

Tuesday, December 15, 1874

**ABSTRACT OF THE PROCEEDINGS**

**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.

1874.

WITH INDEX.

VOL. XIII.



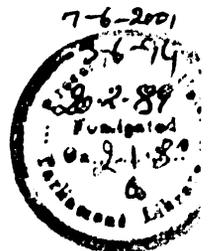
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1875.



*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 Act of Parliament 24 & 25 Vic., cap. 67.*

The Council met at Government House on Tuesday, the 15th December 1874.

PRESENT :

His Excellency the Viceroy and Governor General of India, G. M. S. I.,  
*presiding.*

His Honour the Lieutenant-Governor of Beugal.

The Hon'ble B. H. Ellis.

Major-General the Hon'ble Sir H. W. Norman, K. C. B.

The Hon'ble A. Hobhouse, Q. C.

The Hon'ble E. C. Bayley, C. S. I.

The Hon'ble Sir W. Muir, K. C. S. I.

The Hon'ble John Inglis, C. S. I.

The Hon'ble R. A. Dalrymple.

The Hon'ble H. H. Sutherland.

The Hon'ble J. R. Bullen Smith.

INLAND CUSTOMS BILL.

The Hon'ble MR. ELLIS introduced the Bill for regulating Inland Customs' Duties on Salt and Sugar, and for other purposes, and moved that it be referred to a Select Committee with instructions to report in six weeks. On the 6th of January 1872, nearly three years ago, his hon'ble friend, Sir Richard Temple, asked leave to introduce a Bill for the consolidation of the Inland Customs Law. Leave was given to him at the time by the Council, but up to this date no Bill had been introduced; and MR. ELLIS was now introducing a Bill with that object. The reason for the Bill not having been proceeded with had not been any doubt on the part of the Government as to the expediency of the measure, but the delay was due entirely to other causes. The Government of India had in contemplation some extensive changes in the law of Inland Customs Duties. Those changes resulted in the abolition of the southern portion of the customs-line, for which purpose he had the honour to introduce a Bill into this Council some months ago, which Bill became law as Act X of 1874. He might remark in passing that it would be satisfactory to the Council to know that the measures then taken had turned out to be a financial success, as it undoubtedly was administratively a great measure. For while the Government had saved no less a sum than Rs. 2,80,000 in

reduction of establishments, the loss likely to occur in reduction of duties from the abolition of the customs-line would certainly not have any appreciable effect on the revenue. It would therefore have given him great pleasure had he been able to supplement that measure by another providing for the abolition of the old Regulations regarding the inland customs-line without substituting anything new in their place; or, in other words, abolishing the whole customs-line altogether. But unfortunately the Government was not in a position to undertake so large a measure of reform. And therefore he thought it would be admitted that it was right and proper that the law regarding the inland customs-line should be placed on an intelligible footing. For this purpose he had now to introduce a Bill.

The Bill was one of consolidation in the first place, inasmuch as, whereas the present law was contained in eleven Acts, five Regulations and a vast number of orders which had or were supposed to have the force of law, this one Bill would now sweep away the whole of those with the exception of a portion of one Act; and the law of the future would be contained in the enactment which this Council would, he hoped, agree to pass.

In the matter of improvement, also, there were some things which he should like to mention. As the law stood, the practice was not always fully supported by the law. There were many matters in which the practice that had been in force for years was of doubtful legality. These doubtful points would be cleared up by new definitions and new sections which would settle the law and make it intelligible both to those who administered it and to the public who would be affected by it. There was one section which would give the Executive power to reduce or remit duties—a power which had hitherto been exercised without any special provision of law. Another section would give power to the Executive Government to prohibit the import of salt from one district into any other district—a power which had been exercised in the Panjáb without any legal provision. Another section would give the Executive Government authority to determine what was refined and what was unrefined sugar. This power was one the want of which had been frequently felt. The new Act would further give authority to certain officers of customs to deal with small quantities of articles liable to seizure. This power was now exercised solely by the Commissioners of Land Revenue, even with regard to the most minute quantities of such articles. The consequence was great delay, and a much heavier penalty was thus inflicted than would be inflicted by the mere loss of the quantity of salt or sugar involved in the seizure. Moreover, in regard to penalties and other matters of administration, the regulations in future would take the shape given them in the Excise Act X of

1871, and thereby be made clearer and more uniform and consistent than they hitherto had been.

He believed he had now mentioned the principal alterations that were proposed to be made in the existing law. Those alterations were in matters of detail, and did not involve any important principle. He therefore need not trouble the Council at any length in regard to them. It only remained to mention that he was much indebted to Mr. Batten, the Commissioner of Inland Customs, for the care and thought with which he had elaborated the details embodied in this Bill.

The Motion was put and agreed to.

The Hon'ble MR. ELLIS also moved that the Bill be published in the Gazettes of Bombay, the North-Western Provinces, the Panjáb, the Central Provinces and Oudh.

The Motion was put and agreed to.

#### OBSOLETE ENACTMENTS REPEAL BILL.

The Hon'ble MR. HOBHOUSE moved that the Supplementary Report of the Select Committee on the Bill for the repeal of certain Obsolete Enactments be taken into consideration. He thought he ought rather to move that both the Reports of the Committee be taken into consideration: the former Report was presented a fortnight or three weeks ago. He had explained on two occasions in this Council the principle upon which these Bills were framed, and he thought he need now state no more than that this Bill had been framed on precisely the same principle as the other Bills with which he had to do. The whole effect of the Bill was contained in the schedule, and that was a matter entirely of detail. He could not undertake to go through the schedule to explain exactly what was done, but he assumed that the Council had looked through the Committee's Reports in which the matter was fully explained. The Bill wholly removed from the Statute-book thirty-two Acts and twenty-four Regulations, and also a great number of whole sections of other enactments, and struck out from the remaining Acts and Regulations included in the schedule a good deal which had become dead matter; so that when we came to print a new edition of the Acts, there would be a great deal less matter to deal with than existed now in the Statute-book, and what remained would be clearer and easier to read.

The Motion was put and agreed to.

The Hon'ble Mr. HOBHOUSE also moved that the Bill as re-amended be passed.

The Motion was put and agreed to.

#### PORT-DUES ACT AMENDMENT BILL.

The Hon'ble Mr. HOBHOUSE also presented the Report of the Select Committee on the Bill to consolidate and amend the law relating to Ports and Port-dues.

#### NATIVE SOLDIERS' RIGHTS AND LIABILITIES BILL.

Major-General the Hon'ble Sir H. W. NORMAN moved for leave to introduce a Bill to remove doubts as to the rights and liabilities of certain Native Soldiers. He said that Act V of 1869 which constituted the Articles of War for the Native Army of the three Presidencies declared that, whenever any recruit was reported fit for duty, he should be attested; that is to say, he should appear in front of the Regiment, and the Commanding Officer should make such declaration or charge as was usual. The recruit would then make solemn affirmation and declare his fidelity to the Queen and her successors, and that he would proceed wherever he was ordered, and would obey all commands of the officers set over him. It had recently been brought to notice that in certain cases this process of attestation had been omitted. It was believed that this omission was substantially provided for by the application-clause of the Act, which provided that it should apply to all "soldiers, unattested recruits," and other classes specified in the first part of the Act. But in order to remove the possibility of a doubt, it seemed desirable to introduce a Bill framed on the model of the 59th section of the British Mutiny Act, which declared that any person borne on the rolls and who had received pay for six months should be deemed to be duly enlisted, enrolled and attested. This course was in accordance with the recommendation of His Excellency the Commander-in-Chief, and had received the sanction of His Excellency the Governor General, which was required by law in the case of a Bill affecting the discipline or maintenance of the Army.

The Motion was put and agreed to.

#### BURMA COURTS ACT AMENDMENT BILL.

The Hon'ble Mr. HOBHOUSE moved that the Hon'ble Messrs. Inglis and Dalryell be added to the Select Committee on the Bill for the further amendment of the Burma Courts Act, 1872.

The Motion was put and agreed to.

## PANJAB LAWS ACT AMENDMENT BILL.

The Hon'ble Mr. HOBHOUSE also moved for leave to introduce a Bill to amend the Panjáb Laws Act, 1872, and to provide for the establishment of Rural Police in the Panjáb. The Council must not suppose that the Panjáb was now without a rural Police. They had that very necessary appendage to civilized society, and they had that which was, on the whole, a very efficient body; but, like other institutions, it wanted adjusting from time to time. As society grew, its wants varied and had to be met from time to time.

The Council would remember, and his hon'ble friend Sir Richard Temple in particular would remember, that the history of the Panjáb law was a rather curious one: differing from that of the Regulation Provinces considerably. After the acquisition of the Panjáb, the Board of Administration made a number of Regulations: in fact, they established a Code of laws, in the framing of which his hon'ble friend took a most distinguished part. Under the terms of the Acts of Parliament which then gave the power of passing laws for India, some doubts existed whether the Regulations made by the Board of Administration in the Panjáb, from time to time, had a proper legal foundation; and in order to remove all doubts, it was thought proper to apply to Parliament. Accordingly, the Indian Councils' Act provided that, in provinces situated as the Panjáb was, no objection should be taken to the validity of any Regulation merely because the forms required by the Act of Parliament for passing Laws and Regulations had not been observed. It had been held under that law, that all Regulations passed by the Board of Administration of the Panjáb had the force of law, and also that, by its silence and by implication, the Act of Parliament prevented the passing of any such Regulations in future, but referred the Government of the Panjáb to the general legislative power. The consequence was that those institutions which were constituted by the Board of Administration became from that moment solidified; and if they wanted moulding from time to time, the Local Government had to come to this Council for a law. That sudden solidification of a great quantity of Regulations, which, though reduced very much into shape principally by the labours of Sir Richard Temple, yet contained also a great number of informal orders, had the effect of making the law very confused. Mr. Stephen took the matter up and framed a very bold and original and also very useful and successful measure called the "Panjáb Laws Act," for the purpose of ascertaining the law and throwing it into a manageable shape. The Panjáb law now depended partly on the general enact-

ments of the country, and partly on the Panjáb Laws Act. It was not thought at that time that any particular law was wanted for these rural Policemen or Chauhídárs. But the Local Government now found that, although they had a good institution, they required greater powers for dealing with the rural Police: for defining their duties and making different arrangements for more or less populous and wealthy places. That was the reason for the introduction of this Bill. The Council might possibly recollect that MR. HOBHOUSE introduced a Bill for defining the laws in Oudh which was in imitation of Mr. Stephen's Act for the Panjáb. In the Oudh Laws Bill, the Local Government had suggested that they should have full powers for regulating the village Chauhídárs or rural Police. That Bill was referred to the Local Government, who had been considering it for a very long time: and MR. HOBHOUSE was very sorry for the delay. The Council had probably forgotten the details, and he might remind them that in that Bill we proposed to give powers for regulating the rural Police. And now we proposed to do the same for the Panjáb.

HIS HONOUR THE LIEUTENANT-GOVERNOR merely desired to say one word in corroboration in regard to the fact that the Panjáb did possess an elaborately constituted rural Police. On the first settlement of the Panjáb the greatest pains were taken to ensure that such an important institution should be provided for the province. Consequently, there were village-watchmen appointed in every village by the Magistrates, and when the settlements came on for revision, the position of these village officials was carefully ascertained by various terms in the deeds of settlement. Their exact mode of remuneration was determined, according either to the custom of the village or the consent of the parties interested—sometimes in grain, sometimes in cash, sometimes in land, and sometimes in a combined remuneration of all three sorts put together. The exact status, legal duties and position of each rural policeman were entered in the administration-papers of the settlement duly attested by the villagers. So that HIS HONOUR had no doubt it would be found that in no part of the country had that very important subject received more detailed attention than in the Panjáb. At the same time he could well understand that, as time went on, considering that everything was now regulated by legal enactment, circumstances might arise in which it was desirable that the Local Government should have the power of regulating by law the status of this most important institution. And therefore he had great pleasure in voting for the introduction of the Bill.

The Motion was put and agreed to.

The following Select Committee was named :—

On the Bill for regulating Inland Customs' Duties on Salt and Sugar, and for other purposes—The Hon'ble Messrs. Hobhouse, Inglis, Dalyell and Bullen Smith and the Mover.

The Council adjourned to Tuesday, the 22nd December 1874.

WHITLEY STOKES,

*Secretary to the Government of India,*

*Legislative Department.*

CALCUTTA ;  
The 15th December 1874. }