

Thursday,
4th October, 1883

ABSTRACT OF THE PROCEEDINGS

OF THE

Council of the Governor General of India,

LAWS AND REGULATIONS

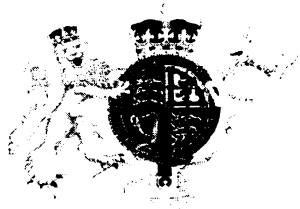
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ABSTRACT OF THE PROCEEDINGS
OF
THE COUNCIL OF THE GOVERNOR GENERAL OF INDIA
ASSEMBLED FOR THE PURPOSE OF MAKING
LAWS AND REGULATIONS

1883

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1884**

The Council met at Government House, Simla, on Thursday, the 4th October 1883.

PRESENT :

- His Excellency the Viceroy and Governor General of India, K.G., G.M.S.I., G.M.I.E., *presiding*.
- His Excellency the Commander-in-Chief, G.C.B., C.I.E.
- Lieutenant-General the Hon'ble T. F. Wilson, C.B., C.I.E.
- The Hon'ble C. P. Ilbert, C.I.E.
- The Hon'ble Sir S. C. Bayley, K.C.S.I., C.I.E.
- The Hon'ble T. C. Hope, C.S.I., C.I.E.
- The Hon'ble Rájá Siva Prásád, C.S.I.
- The Hon'ble W. W. Hunter, LL.D., C.I.E.
- The Hon'ble J. W. Quinton.
- The Hon'ble D. G. Barkley.

PROTECTION OF INVENTIONS BILL.

The Hon'ble MR. ILBERT moved that the Report of the Select Committee on the Bill for the protection of inventions exhibited in the Exhibitions of India be taken into consideration. He stated that the Bill appeared to have been generally accepted as useful and sufficient, and the only alterations made by the Committee were alterations of a verbal nature.

The Motion was put and agreed to.

The Hon'ble MR. ILBERT also moved that the Bill as amended be passed.

The Motion was put and agreed to.

NATIVE PASSENGER SHIPS ACT, 1876, AMENDMENT BILL.

The Hon'ble MR. ILBERT also moved that the Report of the Select Committee on the Bill to amend the Native Passenger Ships Act, 1876, be taken into consideration. He said :—

“ The object of this Bill is to give effect to certain international arrangements with respect to the pilgrim-traffic in the Red Sea. On looking into the matter, it was found that most of what was required could be effected by means of alterations in the rules made under our Native Passenger Ships Act, but that it

would also be necessary to make one or two amendments in the Act itself, and it was for this purpose, and this purpose only, that the present Bill was prepared.

“The local officers have directed attention to various points, other than those covered by the amending Bill, in which it appears to them that the Passengers Act is defective. We admit the existence of some of these defects, and the question as to the best mode of remedying them is at this moment under the consideration of the Home Department, and will shortly be brought under the consideration of the Legislative Department. But in the meantime, as the present Bill is urgently required, we think it desirable not to postpone its passing until the more general amending measure can be prepared and passed. I mention this in order that it may not be supposed that some of the very useful suggestions which we have received have been overlooked. Some of the criticisms which have been passed on the Bill seem to be based on an imperfect apprehension of the limited scope of the Act which we propose to amend. For instance, it has been suggested by some that the provisions of the Bill may interfere in an inconvenient manner with the traffic of cargo-ships trading to the Red Sea, and by others that we ought to obtain a more extensive control over all passenger-ships trading to or from ports in the Red Sea to British India or elsewhere. But if you look at section 2 of the Passengers Act, you will find that the scope and operation of the Act are restricted within very narrow limits. The Act extends to the whole of British India, and applies—

“to all subjects of Her Majesty within the dominions of Princes and States in India in alliance with Her Majesty ;

“to all Native Indian subjects of Her Majesty without and beyond British India ; and

“subject to the exceptions mentioned in section 2, to vessels carrying more than thirty passengers, being Natives of Asia or Africa.”

“But the section expressly provides that nothing in the Act is to apply—

“to any ship of war or transport belonging to, or in the service of, Her Majesty ;

“to any ship of war belonging to any Foreign Prince or State ;

“to any sailing vessel not carrying as passengers more than thirty Natives of Asia or Africa ;

“to any steamer not carrying as passengers more than sixty of such Natives ;

or

“to any sailing vessel or steamer not intended to convey passengers to or from any port in British India.

“ The Act does not apply to mere cargo-ships ; it does not apply to ships carrying passengers, other than Native passengers as defined by the Act ; it does not apply even to those ships unless they carry a minimum number of such passengers, nor unless those passengers happen to be bound either to or from some port in British India. Thus, the Act would not apply to a ship carrying Native passengers from Jeddah to Ceylon, or *vice versa*, even though the ship happened to touch at Aden on its way. Again, the section to which I have referred is so framed as to exclude from the operation of the Act those ships over which we have no jurisdiction, and over which our Indian legislature, with its limited powers, cannot give us jurisdiction. We have done our best to meet the difficulty arising from want of jurisdiction in such cases by requiring the owner, agent or master of every ship carrying Native passengers, and proceeding from a port in British India to the Red Sea, to execute a bond which is conditioned for the observance of the requirements of the Act both on the outward and on the homeward voyage, and which can be enforced in Indian Courts. We are only concerned with the pilgrim-traffic to and from British India, and I have been informed—though I cannot vouch for the accuracy of the information—that almost all the ships engaged in this traffic start from British Indian ports and sail under the British flag. If that is the case, I do not apprehend that there will be any practical difficulty in enforcing the provisions of the Act. But whether it is so or not, we cannot exceed the powers of our legislature, and if it should appear desirable to obtain more extensive control over foreign ships or over British ships when outside British Indian waters, we must seek the assistance of the British legislature, acting if necessary in concert with the Governments of foreign States. A precedent for legislation of the kind required will be found in the Imperial Merchant Shipping Act of 1876 (39 and 40 Vict., c. 80, s. 37).

“ Under these circumstances, we have not thought it necessary to make more than two substantive alterations in the Bill as introduced. The first of the alterations which we have made relates to the power to be conferred on the Government to require an assurance as to the state of health of the passengers before embarkation. The Bill as introduced empowered the Government to require passengers to produce a medical certificate, but it has been pointed out that, while the obtaining of such certificates might in many cases involve considerable trouble and delay to those concerned, the certificate would not always afford a guarantee that the holder of it was not at the moment of embarkation free from disease. We have accordingly substituted for the power to require certificates a power to subject passengers to a medical inspection before embarkation,

and to prevent the embarkation of any person who may appear to be suffering from any dangerously infectious or contagious disease.

“The other alteration which we have made consists in the addition to the Bill of a section empowering the Local Government, with the previous sanction of the Governor General in Council, to exempt for sufficient reason any class of ships from any provision of the Act. This section has been inserted at the suggestion of the Bombay authorities, who represent that, under exceptional circumstances, some of the provisions of the Act as now amended might operate inconveniently; for instance, if at a time when steamers were being taken up for a military expedition and only sailing vessels could be procured for Native passenger-traffic, we were to insist rigidly on the condition as to a Native passenger-ship bound for the Red Sea being propelled principally by steam.”

The Motion was put and agreed to.

The Hon'ble MR. ILBERT also moved that the Bill as amended be passed.

The Motion was put and agreed to.

LEGAL PRACTITIONERS BILL.

The Hon'ble MR. ILBERT introduced the Bill to amend the Legal Practitioners Act, 1879, and the Indian Stamp Act, 1879, and moved that it be referred to a Select Committee consisting of the Hon'ble Sir Steuart Bayley, the Hon'ble Mr. Quinton and the Mover.

The Motion was put and agreed to.

The Hon'ble MR. ILBERT also moved that the Bill and Statement of Objects and Reasons be published in the local official Gazettes in English and in such other languages as the Local Governments might think fit.

The Motion was put and agreed to.

CATTLE-TRESPASS ACT, 1871, AMENDMENT BILL.

The Hon'ble MR. ILBERT also presented the Report of the Select Committee on the Bill to amend the Cattle-trespass Act, 1871.

PANJÁB LOCAL SELF-GOVERNMENT BILL.

The Hon'ble MR. BARKLEY presented the Report of the Select Committee on the Bill to make better provision for Local Self-Government in the Panjáb.

INDIAN PORTS ACT, 1875, AMENDMENT BILL.

The Hon'ble MR. ILBERT moved for leave to introduce a Bill to amend the Indian Ports Act, 1875. He explained that this was a small Bill which had been prepared at the suggestion of the Financial Department, and that its object was to amend section 47 of the Indian Ports Act, 1875, in such a way as to make it clear that the pensions of port-officers might be charged against the port-account.

The Motion was put and agreed to.

The Council adjourned to Wednesday, the 10th October, 1883.

D. FITZPATRICK,
Secretary to the Government of India,
Legislative Department.

SIMLA ;
The 5th October, 1883.