

Wednesday, January 28, 1863

**COUNCIL OF 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.

The Council met at Government House, on Wednesday, the 28th January, 1863.

PRESENT :

His Excellency the Viceroy and Governor General of India, *presiding*.
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 C. J. Erskine.
The Hon'ble W. S. Fitzwilliam.
The Hon'ble D. Cowie.
The Hon'ble Rajah Deo Narain Singh Bahadoor.
The Hon'ble Rajah Dinkar Rao Rugonauth Moontazim Bahadoor.
The Hon'ble R. S. Ellis, C.B.
The Hon'ble A. A. Roberts, C.B.

TREATY WITH THE KING OF BURMAH.

The Hon'ble MR. MAINE presented the report of the Select Committee on the Bill to give effect to certain provisions of a Treaty between His Excellency the Earl of Elgin and Kincardine, Viceroy and Governor General of India, and His Majesty the King of Burmah.

EMIGRATION TO SAINT CROIX.

Also the Report of the Select Committee on the Bill relating to Emigration to the Danish Colony of St. Croix.

MAHOBA AND JEITPORE BILL.

The Hon'ble MR. HARINGTON introduced the Bill to bring the Pergunnahs of Mahoba and Jeitpore, in the District of Humeerpore, under the operation of the General Regulations, and moved that it be referred to a Select Committee, with instructions to report in two weeks.

The Motion was put and agreed to.

ARTICLES OF WAR (NATIVE OFFICERS AND SOLDIERS)
AMENDMENT BILL.

The Hon'ble MR. MAINE moved that the Report of the Select Committee on the Bill to amend Act XXIX of 1861 (to consolidate and amend the Articles of War for the government of the Native Officers and Soldiers in Her Majesty's Indian Army) be taken into consideration.

The Motion was put and agreed to.

The Hon'ble MR. MAINE also moved that the Proviso recommended by the Select Committee to be added to the second paragraph of Clause 2 of Article 82 be omitted, and that the following Proviso be substituted in lieu thereof : " Provided that, if reference can be made to any other superior Officer holding a Command not less than that of a Regiment, such reference shall be made, and such Officer thereupon shall have authority summarily to try, and, in case of conviction, to sentence the offender, and to carry out such sentence as if the offender had been under his Command." He explained that the object of the Clause was to give to Officers in command of Detachments summary powers, but it was obvious that those powers should not be exercised if reference could be made, without detriment to the Service, to a superior Officer. The Select Committee had amended the Clause with the view of giving the requisite powers subject to that restriction, but as it had since appeared to the Members of that Committee, that the Proviso did not impose the necessity of a reference if it could be conveniently made, he would propose the amendment of which he had given notice, and he might state that it had the concurrence of the Government of India in the Military Department.

The Motion was put and agreed to.

The Hon'ble MR. MAINE also moved that the Bill be passed with the amendments recommended by the Select Committee, subject to the foregoing amendment.

The Motion was put and agreed to.

CONSOLIDATED CUSTOMS BILL.

The Hon'ble MR. ERSKINE moved that the Report of the Select Committee on the Bill to consolidate and amend the laws relating to the administration of the Department of Sea Customs in India be taken into consideration. He said that, in making this motion, he need only remind the Council that, after the Bill had been revised by the Select Committee to which it was first referred, and after it had been republished in its revised form for general information, many suggestions for its further amendment had been received from the several local Governments and Chambers of Commerce. That had

rendered it expedient that the Bill, together with the communications in which those suggestions were made, should be referred back to a Select Committee, the Report of which was now before the Council. It would be found, he believed, that most of the suggestions intermediately offered—most of those which seemed to be of any considerable moment—had been incorporated into the Bill as now reported. It could hardly be expected that every suggestion emanating from a local source, and adapted in some cases to purely local circumstances, and even to local peculiarities, should be suitable for insertion in its entirety in a Bill like this, which was to be of general application. But the number of instances in which the Select Committee had felt unable to adopt a recommendation of any moment was certainly small. And in some of those instances, when the Committee did not feel at liberty to go in a particular direction as far as was desired, they had inserted provisions which would enable the Government to go, in that direction, as far as seemed to be consistent with the character and scope of the Bill, as a general Bill, and with the principles on which it was founded. With these explanatory remarks he begged to move that the Report of the Select Committee be taken into consideration.

The Hon'ble MR. COWIE said, that he thought this might be deemed a fitting opportunity for recording his opinion of the great zeal, ability, and patience with which the Hon'ble Mr. Erskine had conducted this important Bill to a successful issue. It had been under his especial charge for more than twelve months, and during that time he had been engaged in the proverbially difficult task of pleasing all parties, and he (Mr. Cowie) thought, with very considerable success. He considered that the Government and the public were alike indebted to the Hon'ble Gentleman for the mode in which he had preserved the rights of the one without trenching on the convenience of the other.

His Excellency THE PRESIDENT said that Mr. Cowie had anticipated the observations which he had intended to make. He entirely concurred with Mr. Cowie in his sense of the obligation under which the Council lay to Mr. Erskine for the zeal and ability which he had manifested in his charge of this Bill. By far the most laborious part of the work of the Council in legislation was performed, not in that room, but in the Select Committees, and he (His Excellency) thought that the public should be made aware of the fact. In this instance, a great deal of labour had been devoted to the consideration of the numerous suggestions which had been made for amendments in the Bill, and it was through the admirable judgment and conscientious perseverance of Mr. Erskine and the other Gentlemen who formed the Select Committee that the Bill had been brought to its present state. He could only express his hope

that their zeal would be rewarded by seeing the perfect working of the measure which they had brought to so satisfactory a conclusion.

The Hon'ble Sir C. TREVELYAN said, it might have been expected that, as the Member of the Governor General's Council specially charged with the Financial Business, he should have given his particular attention to the details of this Bill; but finding that it had *practically* reached its last stage, and that great pains had been bestowed upon it by the Select Committee, and having been assured by Mr. Erskine that it was strictly a *consolidation* Bill with the exception of certain limited alterations which he was so good as to explain, and in which he (Sir C. Trevelyan) entirely concurred, he considered that his time would be better employed in attending to other matters which required immediate attention. The consolidation of the various laws relating to the Customs was a work of great public value, and in accepting it on trust in the way he had described, he had given the highest proof of his confidence in the faithful and able manner in which it had been effected.

The Hon'ble MR. ERSKINE said, that as his friend Mr. Cowie and His Excellency the Viceroy had, in a very kind manner, ascribed to him (Mr. Erskine) more credit in connection with this measure than he could fairly claim, he might perhaps be allowed to make one or two observations which he had intended to reserve until he moved that the Bill should be passed. It was impossible that a Bill of this kind, a first attempt to consolidate and expand into something like a Code, rules of practice which had hitherto been different, and in some respects, discordant in different parts of India, should be anything but a tentative, and indeed a very imperfect, measure. He was sure however that, imperfect as it must be, many defects which would otherwise have adhered to the Bill had been removed, owing to the aid which had been so kindly given by some of those who were most competent to give it. He had already alluded to the valuable suggestions which had been received from the Local Governments and Chambers of Commerce. In like manner two of the Gentlemen, who, with Mr. Spooner, composed the Customs Committee, by whom the original draft of this Bill had been prepared two years ago, were still in Calcutta—Mr. Eden, and Mr. Bullen, who was now again, as he had then been, the President of the Chamber of Commerce. They had been most ready on all occasions to furnish information and advice—sometimes he feared at considerable personal inconvenience. And although the Bill was a very long, and not a very inviting one, it had been carefully revised and re-discussed by more than one Select Committee, the presence in which of their friends, Mr. Fitzwilliam and Mr. Cowie, had brought to bear on the consideration of some of the questions most important to the mercantile community, a degree of practical knowledge and practical interest, which otherwise it might

have been difficult to secure. That being the case; and as it seemed that, whatever might be the imperfections of the Bill, all those who had expressed an opinion in regard to it concurred in viewing it as a decided improvement upon any that had previously been in force; he hoped they might believe that it would be really acceptable, and really advantageous, to those whose interests in such matters it was desirable to consult.

The Motion was put and agreed to.

The Hon'ble MR. ERSKINE then applied to His Excellency the President, under Rule 26 of the Rules for the Conduct of Business, for permission to move a verbal amendment of which he had not given notice; and then moved that, in Section CLXVIII, the following words be inserted at the end of line 6, after the word "lawful"—"on the conditions and under the rules prescribed from time to time under Section CLXIII of this Act."

The Motion was put and agreed to.

The Hon'ble MR. ERSKINE then moved that the Bill as amended be passed.

The Motion was put and agreed to.

TREATY WITH THE KING OF BURMAH.

The Hon'ble MR. MAINE applied to His Excellency the President to suspend the Rules for the Conduct of Business; and, on the suspension of the Rules, moved that the Report of the Select Committee on the Bill to give effect to certain provisions of a Treaty between His Excellency the Earl of Elgin and Kincardine, Viceroy and Governor General of India, and His Majesty the King of Burmah, be taken into consideration. He read the Report of the Select Committee, and said that as it only recommended a slight verbal amendment, he concluded that the Council would not object to take the Report into consideration at once.

The Motion was put and agreed to.

The Hon'ble MR. MAINE then moved that the Bill be passed with the amendment recommended by the Select Committee.

The Motion was put and agreed to.

The following Select Committee was named:—

On the Bill to bring the Pergunnahs of Mahoba and Jeitpore in the District of Humeerpore under the operation of the General Regulations: The Hon'ble Messrs. Harington and Roberts.

The Council adjourned.

M. WYLIE,

*Depy. Secy. to the Govt. of India,
Home Department.*

CALCUTTA; }
The 28th January, 1863. }