

Tuesday, March 2, 1875

**ABSTRACT OF THE PROCEEDINGS**

**COUNCIL OF THE GOVERNOR GENERAL OF INDIA**

**LAWS AND REGULATIONS.**

**VOL 14**

**Jan to Dec**

**1875**

**P L**

ABSTRACT OF THE PROCEEDINGS

OF THE

Council of the Governor General of India,

ASSEMBLED FOR THE PURPOSE OF MAKING

LAWS AND REGULATIONS.

1875.

WITH INDEX.

VOL. XIV.



Published by the Authority of the Governor General.

Gazettes & Statutes Section  
Parliament Library Building  
Room No. FB-025  
Block V

CALCUTTA:

OFFICE OF THE SUPERINTENDENT OF GOVERNMENT PRINTING.

1876.

*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 Act of Parliament 24 & 25 Vic., cap. 67.*

---

The Council met at Government House on Tuesday, the 2nd March 1875.

**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 Bengal.

The Hon'ble B. H. Ellis.

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

The Hon'ble Arthur Hobhouse, Q. C.

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

The Hon'ble Sir W. Muir, K. C. S. I.

The Hon'ble John Inglis, C. S. I.

The Hon'ble R. A. Dalryell.

The Hon'ble H. H. Sutherland.

His Highness the Maharaja of Vizianagram, K. C. S. I.

The Hon'ble J. R. Bullen Smith.

The Hon'ble Sir Douglas Forsyth, K. C. S. I.

**HIGH COURTS CRIMINAL PROCEDURE BILL.**

The Hon'ble MR. HOBHOUSE presented the final Report of the Select Committee on the Bill to regulate the Procedure of the High Courts in the exercise of their original Criminal Jurisdiction.

**PRESIDENCY TOWNS POLICE MAGISTRATES BILL.**

The Hon'ble MR. HOBHOUSE asked leave to postpone the presentation of the final Report of the Select Committee on the Bill to extend certain parts of the Code of Criminal Procedure to the Courts of the Police Magistrates in the Presidency Towns and to increase the jurisdiction of such Courts.

Leave was granted.

**PORT-DUES BILL.**

The Hon'ble MR. HOBHOUSE also presented the final Report of the Select Committee on the Bill to consolidate and amend the law relating to Ports and Port-dues.

## INLAND CUSTOMS BILL.

The Hon'ble Mr. ELLIS moved that the Report of the Select Committee on the Bill for regulating Inland Customs-duties on salt and Sugar, and for other purposes, be taken into consideration. The Bill was substantially in the same form in which it was when it was presented to the Council, and the objects intended in bringing in the Bill had been, he believed, attained by it in its present shape. He had stated on a previous occasion that one object of the Bill was consolidation of the existing law. That that object had been pretty well attained would be seen by reference to the schedule of enactments either wholly or partially repealed; a large number of Acts would be entirely repealed, and sections of several other enactments would be dispensed with.

The Bill had been arranged in six chapters, the first of which was preliminary, and contained definitions some of which were new and others modified previous definitions for the greater clearness of the subsequent sections. The second chapter referred to the business proper of the inland customs-line: it defined what was there called the Customs-zone, which was a zone of country not exceeding fifteen miles along any portion of the frontier referred to in the Bill. There was one rather important modification of the existing law in reference to the zone. The Bill as now framed gave power to the Governor General to extend the area of the customs-zone, so as to include any portion of a railway, canal or navigable river entering the zone and brought under the same condition as the zone itself, such places in these railways, canals and navigable rivers as were places for loading and unloading dutiable goods into or from wagons or boats. The object was, not to increase the area of territory to be included in the customs jurisdiction, but to afford facilities to traders. It often happened that a railway-station where salt was loaded for despatch was outside the customs-zone. The salt was loaded for entry into the zone, and if there was not provision to enable the customs authorities to act as a place of loading outside the zone, the salt would have to break bulk in some place inside it. It would therefore be a great convenience to the traders to have a spot where the goods were loaded made a place where the customs-officers could act as within their own jurisdiction. This chapter explained the result of entering the zone, and showed how salt entering the zone was to be deemed to be imported, and sugar going out of the zone was to be deemed to be exported, and prescribed the several measures which the customs-officers could take under the rules to be framed by the Governor General in Council for regulating the collection of duties and the import and export of goods.

The third chapter related to the internal manufacture of salt and the manufacture and refinement of saltpetre. The latter was included only on account of

the salt necessarily made in the course of the refinement of saltpetre. The Bill gave power to prohibit and to regulate by license the manufacture of salt and saltpetre, and prescribed certain rates of fees for licenses for such manufacture.

The fourth chapter dealt with fines and penalties :these penalties were chiefly based on the existing law. He might state that they were in no case enhanced, in some instances they were rendered in accord with similar clauses in the law regarding excise.

The fifth chapter related to the powers of seizure, search and arrest. Here would be observed some additional restrictions, based on the provisions of the Criminal Procedure Code in respect of searches in zananas for property which had been stolen.

The sixth chapter contained merely some usual miscellaneous provisions.

MR. ELLIS thought that no further remarks on the details of the Bill were required. The measure, as had been previously stated, was a consolidation of the existing law, and an attempt to reduce to a compact and convenient form the existing enactments on the subject. He hoped that the Bill would not be a long-lived one, and that it would not remain many years on the Statute-book ; he hoped rather that, on an early day, the Government might see its way to abolish the customs line altogether, and introduce a system which would be a permanent one, and under which all inland trade would be entirely freed from the inconveniences to which it was now necessarily subjected.

The Motion was put and agreed to.

The Hon'ble MR. ELLIS also moved that the Bill as amended be passed.

His Excellency the PRESIDENT said :—" Before this Bill passes, I wish to say that I heartily agree with the wish that my friend Mr. Ellis has expressed that this Bill may not remain long upon our Statute-book. It is the opinion of the Government of India that in the first place, the present export duty upon sugar manufactured in British territories when it crosses the customs-line, is one of the worst of our present taxes, and one of the first which the Government would desire to take off. Secondly, we think that the customs-line itself is a great evil. It impedes trade, and it can hardly be supposed that the management of a long line of that kind—although I believe that the rules have been carried out with every care to prevent oppression of the people by the subordinate officials employed can possibly be carried on without considerable pressure and inconve-

nience to those who are in the habit of crossing and recrossing the line. It is therefore, in the opinion of Government, most desirable that free trade should be established between the States which are now divided by the customs-line. We have been able already to remove the southern customs-line; but all those who have paid attention to the subject know that the northern customs-line cannot be removed until arrangements are made with the Native States of Rajputana and Central India where salt is produced. For, if the line was removed without such precautions, salt would be introduced into British territory without having paid the tax, and our salt-revenue, which in my opinion is one of the soundest sources of revenue in India, would be seriously affected. I am happy to inform Members of Council that I see hopes—indeed I may say that I anticipate with confidence—that arrangements may be made which will enable us to overcome this difficulty. One of the most distinguished of the Princes of India—the Maharaja Holkar—is now on a visit to Calcutta. I have had the pleasure of some conversation with His Highness upon this subject, and I am happy to be able to say that, so far as the State of Indore is concerned, I believe we shall be able to make satisfactory arrangements. Therefore, I will go somewhat further than my hon'ble friend, Mr. Ellis, and say, not only that I wish, but that I anticipate, that before many years have passed, this Bill will be removed from the Statute-book."

The Motion was put and agreed to.

#### MAJORITY BILL.

His Highness the MAHARAJA OF VIZIANAGRAM moved that the Report of the Select Committee on the Bill to establish a uniform age of majority of persons domiciled in British India be taken into consideration, and said :—

"My Lord :—It may be remembered by the Council that, in the opinions received on the subject of this Bill from various parts of British India, there was a wish expressed by many persons of influence and experience that the period of nonage should be generally extended to the end of the twenty-first year. This matter has received the serious consideration of the Select Committee, and they have recommended that the third section of the draft Bill, as it last stood, be amended as follows :—

" 3. Subject as aforesaid, every minor of whose person or property a guardian has been or shall be appointed by any Court of Justice, and every minor under the jurisdiction of any

(Court of Wards, shall notwithstanding anything contained in the Indian Succession Act (No. X of 1875), or in any other enactment, be deemed to have attained his majority when he shall have completed his age of twenty-one years and not before :

“ Subject as aforesaid every other person domiciled in British India shall be deemed to have attained his majority when he shall have completed his age of eighteen years and not before.

“ The reasons which have induced the Select Committee not to extend the period of nonage beyond the time originally proposed, except in the case of wards of Court, are substantially the same as those which were given by my friend, the Hon'ble Mr. Hobhouse, in addressing the Council on the occasion of my having the honour to introduce this Bill. Although many have expressed themselves in favour of a uniform age of majority on the completion of the twenty-first year being established for all persons, I have considered it right to be guided by the opinion of the hon'ble members of the Select Committee, who, with far larger capacity and means of forming a judgment on the point than any to which I can pretend, have deemed it unadvisable to at once extend the period of minority so largely as would be the case for many classes were it raised to twenty-one generally. I confess that, so far as I can gather from the opinions which have been received on this matter from leading Natives of the country and from what I have been able personally to ascertain from those of my countrymen who have favoured me with their view on the subject, I do not think that any substantial dissatisfaction would have been provoked by the measure if it had enacted that the age of majority should be twenty-one for all persons. On the contrary, I am inclined to believe that such an enactment would have met with the approval of the great body of intelligent and thoughtful persons throughout the country. I did not myself, in the Bill as first drawn, venture to propose a uniform age of majority at twenty-one, inasmuch as at that time, I had not the advantage of knowing the opinions which have since been so influentially expressed on this point, and as all precedent of prior legislation in this country on the matter had put the age of majority at eighteen. Since the Bill was published, there has, however, as is known to the Council, and as I have already stated, been a remarkable expression of opinion that advantage should be taken of this opportunity to raise the age at which majority is attained to at least twenty, if not twenty-one, years. My own experience fully coincides with that of those whodeny that there is any such general precocity of judgment in the youth of this country as to make it expedient that they should be considered to be *sui juri* at an age much earlier than that recognized by any of the States of Europe in the cases of their own subjects or of residents in their home territories. In the case of minors who are wards of Court (or under the jurisdiction of the

Court of Wards) the Select Committee is of opinion that it is undesirable to put them in the position of being able to deal in their own right with their property until they have completed the age of twenty-one years. It is perhaps difficult to see why the immaturity which is thus deemed a fitting reason to prolong the period of their legal incapacity to act should be held to be peculiar to them, and on what ground it can be urged that other persons are, as a body, fit to be trusted with the deposition or management of their property at an age three years earlier. The education of the minors thus excepted from the general rule of this Bill is looked after by Government; and so far as education and training go, it might be supposed that they would be more fitted to undertake the responsibilities of legal manhood at an earlier age than the body of the youth of the country. But as I have said, it is considered by the other members of the Select Committee that this question of the age at which majority shall be deemed to be attained should be dealt with in the manner proposed in the amended Bill, and to their greater experience and knowledge I willingly defer.

“The only other substantial alteration which has been made in the Bill by the Select Committee, is that in section 4 of the Bill as it now stands, as to the manner in which the age of majority is to be computed. The section as originally framed was in accordance with the English law on the point, which law proceeds on the principle that no notice is to be taken of fractions of a day. The amended section introduces a more obvious and simple mode of calculation, and will probably be approved by the Council.

“In conclusion, I have to express the deep obligations under which I am to my friend the Hon'ble Mr. Hobhouse, the hon'ble members of the Council and to Mr. Whitley Stokes, for the great and invaluable assistance they have so kindly afforded me in the various stages through which this Bill has passed. It may truly be said that the Bill as it now stands is their Bill; and I cannot adequately express my sense of gratitude for the readiness and kindness with which they have, on every occasion, helped me in this matter with their invaluable advice. To the members of the Select Committee and to this Council, I, with due respect, offer my heartfelt thanks for the kind reception given to this Bill, and for the kind manner in which they have given their time to put this Bill on a sound basis, and, for the sympathy, generosity, and support with which the members of this Council have befriended and encouraged me in the task I ventured to undertake. Without such support I could not have hoped to have brought the Bill to its present stage.”

The Hon'ble MR. DALYELL said that, whatever view might be taken of the provisions of this Bill he was sure that it must be a satisfaction to every member present that their hon'ble friend the Maharaja of Vizianagram should have set so good an example in being the first of his countrymen to bring into this Council a measure of legislation, and that he should have selected a subject the importance of which his intimate knowledge of the wants of all classes of the people should have so well fitted him to understand, and which his experience as a member of this Council had enabled him to put into so proper a form. As representing the Presidency to which His Highness belonged, perhaps Mr. DALYELL might be permitted to remind him that his proceedings here were watched by a large circle of friends, both European and Native in Madras and by not a few English friends of older date, who, though no longer in this country, still retain a lively recollection of their agreeable relations with him, both official and private, in the district of Vizagapatam and other places; and MR. DALYELL was confident he only expressed the opinion of all of them when he said that no incident in his Highness' long career, marked throughout by many acts of usefulness and benevolence, was more to his credit than the attitude he had assumed with regard to this Bill. His anxiety to transfer the conduct of the Bill to the Hon'ble Mr. Hobhouse, the Law Member of the Government, in accordance with what he supposed, MR. DALYELL believed incorrectly, to have been a suggestion of the Government of the North-Western Provinces, was as honourable to himself as were his subsequent endeavours so to frame the measure as to make it harmonize even with the prejudices of his fellow-subjects; and MR. DALYELL desired cordially to congratulate his hon'ble friend on having so successfully brought the Bill to its present stage. He trusted also that His Highness would have the satisfaction to see it passed into law to-day, and would be encouraged to proceed further in the path of reform, and, with the permission of His Excellency the President, to take up other subjects which were equally important, and in regard to which the law was in an equally uncertain condition. He might mention, for instance, the law of Adoption, which he was informed at present was to a large extent based upon decisions of British judges, rather than governed, as it should be, by the writings of the old Native Authorities.

As to the Bill itself, he quite thought that an enactment of some sort should be passed to determine the age at which persons should be able to enter into legal obligations; and though he should have been glad to see that age extended to twenty-one in accordance with the opinion of a large number of persons who had addressed the Council on the subject, still the fixing it at the age of eighteen with the provision that the age should be raised to twenty-one in most of the

cases in which inheritance to landed property was involved, would be an immense improvement on the present state of affairs, and he had therefore great pleasure in supporting the Bill.

His Honour THE LIEUTENANT-GOVERNOR desired to say just one or two words to explain why he, for one, had special satisfaction in voting for this Bill. The class described in section 3 (namely, the minors under the jurisdiction of the Courts of Wards) was a very numerous and important class in Bengal, he believed more so than in many other Provinces in India. Very large estates were constantly being brought under the management of the Courts of wards, and they were managed greatly to the advantage of the ward and his family and to the permanent advantage of the estates which came under their management. When it was necessary to make over those large estates and such very important interests to young Natives just at the age of eighteen, it was impossible not to feel anxiety for the ward and the estate. This anxiety would now be very much decreased by the prolongation of the period of minority to the completion of the twenty-first year. And further it was very satisfactory of course that this Bill should be introduced, not by any European colleague, but by a Native Member of the Council, who deservedly held so high a position in the estimation of his countrymen and whose authority would carry such weight as the Māharāja of Vizianagram.

The Hon'ble SIR WILLIAM MUIR wished merely to make an observation in reference to the statement of his hon'ble friend, Mr. Dalryell, as to the supposed wish of the Government of North-Western Provinces, that the charge of this Bill should have been transferred to the Hon'ble Mr. Hobhouse. The surmise must have been based on a misunderstanding; for he could say that it had given him sincere pleasure to see the Māharāja taking so personal and active an interest in the work of legislation. During his (SIR WILLIAM MUIR'S) administration of the North-Western Provinces, he had had many opportunities, not only for expressing his thanks to the Māharāja for his munificent liberality in the promotion of useful and benevolent projects; but also of observing the deep and intelligent interest taken by His Highness in the welfare and social elevation of his fellow-countrymen. No person therefore, could be better qualified than he was for the task; and SIR WILLIAM MUIR cordially concurred in the hope that His Highness might go still further and prepare projects of law on other subjects which he was so well fitted to deal with.

As regarded the Bill itself, now that questions of marriage, adoption and religious customs were excluded, SIR WILLIAM MUIR had no objection to its passing into law.

The Hon'ble Mr. HOBHOUSE said :—" Before this matter is disposed of, I wish to make a few observations in further explanation of the precise changes in this Bill proposed by the Select Committee, and of the broader changes which will be effected in the law if the Bill is carried in its present shape. The present law may be thus roughly stated, not accurately, but with enough accuracy for the present purpose. Hindus attain their majority, some at fifteen, and some at sixteen ; Muhammadans at fifteen or the age of puberty, whichever happens soonest. If however a young Hindu or Muhammadan is under the tutelage of the Court of Wards or of any other Court, his nonage is prolonged until he completes his eighteenth year. European British subjects, whether having an Indian domicile or not, attain majority for general purposes when they complete their twenty-first year. But with respect to property taken by way of succession, all the communities to whom the Succession Act of 1865 applies attain majority on the completion of their eighteenth year.

" As the Bill was introduced into this Council, it aimed principally at the removal of these diversities of practice, and at the introduction of uniformity, as both its title and its preamble showed ; and it proposed for all British Indian subjects alike, that the age of eighteen should, for general purposes, be the age of majority. But on the discussion which followed the introduction of the Bill, our late colleague, the Raja Ramanath Tagore, raised the question whether the age of eighteen was not still too tender an age, and stated his own opinion that nonage should be prolonged till twenty-one, and it was agreed that the question ought to be carefully considered in Committee. In point of fact the Committee found that after the introduction of the Bill there was only one serious subject of controversy and that was whether the age of majority should be fixed at eighteen or at some later age. We were recommended in a great number of influential quarters to postpone the age to twenty-one, and were referred to many cases in which injury had occurred to young men by reason of their becoming masters of their property at too early an age. So it happened that, when we came to discuss these papers, the object of uniformity seemed to be less important than the object of framing a law suitable for the needs of Indian society. And we found that, if we prolonged the nonage of those who were wards of Court, though we should not altogether follow the commendation of those who advocated the age of twenty-one, yet we should substantially satisfy their reasons and meet the cases of mischief which they adduced ; while, at the same time, we should avoid so large a change as would be caused by altering the age from that of fifteen years, or less, to that of twenty-one.

“ The broad result is that, setting apart the cases of successions and of European British subjects, we have provided that those who are now minors up to eighteen shall remain so up to twenty-one, and that others shall attain their majority at eighteen.

“ It is true that, in shaping the measure thus, we are not going so far as the greater number of those interested in the matter would have us go. My hon'ble friend the Lieutenant Governor of Bengal is an eminent instance of those who wish that the age of twenty-one should be prescribed for the whole community. The Government of Madras wish for the same thing, and so do a great many of the local authorities in that Presidency. Such Native gentlemen as the late Justice Dwarkanath Mitra, as the members of the British Indian Association have advised us that eighteen is decidedly too low an age. Similar opinions prevail extensively elsewhere. I do not suppose that I am betraying any confidence when I say that such opinions were well represented in our Committee. In particular, Raja Ramanath Tagore (who, I am sorry to say, was prevented by illness from joining us personally) wrote a letter strongly urging us to raise the general age to twenty-one, and though he quite approves of the change we have actually made, so far as it goes, yet he would have been better satisfied if we had gone the whole way with him. My hon'ble friend, the Maharaja of Vizianagram, has just intimated to us in no obscure terms what his own opinion is. On the whole, however, we, or the greater number of us, came to the conclusion that it was better to require the age of twenty-one only of those who were wards of some Court. Our feeling is, I think, exactly expressed in a letter from the Government of North-Western Provinces. It is there said :—

“ There has been a general feeling that if possible it would be better to make twenty-one the limit of minority. It seems clear to His Honour, however that it would not be advisable to make so great a change all at once.”

“ There is one consideration which must always be borne in mind in discussing this subject, and that is, that such a law is very rarely called into action except in the case of the richer classes. I do not indeed doubt but that, taking very long periods of time, a law fixing the term of nonage has a tendency to modify social habits and ideas according to the age at which that term is fixed. But to the great bulk of mankind in any country whatever, the attainment of legal majority is a matter of no particular moment. All the ordinary transactions of life are discharged according to the circumstances of each individual, whether he is legally *sui juris* or not. Therefore, on the mass of the Community, such a law as this works very gradually and quite insensibly. It is amongst the class that possess a substantial amount of property—a class that in every country must

be small in numbers, though of great social importance—that such a law works immediately and visibly. As between father and son, as between guardian and ward, as between young heirs and the temptations that assail their youth, the change we propose is calculated to be directly operative. But here it seems to me that we walk on thoroughly safe ground. We are dealing with a class whose nonage, if their fathers are not living, is already prolonged beyond that of their neighbours, or liable to be so prolonged by a simple application to a Court of law. We are dealing with cases in which there will nearly always be property to be protected, and in which we know there is a responsible guardian to look after the interests of the ward. In these cases the change is not so great, and it is accompanied by the best guarantees that it will work smoothly and beneficially for those whom it affects. In the other cases, where there is no property, or where there is no guardian, we are content to raise the standard of age to that which is now appointed for wards, to efface most of the artificial distinctions that have sprung up between those who are entirely under the same law of Nature, and to say that, in the eye of the law, the Indian youth, whether he be a Hindu or a Muhammadan or of any other religion, shall be a minor until he has attained the age of eighteen years at least.

“ If we may trust reasoning on general principles ; if we may trust the experience of other countries ; if we may trust the opinions we have received from a great variety of quarters in this country, we are proposing a beneficial change in the law ; and I shall be surprised and disappointed if those who may now think we had better not interfere with such matters, do not, after a little time has passed agree that we owe thanks to my hon'ble friend the Maharaja of Vizianagram for bringing this subject before the legislature.”

The Motion was put and agreed to

His Highness the MAHARAJA OF VIZIANAGRAM moved that the Bill as amended be passed.

His Excellency THE PRESIDENT said :—“ I wish to add one word to the observations which have been made with regard to this Bill, and to join with my colleagues in this Council in thanking the Maharaja of Vizianagram for the pains which he has taken in the preparation and introduction of the Bill, and for the manner in which he has met the suggestions and opinions of those who, although they agreed in the general objects of the Bill, had doubts as to some of the details. I agree with those who think that, in a matter of this kind, the Council should be very cautious and, therefore I believe the course taken by the Select Committee in fixing eighteen as the ordinary age for majority was wise, although at the same time there was much to be said in favour of raising the age to twenty-one.

**MAJORITY.**

“ I am glad to see, from the second clause of the Bill, that it has been carefully laid down that the alteration of the law will not interfere with matters of marriage, dower, divorce and adoption, or affect the religion or religious rights and usages of any class of Her Majesty's subjects.

“ The Bill has been very deliberately considered, and may, I believe, safely be passed into law by the Council.”

The Motion was put and agreed to.

The Council adjourned to Tuesday, the 9th March 1875.

CALCUTTA ;  
The 2nd March 1875, }

WHITLEY STOKES,  
*Secretary to the Government of India,*  
*Legislative Department.*