

*Friday,
28th August, 1903*

ABSTRACT OF THE PROCEEDINGS

OF THE

Council of the Governor General of India,

LAWS AND REGULATIONS

Vol. XLII

Jan.-Dec., 1903

ABSTRACT OF THE PROCEEDINGS
OF
THE COUNCIL OF THE GOVERNOR GENERAL OF INDIA:
ASSEMBLED FOR THE PURPOSE OF MAKING
LAWS AND REGULATIONS

1903

VOLUME XLII



Published by Authority of the Governor General.



CALCUTTA
PRINTED BY THE SUPERINTENDENT OF GOVERNMENT PRINTING, INDIA,
1904

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., c. 67, and 55 & 56 Vict., c. 14).

The Council met at the Viceregal Lodge, Simla, on Friday, the 28th August, 1903.

P R E S E N T :

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

His Honour Sir C. M. Rivaz, K.C.S.I., Lieutenant-Governor of the Punjab.

The Hon'ble Mr. T. Raleigh, C.S.I.

The Hon'ble Sir E. FG. Law, K.C.M.G., C.S.I.

The Hon'ble Major-General Sir E. R. Elles, K.C.B.

The Hon'ble Mr. A. T. Arundel, C.S.I.

The Hon'ble Sir Denzil Ibbetson, K.C.S.I.

The Hon'ble Mr. E. Cable.

The Hon'ble Sir C. L. Tupper, K.C.I.E., C.S.I.

N E W M E M B E R.

The Hon'ble MR. CABLE took his seat as an additional Member of Council.

I N D I A N T A R I F F (A M E N D M E N T) B I L L.

The Hon'ble SIR EDWARD LAW moved that the Bill further to amend the Indian Tariff Act, 1894, be taken into consideration. He said :—"I believe that the situation rendering legislation advisable is fully understood, and I think it is unnecessary for me now to add anything to the statement made on the subject when I introduced the Bill."

The motion was put and agreed to.

The Hon'ble SIR EDWARD LAW moved that the Bill be passed.

The Hon'ble MR. CABLE said :—"Before the Bill now under consideration is passed, I desire to congratulate Your Excellency's Government upon having

[Mr. Cable.]

[28TH AUGUST, 1903.]

come to the decision of extending for a further period the present Act, thereby carrying to a successful conclusion the object of the original legislation. I note that the Hon'ble Member in charge of the Bill alluded on a previous occasion to the possibility of a further extension being necessary. It is well of course to be prepared for any eventuality, but the mercantile community, whom I represent and who are fully in accord with the provisions of this Bill, hope and expect that no further extension may be necessary.

"The reasons for the extension of the provisions of the present Act up to the 31st March next have previously been referred to by the Hon'ble Member in charge of the Bill. The facts are well known to the public and need not be referred to by me. All that has ever been asked for is fair play for the refining industry of India. That was the intention, and has been the effect, of the present Act. In this connection I may usefully quote from the Hon'ble Mr. Finlay's speech when the present scale of duties was imposed :

'The Government of India,' said Mr. Finlay, 'has never proposed or contemplated giving to the sugar industry of India protection against the fair and ordinary competition of foreign sugar. The protection has been restricted to that against the unfair competition of bounty-fed sugar, and the countervailing duties have been limited to the amount of the bounties.'

"If a defence of the present Bill were necessary, I should take as my text those words of the Hon'ble Mr. Finlay. If the refining industry of India cannot thrive under conditions of fair and ordinary competition with foreign sugars, I for one should say, let it perish.

"I am led to make these observations because I have heard it alleged that the present Bill is of a protective character ; but I do not so regard it. Nor do I look upon it—as I believe some do—as an indication that the Government of India are favourably inclined towards those views of the nation's fiscal policy which have been of late so closely associated with the name of the Secretary of State for the Colonies. A moment's consideration will be sufficient to show that there is no sort of resemblance between the present measure—which is purely defensive—and any scheme of preferential tariffs. I do not know how the Government of India view the difficult questions which the Colonial Secretary has raised, but I have no doubt that in due course the commercial bodies in India will be given an opportunity of expressing their opinions."

The motion was put and agreed to.

[28TH AUGUST, 1903.]

[*Mr. Arundel.*]

INDIAN OFFICIAL SECRETS (AMENDMENT) BILL.

The Hon'ble MR. ARUNDEL moved for leave to introduce a Bill to amend the Indian Official Secrets Act, 1889. He said :—" The object of the Bill is to remedy certain defects which have been found in the Indian Official Secrets Act, 1889.

" With regard to section 3 of the Act, it is difficult, if not impossible, for the prosecution to give actual proof that an accused person was actuated by a wrongful intention in endeavouring to procure information. Clause 2 of the Bill therefore proposes to substitute the words ' without lawful authority or permission the proof whereof shall be upon him,' that is, upon the accused person.

" It is also considered necessary to make it clear that secret information relating to civil as well as to naval and military affairs is protected by the law.

" Provision has also been made to guard against attempts to commit the offences specified in the Act, and also to treat copies of documents in the same way as originals.

" Clause 3 of the Bill provides for the arrest of offenders and authorizes Courts to take preliminary action pending the orders of Government as to whether a prosecution should be instituted. It also provides for the immediate release of an accused person by a responsible officer if the latter considers that there is no need to take the case into Court."

The motion was put and agreed to.

The Hon'ble MR. ARUNDEL introduced the Bill.

The Hon'ble MR. ARUNDEL moved that the Bill, together with the Statement of Objects and Reasons relating thereto, be published in the Gazette of India in English, and in the local official Gazettes in English and in such other languages as the Local Governments think fit.

The motion was put and agreed to.

[*Mr. Arundel.*] [28TH AUGUST, 1903.]

INDIAN FOREIGN MARRIAGE BILL.

The Hon'ble MR. ARUNDEL moved for leave to introduce a Bill to give effect to the Foreign Marriages Order in Council, 1903. He said:—"On several occasions difficulties have arisen in connection with the intended marriage of British subjects under the provisions of the Foreign Marriage Act and Foreign Marriages Order in Council, 1892, in cases where one of the parties has been resident in India.

"The Foreign Marriages Order in Council requires that in cases where one of the parties has not been resident within the district of the Marriage Officer, who is to celebrate the marriage, that party shall produce a certificate from the Marriage Officer of the place in which he or she has been resident, that proper notice has been given of the marriage; but these requirements of the Order in Council relate only to foreign countries and to the United Kingdom, while no instructions are given concerning notice of marriage by persons resident in India.

"After some correspondence between the Secretary of State and the Government of India an Order in Council was issued on the 12th March, 1903, to the following effect :

'1. The following further modifications of the requirements of the Foreign Marriage Act, 1892, as to residence and notice which appear to His Majesty to be consistent with the observance of due precautions against the solemnization of clandestine marriages, shall have effect in cases where one only of the parties has dwelt within the district of the Marriage Officer and the other of such parties has dwelt in a Colony or in India, that is to say :

- (1) if the Marriage Officer is satisfied that such notice has been given by the party dwelling in such Colony or in India as may be provided by any law in that Colony or of the Governor General of India in Council (as the case may be), giving effect to this Order ;
- (2) in any such case the oath, affirmation or declaration required by section 7 of the Foreign Marriage Act shall be made subject to the modifications thereof to which effect is given by article 6 of the Foreign Marriages Order in Council, 1892.

'2. A law enacted by the Legislature of a Colony or by the Governor General of India in Council shall be deemed to give effect to this Order if it makes provision (in whatever terms expressed) as follows :

[28TH AUGUST, 1903.] [Mr. Arundel; Mr. Ralagh.]

- (1) that a notice of a marriage intended to be solemnized under the Foreign Marriage Act may be given by one of the parties intending such marriage - who has had his or her usual place of abode for three consecutive weeks immediately preceding in some place in that Colony or in India (as the case may be) to such Marriage Registrar or other officer as may be designated by the law in this behalf ;
- (2) that such notice shall be published either by proclamation of banns or in such other manner as the law may provide ; and
- (3) that such Marriage Registrar or other officer, unless he is aware of any impediment or objection which should obstruct the solemnization of the marriage, shall, on payment of such fee, if any, as the law may provide, give a certificate that the said notice has been so given and published as aforesaid.'

"The Bill which I beg for leave to introduce is intended to give effect to this Order in Council. It extends to the whole of British India, and applies to all British subjects and to all servants of the King, whether British subjects or not, in the territories of any Native Prince or State in India.

"The Bill is purely permissive and nothing in it affects a valid marriage solemnized outside its provisions."

The motion was put and agreed to.

The Hon'ble MR. ARUNDEL introduced the Bill.

The Hon'ble MR. ARUNDEL moved that the Bill, together with the Statement of Objects and Reasons relating thereto, be published in the Gazette of India in English, and in the local official Gazettes in English and in such other languages as the Local Governments think fit.

The motion was put and agreed to.

LEPERS (AMENDMENT) BILL.

The Hon'ble MR. RALEIGH moved for leave to introduce a Bill further to amend the Lepers Act, 1898. He said :—"The object of the Bill is to provide for the segregation and treatment of lepers belonging to Native States. Under the law as it now stands, a Local Government cannot specify areas in Native States from which lepers may be sent to asylums in British India. It is obviously expedient that this power should be exercised in certain cases, and, as the Bill can hardly be said to raise any disputed question, it will not, I think, be necessary to refer it to a Select Committee. At a future meeting of the Council, I propose to move that the Bill be taken into consideration and passed."

[*Mr. Raleigh.*]

[28TH AUGUST, 1903.]

The motion was put and agreed to.

The Hon'ble MR. RALEIGH introduced the Bill.

The Hon'ble MR. RALEIGH moved that the Bill, together with the Statement of Objects and Reasons relating thereto, be published in English in the Gazette of India and in the local official Gazettes.

The motion was put and agreed to.

The Council adjourned to Friday, the 18th September, 1903.

J. M. MACPHERSON,

SIMLA;
The 28th August, 1903. }

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