

Friday, February 3, 1865

**COUNCIL OF THE GOVERNOR GENERAL  
OF INDIA**

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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 and 25 Vic., cap. 67.*

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The Council met at Government House on Friday, the 3rd February 1865.

P R E S E N T :

His Excellency the Viceroy and Governor-General of India, *presiding*.  
His Honour the Lieutenant-Governor of Bengal.  
Major General the Hon'ble Sir R. Napier, K.C.B.  
The Hon'ble H. B. Harington.  
The Hon'ble H. Sumner Maine.  
The Hon'ble Sir C. E. Trevelyan, K.C.B.  
The Hon'ble H. L. Anderson.  
The Hon'ble J. N. Bullen.  
The Hon'ble Mahārājā Vijayarāma Gajapati, Rāj Bahādūr of Vizianagram.  
The Hon'ble Rājū Sāhib Dyāl Bahādūr.  
The Hon'ble G. Noble Taylor.  
The Hon'ble W. Muir.  
The Hon'ble R. N. Cust.  
The Hon'ble Mahārājā Dhīraj Mahtab Chand Bahādūr, Mahārājā of  
Burdwan.  
The Hon'ble D. Cowie.

COMMON CARRIERS' BILL.

The Hon'ble MR. MAINE presented the Report of the Select Committee on the Bill relating to the rights and liabilities of Common Carriers.

ACT XXXI OF 1860 CONTINUANCE BILL.

The Hon'ble MR. MAINE also applied to His Excellency the President to suspend the Rules for the conduct of Business, to enable him to introduce the Bill to continue Act XXXI of 1860 for one year from the expiration thereof. In doing so he said that he had no hesitation in asking His Excellency to suspend the Rules, for although the Bill had been in the hands of the Members for a very short time, it was a Bill which simply had for its object the continuance of an existing law.

The President declared the Rules suspended.

The Hon'ble MR. MAINE then introduced the Bill and moved that it be referred to a Select Committee, with instructions to report in one week. He said he had mentioned, in asking for leave to introduce the Bill, that the Government of India had required from the Governments of the several Presidencies a report on the working of Act XXXI of 1860; and as there would not be sufficient time to obtain their answers before the expiration of the Act, it was proposed to continue it for another year. He therefore begged to introduce the Bill and to move that it be referred to a Select Committee, with instructions to report in one week.

The Motion was put and agreed to.

#### ADMINISTRATOR GENERAL'S BILL, 1865.

The Hon'ble MR. MAINE, in moving for leave to introduce a Bill to exempt the Estates of deceased Officers and Soldiers delivered over to the Administrator-General of Bengal, Madras, or Bombay from the operation of the twenty-sixth Section of Act No. VIII of 1855, said that this Bill was not required to change or settle the law, but merely to produce consistency between English and Indian legislation. There was an Act of the British Parliament, known as "The Regimental Debts Act," passed in 1863. It provided (in this respect differing from the Indian Act, VIII of 1855) that the Administrator General should in no case take a larger commission than three per cent. on the assets of Military Estates made over to his charge. Act VIII of 1855, however, allowed the Administrators General of Madras and Bombay to take a commission of five per cent. upon such assets. There was no doubt as to the law, for, under the Indian Councils' Act, 1861, the English Statute, having been passed since 1861, would over-ride the Indian Act. But still there was an evil in the Indian Act stating a different rate of charges; and therefore, in accordance with the wish of the Secretary of State, he (Mr. Maine) moved for leave to introduce this Bill in order to bring the Indian Act into harmony with English legislation.

The Motion was put and agreed to.

#### FINANCIAL COMMISSIONER (OUDH) JURISDICTION BILL.

The Hon'ble MR. CURT introduced the Bill to remove doubts with regard to the jurisdiction of the Financial Commissioner of Oudh, and moved that it be referred to a Select Committee, with instructions to report in four weeks.—He said, it was desirable that this Bill, if possible, should become law during the present sittings of the Council. He had been in communication with the Chief Commissioner and Financial Commissioner of Oudh, to whom copies of

the Bill had been sent, and had received from both of those Officers suggestions which would be laid before the Committee. In vesting the Chief Revenue authority with judicial powers no new principle was involved, and it was carefully guarded that the change would be only of the tribunal, and that these powers would be withdrawn when the necessity had ceased. The integrity of the jurisdiction of the Civil Courts would thus be maintained. The relaxation of the law of limitation was necessary to prevent a large class of people being deprived of the opportunity of having their rights inquired into by a competent Court.

He had to thank his Hon'ble friend Mr. Harington for assistance in drawing this Bill.

The Motion was put and agreed to.

#### CIVIL AND CRIMINAL COURTS (PUNJAB) BILL.

The Hon'ble Mr. CUST, in moving for leave to introduce a Bill to define the jurisdiction of the Courts of Judicature in the Punjab and its Dependencies, remarked that this Bill followed the form of the British Burmah Act, and the Central Province Civil Courts' Jurisdiction Bill, which was still under the consideration of this Council.

The jurisdiction now exercised by the Civil and Criminal Courts of the Punjab was derived, not from any express provision of law, but from Orders passed from time to time by the Executive Government, to which the force of law had been given by the Indian Councils' Act of 1861: but these orders had been modified from time to time, and it was not always easy to ascertain the precise legal powers of each Court. No change was made in the jurisdiction of any of the Courts.

Up to the present time there was no power to appoint additional Judges, when, owing to the pressure of business, such a measure was necessary: provision had been made in this Bill to remedy this omission.

Any doubt which might have arisen as to the legality of the Revenue Courts for the disposal of suits affecting land was also removed.

If this Bill and the Punjab Chief Court Bill became law, the Courts of Judicature of the Punjab would be on a strictly legal basis, and there would be no room for objection to the introduction of the Civil Procedure Code: the Code of Criminal Procedure was already in force.

The Motion was put and agreed to.

## RURAL POLICE (NORTH-WESTERN PROVINCES) BILL.

The Hon'ble MR. MUIR moved that the Report of the Select Committee on the Bill to provide for the maintenance of the Rural Police in the Territories under the Government of the Lieutenant-Governor of the North-Western Provinces be taken into consideration. He said that the Report of the Select Committee appointed to examine into the Bill having now been in the hands of the Members a week, he had the honour to move that it be taken into consideration under Rule 24 of the Rules of the Council. Besides a few slight verbal amendments, two additions had been made in the Bill. The first provided that, on the occasion of a vacancy in the office of Village Watchman, if the proprietor failed to appoint a successor within a reasonable time, he should be liable to a fine of Rupees fifty or to imprisonment for one month. There was no doubt that it was desirable to make it imperative on a Zemindar to appoint a successor in case of vacancy; the knowledge that a penalty could be inflicted for neglect to appoint, would probably in every case lead the Zemindar himself to make the appointment; but in case he should fail to do so, the Bill went on to provide that the Magistrate be empowered to appoint a successor.

The other point had been noticed by the Lieutenant-Governor of the North-Western Provinces, namely, that the Bill, as first drawn, contained no provision for the punishment of Village Watchmen for neglect or disobedience. A new Section had therefore been added, providing for such offences penalties similar to those prescribed for the Police under the Police Act V of 1861.

These were the only alterations which the Committee had proposed besides verbal amendments, and he therefore begged to move that the Report be taken into consideration.

The Motion was put and agreed to.

The Hon'ble MR. MUIR said, before moving that the Bill, as amended, be passed into law, he had the honour to move that a slight modification be made in Section 12. It had occurred to him that as the Section in question provided that Village-watchmen might be required to perform any duties required of the Police under Act V of 1861, this might be held to supersede the special duties for which they are already responsible; which of course was not the intention of the Section. Those duties might be required of them in addition to their other duties.

He therefore proposed that, after the word "village" in line 5, the words "and in addition to his other duties" be inserted. The Section would then run as follows:

“ Any Village Watchman appointed under this Act may be required to perform, within the limits of his village, and in addition to his other duties, any duties required of Police Officers under Act No. V of 1861 ; and he shall be liable to the same penalties for any neglect or disobedience which he would have incurred had he been a Police Officer, subject to the provisions of such Act, and guilty of neglect or disobedience, as the case may be.”

The Motion was put and agreed to.

The Hon'ble Mr. Muir also moved that the Bill as amended be passed.

The Motion was put and agreed to.

The following Select Committees were named :—

On the Bill to continue Act XXXI of 1860 for one year from the expiration thereof—The Hon'ble Messrs. Maine, Harington, Taylor, Muir, and Cust.

On the Bill to remove doubts with regard to the jurisdiction of the Financial Commissioner of Oudh—The Hon'ble Messrs. Harington, Maine, Anderson, Taylor, Muir, and Cust.

The Council then adjourned.

WHITLEY STOKES,

*Offg. Asst. Secy. to the Govt. of India,  
Home Dept. (Legislative).*

CALCUTTA, }  
*The 3rd February 1865.* }