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COUNCIL OF THE GOVERNOR GENERAL OF INDIA

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ABSTRACT OF PROCEEDINGS

COUNCIL OF THE GOVERNOR GENERAL OF INDIA

LAWS AND REGULATIONS.

VOL 11

1872

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.

The Council met at Simla on Thursday, the 5th September, 1872.

P R E S E N T :

His Excellency the Viceroy and Governor General of India, G.M.S.I.,
presiding.

His Honour the Lieutenant-Governor of the Panjáb.

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

The Hon'ble Sir John Strachey, K.C.S.I.

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

Major-General the Hon'ble H. W. Norman, C.B.

The Hon'ble Arthur Hobhouse, Q.C.

The Hon'ble E. C. Bayley, C.S.I.

The Hon'ble R. E. Egerton.

ACT No. V of 1872 AMENDMENT BILL.

The Hon'ble MR. HOBHOUSE moved that the Report of the Select Committee on the Bill to amend Act No. V of 1872 (*to remove doubts as to the Jurisdiction of the High Court of Bombay over the Province of Sindh*) be taken into consideration.

The only amendment made by the Select Committee was the addition of a section saving the criminal jurisdiction of the High Court of Bombay so far as regards European British subjects in Sindh. By oversight, Act V, of 1872 abolished this jurisdiction, not only prospectively, but retrospectively. One result was that, at this moment, any European British subject might commit murder in Sindh, and no Court would have jurisdiction to try him. Another result was to nullify all previous convictions of European British criminals committed from Sindh to the High Court, and thus to entitle such persons, if brought up on a writ of *habeas corpus*, to be discharged at once. The new section had been added with the consent of the Bombay Government, and on the suggestion of the High Court.

The Motion was put and agreed to

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The Hon'ble MR. HOBHOUSE then moved that sections two and three of the Bill should be transposed.

The Motion was put and agreed to.

The Hon'ble MR. HOBHOUSE also moved that in section three, line four, after the word "heretofore," the words "or hereafter" should be inserted. The object of this amendment, which had been suggested by the Government of Bombay, was to preserve to the High Court its power to grant probates and letters of administration, as regards assets situate in Sindh, to persons other than the Administrator General.

The Motion was put and agreed to.

The Hon'ble MR. HOBHOUSE then asked the President to suspend the Rules for the Conduct of Business. It was obviously desirable that the criminal jurisdiction over European British subjects in Sindh should be referred to a Select Committee with instructions to report in a month.

The PRESIDENT declared the Rules suspended.

The Hon'ble MR. HOBHOUSE then moved that the Bill as amended be passed.

The Motion was put and agreed to.

NORTHERN INDIA IRRIGATION BILL.

The Hon'ble SIR JOHN STRACHEY introduced the Bill to regulate Irrigation, Navigation and Drainage in Northern India, and moved that it be referred to a Select Committee with instructions to report in a month.

He said that he had already explained the circumstances under which this Bill was brought forward. The Bill had now been for some time in the hands of Hon'ble Members, and they would have seen that it was virtually a republication of the Panjáb Canal and Drainage Act (XXX of 1871), with the omission of the sections (40 to 49) which provided for the imposition of a water-rate on lands irrigable but not irrigated. He would not take up the time of the Council by enumerating the few other changes, which were for the most part unimportant, and were, moreover, sufficiently described in the Statement of Objects and Reasons.

The Bill applied not only to the Panjáb but also to the North-Western Provinces. This was in accordance with the wishes of the Lieutenant-Governor. The Bill, too, was framed so as to apply also to Oudh and the

Central Provinces. The Chief Commissioners had been addressed on the subject; and the Select Committee would, he trusted, have the benefit of the views of all the Local Governments to whose territories the Bill purported to apply.

The Motion was put and agreed to.

SEPOY LUNATICS' BILL.

Major-General the Hon'ble H. W. NORMAN moved that the Bill to provide for the admission of Native Military Lunatics into Asylums, as amended, be passed.

The Motion was put and agreed to.

BURMA FERRIES' BILL.

The Hon'ble MR. BAYLEY moved for leave to introduce a Bill to regulate Ferries in British Burma. He said that the Council was aware that the territories which now constituted the Chief Commissionership of British Burma were originally composed of three parts,—the two independent Commissionerships of Pegu and the Tenasserim Provinces, and the Akyáb district, which was originally under the Lieutenant-Governor of Lower Bengal. Ferries were managed under separate rules in each of these parts. Administrative rules were passed in the two former, which probably, though not certainly, had obtained the force of law under the Indian Councils' Act, and the Akyáb district, when annexed to Burma, was subject to the law in force in Bengal. This state of things had continued up to the present time, and the ferries had been administered under separate rules in the three divisions of British Burma. But in consequence of the trade which had sprung up on the rivers intersecting British Burma, new marts, and even towns, had arisen on their banks: the question of ferries had assumed considerable importance; and the Chief Commissioner considered it expedient that the law should be placed on an uniform and undoubtedly legal footing. Mr. Eden had accordingly prepared and submitted the Bill, leave to introduce which was now asked.

The Motion was put and agreed to.

PANJAB OPIUM BILL.

The Hon'ble MR. EGERTON moved for leave to introduce a Bill to amend the law relating to Opium in the Panjáb. He said that Act X of 1871 (*to consolidate and amend the laws relating to the Excise Revenue in Northern India, British Burma and Coorg*), repealed Act XXI of 1856, which was the

law to regulate the Excise Revenue. This Act was extended to the Panjáb under Act XXVIII of 1864, which empowered the Governor General in Council to extend all or any of the provisions of Act XXI of 1856 to the Panjáb by notification in the *Gazette of India*. But Act XXVIII of 1864 was also repealed by the Excise Act of 1871, and the provisions of the new Act became absolute in the Panjáb. The culture, possession and sale of opium were managed in the Panjáb in a manner different from that which prevailed in other parts of the country. In the North-Western Provinces, Act XIII of 1857 was in force. But this Act had not been extended to the Panjáb, nor was it expedient so to extend it, as there was no opium agency in the province.

The system of cultivating poppy in the Panjáb was this : In the divisions of Ambála, Jallandar, Amritsar and Lahore, excluding the Hill Districts of Kángra and Simla, an acreage duty was levied on poppy cultivation. In the other divisions, excepting Delhi and Hissár, the cultivation of the poppy was free.

In all the districts where the cultivation of poppy was carried on, and opium was extracted, the cultivator was obliged to sell the drug to licensed vendors only.

The amount of opium produced was small, and was insufficient for local consumption. The excise revenue from opium was derived from the acreage duty, and from the farm of the monopoly of retail sale.

The provisions of sections fifteen, nineteen, sixty-two, sixty-five, sixty-six, sixty-seven and seventy-eight of Act X of 1871 were inapplicable to the Panjáb. The corresponding sections in Act XXI of 1856 had been suspended from operation in the Panjáb by notification under Act XXVIII of 1864.

By section forty-nine of Act IV of 1872—the Panjáb Laws' Act—the Local Government was empowered to make rules for the growth, sale and possession of opium, provided such rules were not inconsistent with any Act or law for the time being in force in the Panjáb. But the rules now required were necessarily inconsistent with the provisions of Act X of 1871, and could not, therefore, be made.

It was necessary, therefore, to modify the application of Act X of 1871, and to allow the Local Government to use the power which the Panjáb Laws' Act was intended to give. MR. EGERTON had not had sufficient time allowed him to consider the Excise Bill of 1871 before it became law, or it would not have been necessary now to apply for the interference of the legislature.

The Motion was put and agreed to.

The following Select Committee was named :

On the Bill to regulate Irrigation, Navigation and Drainage in Northern India :—His Honour the Lieutenant-Governor, the Hon'ble Sir R. Temple, the Hon'ble Messrs. Hobhouse and Egerton and the Mover.

The Council then adjourned to the 12th September, 1872.

WHITLEY STOKES,

Secretary to the Government of India.

SIMLA;

The 5th September, 1872.