

*Thursday,
25th January, 1894*

ABSTRACT OF THE PROCEEDINGS

OF THE

Council of the Governor General of India,

LAWS AND REGULATIONS

Vol. XXXIII

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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,

1894

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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 Indian Council Acts, 1861 and 1892 (24 & 25 Vict., cap. 67, and 55 & 56 Vict., cap. 14).

The Council met at Government House on Thursday, the 25th January, 1894.

PRESENT :

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

His Honour the Lieutenant-Governor of Bengal, K.C.S.I.

His Excellency the Commander-in-Chief, K.C.B., G.C.I.E., V.C.

The Hon'ble Sir A. E. Miller, K.T., Q.C.

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

The Hon'ble Sir C. B. Pritchard, K.C.I.E., C.S.I.

The Hon'ble J. Westland, C.S.I.

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

The Hon'ble Dr. Rashbehary Ghose.

The Hon'ble Fazulbhai Vishram.

The Hon'ble C. C. Stevens.

The Hon'ble J. Buckingham, C.I.E.

The Hon'ble A. S. Lethbridge, M.D., C.S.I.

The Hon'ble Gangadhar Rao Madhav Chitnavis.

The Hon'ble H. F. Clogstoun, C.S.I.

The Hon'ble W. Lee-Warner, C.S.I.

The Hon'ble P. Playfair.

The Hon'ble Mahárájá Partab Narayan Singh of Ajudhiá.

NEW MEMBER.

The Hon'ble MAHÁRÁJÁ PARTAB NARAYAN SINGH of Ajudhiá took his seat as an Additional Member of Council.

QUESTIONS AND ANSWERS.

The Hon'ble MR. BUCKINGHAM asked :—

Whether the Government of India will give some inducement to officers of the Covenanted Civil Service to remain permanently in Assam, either by giving an Assam allowance or else by equalising their pay with that of officers of equal standing in Bengal.

[*Sir Antony MacDonnell*; *Dr. Rashbehary Ghose.*] [25TH JANUARY,

The Hon'ble SIR ANTONY MACDONNELL replied:—

“The best method of recruiting the Assam Commission has on several occasions come under the consideration of the Government of India. They will again consider it in communication with the Chief Commissioner. But they are not at present prepared to admit that either of the expedients suggested in the question, or any other of a similar character, is called for by the circumstances of the case.”

The Hon'ble DR. RASHBEHARY GHOSE asked:—

(a) Whether the attention of the Government of India has been drawn to the case of *Empress v. Sagal Semba Sajow, Chowba Singh Duffadar, Nasipa Ningthamba, Madan Hijapa, Chanbangbang Sajow, Amu Filem and Sarba Singh* (known as the Balladhan Murder Case), which came before the High Court of Calcutta on appeal and also on reference, and in which all the prisoners were acquitted by Prinsep and Amir Ali, J.J.

(b) Whether, as suggested by the Hon'ble Judges, any inquiry has been made into the charges of misconduct preferred in the course of the trial against Khedam Singh and one Gossain, who were apparently employed by the Inspector, Bhoirub Chunder Dutt, during the police investigation, and one of whom, namely, Khedam Singh, was also employed as an interpreter to the Magistrates, Mr. Howell and Mr. Lees.

(c) Whether, as suggested by the Hon'ble Judges, any notice has been taken by the Local Government of the facts mentioned in their judgment, relative to the proceedings in the case of the police, the several Magistrates concerned, and the Sessions Judge, which have called forth a strong expression of opinion from the Hon'ble Judges.

(d) Whether, having regard to the numerous and serious irregularities in the course of the proceedings before and during the trial of the case, the Government of India do not deem it expedient, in the interests of justice and good Government, to take measures for preventing a recurrence of such irregularities, and, as a step in that direction, to see that inexperienced officers may not be appointed to positions and invested with powers involving grave responsibilities.

(e) Whether a money reward was offered for the detection of the offenders in the case; whether any police officer or officers have been allowed to participate in it; and, if any police officer or officers have been so allowed, whether Government do not regard such participation on the part of the police as extremely undesirable.

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[*Sir Antony MacDonnell.*]

The Hon'ble SIR ANTONY MACDONNELL replied:—

“ In answer to clause (a) of the Hon'ble Member's question I have to state that the Government of India have noticed the report of the case in the newspapers, and have perused the judgment of the Hon'ble Judges as published therein, but their attention has not been officially drawn to the case. The remarks of the Court, made in the course of the judgment, on the conduct of the officers concerned, were intended for the information of the Chief Commissioner of Assam, from whom the Hon'ble Judges thought they would no doubt receive proper notice.

“ Clauses (b) and (c) were referred to the Chief Commissioner of Assam, who reports that some time ago he called upon the District Magistrate of Cachar, who committed the accused, to submit any explanation he might have to offer on the subject of the irregularities committed by the police and himself in the course of the police investigation into the case, and also in the course of the proceedings before himself after the police had sent up the case for trial and prior to committal.

“ In regard to the trial proceedings before the Sessions Judge, the Chief Commissioner has sent for the trial record, and also called upon the Officiating Sessions Judge who tried the case to submit any explanation he may desire to offer on the remarks of the High Court so far as they referred to the proceedings at the sessions trial. On receipt of the explanations of the District Magistrate and Officiating Sessions Judge the Chief Commissioner will pass such orders as he considers to be called for.

“ When the Chief Commissioner has seen the trial record, which he has not yet received, he will determine what action should be taken on the suggestion of the Hon'ble Judges that certain serious charges brought against the persons named Khedam Singh and Gossain in the course of the sessions trial should be enquired into. At present the Chief Commissioner has no information as to the nature of those charges.

“ In answer to clause (d), I have to say that the officer who committed the case to the sessions was of ten years' service, and not inexperienced. The Judge who tried the case had less experience, being of seven years' service; and his temporary employment during the absence on three months' privilege leave of the experienced permanent Judge was in part due to the fact that the European element in the Civil Service of Lower Bengal has for some years past been kept at a minimum.

[*Sir Antony MacDonnell; Sir Alexander Miller;*] [25TH JANUARY, 1894.]
Mr. Westland.]

"The Government of India will consider, in communication with the Chief Commissioner, in what manner it is possible to obviate the employment of junior and inexperienced officers in positions of difficulty and responsibility.

"In answer to clause (e), the Chief Commissioner reports that no police-officer has participated in the rewards offered in connection with this case."

LAND ACQUISITION ACT, 1870, AMENDMENT BILL.

The Hon'ble SIR ALEXANDER MILLER presented the Report of the Select Committee on the Bill to amend the Land Acquisition Act, 1870. He said:—"It may be convenient to Hon'ble Members that I should state that I propose to ask the Council to take the Report into consideration this day week."

INDIAN PORTS ACT, 1889, AMENDMENT BILL.

The Hon'ble MR. WESTLAND moved that the Bill to amend the Indian Ports Act, 1889, be referred to a Select Committee consisting of the Hon'ble Sir Alexander Miller, the Hon'ble Mr. Stevens, the Hon'ble Mr. Clogstoun, the Hon'ble Mr. Playfair and the Mover. He said:—

"I trust that Your Excellency will permit me to make a short statement of the facts in connection with this Bill, because it is one that concerns in a small degree the trade of Calcutta; and it was introduced during the Simla session, in order that it might go through the preliminary formal stages before the Council met at Calcutta. The Bill, although it has a formidable title, really affects only the Balasore ports. There are several ports on the coast of Orissa, and they are, for the purpose of the application of the Indian Ports Act, divided into two groups—one being the ports of Cuttack, and the other those of Balasore of which the best known is Chandbali. These Balasore ports have been maintained for some time at a considerable loss to Government. It was in 1889 that the Government of India, perceiving from one of its periodical returns that a considerable loss accrued to Government in the management of these ports, which had to be met by a grant from general revenues, called the attention of the Government of Bengal to the circumstance, and asked them to consider whether it might be possible to increase the revenues from the ports so as to cover the expenditure upon them. The Gov-

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[*Mr. Westland.*]

ernment of Bengal, looking probably at the nascent condition of the trade of the ports, was not very urgent in the matter, and preferred for a time to continue its grants. The matter did not come up again till the end of 1890, when the Government of Bengal reported that the only means of making the Balasore ports capable of meeting their expenditure would be to levy a toll of two annas upon each passenger passing through the ports. The Government of India, agreeing with the Government of Bengal, decided that such a measure would be a great encumbrance to the traffic, but they considered it desirable to adopt two measures to increase the existing rate of port-dues. The first was to raise the rate of dues up to the maximum which the Act permitted; they had formerly been taken at two annas in some of the ports and in others at three annas; it was now proposed to levy them at the full rate of four annas. This measure was covered by the old Act, and it was brought into effect from May 1st, 1893. The other measure required an amendment of the Act. It was to enable these dues to be levied upon steamers visiting the port, not once in sixty days, but once in thirty days. This is the amendment which is now before the Council.

“It may be convenient to the Council if I explain, by a short reference to the figures, what the actual deficit of the finances of these ports consists of. It is a deficit which I may say will not be nearly covered by the proposition to amend the law now made before the Council. Before the measure was adopted of which I have just spoken, the revenues of the ports of Balasore were only Rs. 2,500. From the 1st of May last the raising of the duties to four annas will bring in an additional Rs. 800; so that, without this amendment of the law, the revenues of the ports would be Rs. 3,300. Now, I shall set against this the necessary expenditure on the ports. In the first place, we have a Port-officer, who at present draws a salary of Rs. 4,200 a year. That salary may be adequate, but I do not think it can be called extravagant for the duties imposed by law upon the Port-officer; so that, in the first place, it is obvious that the Port-officer's pay alone takes much more than the whole revenue of the ports. Then we have to provide him with a boat, which costs Rs. 1,300 a year. There is then in addition to this a flagstaff, with signals, including lights at night, at Chandipur, which costs Rs. 300. Then there is a lighthouse on Short's Island, which is maintained chiefly for these ports, for which the annual establishment amounts to Rs. 3,400. These figures alone mount up to Rs. 9,200. Besides this, there is the maintenance of buildings, dockyard services, and petty expenses, and, taking all these together, I do not think it is possible to

carry on the management of the ports under a cost of Rs. 10,000. I ought also to mention that the Short's Island lighthouse was built a short time ago at a cost of a lakh of rupees, and in respect to that capital expenditure not a single rupee is charged against the port funds. We have therefore at the very least a compulsory expenditure of Rs. 10,000, to meet which we have a revenue which amounts only to Rs. 3,300.

“ The proposal which is now being made to amend the Act will enable us to levy further dues to the extent of Rs. 1,600, so that we will get in all Rs. 4,900, or less than half this compulsory expenditure.

“ The proposals which were made in the Bill were referred to the Government of Bengal and through that Government to the commercial bodies in Calcutta, and we have received two letters which will be laid before the Select Committee. The first of these came from the Chamber of Commerce. The Chamber of Commerce offered the suggestion that in order to cover the deficit of the Balasore ports it might be desirable to combine with them the Cuttack ports. Unfortunately this proposal offers no solution of the difficulty, for, although in the Cuttack ports we have at present an excess revenue of Rs. 3,000, it is obvious that even with this excess it will not be possible to meet the deficit in the Balasore ports. It is possible under the existing law for the Lieutenant-Governor to combine the ports of Cuttack and Balasore into one group so as to apply the excess revenue of the one set to meet the excess expenditure of the other; but whether it is expedient to do so will depend upon several considerations. If the trades of the two sets of ports are practically independent, it would not be right to tax one trade in order to support the other. The suggestion, however, is one that can be considered independently by the Government of Bengal, but, even if carried into effect, the present difficulty will not be met.

“ The other criticism came from the managing agents of the two navigation companies which administer the steamers trading with the Balasore ports. They strongly protested against the measure, and urged that the deficiency should be met by reducing the port establishment. But I think that the figures I have given will shew that a reduction of the establishment within the limits of the revenue is an impossibility. The agents, I may mention, are under a misapprehension in one point, for they appear to think that sailing craft pay nothing towards the port. As a matter of fact, of the present port-dues one-third comes from sailing vessels and two-thirds from steamers. I admit that the present proposal to amend the law practically applies to steamers only,

AMENDMENT OF INDIAN PORTS ACT, 1839; AMENDMENT 31
OF CRIMINAL PROCEDURE, 1882, AND INDIAN PENAL
CODE; PRISONS.

[25TH JANUARY, 1894.] [*Mr. Westland; Dr. Lethbridge; Sir Antony
MacDonnell.*]

because it is this class of vessel alone which makes periodical passages to these ports. But, even if the amendment comes into operation, the steamers visiting the ports will be able to make four or five visits on the payment of one fee; and, as I have pointed out, the ports are in such an extreme state of deficit that it is only reasonable to call upon the trade to pay a larger proportion of dues, in order to meet the expenditure, and, even at the best, about half the expenditure will, until the trade of the ports greatly improves, have to be met by grants from general revenues.

“The details of the figures will be laid before the Select Committee and submitted to their judgment, and the matter will, I hope, come again before the Council for final disposal in a very short period.”

The Motion was put and agreed to.

CODE OF CRIMINAL PROCEDURE, 1882, AND INDIAN PENAL
CODE AMENDMENT BILL.

The Hon'ble DR. LETHBRIDGE moved that the Bill to amend the Code of Criminal Procedure, 1882, and the Indian Penal Code be referred to a Select Committee consisting of the Hon'ble Sir Alexander Miller, the Hon'ble Sir Charles Pritchard, the Hon'ble Sir Antony MacDonnell, the Hon'ble Dr. Rashbehary Ghose, the Hon'ble Sir Griffith Evans, the Hon'ble Fazulbhai Vishram, the Hon'ble Gangadhar Rao Madhav Chitnavis and the Mover.

The Motion was put and agreed to.

PRISONS BILL.

The Hon'ble SIR ANTONY MACDONNELL moved that the Bill to amend the law relating to Prisons be referred to a Select Committee consisting of the Hon'ble Sir Alexander Miller, the Hon'ble Dr. Rashbehary Ghose, the Hon'ble Fazulbhai Vishram, the Hon'ble Dr. Lethbridge, the Hon'ble Gangadhar Rao Madhav Chitnavis, the Hon'ble Mr. Clogstoun, the Hon'ble Mr. Lee-Warner and the Mover, with instructions to report after one month.

The Motion was put and agreed to.

[*The President.*]

[25TH JANUARY, 1894.]

His Excellency THE PRESIDENT said :—

“ It is proposed that the Council should meet again this day week. When that time comes, I shall no longer have the right of presiding over your deliberations. This chair will be filled by my successor, sitting face to face with the portrait of his illustrious father, the inheritor of a distinguished name, to which there is every reason to believe that he will add yet further distinction. I cannot allow the Hon'ble Members of this Council to separate to-day without expressing to them my thanks for the personal consideration with which they have always treated me both in and out of this room; and I say this, not only with reference to those who are here to-day, some of whom are taking part in our proceedings for the first time, but with reference to all those gentlemen who, during the last five years, have had a seat in the Legislative Council.

“ I part from the Council with feelings of great regret, and of sincere respect and regard for its members. I earnestly trust that this Council, strengthened as it has lately been by the extension of its functions, and by the addition to its ranks of a larger number of representative members, some of whom will owe their presence to the recommendation of their fellow-citizens, will enjoy an ever-increasing share of public confidence, that it will conduct its deliberations with wisdom, dignity and moderation, and that it will prove to be a new source of stability and usefulness to the institutions of this country. I feel sure that Lord Elgin will receive from the Members of this Council the same assistance and the same courtesy which the Council has never failed to extend to me.

“ Gentlemen, I bid you farewell.”

The Council adjourned to Thursday, the 1st February, 1894.

CALCUTTA ;
The 1st February, 1894. }

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