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**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.

1873.

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1874.



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 Government House on Tuesday, the 7th January 1873.

PRESENT :

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

The Hon'ble B. H. Ellis.

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

The Hon'ble A. Hobhouse, Q. C.

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

The Hon'ble F. S. Chapman.

The Hon'ble R. Stewart.

The Hon'ble J. R. Bullen Smith.

The Hon'ble R. E. Egerton.

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

The Hon'ble J. F. D. Inglis.

BURMA COURTS' ACT AMENDMENT BILL.

The Hon'ble MR. HOBHOUSE moved that the report of the Select Committee on the Bill to amend Act No. VII of 1872 (*to consolidate and amend the law relating to the Courts in British Burma*) be taken into consideration. That Act had established a system of Courts somewhat different from those in other parts of the country. It provided for the constitution of the Court of the Judicial Commissioner; it continued, with some changes, the Court of the Recorder of Rangoon, and it created a new tribunal called a "Special Court," which consisted of a combination of the Recorder and Judicial Commissioner. The Act had been prepared with great care and in close communication with the Chief Commissioner and other local authorities, and everything was done which had been foreseen when it was passed. It was however found, as was constantly the case when new Courts came to work, that they desired the enactment of some provisions other than those which the original Act contained.

The first reason for introducing the Bill was, that the course of appeals did not run quite smoothly, owing to a reason explained on a previous occasion. The Committee had accordingly made the necessary amendment.

They had declared that the Civil Procedure Code extended to all parts of British Burma, excepting so far as it had been modified by the Act of last Session and the present Bill. The Code had been extended by executive orders to Arakan, Martaban and Tenassirim; but no such extension had been made to Pegu. Act I of 1863, section 23, had been repealed, and the Judicial Commissioner considered that the Code did not prevail in Pegu.

The Committee had relaxed the rule prescribed by Act VIII of 1859, section 6, that every suit should be instituted in the Court of the lowest grade competent to entertain it, by giving the Deputy Commissioner power to authorize, under certain rules to be from time to time prescribed by him with the sanction of the Judicial Commissioner, the higher grades of Courts to receive suits cognizable by a lower grade.

The Committee had relaxed another rule of the Code (sections 26 and 172) about the language in which plaints were to be prepared and evidence taken down, as it was found inconvenient to have one rigid rule on the subject. The practice in Burmese Courts presided over by English officers was, as MR. HOBHOUSE understood, that the plaint was written in Burmese while the evidence was recorded in English. The authorities in British Burma wished to maintain this practice, and accordingly the Committee had given the Local Government power to make regulations on that subject from time to time.

The Committee had also taken care to provide that the Court Fees' Act and the Limitation Act should apply to the "Special Court." The Committee had declared that the "Special Court" should, for the purposes of these Acts, be deemed to be a High Court. There were also in the Bill some rules as to the taxation of costs, giving the Judicial Commissioner power to make regulations for that purpose, and for regulating the licensing and fees of vakils and pleaders of his own and the subordinate Courts.

There were a few other amendments, but MR. HOBHOUSE had mentioned the most important. The Council would see that the Bill involved no new principle. The Judicial Commissioner of British Burma had stated that the Bill, as it now stood, was satisfactory. And as it involved mere details relating to procedure, that opinion would probably satisfy the Council.

The Motion was put and agreed to.

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

The Motion was put and agreed to.

MADRAS DISTRICT MUNSIFS' BILL.

The Hon'ble MR. HOBHOUSE presented the final report of the Select Committee on the Bill to consolidate and amend the law relating to District Munsifs, in the Presidency of Fort Saint George.

PANJAB APPEALS AND REVIEWS OF JUDGMENT BILL.

The Hon'ble MR. HOBHOUSE also moved for leave to introduce a Bill to prolong the law relating to Appeals and Reviews of Judgment in the Panjáb. He said, this was a very simple matter. The present Act regulating appeals in the Panjáb, No. VII of 1868, was limited in its operation to a period of five years. It would expire at the end of March 1873. The duration of the Act had been limited, because it was thought probable that, before that term of five years had elapsed, the Government would re-organize the executive and judicial services, and make some new arrangement respecting the work of the Courts. The time for doing so had, however, not yet arrived. The Government was not prepared to take any such step at present, and, therefore, the Panjáb authorities had called attention to the approaching expiry of Act VII of 1868 and desired that it should be prolonged.

The Motion was put and agreed to.

BURMA PORT-DUES BILL.

The Hon'ble MR. HOBHOUSE also moved for leave to introduce a Bill for the levy of Port-dues in the Ports of British Burma. The object of the Bill was this. The Port-dues Act (XXII of 1855), which was a general Act, provided (s. 2) that the Local Government might, with the sanction of the Governor General in Council, declare any Port to be subject to the Act. Then it provided, by a subsequent section (41), that no dues should be levied after the 13th August 1855, excepting under the authority of that Act or of some subsequent Act; but by section 42 the Local Government might vary the dues within the maximum limit laid down by the Act which regulated their levy. The consequence was, that if it was desired to do anything beyond merely declaring any Port to be within the limits of the general Act, which was nearly always the case, a fresh Act was required. Two Acts (XXXV of 1857 and XXV of 1860, amended by XIII of 1867, s. 1) had been passed with respect to certain Burman Ports: they had been passed on the same model, fixing the maximum dues and certain conditions under which the dues might be levied. Now, the Chief Commissioner of British Burma desired to bring various Ports in that Province within the limits of the general Act, and suggested that, instead of passing a fresh Act on each occasion, a general Act should be passed

enabling the Local Government, in communication with the Supreme Government, to regulate the levy of Port-dues within a maximum to be laid down by the Act. It was obvious that such a course would save much trouble, and for that reason MR. HOBHOUSE moved for leave to bring in this Bill.

The Motion was put and agreed to.

RULES FOR THE CONDUCT OF BUSINESS.

The Hon'ble MR. HOBHOUSE also moved that a Committee be appointed to revise the Rules for the Conduct of Business. Some of the Rules were found to be rather too limited in their operation; for instance, those which prescribed a definite time for doing certain acts. Such was Rule 14, which provided that there must be a definite notice given of a motion for leave to introduce a Bill; Rule 16 said that no Bill should be introduced until fourteen days after a copy of the Bill and of the Statement of Objects and Reasons had been furnished to each Member, and there were two or three more of the same kind. Then, again, there was the Rule relating to the publication of Bills in certain languages. All these Rules were of a fixed nature. It was found that these Rules had not been observed in practice, and it would be obvious that, when the practice varied from the written rule, it pointed to some inconvenience in the Rules. It was desirable, if the Council had Rules, that they should act in accordance with them; and it therefore appeared convenient that the Rules of the Council should be revised. There were also some Rules which it would be convenient to make clearer; but that would be a subject for the consideration of the Committee. It was with a view to make the practice coincide with the Rules that he asked for the appointment of a Committee to revise them. There was a Rule (21) which provided for the appointment of a Committee for the purpose.

His Excellency THE PRESIDENT wished to say, with respect to the action of this Committee, that it was not his wish that its Members should in any way relax the essential provisions of the Rules in respect to the publication of Bills, either as introduced or whenever they were altered in any essential particular, in the language of the Natives of India who were to be subject to those laws.

The Motion was put and agreed to.

The Hon'ble MR. HOBHOUSE thought it would be convenient if he read out the names of the Members who had consented to serve on the Committee: they were, the Hon'ble Messrs. Ellis, Chapman (whose experience of the

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working of the Council at Bombay would be of value), Bullen Smith and Stewart, His Highness the Mahárájú of Vizianagram and the Hon'ble Mr. Inglis. His Honour the Lieutenant Governor, who was not in his place to-day, had informed MR. HOBHOUSE that he could not spare the time to serve on the Select Committee; but he had kindly promised to afford the Committee any information they might require which his experience of the practice in the local Council might enable him to furnish.

The Council then adjourned to Tuesday, the 14th January 1873.

CALCUTTA;
The 7th January 1873. }

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