

Friday, January 30, 1880

**COUNCIL OF THE GOVERNOR GENERAL  
OF INDIA**

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**P. L.**

ABSTRACT OF THE PROCEEDINGS  
OF THE  
Council of the Governor General of  
ASSEMBLED FOR THE PURPOSE OF MAKING  
LAWS AND REGULATIONS.

1880.

WITH INDEX.

VOL. XIX.

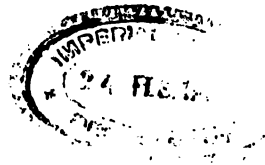
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1881.



*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 Friday, the 30th January, 1880.

PRESENT:

His Excellency the Viceroy and Governor General of India, G.M.S.I.,  
*presiding.*  
His Honour the Lieutenant-Governor of Bengal, K.C.S.I.  
His Excellency the Commander-in-Chief, G.C.B., G.C.S.I., C.I.E.  
The Hon'ble Sir A. J. Arbutnot, K.C.S.I., C.I.E.  
The Hon'ble Sir J. Strachey, G.C.S.I., C.I.E.  
General the Hon'ble Sir E. B. Johnson, R.A., K.C.B., C.I.E.  
The Hon'ble Whitley Stokes, C.S.I., C.I.E.  
The Hon'ble Rivers Thompson, C.S.I.  
The Hon'ble Sayyad Ahmad Khán Bahádur, C.S.I.  
The Hon'ble T. C. Hope, C.S.I.  
The Hon'ble B. W. Colvia.  
The Hon'ble C. Grant.  
The Hon'ble E. C. Morgan.  
The Hon'ble J. Pitt Kennedy.  
The Hon'ble G. C. Paul, C.I.E.  
The Hon'ble H. J. Reynolds.

NEW MEMBER.

The Hon'ble H. J. Reynolds took his seat as an Additional Member.

CANTONMENTS ACT AMENDMENT BILL.

The Hon'ble MR. STOKES moved that the Reports of the Select Committee on the Bill to provide for the revision of proceedings in trials held under the Military Cantonments Act, 1864, section 20, be taken into consideration. He said that the Committee had made both substantial and formal changes in his Bill. The substantial changes consisted in the introduction of a power to the Local Government to impose, for local purposes, in any cantonment, taxes of the same description as were commonly imposed in municipalities, and a power to extend any portion of the Cantonment Act to any place without extending

the whole. The Governments of Madras and Bombay, having Cantonment Acts of their own, would probably desire to extend to some of their cantonments the new taxation-sections.

The principal formal change consisted in the conversion of the Bill from a mere piece of patchwork into a measure repealing and re-enacting the law on the subject. That this was desirable would appear from the fact that the present Cantonment Act had been already twice amended, namely, by the Small Cause Court Act, XI of 1865, and by the Code of Criminal Procedure, Act X of 1872; that four of its sections had been repealed by Acts XIV of 1870 and VIII of 1871; and that parts of three of the remaining sections (39, 43 and 44) were, according to the opinion held by the Government of India during the last ten or twelve years, *ultra vires* of this legislature, as purporting to enable the Government to deal with cantonments situate in foreign territory. That power, Mr. STOKES need hardly say, the Government possessed in its executive capacity, and to confer it by an Act was, therefore, not only illegal, but useless. Moreover, the arrangement of the present Cantonment Act was somewhat obscure: and, considering the class of officers who had to administer it, the Select Committee thought it especially desirable that the law should be compact and clear. The result of the Committee's labours was now before the Council. The Bill contained no section corresponding with the interpretation-clause of the present Act, because the expressions there defined were defined by the General Clauses Act, I of 1868, for all subsequent enactments. It gave no power to the Local Governments to establish Small Cause Courts within cantonment-limits, for the Local Governments had this power under Act XI of 1865. It omitted the provision in section 22 of the present Act that simple imprisonment for breach of cantonment-rules might be in the civil jail. The reason was that several local authorities had recently represented that imprisonment in the civil jail (commonly a ward in the ordinary jail set apart for persons imprisoned by order of Civil Courts and Revenue-officers) was, to most Natives, little or no punishment. The Bill did not declare (as was done by the present Act, section 27) that Courts should take judicial notice of cantonment-rules; for, as these rules had the force of law, section 57 of the Evidence Act would apply. It would be seen that the Select Committee had not altered the puzzling and incomplete provisions as to the occupation by private persons of Government-lands in cantonments, and the right to claim houses built on such lands. The reason was that the Committee did not quite know what to put in the place of those provisions. The whole subject was now under discussion by the executive departments concerned, and would, no doubt,

be further discussed by all the Local Governments. When that discussion was ended,—possibly in three or four years,—if a comprehensive cantonment-law were then determined on, a law extending (not merely extendible) to the whole of British India, the then Viceroy would say  *rumpe moras*, and the task of our successors would be facilitated by the present Bill.

The Motion was put and agreed to.

The Hon'ble Mr. STOKES also moved that the Bill as amended be passed.

The Motion was put and agreed to.

#### KÁZÍ BILL.

The Hon'ble SAYYAD AHMAD KHÁN introduced the Bill for the appointment of persons to the office of Kázi, and moved that it be referred to a Select Committee consisting of the Hon'ble Sir A. J. Arbutnot, the Hon'ble Messrs. Stokes, Colvin and Batten and the Mover. He said that he did not wish to take up the time of the Council by commenting on its provisions, as they were explained in the Statement of Objects and Reasons.

The Motion was put and agreed to.

The Hon'ble SAYYAD AHMAD KHÁN also moved that the Bill be published in the local official Gazettes in English and in such other languages as the Local Governments might think fit.

The Motion was put and agreed to.

#### PORTUGUESE TREATY BILL.

The Hon'ble Mr. HORE moved for leave to introduce a Bill to give effect to the Convention between the Governors General of British India and Portuguese India regarding the Extradition of Criminals, and to the twentieth article of the Treaty between Her Majesty and the King of Portugal and the Algarves. He said that in the course of the last year Her Majesty concluded a Treaty with the King of Portugal. The nineteenth article of that Treaty dealt with the subject of extradition; and it was provided that the details under which extradition should be conducted should be embodied in a Convention, to be executed between the Governors General of British India and Portuguese India. That Convention had already been concluded. Article 20 of the same Treaty provided for the issue of commissions in criminal trials and inquiries. He had now the honour to ask permission to introduce a Bill, which was considered desirable to give effect to those two provisions.

The Motion was put and agreed to.

The Hon'ble MR. HOPE also introduced the Bill.

The Hon'ble MR. HOPE also applied to His Excellency the President to suspend the Rules for the Conduct of Business, in consequence of the Convention taking effect from the 1st proximo.

The PRESIDENT declared the Rules suspended.

The Hon'ble MR. HOPE then moved that the Bill be taken into consideration.

The Motion was put and agreed to.

The Hon'ble MR. HOPE also moved that the Bill be passed.

The Motion was put and agreed to.

The Council adjourned to Friday, the 13th February, 1880.

D. FITZPATRICK,  
*Secy. to the Govt. of India,*  
*Legislative Department.*

CALCUTTA ;  
*The 30th January, 1880.* }