

*Thursday,  
3rd October, 1895*

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

**Vol. XXXIV**

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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,

1895

VOLUME XXXIV



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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 Indian Councils Acts, 1861 and 1892 (24 & 25 Vict., cap. 67, and 55 & 56 Vict., cap. 14).*

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The Council met at the Viceregal Lodge, Simla, on Thursday, the 3rd October, 1895.

P R E S E N T :

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

His Excellency the Commander-in-Chief, G.C.I.E., K.C.B., V.C.

The Hon'ble Sir A. E. Miller, K.T., C.S.I., Q.C.

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

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

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

The Hon'ble A. C. Trevor, C.S.I.

The Hon'ble Prince Sir Jahan Kadr Meerza Muhammad Wahid Ali Bahadur, K.C.I.E.

The Hon'ble A. S. Lethbridge, C.S.I., M.D.

PILGRIM SHIPS BILL.

The Hon'ble SIR ALEXANDER MACKENZIE moved that the Report of the Select Committee on the Bill to make better provision for the regulation of Pilgrim Ships be taken into consideration.

The Motion was put and agreed to.

The Hon'ble SIR ALEXANDER MACKENZIE said :—"In accordance with the intimation which I made in my speech on the last occasion of our meeting, I have now to move certain amendments in the Bill. These amendments, I may state, have been considered informally by the Select Committee and have received their approval. I need not enter into a detailed explanation with regard to them. The first amendment I have to move is that in the definition of "pilgrim," in clause (r) of section 5 of the Bill, as amended by the Select Committee, after the word 'Hedjaz', the following be added, namely :—

'but it does not include a child under one year of age, and in the computation of pilgrims for all or any of the purposes of this Act the Governor General in Council may, by notification in the Gazette of India, direct that two persons of the age of one year or upwards and under the age of twelve years shall be reckoned as one pilgrim.'

"It will be observed that this amendment definitely excludes infants in arms from the computation of 'pilgrims,' and, although that is not exactly in accordance with the conditions of the Convention, the Select Committee was of

[ *Sir Alexander Mackenzie.* ]

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opinion that the Conference cannot have had under consideration the case of infants in arms, the probability being that very few families travel from Europe to the Hedjaz. In any case it seemed impossible to us that an infant in arms should be held to require the same accommodation as an adult. The amendment I propose excludes infants in arms and gives power to count two children between the ages of one and twelve as the equivalent of one adult. We shall insert this last limitation in the rules, and unless we are compelled by *force majeure* we do not intend to alter it."

The amendment was put and agreed to.

The Hon'ble SIR ALEXANDER MACKENZIE also moved that for the proviso to sub-section (3) of section 19 of the Bill, as amended by the Select Committee, the following be substituted, namely :—

" Provided that not less space shall be allotted to any one class than will provide six superficial feet of space available for each pilgrim of the age of twelve years or upwards of that class on board."

He said :—" This is merely an amendment in the wording to remove a possible ambiguity which suggested itself to the Hon'ble Legal Member. It does not affect the sense."

The amendment was put and agreed to.

The Hon'ble SIR ALEXANDER MACKENZIE also moved that in section 21 of the Bill, as amended by the Select Committee, for the words " security and health " the words " security, health and space " be substituted, and the words " thirty-two superficial feet being allowed per head " be omitted. He said :—" The design of this amendment is to leave the Government to make regulations for the hospital space by rule and not to bind us down to the precise limits imposed by the Convention. The Convention not having been ratified, it is considered unnecessary at present to give effect to its provisions in this particular."

The amendment was put and agreed to.

The Hon'ble SIR ALEXANDER MACKENZIE also moved that in section 36 of the Bill, as amended by the Select Committee, after the word " visited " the words " if and " be inserted.

He said :—" The section will thus run :—

' The master of every pilgrim ship shall be bound to pay the whole amount of the sanitary taxes imposed by lawful authority at the ports visited if and so far as such taxes are included in the cost of the tickets issued to the pilgrims. '

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[ *Sir Alexander Mackenzie.* ]

" We do not propose at present in the rules to insist on the payment of any sanitary taxes by the master. That was a provision that was inserted in the Convention, and until the Convention is ratified we do not feel bound to provide for it."

The amendment was put and agreed to.

The Hon'ble SIR ALEXANDER MACKENZIE also moved that in clause (e) of sub-section (1) of section 58 of the Bill, as amended by the Select Committee, after the words "in the " the words "upper and" be inserted. He said :—" This is simply to enable us to prescribe the fittings and other appliances to be provided in the upper as well as the between decks for the comfort and convenience of the pilgrims. It was a slight omission in the Bill. The rules at present provide that if the upper-deck is iron it must be covered with wood, and there might be a question as to the power to make this rule if these words were not inserted."

The amendment was put and agreed to.

The Hon'ble SIR ALEXANDER MACKENZIE then moved that the Bill, as now amended, be passed. He said :—" I do not think it is necessary for me to add more to the somewhat lengthy speeches which I have inflicted on the Council on two previous occasions. I think it will now be found that the Bill, with the amendments which have been effected in it, has practically lost all its sting. The rules have been carefully considered and will, I believe, be found to have met all the objections raised by the Muhammadan community to the measure as originally proposed, and to have effected very great improvements in the conditions of the pilgrim traffic. Before bringing these rules into force it is proposed to refer them once more to the Local Governments in order to give them an opportunity of seeing them in their revised shape, and the Act and rules will, I understand, be referred to the Secretary of State before being brought into force.

" There is one point on which I should like to correct some misapprehension which exists. I notice from the memorials, telegrams and other documents which have been received that a misapprehension exists that the medical inspection of the pilgrims which is insisted on by the rules will form a great bar in the way of Muhammadan pilgrimage. That is an entirely wrong view. The medical inspection will be directed simply to seeing that the pilgrims are not affected with contagious or infectious diseases, such as cholera or small-pox. No one will be prevented from going on a pilgrimage on

[*Sir Alexander Mackenzie; Prince Sir Jahan Kadr Meerza Muhammad Wahid Ali Bahadur.*] [3RD OCTOBER,

account of his age or other infirmities: we have made that clear in the Bill as it stands, and we propose to make it still more certain by rule that the inspecting officer is not to prevent a pilgrim from sailing unless he or she is affected by contagious or infectious disease, such as cholera, small-pox or the like."

The Hon'ble PRINCE SIR JAHAN KADR MEERZA MUHAMMAD WAHID ALI BAHADUR said:—"My Lord,—I have great pleasure in announcing to Your Excellency in Council that, so far as it has been possible for me to ascertain Muhammadan feeling and opinion with regard to the measure now before us as revised by the Select Committee, that measure seems to have given complete satisfaction and to meet the objections which the original draft gave rise to. The Secretary to the Muhammadan Literary Society of Calcutta telegraphed to me the other day that the 'Society is grateful to Government for the concessions made, and it fully approves of the revised Pilgrim Ships Bill'; and other private letters received by me from various quarters give expression to the same sentiments. Further, I do not think that I am committing any breach of confidence when I state in this Council Chamber that Haji Moulvi Abdul Jubbar Khan Bahadur, who has just returned from a pilgrimage to the Hedjaz, writes to me in a private letter that he has carefully read the revised Bill and does not see anything in it which is open to objection. 'It has,' he adds, 'my entire approval, and I trust it will make a journey to the Hedjaz in pilgrim ships more comfortable.' The value of this testimony cannot be over-rated; and I trust, if the Hon'ble Dr. Lethbridge's prognostications as to the improbability of a rise in the passage charges prove to be correct, the proposed measure will be hailed by my co-religionists as an unmitigated blessing instead of 'an uncalled-for interference with, and a serious curtailment of, their religious freedom,' as it has been characterised in certain quarters. I have therefore no hesitation now, my Lord, in according my cordial support to the passing of this Bill.

"As it is, however, mainly an anticipatory and enabling measure, I may be permitted to hope that, in framing the various rules and regulations under this Act, the Government will be guided by the same generous and liberal policy which has hitherto marked the proceedings of the Select Committee, and that there will not be material difficulty in obtaining the assent of the Secretary of State to the general terms of the proposed measure as it now stands, when the views of the Muhammadan public on the various questions at issue are represented to him in their proper light."

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[*The President.*]

His Excellency THE PRESIDENT said:—"I do not wish to detain the Council, but I cannot refrain from one word of comment as to the position in which we to-day find ourselves. The Government of India, in the discharge of a duty which, so long as India retains a place in the comity of nations, they cannot fail to perform, introduced this Bill into this Council. The Council, in the exercise of its constitutional functions, has expanded the provisions of this Bill and thereby made it one which the Hon'ble Member Sir Jahan Kadr, speaking on behalf of his Muhammadan co-religionists, has told us he can gratefully accept. This has been accomplished, in my opinion, not simply by giving effect to objections, but by recognising that a remedy was required for an acknowledged evil. I welcome this result for two reasons. In the first place, I think it will vastly strengthen the case against unreasonable restrictions; and, in the second place, it will facilitate the early amendment of the existing conditions of the pilgrimage to Mecca. The Council is aware that the Government of India did not consider necessary all the restrictions which it was proposed by the Paris Convention to introduce in regard to the pilgrim traffic. We have nothing to retract in that respect; but, in presenting our views once more to the Secretary of State, which the delay in the ratification of the Convention will enable us to do, we shall now have the great advantage of the support of those representations and memorials from the various bodies of the Muhammadan community, which, as my Hon'ble Colleague has pointed out, have, as a rule, discussed this question with moderation and good sense. And, in my opinion, a more potent argument still will be that this Council has not denied that evils exist in connection with the pilgrim traffic, but has set itself earnestly, with the full assent of those who represent Muhammadan feeling, to devise means for the improvement of the conditions under which that traffic is carried on.

"The Council, by the provisions of this Bill, entrusts the Government with wide powers. I venture to say that it does so because it recognises that the Government of India, far from any wish to impede or restrict the pilgrimage to Mecca, desires only to render the performance of their religious duty by their Muhammadan fellow-subjects more convenient and more consistent with safety and the decencies of ordinary life.

"It will be the duty of the Government of India, as my hon'ble friend Sir Alexander Mackenzie has pointed out, not hastily, but with full consideration, and after due notice, to frame regulations to carry out the objects of this Bill, so far as their jurisdiction extends. Having done so, they will have set their house in order, and they will be doubly able to protest against restrictions which

*PILGRIM SHIPS; CROWN GRANTS; (MARRIAGE  
VALIDATION (BANGALORE).*

[*The President; Sir Alexander Miller.*]      [3RD OCTOBER;

either impose unnecessary burdens, or, as at present at Camaran, expose pilgrims to almost intolerable hardships. I believe from the proceedings on this Bill that the Muhammadans of India are prepared to look to the Government of India as their advocates in this matter, and I have little doubt that when the case is completely before Her Majesty's Government, as it will now soon be, we shall have their hearty concurrence and support so far as they are able to accord it to us in this matter."

The Motion was put and agreed to.

CROWN GRANTS BILL.

The Hon'ble SIR ALEXANDER MILLER stated that, with His Excellency's permission, he would not make his motion that the Bill to explain the Transfer of Property Act, 1882, so far as relates to grants from the Crown be referred to a Select Committee consisting of the Hon'ble Sir Alexander Mackenzie, the Hon'ble Sir Griffith Evans and the Mover, with instructions to report at the next meeting of the Council. He said :—" I have been in communication with the other Hon'ble Members whose names are in that Motion, and I find that it will be more convenient to them—the Bill is a very small one—that we should consider informally whether it would be necessary to make any amendments in the Bill, and, if we find that no substantial amendments are required, I would propose to move at the next meeting that the Bill be taken into consideration without going through the formality of referring it to a Select Committee. If, on the other hand, we find that it is necessary to refer it to a Select Committee, it can then be done."

His Excellency THE VICEROY assented.

MARRIAGE VALIDATION BILL (BANGALORE).

The Hon'ble SIR ALEXANDER MILLER also moved for leave to introduce a Bill to validate certain marriages solemnized in the Civil and Military Station of Bangalore. He said :—" The position is a somewhat singular one, and one which I hope does not often occur, but in the present state of the law I am not sure that we can ever be quite safe from difficulty of the kind. It appears that a reverend gentleman who holds a license to solemnise marriages in the territories administered by the Government of Madras has solemnised two marriages in the civil and military station of Bangalore under the impression that that was part of the territories administered by the Government of Madras. The practical effect of that is



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AMENDMENT OF LOWER BURMA VILLAGE ACT, 1889,  
AND LOWER BURMA TOWNS ACT, 1892.*

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that the marriages are invalid in law. It was a mere mistake. All the parties—both the officiating clergyman and the parties to the marriages themselves—*bond fide* believed that they were validly married and they intended to be married.

“Unfortunately, however, before the mistake was discovered there have been children born, and therefore it is not possible to validate the marriages in what would be the natural way: and in order that the children should be legitimised it is necessary that the Legislature should interfere. It is a kind of case which I hope does not often happen, but I am sure that until we have a comprehensive Registration Act which will enable every marriage to be put on the register throughout India, and will make such registration necessary and sufficient, that cases of the kind must occur from time to time.”

The Motion was put and agreed to.

The Hon'ble SIR ALEXANDER MILLER also introduced the Bill.

The Hon'ble SIR ALEXANDER MILLER also moved that the Bill and Statement of Objects and Reasons be published in English in the Gazette of India. He said:—“There is not the smallest occasion to send this Bill to the Local Governments. No Local Government, in fact, except the Resident in Mysore, who has asked that the Bill should be introduced, has any concern in it.”

The Motion was put and agreed to.

**LOWER BURMA VILLAGE ACT, 1889, AND LOWER BURMA  
TOWNS ACT, 1892, AMENDMENT BILL.**

The Hon'ble SIR ALEXANDER MACKENZIE moved that the Bill to amend the Lower Burma Village Act, 1889, and the Lower Burma Towns Act, 1892, be referred to a Select Committee consisting of the Hon'ble Sir Alexander Miller, the Hon'ble Sir James Westland, the Hon'ble Dr. Lethbridge, and the Mover, with instructions to report in a week.

The Motion was put and agreed to.

The Council adjourned to Thursday, the 10th October, 1895.

J. M. MACPHERSON,

SIMLA;  
The 4th October, 1895. }

*Offg. Secy. to the Govt. of India,  
Legislative Department.*