

*Thursday,
20th August, 1891*

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,

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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 Vict., Cap. 67.

The Council met at Viceregal Lodge, Simla, on Thursday, the 20th August, 1891.

P R E S E N T :

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

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

The Hon'ble Sir P. P. Hutchins, K.C.S.I.

The Hon'ble Sir D. M. Barbour, K.C.S.I.

The Hon'ble Sir A. E. Miller, KT., Q.C.

The Hon'ble Lieutenant-General H. Brackenbury, C.B., R.A.

The Hon'ble Colonel R. C. B. Pemberton, R.E.

INDIAN MERCHANT SHIPPING ACT, 1880, AMENDMENT (DECK AND LOAD-LINES) BILL.

The Hon'ble SIR DAVID BARBOUR moved that the Report of the Select Committee on the Bill to amend the Indian Merchant Shipping Act, 1880, be taken into consideration. He said :—

“ It will be recollected that, when introducing this Bill on 19th December last, I pointed out that its object was to assimilate the Indian to the English law in regard to maximum load-lines, and that it had been rendered necessary by the changes in the English law made by the English Merchant Shipping Act of 1890.

“ As the questions dealt with in the Bill were of a highly technical character, a copy of the Bill, as introduced in December last, was forwarded through the Secretary of State for India to the Board of Trade for examination and for any suggestions for the amendment of the Bill which the Board might wish to make.

“ The Board of Trade has no objection to the Bill as introduced and makes no suggestion for its amendment. There is no higher authority on this subject than the Board of Trade, and it is therefore not necessary for me to do more at

[*Sir David Barbour ; Sir Philip Hutchins.*] [20TH AUGUST,

the present time than briefly explain the chief modifications which the Select Committee now suggests.

“ In the Bill as amended by the Select Committee it is provided that Colonial marks relating to deck and load-lines which are recognized in England shall also be recognized in India, and that foreign ships shall be brought under the operation of the law, as they are in England, unless the countries to which they belong have laws on the subject of deck and load-lines which are recognized as equally effective with the English or Indian law. In both these respects the Select Committee merely proposes to follow the English law and practice.

“ The Select Committee recommends that power be given to Local Governments to exempt Native craft, not square-rigged, from the operation of the law; even the existing rules under Act VII of 1880 as regards the marking of vessels have not been applied to vessels of this class, and the English deck and load-line law, as altered in 1890, cannot fairly be made applicable to them. Power is also given to make rules, with the previous sanction of the Governor General in Council, for the definition of fair and foul seasons and for the modification of the tables of free board in the case of any class or classes of vessels. It is intended by this provision to enable Government to deal from time to time with vessels in the coasting or purely Eastern trade to which the rules of the Board of Trade cannot be applied in their full integrity.”

The Motion was put and agreed to.

The Hon'ble SIR DAVID BARBOUR also moved that the Bill, as amended, be passed.

The Motion was put and agreed to.

PUNJAB MUNICIPAL BILL.

The Hon'ble SIR PHILIP HUTCHINS moved that the Bill to make better provision for the Administration of Municipalities in the Punjab be referred to a Select Committee consisting of the Hon'ble Sir Alexander Miller, the Hon'ble Mr. Rattigan and the Mover, with instructions to report within one month.

The Motion was put and agreed to.

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[*Sir Philip Hutchins.*]

LOWER BURMA MUNICIPAL BILL.

The Hon'ble SIR PHILIP HUTCHINS also moved for leave to introduce a Bill to amend the Lower Burma Municipal Act, 1884. He said :—

“ A fortnight ago I had the honour of bringing before this Council a Bill revising the Municipal Law now in force in the Punjab. I have now to ask leave to introduce a Bill to amend in some few respects the Lower Burma Municipal Act of 1884. The former was a lengthy measure comprising upwards of two hundred sections; the Bill which I now hold in my hand contains five sections only. The Punjab too is our westernmost province, and is probably not more remote from Burma in situation than it is divergent from it in manners and customs, in social habits and municipal requirements. Nevertheless these two measures have a good deal in common, and, with Your Excellency's permission, I shall presently move that they be referred to the same Select Committee. I shall also, in the Home Department, draw the special attention of the Chief Commissioner of Burma to the sections in the Punjab Bill corresponding with those in the Bill which he has prepared for his own province, and ask him to consider whether they may not be more closely assimilated.

“ The principal sections in the Bill which I am about to place on the table are the first and the last two, which may be taken together. In 1888 the municipal committee of Rangoon introduced into the town the hydro-pneumatic system of drainage by gravitating sewers which is known as the Shone system. A portion of the works was opened in this month of August two years ago, and the whole system was completed in April, 1890. It has been in working order for a considerable time in part of the town, but the municipality have not been able to discard even in that part the old and highly insanitary and objectionable method of removing fæcal matter by carts, because many of the inhabitants have neglected to connect their houses with the sewers. Consequently the municipality have to maintain two systems of night conservancy at a heavy cost. In order to compel house-owners to establish the necessary connections, one of them was prosecuted under section 115 of the Municipal Act for allowing offensive matter to flow or be put into a drain not set apart by the committee for that purpose. He was convicted, but the learned Recorder of Rangoon has quashed the conviction on three grounds, namely, (1) that the Act gives no power to compel house-owners to make such connections, (2) that, even if it did, the committee could not compel them to trespass on intervening Government land in order to effect the connections, and (3) that under section 115 only the person

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who has actually permitted the sewage to flow where it should not is liable to prosecution. Sections 1, 4 and 5 of my Bill have been framed to meet these several objections. It is evidently of vital importance, alike to the health of the town and to the financial position of the municipality, that the necessary connections should be completed as early as possible, and I cannot anticipate that there will be any objection to this, which I have described as the main, portion of the measure.

“ Although these amendments are intended primarily for Rangoon, yet, as they only add to without otherwise changing the Act of 1884, they will be made applicable to the whole of Lower Burma. Their effect is merely to give to a municipal committee the same amount of control over sewage-works and their appurtenances which they already possess over drainage-works, privies and cess-pools, and also the power of compelling the construction of proper drains. Such control and such power ought to be vested in every municipal committee.

“ The second section of the Bill will authorize all municipal committees in Lower Burma to tax vehicles and animals entering the municipality. I think such taxation is specially permitted by almost every other Municipal Act in force in any part of India. It could be imposed even in Burma in any particular municipality with the previous sanction of Your Excellency in Council, but there is no real reason for requiring such special sanction in every case in which a tax of this ordinary character seems desirable. At present vehicles and animals are only liable to be taxed when they are kept within municipal limits, and the liability is frequently evaded by sending them to stables just outside those limits.

“ The third and only remaining section of the Bill has been framed with a view of giving greater control over the erection of buildings on land belonging to Government or to a municipality. The existing section for which it provides a substitute was copied from section 88 of the Punjab Act, a section which it has been proposed to alter very materially even for the Punjab by the Bill introduced at the the last sitting of Council. In Rangoon there is much waste land unreclaimed from swamp and not at all fit for occupation by human habitations. There is also a good deal of ground belonging to Government, which charges rent for the privilege of building. It seems that the more ignorant classes regard a municipal permit to build as equivalent to a grant of the site. The less scrupulous run up such wooden houses as are common in Burma, without the knowledge of the revenue-officers, and it is impossible to eject them without a regular suit. The Chief Commissioner expects that the new section will obviate much misunderstanding and inconvenience, but, as I have already

1891.] , [*Sir Philip Hutchins; the President.*]

stated, I shall ask him to compare its provisions very carefully with those which it is proposed to insert in the Punjab enactment."

The Motion was put and agreed to.

The Hon'ble SIR PHILIP HUTCHINS also introduced the Bill.

The Hon'ble SIR PHILIP HUTCHINS also moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English, and in the Burma Gazette in English and in such other languages as the Local Administration thinks fit.

The Motion was put and agreed to.

The Hon'ble SIR PHILIP HUTCHINS also applied to His Excellency the President to suspend the Rules for the Conduct of Business, to enable him to move for the appointment of a Select Committee to consider the Bill. This, he explained, would save a special meeting of Council being called for this merely formal purpose.

THE PRESIDENT declared the Rules suspended.

The Hon'ble SIR PHILIP HUTCHINS then moved that the Bill be referred to a Select Committee consisting of the Hon'ble Sir Alexander Miller, the Hon'ble Mr. Rattigan and the Mover, with instructions to report within one month.

The Motion was put and agreed to.

The Council adjourned to Thursday, the 10th September, 1891.

S. HARVEY JAMES,

SIMLA; }
The 21st August, 1891. }

*Secretary to the Government of India,
Legislative Department.*