clause (a);
- (c) if her gross measurement is less than 100 tons, a person possessing a third-class master's certificate granted under this Act, or a certificate of one of the higher grades referred to in clauses (a) and (b).

(2) An inland steam-vessel shall not proceed on any voyage unless she has as her engineer a person possessing an appropriate certificate of service granted under this Act, or—

- (a) if she has engines of 80 nominal horse-power or upwards, a person possessing an engineer's certificate granted under this Act, or the Indian Steam-ships Act, 1884, or the Merchant Shipping Acts, 1854 to 1883, or to which the provisions of any such Act have been made applicable under the Merchant Shipping (Colonial) Act, 1869;

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OF CENTRAL PROVINCES CIVIL COURTS ACT, 1885.*

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*Mr. Crosthwaite.*]

- (b) if she has engines of less than 80 nominal horse-power and not less than 30 nominal horse-power, a person possessing a first-class engine-driver's certificate granted under this Act or the Indian Steam-ships Act, 1884, or a certificate of the higher grade of the nature referred to in clause (a);
- (c) if she has engines of less than 30 nominal horse-power, a person possessing a second-class engine-driver's certificate granted under this Act, or a certificate of one of the higher grades referred to in clauses (a) and (b);

Provided that a steam-vessel, whose gross measurement is less than 350 tons and not less than 100 tons, and whose engines are of less than 80 nominal horse-power and not less than 30 nominal horse-power, shall be deemed to have complied with the requirements of this section if she has as her master and engineer a person possessing both a second-class master's certificate and a first-class engineer-driver's certificate granted under this Act, or in either case a certificate of the higher grade referred to in sub-section (1), clause (a), and sub-section (2), clause (c), respectively;

Provided also that a steam-vessel whose gross measurement is less than 100 tons, and whose engines are of less than 30 nominal horse-power, shall be deemed to have complied with the requirements of this section if she has as her master and engineer a person possessing both a third-class master's certificate and a second-class engine-driver's certificate granted under this Act, or in either case a certificate of one of the higher grades referred to in sub-section (1), clauses (a) and (b), and sub-section (2), clauses (a) and (b), respectively."

Leave was granted.

The Hon'ble SIR DAVID BARBOUR then moved that the Bill, as amended, be passed.

The Motion was put and agreed to.

CENTRAL PROVINCES CIVIL COURTS ACT, 1885, AMENDMENT  
BILL.

The Hon'ble MR. CROSTHWAITE moved that the Report of the Select Committee on the Bill to amend the Central Provinces Civil Courts Act, 1885, be taken into consideration. He said :—

"I do not think it necessary to trouble the Council with any further remarks on this Bill. I explained its objects on a former occasion, and the Committee have made no amendments."

The Motion was put and agreed to.

The Hon'ble MR. CROSTHWAITE also moved that the Bill be passed.

The Motion was put and agreed to.



*AMENDMENT OF ACTS I OF 1859, VII OF 1880 AND V OF 1883.* 37  
[21ST FEBRUARY, 1890.] [Sir David Barbour.]

ACTS I OF 1859, VII OF 1880 AND V OF 1883 AMENDMENT BILL.

The Hon'ble SIR DAVID BARBOUR moved that the Bill to amend Acts I of 1859 (*Merchant Seamen*), VII of 1880 and V of 1883 (*Indian Merchant Shipping*) be referred to a Select Committee consisting of the Hon'ble Mr. Scoble, the Hon'ble Mr. Hutchins, the Hon'ble Sir Alexander Wilson, the Hon'ble Mr. Halliday and the Mover, with instructions to report within one month.

The Motion was put and agreed to.

The Council adjourned to Friday, the 28th February, 1890.

S. HARVEY JAMES,  
*Secretary to the Govt. of India,*  
*Legislative Department.*

FORT WILLIAM;  
*The 26th February, 1890.*