

Tuesday, July 25, 1871

ABSTRACT OF THE PROCEEDINGS

**COUNCIL OF THE GOVERNOR GENERAL OF INDIA
LAWS AND REGULATIONS.**

VOL 10

Book No. 2

March to Dec.

1871

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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 under the provisions of the Act of Parliament 24 & 25 Vic., cap. 67.

The Council met at Simla on Tuesday, the 25th July 1871.

P R E S E N T :

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

His Excellency the Commander-in-Chief, G. C. B., G. C. S. I.

The Hon'ble John Strachey.

The Hon'ble Sir Richard Temple, K. C. S. I.

The Hon'ble J. Fitzjames Stephen, Q. C.

The Hon'ble B. H. Ellis.

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

The Hon'ble F. R. Cockerell.

The Hon'ble R. E. Egerton.

DUTIABLE GOODS TRANSPORT BILL.

The Hon'ble SIR RICHARD TEMPLE moved for leave to introduce a Bill to regulate the transport by Railways of dutiable goods to places beyond the customs line. He said that one result of the rapid extension of Railways in India had been that large quantities of goods were carried across our frontiers and serious frauds practised in the evasion of the customs duties, not through any fault of the customs officials, but through the fault of consignors or consignees. When goods had to cross a customs line, they could be dealt with in two ways—there must either be a vexatious system of examination at the line itself, or there must be a system by which all despatchers of dutiable goods might be obliged to take out passes on despatching the goods, and by which despatchers of non-dutiable goods might be compelled to declare that they were so. There were of course cases, notably that of salt, in which the carriages conveying it might be easily examined on crossing the customs line; but it appeared, on the whole, that the best plan was to strike at the root of the evil, and provide that all goods should be protected with a pass. In order to give the Council an idea of the intention of the Act, he would ask leave to read the third and fourth sections.

“3. Any person wishing to forward dutiable goods or any package containing a dutiable article by any public conveyance to any place situate across a customs line, may apply to the Head of such customs line or to some officer duly authorized by him in that behalf for a pass.

"The said pass shall be in duplicate, in such form as the Local Government shall, from time to time, direct, and shall be granted by the Head of the said customs line or the officer so authorized as aforesaid, on payment of the duty which according to law would be payable at the customs line in respect of the goods or article for or in respect of which the pass is granted.

"4. Whenever any person not having the customs pass mentioned in section two tenders a package for transport by a public conveyance to a place across a customs line, the booking-officer shall, before booking such package for transport, require such person to sign a declaration that the package contains no dutiable article."

These two sections were the leading provisions of the Bill; all the rest had to deal with penalties and other subsidiary details. He hoped that, after hearing this explanation as to the scope of the Bill, the Council would grant him leave to introduce it.

The Motion was put and agreed to.

OATHS AND DECLARATIONS AMENDMENT BILL.

The Hon'ble Mr. STEPHEN introduced the Bill to amend Act No. V of 1840 (concerning the Oaths and Declarations of Hindoos and Mahometans), and moved that it be referred to a Select Committee with instructions to report in six weeks. He said that the necessity for this Bill arose from the fact that the provisions which at present allowed of the substitution of declarations for oaths, extended only to witnesses, and did not embrace the case of jurors in criminal trials or Coroner's inquests, for whom it was desirable to provide. Mr. STEPHEN had originally proposed to deal generally with this subject in the Evidence Bill, and several sections had been inserted in that Bill for this purpose. One of those provisions was that if the Court considered that a witness felt any particular form of oath especially binding, that particular form might be employed. The one object of oaths was to increase the likelihood of people telling the truth, and if one form of ceremony was more likely than another to secure this end, it was, Mr. STEPHEN thought, only reasonable that this form should be adopted. The essential part of the present Bill was, however, the provision that, in all cases, a solemn declaration might be substituted for an oath. Moreover, the Act which it was proposed to amend, extended only to Hindús and Muhammadans. There was no possible reason for this restriction. Not to speak of Christians, there were so large a number of strange religions with which the Government and Courts of this country came in contact, that it was desirable to make the provision in the widest possible terms.

The Motion was put and agreed to.

CHAUKÍDARÍ ACT EXTENSION BILL.

The Hon'ble MR. STRACHEY presented the Report of the Select Committee on the Bill to authorise the extension of the Chaukídará Act to places where there is no jamadár of Police.

LOCAL EXTENT ACTS BILL.

The Hon'ble MR. COCKERELL moved for leave to introduce a Bill for declaring the local extent of certain Acts of the Imperial Legislative Council. He said that the Bill related to (1st) Acts of a general character passed by the chief legislature since 1834, which were capable of being applied to the whole of British India, but contained in themselves no express definition of their local extent; and, (2nd), Acts which, though for the most part in general operation in the Non-Regulation, in common with the Regulation, Provinces, had never been legally extended to the former.

As the sole object of the Bill was to remove any doubt as to the intended local extent of Acts applicable to all the British territories in India, it would not include any Acts of more limited application, or whose local extent was already otherwise sufficiently defined.

The Bill was designed on the same principle as a Bill for declaring and consolidating the law relating to the local extent of certain Regulations and Acts, which had for some time past been before the Council, and was intended to form a connecting link between that measure and the Bills for declaring the law in force in the Panjáb and elsewhere, for the introduction of which leave was recently obtained.

The general nett result of these and other projected measures of a similar kind for declaring the law in force in the different Non-Regulation Provinces would be to simplify and render easy of accomplishment what had hitherto been an intricate, he might say almost impracticable, task, namely, the ascertainment of the entire operative law on any given subject within any particular portion of this vast empire.

As no alteration of the substance of the existing law was contemplated by this Bill, it would not be open to the objection that it was in any way calculated to limit the power now vested in the Local Councils of affecting, by their

legislation, Acts passed by the chief legislature previous to the coming into operation of the Indian Councils' Act of 1861.

The Hon'ble Mr. STEPHEN observed that the intention of the Bill was merely to supply an omission which occurred in many of the older Acts, namely, a distinct declaration of their local extent. The result of this omission was, that there was some doubt in the case of such Acts as to whether they were intended to apply to the whole of British India or not. This doubt it was now proposed to clear up, and the Bill was calculated to facilitate the administration of the law.

The Motion was put and agreed to.

PENSIONS' BILL.

The Hon'ble Mr. COCKERELL also presented the Report of the Select Committee on the Bill to consolidate and amend the law relating to Pensions.

The following Select Committee was named :—

On the Bill to amend Act No. V of 1840 (concerning the Oaths and Declarations of Hindoos and Mahometans):—His Honour the Lieutenant-Governor of the Panjáb, the Hon'ble Messrs. Strachey, Cockerell and Egerton and the Mover.

The Council adjourned to Tuesday, the 1st August 1871.

H. S. CUNNINGHAM,

SIMLA;
The 25th July 1871. }

*Offy. Secy. to the Council of the Governor
General for making Laws and Regulations.*