

Monday, December 21, 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 21 & 25 Vic., cap. 67.*

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The Council met at Government House on Monday, the 21st December 1868.

P R E S E N T :

His Excellency the Viceroy and Governor General of India, *presiding*.  
His Honour the Lieutenant Governor of Bengal.  
The Hon'ble H. Sumner Maine.  
The Hon'ble John Strachey.  
The Hon'ble Sir Richard Temple, K. C. S. I.  
The Hon'ble F. R. Cockerell.  
The Hon'ble Sir George Couper, Bart., C. B.  
The Hon'ble Mahárájá Sir Dirg-Bijay Singh, Bahádur, K. C. S. I., of Balrámpúr.  
The Hon'ble Gordon S. Forbes.  
The Hon'ble D. Cowie.  
The Hon'ble M. J. Shaw Stewart.

JUSTICES OF THE PEACE BILL.

The Hon'ble MR. MAINE moved that the Bill for the appointment of Justices of the Peace be referred to a Select Committee with instructions to report in a month. He said that it was scarcely necessary to state to the Council that the principal duty of Justices of the Peace in India was to investigate charges against European British subjects, to commit them, if necessary, to the High Courts, and to impose fines upon them for violent assaults under the Statute 53 George III, c. 155, s. 105 and the Act No. VII of 1853. Until a comparatively recent period, commissions of the peace issued from the High Court to which the European British subject was committable. Thus, Justices of the Peace in the Presidency of Bombay, and the Native States subordinate to it, were commissioned by the High Court at Bombay. So also with Madras. Over all the rest of India commissions to Justices issued from the High Court at Fort William in Bengal. The system was

sufficiently inconvenient, for commissions of the peace had to go from Calcutta to such places as Mysore and Coorg, and committals from those places were to the High Court at Fort William. Quite recently, however, great changes had been made in the amenability of British subjects to Indian Criminal Courts. A new High Court had been established in the North-Western Provinces, a Chief Court at Lahore, and two Recorders' Courts in British Burma. Further, under Statute 28 Vic., cap. 15, power was given to the Governor General in Council, by executive order, to distribute all India, British and Native, between the various High Courts for the purpose of committing British subjects to those Courts. A notification had issued effecting such distribution with reference to facilities of communication, whether consisting in proximity or in the existence of new roads and railways. But the law as to Justices of the Peace remained as it was. Commissions of the peace issued from the Calcutta Court to Mysore and Coorg. But under the Statute and notification above-mentioned, European British subjects were committable from these places to the High Court at Madras. Nor was this merely an anomaly. For doubt existed whether a High Court could try a British subject committed to it by a Justice of the Peace not commissioned by itself. It was a point upon which the learned Judges differed. The Bill was drawn to remove this doubt, and to cause commissions of the peace to issue from the High Court to which British subjects were committable from the various parts of British and Native India. Beyond this it did not go, and was intended to innovate as little as possible. But no one employed in framing such a Bill could help wondering why such a circuitous mode of appointment was necessary. The High Courts had no discretion. They issued commissions of the peace at the instance of the Governor General in Council or of the Local Government. The intervention of the High Courts seemed therefore an unnecessary step in the process. It had not, however, been proposed at first to make any change since the privilege, if privilege it were, had from the first belonged to the Courts, and it was one which did no great harm. MR. MAINE was, however, happy to say that a Minute had been received from Sir Barnes Peacock, concurred in by all the Judges of the High Court at Fort William, in which it was proposed that commissions of the peace should no longer issue to the High Courts, but that Justices of the Peace should be directly gazetted by the Local Government. There was reason to believe that the learned Chief Justice of the High Court of the North-Western Provinces took the same view. The High Court Judges at Madras and Bombay, while approving of the Bill, had not noticed, but MR. MAINE was sure that they would not object to the recommendations of the Calcutta High Court. He thought that the Select Committee would do well to adopt this suggestion,

which would have the effect of greatly simplifying the Bill and of establishing a more convenient system.

The Motion was put and agreed to.

#### VILLAGE POLICE (N. W. P.) BILL.

The Hon'ble MR. STRACHEY introduced the Bill for the maintenance of the Rural Police in the North-Western Provinces, and moved that it be referred to a Select Committee with instructions to report in a month. He said that, when the Rural Police Act (II of 1865) for the North-Western Provinces was enacted, the provision in force in respect of Khálsá estates was made applicable to Muáfi and Nazráná villages. The municipal cess, which was a percentage on the Government revenue fixed at the Settlement in discharge of the obligation of the proprietors for the entertainment of the Village Police, was fixed at  $2\frac{3}{4}$  per cent. of the jama; and that amount was entered in the Act as being leviable from Muáfi and Nazráná estates. The late Lieutenant Governor of the North-Western Provinces, however, increased the former rate on Khálsá estates to  $7\frac{3}{4}$  per cent. on the jama. This he had authority to do, and he found that the increased rate was absolutely necessary, because the sum formerly paid was quite inadequate to the efficient maintenance of the village constabulary. But as the Act provided that only  $2\frac{3}{4}$  per cent. should be levied on Muáfi and Nazráná estates, the consequence was that the payments for the Police in Muáfi and Nazráná estates were very much smaller than in Khálsá estates; it was therefore proposed by the Lieutenant Governor to amend the Act for the purpose of making the burden in Khálsá and Muáfi estates the same.

The Act of 1865 had already been amended by Act II of 1866: it seemed undesirable to pass another amending Act, and consequently it was proposed to take the opportunity of throwing the whole law on the subject into one Act. With the exception just noticed, although there were two or three slight alterations in the present Bill, there was really nothing of importance with which MR. STRACHEY need trouble the Council: to all intents and purposes the new Bill simply consolidated and re-enacted the existing law.

The Motion was put and agreed to.

The Hon'ble MR. STRACHEY moved that the Hon'ble Sir George Couper and the Hon'ble Maharájá Sir Dirg-Bijay Singh be added to the Select Committee on

the Bill to define the rights of Taluqdárs and others in certain estates in Oudh, and to regulate the succession thereto.

The Motion was put and agreed to.

The following Select Committees were named :—

On the Bill for the appointment of Justices of the Peace—The Hon'ble Messrs. Cockerell, Gordon Forbes and Shaw Stewart and the Mover.

On the Bill for the maintenance of the Rural Police in the North-Western Provinces—The Hon'ble Messrs. Maine and Cockerell, the Hon'ble Sir George Couper, the Hon'ble Maharájá Sir Dirg-Bijay Singh and the Mover.

The Council adjourned till Monday the 28th December 1868.

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

CALCUTTA,  
The 21st December 1868. }