

Saturday, November, 16 1861

***INDIAN LEG.  
COUNCIL  
DEBATES***

***Vol. 7***

***1 June - 16 Nov.***

***1861***

Committee on the Bill "for the better enforcement of discipline in the House of Correction at Calcutta," and moved that it be adopted.

Agreed to.

ZEMINDARY DAWKS.

MR. SETON-KARR moved that the Bill "to improve the system of Zemindary Dawks in the Provinces subject to the Government of Bengal" be referred to a Select Committee consisting of Mr. Harington, Mr. Forbes, Mr. Erskine, and the Mover.

Agreed to.

BREACH OF CONTRACTS.

THE VICE-PRESIDENT said, he begged to explain that, as it was the intention of the Council to adjourn till the 16th of November, the Select Committee on the Bill "to provide for the punishment of Breach of Contract for the cultivation, production, gathering, provision, manufacture, carriage, and delivery of Agricultural produce," and the Bill "to provide for the registration and for the better enforcement of engagements for the cultivation and delivery of Agricultural produce" would meet notwithstanding during the adjournment, for the purpose of preparing their preliminary Report, which would be kept ready for presentation to the Council at its next Meeting.

The Council adjourned at 5 o'clock, till Saturday, the 16th November, on the Motion of Sir Bartle Frere.

Saturday, November 16, 1861.

PRESENT :

The Hon'ble Sir Henry Bartle Edward Frere,  
Senior Member of the Council of the Governor-General, Presiding,

Hon'ble C. Beadon,	H. Forbes, Esq.,
Hon'ble Major-General	C. J. Erskine, Esq.,
Sir R. Napier,	and
H. B. Harington, Esq.,	Hon'ble Sir C. R. M. Jackson.

MALACCA LANDS; PORT BLAIR; MERCHANT SEAMEN; ARTICLES OF WAR (NATIVE ARMY); BENGAL MILITARY ORPHAN SOCIETY; SALT-PETRE; AND LIMITATION OF SUITS.

THE PRESIDENT read Messages informing the Legislative Council that the Governor-General had assented to the Bill "to regulate the occupation of land in the Settlement of Malacca;" the Bill "to regulate the administration of Port Blair and other Settlements in the Andaman Islands;" the Bill "to extend the provisions of Act I of 1859 (for the amendment of the law relating to Merchant Seamen);" the Bill "to consolidate and amend the Articles of War for the Government of the Native Officers and Soldiers in Her Majesty's Indian Army;" the Bill "to enable the Bengal Military Orphan Society to register under Act XXI of 1860 (for the Registration of Literary, Scientific, and Charitable Societies);" the Bill "to regulate the manufacture of Saltpetre and the sale of Salt educed in the refinement thereof;" and the Bill "to postpone the operation of a portion of Clause 8, Section I, Act XIV of 1859 (to provide for the Limitation of Suits)."

PROCLAMATION.

The following Message from the Governor-General was then read :—

" MESSAGE No. 289.

The Governor-General has the honor to forward to the Legislative Council the accompanying copy of a Proclamation by the Governor-General in Council, publishing the Act 24 and 25 Vic. c. 67 (called The Indian Councils Act, 1861), with an Extract of a Despatch in the Legislative Department from the Secretary of State, No. 14, dated the 9th of August 1861.

By order of the Right Honorable the Governor-General.

W. GREY,

Secy. to the Govt. of India."

FORT WILLIAM,  
The 16th November 1861. }

SIR BARTLE FRERE moved that the Clerk of the Council be requested to read the Proclamation and the Ex-

tract from the Despatch of the Secretary of State referred to in the Message.

The Motion was carried, and the above papers were accordingly read as follows :—

“ No. 2070.

FORT WILLIAM,

HOME DEPARTMENT,

The 16th November 1861.

PROCLAMATION.

Whereas it is declared by the 54th Section of the Act 24 and 25 Vic. c. 67, entitled “ An Act to make better provision for the constitution of the Council of the Governor-General of India and for the local Government of the several Presidencies and Provinces of India, and for the temporary Government of India in the event of a vacancy in the Office of Governor-General,” that the said Act shall commence and come into operation as soon as the same shall have been published by the Governor-General in Council by Proclamation, His Excellency the Governor-General in Council does hereby publish and proclaim the said Act for general information.”

*Extract paras. 1 and 2, of a Despatch from the Secretary of State in the Legislative Department, No. 14, dated 9th August 1861.*

1. “ I herewith transmit a copy of the Act recently passed by

Governor-General's letter No. 2A. dated 15th January 1861.

Governor-General's letter No. 3A., dated 26th January 1861.

Letter from Government of India, Public Department, No. 10, dated 31st January 1861.

and at the same time, of expressing my obligations for the valuable assistance I have derived from the several communications which I have received from your Lordship in Council, bearing on the important subjects for which provision is made by the Act.

2. “ In forwarding to your Lordship in Council the Act which brings to a close the labors of the present Legislative Council of India, it is due to that body that I should place upon record the high sense I entertain of the important services it has rendered in the marked improvement which it has effected in the legislation of India. Since the year 1853, when the Council received its present constitution, it has had to deal with some of the most important questions which could have been submitted to the consideration of any legislative body. The projects of law laid before it have been carefully considered and ably discussed, and the result of its labors has been to place on the Statute Book of India a series of sound and judicious measures which eminently

establish its claim to the gratitude of the country and the thanks of Her Majesty's Government.”

SIR BARTLE FRERE then moved that the above Message and its enclosures be entered in the Minutes of the Council.

Agreed to.

TOBACCO AND PAWN (BENGAL.)

THE CLERK presented a petition from Rajkissen Mookerjee, Zemindar of Ooterparah, against the Bill “ to provide for the imposition of a tax on Tobacco and Pawn in the Districts subordinate to the Government of Bengal,” and reported that the petition concluded with no distinct prayer.

LIMITATION OF SUITS.

THE CLERK reported that he had received a communication from the Home Department, forwarding a copy of a Despatch from the Secretary of State, relative to Act XI of 1861 (to amend Act XIV of 1859, to provide for the Limitation of Suits).

MR. HARRINGTON moved that the communication be printed.

Agreed to.

BANKS.

THE CLERK reported that he had received a communication from the Financial Department, forwarding a copy of a Draft Bill to amend Act VI of 1839 and Act XXI of 1854 (the law relating to the several Banks of Bengal, Madras, and Bombay).

MR. BEADON moved that the communication be printed.

Agreed to.

RECOVERY OF RENTS (BENGAL.)

THE CLERK reported that he had received a communication from the Government of the North-Western Provinces, forwarding an abstract of the opinions of the several Revenue Officers in those Provinces on the practical working of Act X of 1859 (to amend the law re-

lating to the recovery of Rent in the Presidency of Fort William in Bengal).

MR. HARRINGTON moved that the communication be printed.

Agreed to.

#### LIMITATION OF SUITS.

THE CLERK reported that he had received a communication from the Government of the North-Western Provinces, regarding the Bill "to amend Act XIV of 1859 (to provide for the Limitation of Suits)."

MR. HARRINGTON moved that the communication be printed and referred to the Select Committee on the Bill.

Agreed to.

#### COURTS OF REQUESTS (STRAITS.)

THE CLERK reported that he had received a communication from the Home Department, forwarding papers from the Governor of the Straits Settlement in connection with the Bill "to enlarge the jurisdiction of the Courts of Requests in the Settlement of Prince of Wales' Island, Singapore, and Malacca."

MR. FORBES moved that the communication be printed.

Agreed to.

#### CRIMINAL PROCEDURE.

MR. HARRINGTON moved the suspension of the Standing Orders to enable him to introduce and at once to carry through its several stages a Bill "to amend the Schedule annexed to the Code of Criminal Procedure." He observed, he believed he might say that the errors which this Bill was intended to amend were really clerical, but as the words which required to be altered stood as part of the Act as passed by the Council, a new law was necessary to make the requisite amendments.

The first Section of the Bill referred to Section 379 of the Indian Penal Code. As the Schedule was now worded, only the Court of Session or Magistrate of the District or other Officer exercising the full powers of a Magistrate could dispose of a case of simple theft; whereas there could be no doubt it was the intention of the Council to allow any Officer exercising any of the powers of a Magistrate, within the limits of the powers of punishment vested in him, to take cognizance of the offence mentioned in the Section in question.

The second Section applied to the offences described in Section 457 of the Indian Penal Code. The Schedule, as it now stood, rendered those offences cognizable only by the Court of Session or Magistrate of the District or other Officer exercising the full powers of a Magistrate. There seemed no reason why Subordinate Magistrates of the 1st Class should not be competent, within the limits of the powers of punishment vested in those Officers, to punish the comparatively simple cases of lurking house-trespass, specified in the Section of the Penal Code just mentioned by him, and he believed that he was correct in stating that it was the intention of the Council to give the Subordinate Magistrates of the 1st Class jurisdiction in such cases.

As the Code of Criminal Procedure was to come into operation on the 1st of January next, it was desirable that any alterations which were necessary should be made in it at once.

MR. BEADON seconded the motion for the suspension of the Standing Orders, which was carried, and the Bill then passed through all its stages without amendment; Mr. Beadon having been requested to take the Bill to the Governor-General for his assent.

On the Motion of Mr. Beadon, the Council adjourned till the 1st of January 1862.