

*Friday,
29th January, 1892*

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 29th January, 1892.

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, V.C., G.C.B., G.C.I.E., R.A.

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

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

The Hon'ble Sir A. E. Miller, Kt., Q.C.

The Hon'ble Lieutenant-General H. Brackenbury, C.B., R.A.

The Hon'ble Colonel R. C. B. Pemberton, R.E.

The Hon'ble Nawab Ahsan-Ulla Bahadur, C.I.E.

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

The Hon'ble J. Nugent.

The Hon'ble J. Woodburn, C.S.I.

The Hon'ble Raja Udai Partab Singh of Bhinga.

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

The Hon'ble Dr. Rash Behari Ghose.

The Hon'ble Sir John Edgar, K.C.I.E., C.S.I.

The Hon'ble Palli Chentsal Rao Pantulu, C.I.E.

BILL TO VALIDATE CERTAIN CHRISTIAN MARRIAGES.

The Hon'ble SIR ALEXANDER MILLER moved that the Report of the Select Committee on the Bill to validate certain marriages solemnized under Part VI of the Indian Christian Marriage Act, 1872, be taken into consideration. He said :—

“ It will be remembered that this Bill to validate certain marriages which appear to have been solemnised by mistake was introduced into the Council some months ago. Part VI of the Indian Christian Marriage Act is only intended for the solemnization of marriages between persons both of whom are Native Christians, but by a mistake apparently arising from ignorance of this provision some of the persons licensed to solemnise such marriages have solemnised them between persons only one of whom was a Native Christian, and

the result is that as the law at present stands these marriages are invalid ; but I rather think it has been generally felt that this has arisen out of a mere misconception of the law and that there was no intention on the part of any of the parties concerned to do otherwise than contract valid marriages. It is however desirable, while taking all the care we possibly can to prevent any such irregularity in the future, that these persons—or rather their children—should not suffer by the error, and we therefore propose to validate these marriages in the past so far as may be practicable.

“Originally, in order to give time for this Act to become known, we proposed to validate not only marriages already solemnised up to the passing of the Act, but those which might be solemnised for three months after the passing of it. As, however, the Bill was brought in so long ago, and as every one must by this time know everything about it, this course has been considered unnecessary, and we propose to validate only such marriages as have already been solemnised under Part VI of the Act. Further, we have provided that, in case any of these invalid marriages have already been judicially pronounced void, such marriages should not be validated, as vested rights may have been acquired under the decisions thus given ; this validation will therefore only extend to marriages which, though invalid under the law, have up to the present time been regarded by the contracting parties as valid.

“I may here mention that, amongst the opinions offered with regard to the Bill, we find one from certain clergymen in the North-Western Provinces who consider that a marriage between a person who is a Native Christian and a person who is not a Native Christian is invalid in itself,—on what principle I do not know ; but these gentlemen have thought fit to declare that they will disregard the validation which the Bill contemplates, and that if any of the persons whose marriage has been so validated should wish to set aside the marriage, and to contract a marriage which would be valid before the Church, they would consider it their duty to solemnize such second marriage. I can only say that, so far as the business of this Council is concerned, it is no part of our duty to offer advice to these gentlemen, but I think they should know that any such action on their part would probably bring them within the provisions of the criminal law and render them liable to prosecution.

“My hon'ble friend Mr. Chentsal Rao is, I understand, about to give notice of motion for leave to re-commit this Bill to the Select Committee. I will leave him to state his own case, but, so far as I understand his intention, I think that

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what he desires to do would probably be better done by a separate Act than by any amendment of the present measure."

The Hon'ble P. CHENTSAL RAO said :—

"I think it is desirable that the Bill should be referred back to the Select Committee in view to their considering the expediency of modifying Part VI of the Christian Marriage Act so as to cover mixed marriages.

"I observe that His Honour the Lieutenant-Governor of the Punjab, the Chief Commissioner of Burma and the Commissioner of Dacca, and some more officers and gentlemen whom we have consulted, have drawn our attention to the point I have raised, *i.e.*, the desirability of extending Part VI so as to cover mixed marriages; and I also note that the Revd. Mr. Cushing of Burma states that there are large Christian and non-Christian communities in that part of the country among whom inter-marriages are customary. He adds that these communities live far away from places where any Ministers or Marriage Registrars competent to solemnize mixed marriages are to be found, that it would be impossible for the parties to go to the distant city or town where alone the services of a Marriage Registrar or Minister could be obtained, and that they would join illegal union if the law puts legal union beyond their reach. Under such circumstances, it seems to me that we must make some provision to enable men so situated to get their marriages solemnized at the spot and without inconvenience. Sir Alexander Mackenzie thinks that licenses may be granted to selected persons to celebrate mixed marriages, and this suggestion commends itself to me as simple, practical and convenient. As the law now stands, a Marriage Registrar can only be appointed for a whole district and not for a portion with limited powers. Probably it was on this account, and in consideration of the somewhat tedious character of the procedure prescribed for Marriage Registrars, that Part VI has been enacted and power taken to grant licenses to Native Christians to solemnize marriages with simpler procedure suited to the requirements of men with simple habits and poor education. Apart from the public convenience, I do not see any special reason why the power of solemnizing mixed marriages should be withheld from the Native Christians any more than from Marriage Registrars, at any rate in cases where both the parties consent and no objections are raised by the guardians.

"My Lord, these are my views, but I am not myself much interested in this question, as hardly any mixed marriages take place in my part of the country, and I am not disposed to press it upon the attention of the Council, if they do do not consider it to be of sufficient importance to require consideration. I

16 *BILL TO VALIDATE CERTAIN CHRISTIAN MARRIAGES ;
MADRAS SMALL CAUSE COURT ; AMENDMENT OF RANGOON
PORT COMMISSIONERS' ACT, 1879.*

[*Mr. Chentsal Rao ; Sir Alexander Miller ; Sir Philip Hutchins ; Mr. Bliss.*] [29TH JAN., 1892.]

have ventured to make these remarks because, from the Select Committee's Report, this point does not appear to have been considered, and because for my part I consider that the amendment of Part VI on the lines suggested will much help the cause of morality and promote social homogeneity in villages of mixed communities, which it should be our aim to encourage."

The Motion that the Report of the Select Committee be taken into consideration was put and agreed to.

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

The Motion was put and agreed to.

MADRAS SMALL CAUSE COURT BILL.

The Hon'ble SIR PHILIP HUTCHINS presented a preliminary Report of the Select Committee on the Bill to extend the jurisdiction of the Court of Small Causes of Madras, and moved that the time for the presentation of the final Report of the Select Committee on the Bill be extended to the 4th March, 1892. He said :—

"The Council will remember that I stated at our last meeting that I intended to lay some alternative proposals before the Select Committee. The Committee has recommended that those proposals be formulated in a Bill, and that the Bill be sent down to Madras for consideration before it is discussed by them in detail. This is just what I wished to move myself a fortnight ago, but I was informed by the Secretary that it would not be in accordance with the ordinary course of business to put forward a new Bill without the intervention of a Select Committee. A Bill has now been prepared and accompanies our preliminary Report. If the Council accepts my present motion, the Bill will be sent to Madras, and we shall be able to learn how far it meets with local approval before the Committee proceed to discuss its provisions and settle their final Report."

The Motion was put and agreed to.

**RANGOON PORT COMMISSIONERS' ACT, 1879, AMENDMENT
BILL.**

The Hon'ble MR. BLISS moved that the Bill to amend the Rangoon Port Commissioners Act, 1879, be referred to a Select Committee consisting of the

AMENDMENT OF RANGOON PORT COMMISSIONERS' ACT, 17
1879.

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Hon'ble Sir Alexander Miller, the Hon'ble Sir David Barbour, the Hon'ble Mr. Mackay and the Mover, with instructions to report after three weeks.

The Motion was put and agreed to.

The Council adjourned to Friday, the 12th February, 1892.

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

CALCUTTA ;
The 5th February, 1892. }