

Wednesday, August 2, 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.*

The Council met at Simla on Wednesday, the 2nd August 1865.

PRESENT:

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

His Excellency the Commander-in-Chief.

The Hon'ble W. Grey.

The Hon'ble G. N. Taylor.

The Right Hon'ble W. N. Massey.

The Hon'ble Colonel H. M. Durand, c. b.

The Hon'ble W. Muir.

ARTICLES OF WAR AMENDMENT BILL.

His Excellency the COMMANDER-IN-CHIEF moved for leave to introduce a 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).

SIR W. MANSFIELD said that there was little to add to the Statement of Objects and Reasons, but he might perhaps mention that in 1863 the Advocate General had been asked for a definition of the term Commanding Officer as used in the Native Articles of War. The Advocate General had ruled that the term embraced only the Commanding Officer of a Regiment, and that the Articles of War vested no authority in any other Regimental Officer even when commanding a detachment at a distance from Head Quarters, such Officers possessed no power as such apart from the authority of the titular Commanding Officer, *i. e.*, the Officer Commanding at the Head Quarters of the Regiment.

He (SIR W. MANSFIELD) had himself doubted whether such an opinion was sustainable; it was certainly opposed to the general practice of the Army, he might say of all Armies; but since it had been confirmed by the Advocate General, there was no option but to have recourse to legislation in order that the proper position of subordinate Officers might be placed on a legal footing, otherwise they would be exposed to countless actions and other annoyances in the discharge of their regular duties. With these observations, he would move for leave to introduce the Bill.

The Right Hon'ble MR. MASSEY asked if an alteration had not been made, he believed at the instance of the Hon'ble Mr. Grey, in the Bill since the draft

was first circulated. He remarked that, as first drafted, the Bill provided that the power now vested in His Excellency the Commander-in-Chief, under the authority of the Governor General in Council, of laying down rules under this Bill, had been originally vested in the Commanders-in-Chief of Presidencies and in the Commandants of separate forces. The importance of preserving uniformity in legislating as to punishments was so obvious, that he could not but consider the alteration in the Bill a material improvement.

SIR W. MANSFIELD replied that the case was as stated by the Hon'ble Member, and the obvious advantages of preserving uniformity had led to the alteration noticed. He might add that he was prepared, almost immediately after the passing of the Bill, to submit a set of rules for the approbation of the Governor General in Council.

The Motion was put and agreed to.

SIR W. MANSFIELD then applied to His Excellency the President to suspend the Rules for the conduct of Business.

The President declared the Rules suspended.

SIR W. MANSFIELD then introduced the Bill and moved that it be taken into consideration.

The Motion was put and agreed to.

SIR W. MANSFIELD then moved that the Bill be passed.

The Motion was put and agreed to.

#### PUNJAB CIVIL APPEALS' BILL.

The Hon'ble MR. GREY moved for leave to introduce a Bill to make temporary provision for the decision of Civil Appeals in the Districts within the Lieutenant Governorship of the Punjab. He said that the object of the Bill was merely to revert partially for a time to the state of things which existed in the Punjab before the passing of Act XIX of 1865. Before that Act became law, the Revenue Courts in the Punjab heard suits as to land, rent, &c., and the Financial Commissioner, or Chief Revenue Authority, was the final Court of Appeal in such cases. Act XIX of 1865 transferred the whole of this class of business to the Civil Courts, and when that Act was passed, it was intended to establish a Chief Court in the Punjab, for which purpose Act XXIII of 1865 was simultaneously passed. Delay, however, had unaccountably occurred in bringing the latter Act into operation, and the Lieutenant-Governor of the Punjab had represented that the Court of the Judicial Commissioner, which, since the passing of Act XIX, had become the only final Court of Appeal in all Civil

cases, was quite unequal to the disposal of the heavy increase of appellate work which was thus thrown upon it. The Lieutenant-Governor therefore had proposed that so much of Act XIX of 1865 as transferred certain business from the Revenue to the Civil Courts, should be suspended until the Chief Court was established.

The necessity for temporary legislation was established, but it seemed desirable to confine it within the smallest limits consistent with the requirements of the case. The present Bill, therefore, merely proposed to empower the Financial Commissioner to hear appeals in cases relating to land, &c., which now lie, under Act XIX of 1865, to the Judicial Commissioner only.

The Motion was put and agreed to.

The Council adjourned.

E. C. BAYLEY,  
*Secretary to the Govt. of India,*  
*Home Department.*

SIMLA, }  
*The 2nd August 1865.* }