

*Friday,
6th March, 1891*

ABSTRACT OF THE PROCEEDINGS
OF THE
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,

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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 pro-
visions of the Act of Parliament 24 & 25 Vict., Cap. 67.*

The Council met at Government House on Friday, the 6th March, 1891.

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.

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 Sir A. R. Scoble, Q.C., 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 Colonel R. C. B. Pemberton, R.E.

The Hon'ble F. M. Halliday.

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

The Hon'ble H. W. Bliss, C.I.E.

The Hon'ble Sir Romesh Chunder Mitter, Kt.

The Hon'ble J. Nugent.

The Hon'ble J. L. Mackay, C.I.E.

The Hon'ble J. Woodburn.

The Hon'ble Rájá Udai Partab Singh of Bhinga.

FACTORIES ACT, 1881, AMENDMENT BILL.

The Hon'ble SIR ANDREW SCOBLE presented the Report of the Select Committee on the Bill to amend the Indian Factories Act, 1881.

INDIAN PENAL CODE AND CODE OF CRIMINAL PROCEDURE,
1882, AMENDMENT BILL.

The Hon'ble SIR ANDREW SCOBLE also presented the Report of the Select Committee on the Bill to amend the Indian Penal Code and the Code of Criminal Procedure, 1882.

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

The Hon'ble MR. BLISS moved that the Report of the Select Committee on the Bill to amend Acts I of 1859 (*Merchant Seamen*), VII of 1880 and V of 1883 (*Indian Merchant Shipping*) be taken into consideration. He said :—

“Since this Bill was introduced a year ago, a considerable number of suggestions regarding it have been made by the Local Governments and others consulted and interested. So far as these suggestions dealt with merely formal matters or raised new questions, on which the opinions of those concerned had not been requested, it seemed in most cases preferable to let them stand over for the general consolidation of the Acts dealing with merchant shipping which is under contemplation. The Select Committee has, however, made several additions to the Bill as originally drafted.

“One of these is that provision has been made for the grant to officers of the Indian Marine who have not passed the examinations for officers prescribed by Act I of 1859, or by the English Statutes dealing with this matter, of certificates of service entitling them to occupy such positions as masters, or mates, of foreign-going ships as their rank in the Indian Marine, and the departmental examinations they have passed therein, show them to be qualified for.

“Another amendment of the law, and one of some importance, is proposed to be effected by section 3 of the revised Bill. The existing law on the subject of running agreements with the crews of merchant vessels making voyages not exceeding six months in duration is contained in sections 23 and 32 of Act I of 1859, and provides that all such agreements shall terminate on the 30th of June or 31st of December next following. This provision was taken from the English Statute, and was, it is believed, intended for the protection of seamen by the limitation of the terms for which they could legally bind themselves to serve. In practice, however, the operation of this provision of law on the engagement of the crews of home-trade ships making short voyages has been found most inconvenient, for it releases all their crews from service simultaneously, so that twice a year such Companies as the British India Steam Navigation Company have great difficulty in arranging for the engagement of crews for their ships which happen to come into port on or about the dates above-mentioned. The lascars all disperse to their homes, and for some time, on both occasions, it is impossible to secure competent hands to man the ships which are waiting to go to sea. The same difficulty

was apparently felt in England, for by the Statute mentioned in the Committee's Report the law was some years ago amended; and the requirement that running agreements should terminate on fixed dates no longer insisted on in the case of home-trade ships the crews of which had signed agreements in a form specially provided by the Board of Trade for the purpose. The Committee was of opinion that the complaints of ship-owners on this subject were reasonable, and has therefore proposed to adopt in this respect the provision of law which is in force in England. In such cases, therefore, if the Committee's recommendation is approved by the Council, seamen's agreements will terminate at periods not exceeding six months from the date of their execution, not simultaneously on fixed dates twice a year. The men will enjoy an equal measure of liberty, while the convenience of their employers will be consulted and the safety of the public be promoted by the improvement of the facilities for the engagement of competent crews.

"Section 5 of the revised Bill is intended to restore the law to the state in which it was when Act I of 1859 was passed, when the Straits Settlements were under the Government of India, that is, to include in the term "home-trade" voyages to the Straits Settlements, as well as to ports still, as then, under the Government of India and in Ceylon. ✓

"Section 6 of the revised Bill has been found necessary in order to compliance with the terms of a Convention, recently accepted by the Secretary of State with respect to India, between the Governments of Her Majesty and of the French Republic, in regard to the disposal of wrecks occurring on the coasts of the respective dominions of the contracting Powers. The Convention is printed as a schedule to the Bill.

"Section 9 of the revised Bill is also new. It follows the English law in vesting with the necessary powers of enquiry the officers whose duty it is to report to Local Governments the occurrence of casualties to ships, of a nature to render formal investigation by a Marine Court desirable.

"The effect of section 14 of the revised Bill, which has been introduced on the recommendation of the Board of Trade and of other authorities, is to empower Courts holding enquiries into marine casualties to deal with all the certificates which the master or other officer of the vessel may hold, whether under the law under which the enquiry is held or under that of any other British possession. Under the law as it now stands, such a Court might determine to cancel or suspend the British certificate of an officer found to blame, but is un-

66 AMENDMENT OF ACTS I OF 1859, VII OF 1880 AND V OF 1883;
AMENDMENT OF ACT X OF 1841.

[Mr. Bliss.]

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able to deal with an equivalent certificate held by him under the law of, for instance, one of the Australian Colonies. He would therefore remain legally qualified to serve on board a British merchant vessel in the capacity for which he held the Australian certificate, and the sentence of the Court would so far be of no effect. It is intended that in future no officer in the mercantile marine shall be capable of acquiring more than one certificate of the same grade, but in the meantime it is necessary to provide that the cancellation or suspension of any certificate held by such an officer shall equally apply to all certificates of the same grade of which he may be in possession.

"The other amendments proposed by the Select Committee are merely verbal and do not require explanation."

The Motion was put and agreed to.

The Hon'ble MR. BLISS also moved that the Bill, as amended, be passed.

The Motion was put and agreed to.

ACT X OF 1841 AMENDMENT BILL.

The Hon'ble MR. BLISS also moved that the Report of the Select Committee on the Bill to amend Act X of 1841 (*Registration of Ships*) be taken into consideration. He said:—

"The Select Committee has not found it necessary to make any material modifications in the Bill as originally introduced by my hon'ble friend Sir David Barbour. The only alterations requiring notice are the following:—

"It was pointed out by more than one of the authorities consulted that the form of certificate of survey prescribed in the schedule to the Merchant Shipping Act of 1854 was obsolete, a new form having been substituted for it by one of the orders which the Board of Trade is empowered to make in respect of this and other matters under the several Merchant Shipping Acts in force in England. The Committee therefore deemed it advisable to require the use in the case of British Indian ships of the form now in use in the United Kingdom for the survey of British ships, which is set out in a schedule for the convenience of the persons concerned. The Committee has also provided for the alteration of this form as from time to time found necessary under the orders of the Governor General in Council; and for the applicability to surveys of British Indian ships

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of the orders issued by the Board of Trade under the Statutes in force in England, as well as of the rules contained in the Statutes themselves. The survey of British Indian ships will therefore in future be conducted on exactly the same system as is at the time in force in England, except in regard to the accommodation which ship-owners are required to provide for seamen. In this respect the provisions of the English are more liberal than those of the Indian law, and in the case of lascars are probably unnecessarily liberal. However this may be, it did not seem advisable to alter the law upon this point by a side wind or without giving full notice of the intended change to the ship-owners whose interests the alteration would affect. The provisions of Act I of 1859 dealing with this matter have therefore been saved in amended sections 9 and 10 of the Act. In amended section 11 the Governor General in Council has been substituted for the Local Governments as the authority vested in India with the powers of the Board of Trade in England in regard to the measurement of ships. This change was necessary to insure uniformity of action throughout the maritime provinces. Two sections have been added to the Bill with the object of vesting the Maritime Local Governments generally with the powers conferred by the Act on the Governor of Fort William in Bengal and on the Governments of Presidencies, and of incorporating in this Act the definition of the words 'Local Government' embodied in all laws enacted since 1867."

His Honour THE LIEUTENANT-GOVERNOR said:—"I wish to make a few brief remarks on one point connected with this Bill.

"In section 6 of the Bill a small amendment is made in section 17 of Act X of 1841. There was, however, another alteration in that section which the Government of Bengal had proposed. The original section (17) enacted that—

'It shall not be lawful for any owner or owners of any ship or vessel to give any name to such ship or vessel other than that by which she was first registered in pursuance of this Act.'

"The attention of the Bengal Government was drawn to the inconvenience arising from the impossibility of obtaining any alteration in the name of a vessel once registered. The point was particularly brought forward by the shipping interest of Chittagong, and their views were represented by the Port Commissioners at that place, and supported by the Bengal Government, which pointed out that in the English Merchant Shipping Act of 1871 power is given to the Board of Trade to consent to the changing of the name of any British ship. The way in which the Chittagong shipping interest was specially affected was that it might not unfrequently happen that a Muhammadan ship might be

[The Lieutenant-Governor; Sir David Barbour; Mr. Bliss.] [6TH MARCH,

purchased by a Hindu owner, or *vice versa*, and the new owner might wish to change its name, and there seemed to be no reason why a power of this kind should be refused.

"I regret that the Select Committee did not agree to accept this very small alteration. I understand that the principal reason was that an opportunity had not been given for other Maritime Governments to be consulted on the subject, and that it was considered more in accordance with the precedents of the Legislative Department that no action should be taken on this suggestion on the present occasion, but that in the amending and consolidating Bill, which will soon be undertaken for bringing together all the law relating to merchant shipping, notice will be taken of the suggestion now made. I bow to that view, and would only ask that I may receive a definite promise that that Bill may be undertaken at an early date, and that this small grievance may be removed as soon as possible. I trust that my hon'ble friend the Finance Minister will be able to assure me that the point will be taken up and considered in his Department as early as possible."

The Hon'ble SIR DAVID BARBOUR said:—"The question to which the Hon'ble Sir Charles Elliott refers came before the Select Committee, and, although there appeared very little objection to giving power to alter the names of vessels, it was considered inexpedient to make any change without consulting other Governments. Occasionally old vessels are purchased for a mere song; they are painted and taken to another part of the country and may be used in a way which is hardly legitimate, and this practice will be facilitated if power is given to change the name.

"As regards giving a promise to consider the question when a Bill is introduced to consolidate the Merchant Shipping Law, I can only say that the Government is considering whether consolidation can conveniently be carried out. But this question of consolidating the Merchant Shipping Law has been under consideration, I think, for the last five and twenty years. It is an extremely difficult one, and it depends very much on the progress of consolidation at home. I hope that a Bill will be introduced before long; but I am quite unable to give a definite promise to take up the question next session. If a Bill should be introduced to consolidate the existing law, I have no doubt that the suggestion of the Bengal Government will receive due consideration."

The Motion was put and agreed to.

The Hon'ble MR. BLISS also moved that the Bill, as amended, be passed.

The Motion was put and agreed to.

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[*Sir Andrew Scoble.*]

EASEMENTS BILL.

The Hon'ble SIR ANDREW SCOBLE moved that the Report of the Select Committee on the Bill to provide for the extension of the Indian Easements Act, 1882, to certain areas in which that Act is not in force be taken into consideration. He said :—

“The object of this Bill is to extend to the Presidency of Bombay and the North-Western Provinces and Oudh the provisions of the general Act in regard to easements which is already in force in various other parts of British India. The extension has been approved by the Local Governments and the High Courts in both cases.”

The Motion was put and agreed to.

The Hon'ble SIR ANDREW SCOBLE also moved that the Bill, as amended, be passed.

The Motion was put and agreed to.

The Council adjourned to Friday, the 13th March, 1891.

S. HARVEY JAMES,

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

FORT WILLIAM; }
The 11th March, 1891. }