

*Wednesday,
29th June, 1887*

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

VOLUME XXVI



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1888.

*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 Viceregal Lodge, Simla, on Wednesday, the 29th June,
1887.

P R E S E N T :

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

His Honour the Lieutenant-Governor of the Punjab.

His Excellency the Commander-in-Chief, Bart., R.A., V.C., G.C.B., G.C.I.E.

The Hon'ble Sir T. C. Hope, K.C.S.I., C.I.E.

The Hon'ble Sir A. Colvin, K.C.M.G., C.I.E.

The Hon'ble Lieutenant-General G. T. Chesney, R.E., C.B., C.S.I., C.I.E.

The Hon'ble A. R. Scoble, Q.C.

The Hon'ble J. B. Peile, M.A., C.S.I.

The Hon'ble J. W. Quinton, C.S.I.

The Hon'ble Lieutenant-Colonel E. G. Wace.

GAME PROTECTION BILL.

The Hon'ble MR. PEILE moved that the Bill for the Protection of Game
(of which he explained the objects and scope at the last meeting of the Council)
be referred to a Select Committee consisting of the Hon'ble Lieutenant-General
Chesney, the Hon'ble Messrs. Scoble and Quinton and the Mover.

The Motion was put and agreed to.

INDIAN MARINE BILL.

The Hon'ble LIEUTENANT-GENERAL CHESNEY moved that the Report
of the Select Committee on the Bill for the better administration of Her Majesty's
Indian Marine Service be taken into consideration.

The Motion was put and agreed to.

[*Lieutenant-General Chesney.*]

[29TH JUNE,

The Hon'ble LIEUTENANT-GENERAL CHESNEY also moved that the following be substituted for section 3 of the Bill :—

"3. (1) A person to be enrolled in the Indian Marine Service shall be brought on to the quarter-deck or other suitable place on boardship or on shore, and the commanding or other prescribed officer shall then—

"(a) cause to be read and explained to him the rules of the service ;

"(b) administer to him an oath of allegiance ; and

"(c) cause him to sign a roll.

"(2) The rules, oath and roll shall be in prescribed forms."

The Motion was put and agreed to.

The Hon'ble LIEUTENANT-GENERAL CHESNEY also moved that the following sub-section be added to section 67 of the Bill :—

"(4) Notwithstanding any error, omission or irregularity in any proceeding of an Indian Marine Court, the confirming authority may confirm the finding or sentence of the Court, or either of them, unless the error, omission or irregularity has, in the opinion of that authority, occasioned a failure of justice."

The Motion was put and agreed to.

The Hon'ble LIEUTENANT-GENERAL CHESNEY also moved that the Bill as amended, be passed. He said :—

"In doing so I do not think that it is necessary to trouble the Council with any lengthened remarks, because in asking permission last year, at a meeting of the Council in Calcutta, to introduce the Bill, I explained briefly that the reason for which such a measure was proposed was that in the present state of the case the Indian Marine Service was subject to no specific law, that it was not under the Indian Naval Act or the English Mercantile Marine Act, and therefore that it was in an unrecognised and unsanctioned state.

"The reason why so much delay has occurred in providing an Act of this description is that we required, in the first instance, an enabling Act of Parliament before the Bill could be introduced into this Council, and various circumstances occurred at home to retard the passing of this enabling Act. As soon as it was passed this Bill was prepared and introduced into this Council.

"The amendments that have been proposed by the various authorities who have been consulted regarding the measure are mainly of a simple and technical

1887.] [*Lieutenant-General Chesney; Mr. Quinton.*]

character. They have been carefully considered by the Committee, and have been, so far as has been thought desirable, incorporated in the text of the Bill. I will only add that the Military Department are under great obligations to my hon'ble friend the Legislative Member of Council, and also to the learned Secretary of the Legislative Department, upon whom the real labour of preparing this Bill has devolved."

The Motion was put and agreed to.

ALLAHABAD UNIVERSITY BILL.

The Hon'ble MR. QUINTON moved that the Bill to establish a University at Allahabad be referred to a Select Committee consisting of the Hon'ble Sir Auckland Colvin, the Hon'ble Messrs. Scoble and Peile, the Hon'ble Lieutenant-Colonel Wace and the Mover, with instructions to report within two months. He said :—

" When moving for leave to introduce this Bill at the last meeting of Council I explained the reasons which, in the opinion of the Local Government, the Government of India and the Secretary of State, proved the necessity for establishing a university at Allahabad, and I shall now briefly touch upon the provisions of the measure.

" As is well known to Council, the Acts for the establishment of universities at the Presidency-towns were passed just 30 years ago, and in 1882 an Act was passed by this Council for the establishment of the Punjab University. In preparing the Bill before Council those Acts have been carefully considered, and their form has for obvious reasons been closely adhered to. We have, however, done our best to remedy defects or supply omissions which experience has brought to light in the earlier enactments.

" The provisions respecting the appointment of Patron, Chancellor, Vice-Chancellor and Fellows are substantially those which have received the approbation of Council in case of the Punjab University, and need not be long dwelt upon. Your Excellency will be the first Patron and Sir Alfred Lyall the first Chancellor of the University; and I hope I may venture to say that the infant institution could not begin its life under the auspices of two sponsors better fitted by their refined scholarship and literary culture to inaugurate its career and add lustre to its reputation.

" The governing body of the University will be the Senate, which is made up of the Chancellor, Vice-Chancellor and Fellows. The Fellows will be the incumbents

[Mr. Quinton.]

[29TH JUNE,

for the time being of certain high offices, who may be presumed from their official experience and training to take an interest in education generally, and to possess peculiar qualifications for sharing in the control and management of the university.

"The propriety of the entry in the list of the names of the Bishop of Calcutta and the Chief Justice of the North-Western Provinces is apparent. The Chief Secretary to Government will represent the views of the Local Government; the Secretary in the Public Works Department will support the claims of the proposed Engineering Faculty and the Thomason College; the Commissioner of Allahabad is the chief administrative officer of Government at the seat of the university; the Commissioner of Lucknow is *ex officio* President of the Canning College, and the Commissioner of Agra is an *ex officio* Member of the Board of Trustees and President of the Managing Committee of the Agra College; while the Director of Public Instruction, North-Western Provinces, and the Principals of the Muir and Queen's Colleges will represent the Government side of high education in the Provinces.

"Besides these *ex officio* Fellows the Chancellor may from time to time appoint others by name as being eminent benefactors of the University or persons distinguished for attainments in Literature, Science or Art, or for zeal in the cause of education. I have seen it urged that the bestowal of liberal endowments on a university does not qualify the donor to take part in its control. This seems to me to be not the whole truth. There is, I think, at least a presumption that persons who evince such a practical interest in the promotion of learning possess some qualifications for taking part in guiding the machinery which is working for that object; and in this country, where it is desirable to induce the wealthy to contribute liberally for this end, every proper encouragement should be held out to them to give of their abundance. In this view I hope the provision to which the objection I have stated has been urged will meet with the approval of Council. The list of persons named under this provision—clause (b) of sub-section (1) of section 5 of the Bill—will at a later stage be inserted in Part II of the schedule. It is clearly not desirable or convenient that the names of gentlemen selected for appointment on the grounds mentioned should be included in the Bill on its circulation for opinion. It would seem to be more in accordance with usage, and would possibly be preferred by the persons selected, that their names should be finally decided upon and entered at the time of the passing of the Act. I would however say that I have good reason to believe that the aided colleges will be adequately represented in the list, and that there is every desire that teaching bodies should have an influential voice in the management of the affairs of the university.

1887.]

[*Mr. Quinton.*]

I would here beg leave to correct an omission due to inadvertence in my speech when introducing the Bill. In enumerating the colleges by which high English education is imparted in the United Provinces, I did not name the London Mission College, Benares, which, by the success of its pupils at the university examinations, has fully merited honourable mention.

" The persons whose names are included in the two lists I have referred to will constitute the body of Fellows at the first starting of the University ; but we have adopted a provision from the Punjab University Act by which a proportion of future vacancies will be filled up from elections by the Senate. This may be expected to introduce into the Senate a more popular and varied element than could be secured by mere nomination.

" In section 11 of the Bill, which provides for the appointment of a Syndicate, Faculties, examiners and officers, it will be seen that power is given to the Senate to constitute Faculties not merely of Arts, Law and Science, but also of Engineering. We have already in the North-Western Provinces an Engineering College long established, which sends out its pupils all over India, and is celebrated alike for the success of its alumni, and for the attainments and reputation of the distinguished officers of the Bengal and Royal Engineers who have held, and hold, the office of Principal. It requires few words to show that the pupils of such a college should not be compelled to undergo examination at the hands of a body, however learned, one thousand miles off, and may fairly claim to have their knowledge tested by a competent body less alien in habits, language and character.

" We have also in the Provinces at Agra a Medical School which, though at present far behind the colleges at the Presidency, may, we hope, in time develop into an institution capable of imparting a high medical education ; and with this expectation power has been given to the Senate to constitute a Faculty of Medicine with the previous approval of the Governor General in Council. Such approval will, of course, be withheld until the Government of India is fully satisfied of the adequacy of the medical education given by the Provincial institution.

" In clause (5), by empowering the Senate to appoint or provide for the appointment of professors and lecturers, we take a step in advance of the law for the Presidency universities in the direction of facilitating the future expansion of the institution established by the Bill into a teaching university. The three older universities are examining bodies and nothing more, and the Punjab Uni-

[Mr. Quinton; Mr. Peile.]

[29TH JUNE,

versity is a teaching as well as an examining body. As in all educational questions, much is to be said, and has been said, for each of those systems. The advocates of one side point to the older universities in the British Isles and continental Europe: those of the other to that vigorous and flourishing institution, the London University, over which the controversy is now being hotly waged. I need not enumerate the arguments *pro* and *con*, with which hon'ble members are doubtless familiar. An infant institution like ours may be well content to await the issue of the dispute and to profit by the experience of its elders. The power taken is only permissive; and in the present condition of the Provinces it cannot be brought into operation for some time to come. The Muir College at Allahabad, flourishing as it is, cannot yet pretend to have reached the educational status of the Presidency College; and it is in the Muir College that, from the circumstances of the case, the germs of a teaching university for the Upper Provinces must be looked for.

"We have incorporated in the Bill provisions enabling the Senate to confer the honorary degree of Doctor of Laws in accordance with Act I of 1884, which gives that power to the older universities; and in section 16 we have given power to the Senate to make rules for the transaction of business and the management of the university with the sanction of the Local Government. To rules respecting the previous course of instruction to be followed by candidates for the university examinations, and respecting the examinations to be passed, and the other conditions to be fulfilled by candidates for degrees, the further sanction of the Governor General is necessary.

"The provisions of the Bill, and the criticisms on them evoked by its publication, will be fully discussed by the Select Committee, in which it will be observed we shall have the advantage of the advice of a future Chancellor of the university, and of Fellows of the universities of Bombay and the Punjab."

The Motion was put and agreed to.

BURMA MILITARY POLICE BILL.

The Hon'ble MR. PEILE moved for leave to introduce a Bill for the Regulation of Military Police in Burma. He said:—

"With Your Lordship's permission I will briefly explain to the Council the reasons for this motion.

"Soon after we assumed the government of Upper Burma, the necessity became apparent for enrolling a well-disciplined and armed force of military

1887.]

[*Mr. Peile.*]

police, to be recruited in Northern India, for the repression of disturbance and dacoity. From time to time, during 1886, the dimensions of this Indian force were enlarged; and in the autumn the Chief Commissioner proposed a Regulation under the Statute 33 Vic., chapter 3, section 1, for the better discipline of the military police of Upper Burma. His draft followed closely the Assam Frontier Police Regulation of 1882. It was approved by the Governor General in Council, received Your Excellency's assent in January, 1887, and came into force in the same month. It applies to all persons appointed to the Burma police under the general Police Act, V of 1861, section 7, who may have signed a statement as to conditions of service, which forms a schedule to the Regulation. Its effect is to enforce discipline by imposing severe punishments for mutiny, cowardice, desertion and various breaches of duty on active service; to make obligatory a minimum term of service of three years; and to bar all right to be discharged when on active service or when the force is more than one-tenth below its sanctioned strength.

"In May last the Chief Commissioner requested that a Police Act similar to this Regulation should be passed for Lower Burma. He said that Act V of 1861 was inadequate to maintain the discipline of a semi-military force such as the Lower Burma Indian police was tending to become; that the Indian police who had been enlisted before 1886 were not, as a rule, of the martial races of India; that he proposed to eliminate the unfit and to bring the rest under the discipline of a Military Police Act. He added that a similar law was required for the force of Indian police which the Government of India had raised for Lower Burma in 1886, which consisted of the same stamp of men who had been enlisted for the military police of Upper Burma, and which was armed with the same weapons.

"In the necessity for such a measure we entirely concurred. For three years previous the Government of India had been constrained to record unfavourable opinions on the efficiency of the Lower Burma police in coping with the outburst of violent crime which then prevailed.

"There was, however, an obvious inconvenience in having separate and distinct enactments for the Upper and the Lower Provinces; inasmuch as men enrolled under the Regulation for service in Upper Burma could not be employed in Lower Burma; nor could men enrolled under an Act in force in Lower Burma be employed in the new territory. Upper and Lower Burma now form one Province; the crime with which the military police have to deal is of the same type in both; and it was clear to us that the preferable course was to have one Military Police Act for the whole Province of Burma.

[*Mr. Peile.*]

[29TH JUNE, 1887.]

"It was decided, therefore, that the requirement of the Chief Commissioner should be met by bringing before the Council, with as little delay as possible, a Bill for regulating the military police of Burma as a whole. That is the measure which I now ask leave to introduce. It purports to repeal the Military Police Regulation, which has been law in Upper Burma since January; and it is substantially identical with that Regulation, extending the same provisions to the same class of military police-officers in the Lower as in the Upper Province."

The Motion was put and agreed to.

The Hon'ble MR. PEILE also introduced the Bill.

The Hon'ble MR. PEILE also moved that the Bill be taken into consideration by the Council on the 13th July, 1887.

The Motion was put and agreed to.

The Council adjourned to Wednesday, the 13th July, 1887.

SIMLA;
The 1st July, 1887.

S. HARVEY JAMES,
Offg. Secretary to the Govt. of India,
Legislative Department.