

*Friday,
30th October, 1908*

ABSTRACT OF THE PROCEEDINGS

OF THE

Council of the Governor General of India,

LAWS AND REGULATIONS

Vol. XLVII

April 1908 - March 1909

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OF
THE COUNCIL OF THE GOVERNOR GENERAL OF INDIA

ASSEMBLED FOR THE PURPOSE OF MAKING

LAWS AND REGULATIONS,

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VOLUME XLVII



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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 30th October 1908.

P R E S E N T :

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

His Excellency General Viscount Kitchener of Khartoum, G.C.B., O.M., G.C.M.G., G.C.I.E., Commander-in-Chief in India.

The Hon'ble Mr. H. Erle Richards, K.C.

The Hon'ble Major-General C. H. Scott, C.B., R.A.

The Hon'ble Sir Harvey Adamson, Kt., C.S.I.

The Hon'ble Mr. J. O. Miller, C.S.I.

The Hon'ble Mr. W. L. Harvey, C.I.E.

The Hon'ble Mr. J. S. Meston, C.S.I.

The Hon'ble Tikka Sahib Ripudaman Singh of Nabha.

The Hon'ble Dr. Rashbehary Ghose, C.I.E., D.L.

The Hon'ble Raja Muhammad Ali Muhammad Khan, Khan Bahadur, of Mahmudabad.

The Hon'ble Mr. N. C. Macleod.

NEW MEMBERS.

The Hon'ble RAJA MUHAMMAD ALI and the Hon'ble Mr. MACLEOD took their seats as Additional Members of Council.

INDIAN EMIGRATION (AMENDMENT) BILL.

The Hon'ble MR. HARVEY moved that the Bill further to amend the Indian Emigration Act, 1883, be taken into consideration. He said :—" My Lord, when I introduced the Bill at the meeting of this Council held on the 10th July last, I explained fully the purpose of the measure. Since then the Bill has been published, and no objections have been received. Its character is wholly non-contentious, and its purpose is to remove an anomaly and a technical defect in the existing law."

The motion was put and agreed to.

The Hon'ble Mr. HARVEY moved that the Bill be passed.

The motion was put and agreed to.

42 *PORTS ; REGISTRATION ; EMIGRATION ; FINANCIAL
COMMISSIONER (CENTRAL PROVINCES).*

[30TH OCTOBER, 1908.] [*Mr. Erle Richards ; Mr. Miller.*]

INDIAN PORTS BILL.

The Hon'ble MR. ERLE RICHARDS moved that the Bill to consolidate the Law relating to Ports and Port-charges be referred to a Select Committee consisting of the Hon'ble Mr. Harvey, the Hon'ble Dr. Rashbehary Ghose, the Hon'ble Mr. Macleod and the mover.

The motion was put and agreed to.

INDIAN REGISTRATION BILL.

The Hon'ble MR. ERLE RICHARDS moved that the Bill to consolidate the Law relating to the Registration of Documents be referred to a Select Committee consisting of the Hon'ble Sir Harvey Adamson, the Hon'ble Dr. Rashbehary Ghose, the Hon'ble Mr. Macleod and the mover.

The motion was put and agreed to.

INDIAN EMIGRATION BILL.

The Hon'ble MR. ERLE RICHARDS moved that the Bill to consolidate the Enactments relating to the Emigration of Natives of India be referred to a Select Committee consisting of the Hon'ble Mr. Harvey, the Hon'ble Dr. Rashbehary Ghose, the Hon'ble Mr. Macleod and the mover.

The motion was put and agreed to.

CENTRAL PROVINCES FINANCIAL COMMISSIONER'S BILL.

The Hon'ble MR. MILLER moved that the Bill to provide for the appointment of a Financial Commissioner for the Central Provinces and to amend the Central Provinces Land-revenue Act, 1881, be taken into consideration.

The motion was put and agreed to.

The Hon'ble MR. MILLER moved that in clause 3 of the Bill, between the words "assigned to" and "the Chief Commissioner" the words "the Local Government or to" be inserted. He said:—"I have a small amendment to propose with the object of removing any doubt as to the interpretation of clause 3 of the Bill. The powers which the Chief Commissioner now exercises, some of which he may require to delegate under this clause, are in many cases

[*Mr. Miller; Mr. Harvey.*] [30TH OCTOBER, 1908.]

powers which are conferred by Statutes on 'the Local Government'. Under the General Clauses Act the words 'Local Government' include the Chief Commissioner, but the converse is not necessarily true and it might be questioned, especially having regard to the form in which the clause is drafted, whether the words 'Chief Commissioner' apply to cases in which mention has been made of the 'Local Government'. The amendment will make the intention quite clear."

The motion was put and agreed to.

The Hon'ble MR. MILLER also moved that the Bill as amended be passed. He said :—" I have nothing to add to what I said in asking for permission to introduce this Bill. As to the objects of the Bill, they are to allow the delegation of powers to the Financial Commissioner whose appointment to the Central Provinces has been sanctioned by the Secretary of State. Generally speaking, we have followed the precedent in the similar case of Burma."

The motion was put and agreed to.

INDIAN STEAMSHIPS LAW AMENDMENT BILL.

The Hon'ble MR. HARVEY moved for leave to introduce a Bill further to amend the Inland Steam-vessels Act, 1884, and the Indian Steamships Act, 1884. He said :—" My Lord, the Inland Steam-vessels Act, 1884 (VI of 1884), and the Indian Steamships Act, 1884 (VII of 1884), at present do not apply to vessels propelled by electricity or other mechanical power. In this Bill power is being taken, by clauses 2 and 5, to apply the provisions of these Acts to motor-craft, the number of which is annually increasing.

" Clause 3 of the Bill is intended to remove the inequality which at present exists between British and foreign steamships, carrying more than 12 passengers between places in British India and places outside British India. Foreign ships have not hitherto been required to possess a certificate of survey under Act VII of 1884, while such a certificate is required in the case of British ships. The same procedure will now apply to both classes of vessels.

" Clause 4 of the Bill amends section 23 of Act VII of 1884. Under the law as it now stands, a foreign certificate of survey attested by a British Consular Officer at a foreign port may be accepted by the Local Government, which can then issue a certificate having the same effect as a certificate given after survey under the Indian Act. Inconvenience has been caused, particularly in the case

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[*Mr. Harvey.*]

of Aden, by the power to issue such a certificate being confined to the Local Government. In sub-section (2) of section 23 as amended, provision is made for the delegation of this power by Local Governments, when they are satisfied that the survey at a particular foreign port sufficiently meets the requirements of the Indian Act. Sub-section (3) of the same section provides for the acceptance of certificates of partial survey and docking certificates granted by the Board of Trade or any British Colonial Government. Under the law at present, although such certificates can be accepted when granted at foreign ports, they cannot be accepted when granted at British or Colonial ports. The amendment now proposed removes an inequality to which objection has been taken in practice, and puts British and Colonial certificates of partial survey and docking certificates on the same footing as certificates granted at foreign ports."

The motion was put and agreed to.

The Hon'ble MR. HARVEY introduced the Bill.

The Hon'ble MR. HARVEY 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 Fort St. George Gazette, the Bombay Government Gazette, the Calcutta Gazette, the Burma Gazette and the Eastern Bengal and Assam Gazette in English and in such other languages as the Local Governments think fit.

The motion was put and agreed to.

INDIAN MERCHANT SHIPPING (AMENDMENT) BILL.

The Hon'ble MR. HARVEY moved for leave to introduce a Bill further to amend the Indian Merchant Shipping Act, 1880. He said :—" My Lord, when the Imperial Merchant Shipping Act of 1906 was passed, the Secretary of State for India asked the Government of India to consider the advisability of legislating so as to bring the provisions of the Indian Merchant Shipping Law into line with those of the new Imperial Statute. He particularly requested that legislation should be undertaken to amend the Indian Merchant Shipping Act (VII of 1880, as amended by Act XVII of 1891) by adapting it to the provisions of Part I of the Statute of 1906, dealing with the safety of vessels.

" The amendment contemplated by clause 2 of the Bill is based on section 7 of the Imperial Act. Hitherto in India coasting steamers of less than 150

[*Mr. Harvey ; Tikka Sahib of Nabha.*] [30TH OCTOBER, 1908.]

tons register have been exempt from the provisions of the Act relating to unseaworthy and unsafe ships. It is now proposed to withdraw this exemption, but power has been reserved to the Governor General in Council to extend to such vessels, if they do not carry cargo, exemption from the special provisions of the Act relating to deck and load lines.

“Difficulty has been experienced in the past from the want of specific provision in the Indian law to the effect that the submersion of a ship's disc should be deemed to render a ship ‘unsafe’ within the meaning of Act VII of 1880, and consequently liable to detention. This point has been provided for in unmistakable language in clause 3 of the draft Bill.

“Clause 4 of the Bill amplifies the scope of section 85 of Act VII of 1880 which at present applies to foreign ships the provisions of that Act in respect of overloading and improper loading only. The provisions relating to deck and load lines will now also extend to such ships when in British Indian ports and they will thus be subject to the same conditions as British ships. But foreign ships coming into port under stress of weather will be exempted from the operation of this clause. In consequence of the possible detention of foreign ships for non-compliance with the requirements of the law, provision has been made for enabling consular officers to safeguard the interests of vessels of their respective nationalities.”

The motion was put and agreed to.

The Hon'ble MR. HARVEY introduced the Bill.

The Hon'ble MR. HARVEY 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 Fort St. George Gazette, the Bombay Government Gazette, the Calcutta Gazette, the Burma Gazette and the Eastern Bengal and Assam Gazette in English and in such other languages as the Local Governments think fit.

The motion was put and agreed to.

ANAND MARRIAGE BILL.

The Hon'ble TIKKA SAHIB RIPUDAMAN SINGH of NABHA moved for leave to introduce a Bill to give legal sanction to a marriage ceremony

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common among the Sikhs called Anand. He said :—" My Lord, the Statement of Objects and Reasons fully explains the object and scope of the Bill, so I need not trouble Your Excellency and my Hon'ble Colleagues with any further remarks."

The Hon'ble SIR HARVEY ADAMSON said :—" My Lord, the attitude of Government towards this Bill is at present one of neutrality. We will vote for the motions that are being made to-day, that is to say, we give the Bill a first reading, but the question of our final support must depend on the opinions which after publication are elicited from the Sikh community, whose interests it affects. I may add that the Government of India are always ready to give sympathetic consideration to any measure which professes to aim at promoting the interests of the Sikhs, whose bravery has won the admiration of the world, and whose loyalty to the British Crown has ever been steadfast."

The motion was put and agreed to. .

The Hon'ble TIKKA SAHIB RIPUDAMAN SINGH OF NABHA introduced the Bill.

The Hon'ble TIKKA SAHIB RIPUDAMAN SINGH OF NABHA 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.

The Council adjourned *sine die*.

SIMLA; }
The 30th October, 1908. }

J. M. MACPHERSON,
Secretary to the Government of India,
Legislative Department.