

Friday, May 22, 1867

**COUNCIL OF GOVERNOR GENERAL
OF
INDIA**

VOL . 6

4 JAN. - 20 DEC.

1867

P . L .

Abs tract 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 & 25 Vic., cap. 67.

The Council met at Simla on Wednesday, the 22nd May, 1867.

PRESENT :

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

His Excellency the Commander-in-Chief, G. C. S. I., K. C. B.

The Hon'ble H. Sumner Maine.

The Hon'ble G. Noble Taylor.

The Right Hon'ble W. N. Massey.

The Hon'ble Major General Sir H. M. Durand, C. B., K. C. S. I.

The Hon'ble Sir George Yule, C. B., K. C. S. I.

MUNSIFS' JURISDICTION BILL.

The Hon'ble MR. MAINE, in moving for leave to introduce a Bill to alter the jurisdiction of District Munsifs and for other purposes, said that the subject of this Bill was somewhat urgent, and that everybody who could speak with authority on it was in favour of the proposed measure. He held in his hand a letter from the High Court of the North-Western Provinces, which contained the following passage:—

“ The jurisdiction of the Munsif (proper), which in Madras extends to Rupees 1,000, and in Bombay to Rupees 5,000, is limited in Bengal and the North-Western Provinces to Rupees 300. Since 1831 the Munsifs' jurisdiction has remained fixed at Rupees 300, notwithstanding the recommendations made first in 1843 by the Indian Law Commission, afterwards by Messrs. Harington and Mills in 1854, and lastly by the Law Commission in 1855. Messrs. Harington and Mills were of opinion that if adequate salaries were assigned to them, the jurisdiction of the Munsifs might be fixed at Rupees 1,000. Whether this be the limit which should be now fixed, or Rupees 2,500, as proposed in 1855, the Court desires to express its opinion that the judicial ability possessed by the Munsifs of these Provinces is fully adequate to a far more extended jurisdiction than that which they have by the Regulation of 1831. In truth, a jurisdiction far exceeding, as regards the value of the property in dispute, the largest of these sums is now exercised by the Munsifs in certain suits concerning land, which, by the present rules for the valuation of suits, must be instituted in the Munsifs' Courts.”

The proposal to increase the jurisdiction of the District Munsifs arose out of the recent increase of the salaries of the Uncovenanted Service. An addi-

tion to the jurisdiction was, as the High Court of the North-Western Provinces had remarked, only the legitimate sequence of the sanctioned increase in the salary, position, prospects, and, Mr. Maine would add, of the increased judicial ability of the Munsifs. In the proposition of the Agra High Court, the Government of the North-Western Provinces concurred, and, in his letter, dated 1st March 1867, His Honour the Lieutenant-Governor recommended for the sanction of the Supreme Government that the jurisdiction of all the Munsifs be raised to Rupees 1,000, the Local Government being empowered to increase it further by notification in the official *Gazette* to Rupees 2,500. The papers on the subject were then sent by the Supreme Government to the High Court at Fort William, for an expression of their views on the question of the enlargement of the jurisdiction of the Munsifs in the Lower Provinces, and their reply, dated the 8th of April 1867, stated that the Court concurred in the proposal that such jurisdiction should be at once raised to Rupees 1,000. The Court reserved the question of its further extension for future consideration, but were of opinion that the power to extend it from time to time, as might seem expedient in particular cases, might unobjectionably be vested in the Local Government. He (Mr. Maine) might mention that the matter had not been sent to the Local Government of the Lower Provinces, as it was then in a state of transition, but there was appended to the papers a note by the Hon'ble Mr. Grey, dated the 9th of March last, in which he said that he was quite in favour of increasing the Munsifs' jurisdiction up to Rupees 1,000. There were, thus, both Lieutenant-Governors and both High Courts in favour of the proposed change, the urgency of which arose from the obvious desirability of making the increase in the Munsifs' jurisdiction coincide in point of time with their increase of pay and advance in position.

There were two other points on which he proposed that the Council should take this opportunity of legislating. The new Stamp Act had, as was well known, altered the mode of valuing revenue-paying lands for the purpose of estimating the stamp-duty on plaints in suits relating to such lands. The result would be that much of the appellate jurisdiction of the Civil Judges would be taken away. This was a serious change. A vastly increased number of regular appeals would go to the High Courts, and, though this in the opinion of one learned Chief Justice might at present be beneficial to the country at large, it would necessitate the maintenance of the High Court Judges at their present number, and this was opposed to the wishes of the Home Government. Mr. Maine would therefore propose to insert a clause in the Bill, raising the appellate jurisdiction of the Civil Judge to Rupees 50,000. The last point to which he would refer related to Principal Sadr Amíns. The Small Cause Court

Act gave power to invest the Small Cause Court Judges with the powers of Principal Sadr Amíns, but there was no provision for the investment of Principal Sadr Amíns with the jurisdiction of Small Cause Court Judges. He would, therefore, in accordance with the suggestion of the Government of the North-Western Provinces, which had been approved of by the present Lieutenant-Governor of Bengal, propose to empower the Local Government to appoint Principal Sadr Amíns to be Small Cause Court Judges within their respective jurisdictions.

The Motion was put and agreed to.

RAILWAY SERVANTS' BILL.

The Hon'ble MR. TAYLOR, in moving for leave to introduce a Bill to render penal certain offences committed by servants of Railway Companies, said that the object of this Bill was to put a stop to the bribing of Station-Masters and other Railway servants, a practice which must obviously be injurious to the mercantile community as well as to the Railway Companies. The practice, he regretted to say, prevailed to a serious extent, and was likely to increase unless means were taken to check it. The Bill, in order to effect its object, simply declared that persons in the employ of Railway Companies should be deemed to be "public servants" within the meaning of Sections 161 to 165 of the Indian Penal Code. This declaration formed a section of a Bill now before the Council for consolidating the Railway law of India, which had been submitted to the Boards of the various Companies, but which might have to stand over for some months. No objection had been taken to the clause in question; on the contrary, there was a general concurrence of opinion in its favour, and the local Railway agencies were particularly desirous that the clause should be enacted at the earliest possible date. The Bill extended to persons employed on all Railways and Tramways in British India, and also (as to British subjects) in the dominions of allied Princes and States, and as it was urgently needed, he trusted that it might become law with as little delay as the rules of the Council permitted.

The Motion was put and agreed to.

The Council adjourned till the 29th May 1867.

WHITLEY STOKES,

SIMLA,
The 22nd May 1867. }

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