

Thursday, September 24, 1868

**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 & 25 Vic., Cap. 67.*

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The Council met at Simla on Thursday, the 24th September 1868.

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 G. N. Taylor.

The Hon'ble H. S. Maine.

The Hon'ble John Strachey.

The Hon'ble Sir Richard Temple, K.C.S.I.

The Hon'ble Colonel H. W. Norman, C.B.

The Hon'ble F. R. Cockerell.

BURMESE ABKÁRÍ RULES.

The Hon'ble MR. MAINE, in moving for leave to introduce a Bill to give validity to certain Abkárí rules in British Burma, said that the present Bill was only a temporary and provisional measure, but that its necessity illustrated the difficulties in which the Government was sometimes placed by the operation of the Indian Councils Act. Before that Act was passed, legislation on such matters as Abkárí was, in the case of the Non-Regulation Provinces, practically in the hands of the local executive. Section 25 of that Statute had the effect of giving the force of law to such rules made before the 1st August 1861. The Commissioner of Pegu, Sir Arthur (then Colonel) Phayre, framed Abkárí rules for that province. He sent them up the Government of India, and they received the requisite sanction. The Indian Councils Act would have made these rules law, but unfortunately, instead of being prescribed as permanent regulations, they were re-published annually. Subsequently, the three Provinces of British Burma were combined in a Chief Commissionership, and the Abkárí rules for the Tenasserim and Arakan Provinces were fused with those made for Pegu, and of course partook of the illegality of the latter. The Recorder of Rangoon had lately convicted an offender against the Abkárí rules in British Burma, but the High Court at Calcutta had quashed the conviction, on the ground that no Act of the Indian Legislature could be referred to as giving validity to the rules in question. Legislation of some sort was, therefore, urgently required, and the Financial Department was in correspondence with the Chief Com-

missioner of British Burma as to the introduction into that province of the Bengal Abkárí Act. If that Act were introduced, it would of course supersede the present rules to which he proposed to give a temporary validity. If it were not introduced, it would ultimately be necessary to frame a special Abkárí Act for British Burma.

The Motion was put and agreed to.

The Hon'ble MR. MAINE then asked the President to suspend the Rules for the Conduct of Business, observing that the measure was urgent, as one of its objects was to indemnify officers who had honestly acted in enforcing the present invalid rules.

The President declared the Rules suspended.

The Hon'ble MR. MAINE then introduced the Bill, and read it to the Council. He said that the only explanation which it appeared to require was the date, "thirty-first day of March 1868," from which the present rules were to be deemed to have had the force of law. That was the day immediately before the day on which the present rules purported to come into force, and, under Clause 2 of Section 3 of the General Clauses Act No. I of 1868, the former day would be excluded from the period of time mentioned in the Bill. The proposed Act would expire on the publication of a notification of the Governor General of India in Council, and the necessity of passing a repealing Act would thus be avoided when it became desirable to dispense with the present measure. He might mention in conclusion that he had not thought it desirable to adopt the usual practice of placing the rules in a schedule; the language in which they were framed, though very proper in rules for the guidance of Excise Officers, was too vague and popular to permit of their appearing on the Indian Statute Book.

The Motion was put and agreed to.

The Hon'ble MR. MAINE then moved that the Bill be passed.

The Motion was put and agreed to.

The Council then adjourned to the 1st October 1868.

WHITLEY STOKES,

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

SIMLA,  
The 24th September 1868. }