

*Friday,
8th February, 1901*

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

Vol. XL

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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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1902

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 Government House, Calcutta, on Friday, the 8th February, 1901.

PRESENT :

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

The Hon'ble Major-General Sir E. H. H. Collen, G.C.I.E., C.B.

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

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

The Hon'ble Mr. T. Raleigh.

The Hon'ble Sir E. F.G. Law, K.C.M.G.

The Hon'ble M. R. Ry. Panappakkam Ananda Charlu Vidia Vinodha Avargal, Rai Bahadur, C.I.E.

The Hon'ble Kunwar Sir Harnam Singh, Ahluwalia, K.C.I.E., of Kapurthala.

The Hon'ble Mr. J. Buckingham, C.I.E.

The Hon'ble Mr. H. F. Evans, C.S.I.

The Hon'ble Rai Bahadur B. K. Bose, C.I.E.

The Hon'ble Sir Allan Arthur, Kt.

The Hon'ble Sir A. Wingate, K.C.I.E.

The Hon'ble Mr. D. M. Smeaton, C.S.I.

The Hon'ble Mr. H. J. S. Cotton, C.S.I.

The Hon'ble Mr. C. W. Bolton, C.S.I.

The Hon'ble Rai Sri Ram Bahadur.

The Hon'ble Mr. R. P. Ashton.

The Hon'ble Mr. R. H. Henderson.

INDIAN TOLLS (ARMY) BILL.

The Hon'ble SIR CHARLES RIVAZ presented the Report of the Select Committee on the Bill to amend the law relating to the exemption from tolls of persons and property belonging to the Army. He said :—"I explained, when introducing this Bill, that its object was to combine in a single Act the provisions relating to the exemption from tolls of persons and property belonging

14 *TOLLS (ARMY); PORTS; AMENDMENT OF MILITARY LUNATICS ACT, 1877.*

[*Sir Charles Rivaz; Mr. Raleigh; Major-General Sir Edwin Collen.*] [8TH FEBRUARY, 1901.]

to the Army which are at present scattered over a large number of local enactments in force in different parts of India, and to bring these provisions into harmony with those of the English Army Act. Clause 3 of the Bill, which contains the list of proposed exemptions, has been carefully considered by the Select Committee in the light of the opinions received from Local Governments, and it has been revised as explained in the Committee's report, but no material alterations have been made in it.

"The Bill as introduced contained three clauses dealing with the question of compensation to contractors, local authorities or other persons on account of losses incurred in consequence of the proposed new exemptions from tolls. These provisions have been simplified and condensed into a single clause.

"I need only further mention a point raised by the Punjab Government, namely, that special provision ought to be made for giving compensation to the contractor or manager of a ferry when additional boats and labour, in excess of the ordinary requirements of such ferry, have to be provided for troops using it. The payment of remuneration in such cases for the special services demanded and rendered is obviously equitable and necessary, but the matter seemed to the Select Committee to lie outside the present Bill altogether, and we have accordingly made no provision for it."

INDIAN PORTS BILL.

The Hon'ble MR. RALEIGH presented the Report of the Select Committee on the Bill further to amend the Indian Ports Act, 1889.

MILITARY LUNATICS ACT, 1877, AMENDMENT BILL.

The Hon'ble MAJOR-GENERAL SIR EDWIN COLLEN moved that the Bill to amend the law relating to the admission of Native Military Lunatics into Asylums be taken into consideration.

The motion was put and agreed to.

The Hon'ble MAJOR-GENERAL SIR EDWIN COLLEN moved that the Bill be passed.

The motion was put and agreed to.

[8TH FEBRUARY, 1901.] [*Sir Charles Rivas ; Mr. Raleigh.*]

ADMINISTRATOR GENERAL'S ACT AMENDMENT BILL.

The Hon'ble SIR CHARLES RIVAZ moved that the Bill further to amend the Administrator General's Act, 1874, be referred to a Select Committee consisting of the Hon'ble Mr. Raleigh, the Hon'ble Rai Bahadur P. Ananda Charlu, the Hon'ble Kunwar Sir Harnam Singh, the Hon'ble Sir Andrew Wingate and the mover, with instructions to report within one month.

The motion was put and agreed to.

INDIAN EXTRADITION BILL.

The Hon'ble MR. RALEIGH moved for leave to introduce a Bill to consolidate and amend the law relating to the Extradition and Rendition of Criminals. He said :—“The Foreign Jurisdiction and Extradition Act of 1879 is so familiar to the Judicial, and Political Officers of Government that the proposal to recast and amend its provisions may seem to require a few words of explanation. There are at present two laws of extradition in force in British India. The Act of Parliament which was passed in 1870 applies here as it applies throughout the British Empire, except where it has been excluded by the orders of Her late Majesty in Council. On the demand of a Power which has a treaty with the British Government to which the old Act applies, we may be called upon to co-operate in surrendering a criminal who has come into British India, and any such application would involve us in the somewhat difficult task of adapting provisions, which are expressed in the language of the English procedure and are suited directly only to the English Courts, to our own Courts in practice.

“One object of the Bill which I now ask leave to introduce is to devise a procedure which may, as we hope, be accepted by His Majesty's Government and by the Treaty Powers as an efficient substitute, or rather as the British Indian version of the procedure established by the Imperial Act. We have endeavoured in framing the Bill to preserve the same safeguard for accused persons which is provided for by the Act of 1870, that is to say, that where there is a question of law that ought to be fairly argued before the extradition takes place, we shall provide for the question being raised and for the opinion of a superior Court being taken upon it; we also preserve what is an important feature in the procedure of the Imperial Act, namely, the complete control of the Executive Government over all extradition proceedings at every stage. I ought to say that, if the Bill which I now ask leave to introduce is passed, we shall not at once be in a position to ask for an Order in Council excluding the English Act. Difficult questions may arise connected with the territorial limits of our legislative power,

but we hope that, as our procedure becomes understood, it may be accepted as a substitute for the Imperial Act. In the meantime, we do not propose to exclude the Imperial Act in case it may be necessary to fall back upon its provisions.

"The other law of extradition is our own Act of 1879 to which I have referred. Some of the provisions of the Act are, as my predecessor Mr. Chalmers expressed it, remarkable for their vagueness, and with regard to some of the most important of them we are obliged to say that in the absence of judicial authority no confident opinion can be given as to the occasions on which they were intended to apply. The one merit of the Act is that it has established a convenient procedure which is in common use in cases of extradition between British India and the Native States. To appreciate the necessity of a simple and expeditious procedure in such cases, it is only necessary to look at the map of India ; to see how the boundaries of the Native States are interlaced with those of the territories of this Government, and to see especially how lines of railway often cross the political boundaries again and again, so that one may pass into and out of British India several times in the course of a day's journey. That being so, it is necessary, as I say, that we should have a simple and expeditious procedure, and this we have endeavoured to preserve in the provisions of the Bill. We have also taken the opportunity of adapting to our own use the procedure established by the Fugitive Offenders Act of 1881, which was intended by Parliament to regulate the rendition of criminals by the Government of one part of the British Empire for trial or punishment in another part.

"There is still one subject to which I must refer in introducing the Bill. The Act of 1879 provides not only for extradition but also for foreign jurisdiction. Now in the English Statute-book there are separate Acts providing for these two subjects ; and it appears to us that inasmuch as the two are governed by different principles it is most expedient to deal with them separately here. I am not at present in a position to say exactly what our proposals in regard to foreign jurisdiction will be, because we have not yet received a final expression of the views of the Secretary of State ; but before the Bill, if I obtain leave to introduce it, is taken into consideration, we hope to be able to state exactly how we propose to provide for the important subject of foreign jurisdiction, and thereby to make it possible to repeal the Act of 1879. I hope, my Lord, that these observations will be sufficient to explain at all events the main objects of the Bill. The details are highly technical, and Hon'ble Members who wish to understand them will find the explanation they require in the *Notes on Clauses* appended to the Statement of Objects and Reasons."

The motion was put and agreed to.

[8TH FEBRUARY, 1901.] [Mr. Raleigh.]

The Hon'ble MR. RALEIGH introduced the Bill.

The Hon'ble MR. RALEIGH moved that the Bill and Statement of Objects and Reasons 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.

The Council adjourned to Friday, the 22nd February, 1901.

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| Calcutta; | } | J. M. MACPHERSON, |
| The 8th February, 1901. | | Secretary to the Government of India, Legislative Department. |