

Wednesday, April 23, 1862

***INDIAN LEG.
COUNCIL
DEBATES***

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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 23rd April, 1862.

PRESENT :

His Excellency the Viceroy and Governor General of India, *presiding*.
The Hon'ble Cecil Beadon.
Major-General the Hon'ble Sir R. Napier, K.C.B.
The Hon'ble S. Laing.
The Hon'ble H. B. Harington.
The Hon'ble H. Forbes.
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.

REPEAL OF ACT II OF 1835.

The Hon'ble MR. BEADON moved that the Report of the Select Committee on the Bill to repeal in part Act II of 1835 be taken into consideration, and that the Bill, as settled by the Select Committee, be passed.

The Motion was put and agreed to.

NEW COINAGE.

The Hon'ble MR. HARINGTON moved that the Report of the Select Committee on the Bill to provide for a new Silver and a new Copper Coinage be taken into consideration, and that the Bill, as settled by the Select Committee, be passed.

The Motion was put and agreed to.

CRIMINAL PROCEDURE CODE AMENDMENT.

The Hon'ble MR. BEADON presented the Report of the Select Committee on the Bill to amend the Code of Criminal Procedure. He stated that, as the Select Committee had found it necessary to alter the frame-work and limit the scope of this Bill, he felt it desirable to explain the reason of the course they had adopted. The Bill, as drawn by Mr. Ritchie, had not been revised by him, and appeared to have been framed on the principle of giving power to

Government, in extending the Code of Criminal Procedure, to modify its provisions so as to meet all the proposals of the local officers. But the Select Committee had found that, in some instances, those modifications were not necessary, and that, in one point at least, a change was inexpedient. The Bill therefore was confined to two points. The first of these had reference to the Courts by which offences might be tried and sentences passed. It had been pointed out by the Authorities in the Punjab that the powers which, under the Code, they could give to Deputy Commissioners, were less than the powers they now exercised. The Bill therefore authorized the Government to empower officers of that description to try all offences not punishable with death, limiting the sentences to seven years' imprisonment, or fine, or both.

The second point contemplated by Mr. Ritchie was the modification of the Police chapter. This had been introduced solely to meet the case of Oude. But subsequently it was found to be not necessary. The Select Committee had not seen it necessary to provide specially for Juries, because it was in the discretion of the Government to authorize the use of Juries in particular districts or not. With respect to Sections 398, 401 and 420, which required that sentences referred to the Sudder Court should be dealt with by two Judges, the Bill provided that, where the powers of the Sudder Court were, under the provisions of the Code, exercised by a single officer, he should have all the powers of two Judges under those Sections. It had been provided in the Bill, as drawn by Mr. Ritchie, that the power of revision by Courts other than the Sudder Court might be extended to the Non-Regulation Provinces with modifications. But the Committee were not favourable to altering the provisions of the Code in this respect. In Oude, in which Province an alteration had been applied for, the Judicial Commissioner was accessible, and had leisure to exercise a special superintendence of the Courts. The Report of the Select Committee would be in the hands of the Council, and on Wednesday next he would move that the Bill be passed, embodying the two Sections which were deemed necessary.

LIMITATION OF SUITS.

The Hon'ble MR. LAING presented the Report of the Select Committee on the Bill to amend Act XIV of 1859 (to provide for the limitation of suits), and applied to His Excellency the President to suspend Rule 23 for the Conduct of Business. He stated that the only amendment was of a purely verbal character, and it was desirable that the Bill should be passed without delay.

His Excellency THE PRESIDENT declared the Rule in question suspended.

The Hon'ble MR. LAING then moved that the Report of the Select Committee be taken into consideration, and that the Bill, as settled by the Select Committee, be passed.

The Motion was put and agreed to.

CUSTOMS DUTIES.

The Hon'ble MR. LAING presented the Report of the Select Committee on the Bill to amend Act X of 1860 (to amend Act VII of 1859, to alter the Duties of Customs on goods imported or exported by Sea), and applied to His Excellency the President to suspend Rule 23 for the Conduct of Business. He said that the alterations in the Bill were simply to add the words "Silk Chussum" after the words "Raw Silk," and to strike out words that were unnecessary.

His Excellency THE PRESIDENT declared the Rule in question suspended.

The Hon'ble MR. LAING then moved that the Report of the Select Committee be taken into consideration, and that the Bill, as settled by the Select Committee, be passed. He said that it was desirable that the new Duties should come into operation without delay.

The Hon'ble RAJAH DEO NARAIN SINGH said that he gladly availed himself of this opportunity to express his warm admiration of the Financial Statement submitted by the Hon'ble Mr. Laing at the last Meeting of the Council. In that Statement it was shown that, owing to the excellent management of the Hon'ble Member, the expenditure had been considerably diminished, while the income had at the same time improved, and a large increase of treasure had accumulated in the Government Treasuries. This was no easy task, and its accomplishment, while giving new strength to the Empire, had greatly benefited the people by occasioning the repeal of the two per cent. Income Tax, the License Tax, and the abolition or diminution of sundry Customs Duties. The following advantages, too, would, on consideration, be found to have resulted therefrom :—

1st.—The two per cent. duty bore most heavily on incomes of not more than 500 rupees, and the relief occasioned by its repeal would be sensibly felt. The License Tax was most oppressingly felt by artizans, etc., and was a source of daily annoyance to them, and its repeal would restore to them their peace of mind and fill their hearts with gratitude to their Sovereign, for the continuance of whose reign they would offer up hearty prayers.

2nd.—Although Act XXXII of 1860 imposed the Income Tax for a specified term of five years, people did not believe it would ever be taken off again;

many instancing that, though in England the tax had been first imposed for a limited period, it had since become permanent. The partial repeal of the tax within the period authorized by law would have the immediate effect of driving such false surmises out of the heads of the people, and of convincing them that the tax would really be taken off on the expiry of the five years for which it was imposed, and they would be ashamed of their former doubts.

3rd.—When Act XXXII was published, it was stated that Government was forced to impose the tax for the purpose of equalizing the income and expenditure, and to make good losses incurred by the mutiny. This statement was by most people looked upon as a mere excuse for raising money, the fact of Government having suffered any loss being denied. The falseness of these doubts would now be proved by the fact of Government having taken off the tax as soon as the state of the finances would permit, and people would see that its imposition was forced on the Government, and that the Government was not actuated by a desire to screw money out of the people. The most important result, however, would be that the people would place entire confidence in their Sovereign, in whose service they would be ready to lay down their lives.

Finally, too much could not be said in praise of Mr. Laing who, undeterred by several serious attacks of illness, had laboured unceasingly and to such good purpose as in a short time to produce results quite unlooked for by the Natives of this country, who could not but feel the heavy debt of gratitude they all owed him. The Native Members of that Council were specially under obligation to him, for as these remissions of taxation had been made since they had had the honour of occupying seats in the Council, they had risen high in the estimation of their fellow subjects.

The Secretary read the Report of the Select Committee, and the Motion was then put and agreed to.

INCOME TAX.

The Hon'ble MR. LAING presented the Report of the Select Committee on the Bill to limit in certain cases the amount of assessment to the Duties chargeable after the 31st day of July, 1862, under Act XXXII of 1860 (for imposing Duties on Profits arising from Property, Professions, Trades, and Offices), and Act XXXIX of 1860 (to amend Act XXXII of 1860), and otherwise to modify the said Acts. He said that the passing of this Bill was not so immediately urgent as the Bill which had just passed the Council. The amendments proposed by the Committee had for their object to provide that there should be no fresh assessments, unless the former returns were obviously inadequate.

SUPREME COURTS' CRIMINAL PROCEDURE.

The Hon'ble MR. HARRINGTON introduced the Bill to repeal Act XVI of 1852 in those parts of British India in which the Indian Penal Code is in force, and to re-enact some of the provisions thereof with amendments, and further to improve the administration of Criminal Justice in Her Majesty's Supreme Courts of Judicature, and moved that it be referred to a Select Committee with instructions to report in a week. He said that, in introducing this Bill, he considered it right to mention what he had stated when he asked for leave to bring in the Bill, namely, that the Bill had been prepared by the Honourable and learned Chief Justice of Her Majesty's Supreme Court of Judicature at Calcutta, in communication with his honourable and learned colleagues, and that a Bill so prepared, and having for its object the improvement of the Criminal Procedure in Her Majesty's Supreme Courts of Judicature in India, and its adaptation to the altered state of the substantive Criminal Law consequent on the introduction of the Indian Penal Code, might safely be accepted by this Council and passed into law. The Bill did not pretend to contain a complete Code of Criminal Procedure for Her Majesty's Supreme Courts of Judicature in India. The preparation of such a Code would be a work of considerable time. But the present law having been found unsuited in many respects to the Indian Penal Code, and inconvenience having been experienced during the criminal Sessions, which had already been held for the trial of offences punishable under the Penal Code, from the want of adaptation to that Code of the existing procedure law, what the present Bill chiefly professed to do was to provide a remedy and to supply an immediate and pressing want. To this extent, he thought the present Bill would be found very useful and fully to answer the purpose contemplated in its introduction. In a short time they were led to expect that Her Majesty's Letters Patent for constituting High Courts in the place of the present Supreme and Sudder Courts would reach this country, and on their arrival the procedure to be observed in the High Courts on both the civil and criminal sides would have to be considered and determined. New Codes for the High Courts might be found necessary, and should such be the case, he thought that the preparation of the Criminal Code would be greatly facilitated by this Bill. He would only add that the Bill contained certain Sections relating to the custody of persons under sentence in the House of Correction, which, if adopted, would, he believed, remove the objections which were considered to exist to some of the provisions of a Bill lately passed by the Legislative Council of Bengal for the maintenance of discipline in the House of Correction, and, in so far as those objections were concerned, enable His Excellency the Viceroy to assent to that Bill.

The Hon'ble MR. BEADON said that, as this Bill was avowedly of a temporary character, he would suggest that the Select Committee should consider whether that should not distinctly appear in the Bill by a Section limiting its continuance. The Council were no doubt quite willing to accept the Bill on the authority of the learned Chief Justice. But as the High Court would probably be established within a year, that period might be specified for the continuance of this measure.

The Hon'ble MR. HARINGTON said that the suggestion of Mr. Beadon would be considered in Select Committee.

The Motion was put and agreed to.

CONTRABAND SALT (OUDE).

The Hon'ble MR. HARINGTON introduced the Bill to extend to the Province of Oude certain provisions of Acts XIV of 1843 and XXXVI of 1855 relating to the manufacture of contraband Salt, and to amend the last-named Act, and moved that it be referred to a Select Committee with instructions to report in a week.

The Motion was put and agreed to.

The following Select Committees were named :—

On the Bill to repeal Act XVI of 1852 in those parts of British India in which the Indian Penal Code is in force, and to re-enact some of the provisions thereof with amendments, and further to improve the administration of Criminal Justice in Her Majesty's Supreme Courts of Judicature—the Hon'ble Messrs. Harington, Forbes and Erskine.

On the Bill to extend to the Province of Oude certain provisions of Acts XIV of 1843 and XXXVI of 1855 relating to the Manufacture of contraband Salt, and to amend the last-named Act—the Hon'ble Messrs. Harington, Forbes and Erskine.

The Council adjourned till Wednesday, the 30th instant, at 11 A.M.

M. WYLIE,

*Deputy Secretary to the Government of India,
Home Department.*

CALCUTTA; }
The 23rd April, 1862. }