

Friday, March 10, 1865

**COUNCIL OF THE GOVERNOR GENERAL  
OF INDIA**

**VOL. 4**

**JAN. - DEC.**

**1865**

**P. L.**

*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.*

The Council met at Government House on Friday, the 10th March 1865.

PRESENT:

His Excellency the Viceroy and Governor-General of India, *presiding*.

His Honour the Lieutenant-Governor of Bengal.

The Hon'ble H. B. Harington.

The Hon'ble H. Sumner Maine.

The Hon'ble W. Grey.

The Hon'ble H. L. Anderson.

The Hon'ble Maharájá Vijayaráma Gajapati Ráj Bahádúr of Vizianagram.

The Hon'ble Rájá Sáhib Dyál Bahádúr.

The Hon'ble G. Noble Taylor.

The Hon'ble W. Muir.

The Hon'ble R. N. Cust.

The Hon'ble D. Cowie.

CALCUTTA GREAT JAIL BILL.

His Honour the Lieutenant Governor of Bengal moved that the Report of the Select Committee on the Bill to remove the Great Jail of Calcutta from the control of the Sheriff, and transfer it to that of the Government of Bengal, be taken into consideration. He said that the amendments made by the Select Committee being almost entirely verbal and of no material consequence, did not call for any observation.

The Motion was put and agreed to.

HIS HONOUR then said that there was one amendment which he had to propose in the Bill, and that was the substitution of the word "April" for the word "May" in the 15th Section. There was no reason why the Act should not come into force at once, and there was a Bill now before the Bengal Council which depended on the passing of this Act. It was therefore desirable that the Act should come into force as soon as possible.

The Motion was put and agreed to.

His Honour the Lieutenant Governor of Bengal also moved that the Bill as amended be passed.

The Motion was put and agreed to.

## STAMP ACT AMENDMENT BILL.

The Hon'ble Mr. HARRINGTON introduced the Bill to amend Act X of 1862 (to consolidate and amend the law relating to Stamp Duties) and moved that it be referred to a Select Committee, with instructions to report in a fortnight. He said that, upon asking for leave to introduce this Bill, he had explained briefly the object and reasons of the Bill. He had since received a suggestion from his Hon'ble Colleague Mr. Grey, which he regarded as a very useful one. Mr. Grey suggested that the Government of India should have power, not only to reduce the rate of Stamp Duty on particular classes of deeds and particular deeds, which was what the Bill proposed, but also to exempt certain classes of persons from the operation of any particular part of the Act of 1862, such, for instance, as soldiers in respect of marriage and baptismal certificates. He should have much pleasure in proposing in Committee the introduction of a Section into the Bill to give effect to his Hon'ble Colleague's suggestion.

The Motion was put and agreed to.

## CIVIL JUSTICE BILL.

The Hon'ble Mr. MAINE moved that the Report of the Select Committee on the Bill for the improvement of the Administration of Civil Justice in respect of Suits of Small Value be taken into consideration. He said that, in introducing this Bill to the Council, he had remarked that, since the Sections relating to the specific performance of contracts had been removed to the Civil Procedure Code of his Hon'ble friend Mr. Harrington, no controverted part of the measure would remain. The Bill after deducting those Sections, added only two new features to the Small Cause Court system as it existed. The first was the creation of the Office of Registrar. The Registrar was the Officer intended to take upon himself the routine business, and thus it was hoped the grouping of inferior Courts might be facilitated with a view to their supervision by a judge of the first class going circuit among them. The other addition to the system was the creation of the office of what he would call—though the phrase was not in the Bill—Judges Extraordinary. He was himself of opinion that it was impossible to introduce an appeal into the Small Cause system without revolutionizing that system altogether. He thought that the Small Cause Judges and their decisions required inspection and revision, and that this inspection and revision would be most wholesomely effected by the introduction of these Judges Extraordinary—persons invested with the powers of Small Cause Judges for the time. In that form the Bill went before the Committee, and the Committee had made a change, which, he thought, would commend itself to the approval of the Council. The law relating to Small Cause Courts in the Mofussil would, if the Bill had

passed in its original shape, have been comprised in three Acts, first Act XLII of 1860, next the amending Act XII of 1861, and lastly his original measure. The Committee had thought fit to consolidate these three Acts, and if the Council would pass the Bill in its present form, the whole of the Small Cause system would be contained within the four corners of a single enactment.

There was no other part of the Bill on which it was necessary for him to make any observations, except that the establishment of Courts of Small Causes in Military Cantonments, (which were substituted, as the Council would remember, for the Courts of Requests) had given rise to some doubts as to whether the jurisdiction of the Military Courts mentioned in Act XI of 1841, had not, by implication, been taken away. It was never proposed that their jurisdiction should be taken away, and therefore this Bill provided that nothing contained in Act III of 1859, Section 2, or Act XXII of 1864, Sections 6—8, should be understood to affect the jurisdiction of those Courts. In like manner this Act would save the jurisdiction of Courts of Requests convened in India under the English Mutiny Act. This provision was not absolutely required, but for the sake of clearness, it was better that it should be inserted.

The Motion was put and agreed to.

The Hon'ble MR. MAINE also moved that the Bill as amended be passed.

The Motion was put and agreed to.

#### ADVOCATES' AND ATTORNEYS' (NORTH-WESTERN PROVINCES) BILL.

The Hon'ble MR. HARRINGTON presented the Report of the Select Committee on the Bill to regulate the admission, removal, and remuneration of Advocates and Attorneys in the Civil and Criminal Courts and Revenue Offices of the North-Western Provinces of the Presidency of Bengal, and moved that the Report and the Bill as amended in Committee be published for three weeks in the *Gazette of India*. He said that the changes which the Select Committee had proposed were so numerous and so important, that if they were adopted by the Council, as he hoped they would, the Bill as passed into law would bear little, if any, resemblance to the Bill as introduced. He believed that every one of the changes suggested by the Select Committee would be found an improvement on the Bill as introduced. Looking to the extent and character of the proposed amendments, the Select Committee had thought it right to recommend that, before the Council was called upon to consider them, the Bill should be published in the *Gazette of India* for three weeks, the object, of course, being to give the public an opportunity of knowing what was intended and of offering

any remarks upon the Bill as proposed to be altered by the Select Committee. He wished that he could have mentioned a longer period for the publication of the Bill, but the time for which the Council would probably continue to sit would not admit of this. The only change proposed by the Select Committee which he considered it necessary specially to notice at this time, was the extension of the provisions of the Bill to the Territories under the Government of the Lieutenant-Governor of Bengal, instead of its application being confined, as was originally intended, to the territories under the Government of the Lieutenant-Governor of the North-Western Provinces. This change had been made on the recommendation of His Honour the Lieutenant-Governor of Bengal, and was of itself a sufficient reason for the publication of the Bill in its amended form.

The Motion was put and agreed to.

#### CHIEF COURT (PUNJAB) BILL.

The Hon'ble MR. CUST presented the Report of the Select Committee on the Bill to amend the constitution of the Chief Court of Judicature in the Punjab and its Dependencies.

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

The Hon'ble MR. CUST also presented the Report of the Select Committee on the Bill to remove doubts with regard to the jurisdiction of the Financial Commissioner of Oudh.

The following Select Committee was named :—

On the Bill to amend Act X of 1862 (to consolidate and amend the law relating to Stamp Duties)—The Hon'ble Messrs. Harington, Maine, Grey, Bullen and Cowie.

The Council then adjourned.

WHITLEY STOKES,

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

CALCUTTA,  
The 10th March 1865. }