

COUNCIL OF THE GOVERNOR GENERAL OF INDIA

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9 April - 31 Dec.

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 Government House on Tuesday, the 31st December 1872.

PRESENT :

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 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.

His Highness the Mahárájá of Vizianagram made a solemn declaration of allegiance to Her Majesty, and that he would faithfully fulfil the duties of his office.

The Hon'ble MR. INGLIS took the oath of allegiance, and the oath that he would faithfully discharge the duties of his office.

POSTPONEMENT OF CRIMINAL PROCEDURE CODE IN SINDH.

The Hon'ble MR. HOBHOUSE said that, with the permission of His Excellency the President, he would first take the motions on the Supplementary List of Business, because there was a necessity for pressing on the passing of the Bill which stood first on that list. He would move for leave to introduce a Bill for postponing the day on which the Code of Criminal Procedure is to come into force in the Province of Sindh. The reason for that was, that the Government of India had received a telegram from the Government of Bombay, the material part of which he would read to the Council :—

“Owing to the extraordinary conduct of the Superintendent of the Lithographic Press here, translations in Sindhí of the new Criminal Procedure Code have not been completed,

and cannot be finished and circulated in Sindh for some time. It is therefore requested that the operation of the new Code in Sindh be postponed for three months more."

MR. HOBHOUSE supposed there would be no opposition to that proposal, because it seemed necessary that the people should know the law they were called upon to obey, and that they should also be able to understand exactly what the law was. He believed that was the only observation which it was necessary for him to make on this communication, and in moving for leave to introduce the Bill.

The Motion was put and agreed to.

The Hon'ble MR. HOBHOUSE applied to His Excellency the President to suspend the Rules for the Conduct of Business to enable him to proceed with the Bill to its ulterior stages.

His Excellency THE PRESIDENT said that the reason for the suspension of the Rules, namely, that the Code of Criminal Procedure would come into force on the first of January 1873, and that the translation into the Sindhi language had not been completed, appeared to him sufficient, and he therefore suspended the Rules.

The Hon'ble MR. HOBHOUSE moved that the Bill be taken into consideration. The Bill was of the very simplest nature, and he believed that it was in the hands of all the Members. It simply recited that the law at present provided that the Code of Criminal Procedure would come into force on the first of January 1873. Then it recited that the translation of the Code into the Sindhi language had not been completed, and that, consequently, it was expedient to postpone the day on which the Code should come into force in the Province of Sindh. The Bill then provided in a few words that, in the Province of Sindh, the Code should come into force, not on the first of January, but on the first of April 1873.

The Motion was put and agreed to.

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

HIS HONOUR THE LIEUTENANT GOVERNOR asked whether His Excellency and the Government had considered whether this Bill was really necessary. HIS HONOUR'S own opinion was that it was not necessary; but if the Government thought that it was necessary to postpone the operation of the Code in the Province of Sindh, he had no further observation to make.

POSTPONEMENT OF CRIMINAL PRO. CODE IN SINDH. 635

The Hon'ble MR. HOBHOUSE had already observed that the people who were called upon to obey a law, ought to be able to find out what they were to obey, and unless the law was translated into their language they would not be able to do so. He thought, therefore, it was only reasonable that the operation of the Code should be postponed in Sindh until the translation had been completed.

The Hon'ble MR. ELLIS said another reason why it was necessary that this Bill should be passed was, that there were in Sindh many officers having to administer the law, who were unacquainted with any language other than their own vernacular, and they therefore could not know what they had to do, until they saw the Code in a form in which they could understand it.

His Honour THE LIEUTENANT GOVERNOR said, the effect of the Code was in reality little more than to enlarge the powers of Magistrates and Judges, and to make some alterations in the law, but not in any essential points. Otherwise, the Code was the same as it had been before. The consequence of the introduction of the Code into Sindh now would be that the Magistrates would not exercise the extended powers vested in them until they understood what those powers were. He believed that it would be perfectly safe for the Magistrates, in the meantime, to act under the old Code as far as it went. In Bengal, there were about twenty different peoples, and there might be a good many nooks and corners in the province in which the Code had not been translated; and he might say that he would introduce the Code to-morrow morning into quarters where it had not been, and probably never would be, translated, and where no one would understand it if it were.

HIS HONOUR got an idea on this point from a gentleman who had much experience with regard to Railways. A Railway was advertised to open on a certain day. Some one said—"How can I open the Railway: the Railway Stations are not finished." The gentleman who informed him replied that he had great experience in regard to Railways; the only way to get a Railway completed was to open it, and to set trains running: and then those building the stations would finish them fast enough. Similarly, if HIS HONOUR had to consider the communication which had been referred to, he would say that it was much better to tell their people in Sindh "complete the translation of the Code as soon as you can, as we cannot postpone the operation of the law."

His Excellency THE PRESIDENT said that it appeared to him that, considering the telegram from the Government of Bombay on this subject, and the necessity expressed by the Law Member of the Government that, before a law

came into operation, the people subject to that law, and those who would have to administer it, should be aware of its contents, it was absolutely necessary that what was now proposed should be done.

The Motion was put and agreed to.

MADRAS DISTRICT MUNSIFS BILL.

The Hon'ble MR. HOBHOUSE also moved that the Bill to consolidate and amend the law relating to District Munsifs in the Presidency of Fort Saint George be referred back to a Select Committee with instructions to report in a week. Honourable Members who had been present at Simla would remember that, at the last time this Bill was before the Council, they had just received a communication from the Madras Government proposing certain alterations in the Bill. Those proposals were considered in Council, and had been dealt with in various ways. Another communication had very recently been received from the Madras Government, to the effect that they were perfectly satisfied with what had been done on that occasion, but they again suggested some amendments. He had not himself as yet seen those suggestions, but he was told by the Secretary that they could best be considered in Select Committee.

The Motion was put and agreed to.

BURMA COURTS ACT AMENDMENT BILL.

The Hon'ble MR. HOBHOUSE also presented 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*).

OATHS AND AFFIRMATIONS BILL.

The Hon'ble MR. HOBHOUSE asked leave to postpone the next entry in the List of Business, which was to introduce the Bill to consolidate the law relating to Oaths and Affirmations, and to move that it be referred to a Select Committee with instructions to report in two months. His Honour the Lieutenant Governor had given formal notice that he would oppose the introduction of the Bill. Up to that time, it had been assumed that the Bill would be unopposed; but since notice of opposition had now been given, it appeared to him that it would be convenient that the Council should have some more time for its consideration. MR. HOBHOUSE would undertake to give His Honour ample notice when it was determined to bring on the Bill again.

His Honour THE LIEUTENANT GOVERNOR wished to explain that, when he gave notice of opposition, he did not anticipate a postponement of the measure: he believed he had given fair notice that he should oppose it.

Leave was granted.

MADRAS DISTRICT MUNSIFS AND PRIVY COUNCIL APPEALS BILLS.

The Hon'ble MR. HOBHOUSE also moved that the Hon'ble Mr. Bayley be added to the Select Committees on the following Bills:—

To consolidate and amend the law relating to District Munsifs in the Presidency of Fort Saint George.

To consolidate and amend the law relating to the admission of appeals to Her Majesty in Council from judgments and orders of the Civil Courts.

He said, with regard to the second of these measures, the Select Committee was not very actively at work at present. It was proposed to extend the provisions of the Bill, and before that proposal could be carried out, it was necessary to refer to the home-authorities, because, in such a matter, harmonious action with the Judges in England was obviously necessary. But it was convenient that we should have a Select Committee to deal with questions that arose here out of the frequent communications received on the subject.

The Motion was put and agreed to.

REGULATIONS AND ACTS LOCAL EXTENT BILL.

The Hon'ble MR. HOBHOUSE also moved that the Hon'ble Messrs. Bayley and Inglis be added to the Select Committee on the Bill to consolidate and amend the law relating to the local extent of the general Regulations and Acts, and to the local limits of the jurisdictions of the High Courts and the Chief Controlling Revenue Authorities.

The Motion was put and agreed to.

SUNDRY BILLS.

The Hon'ble MR. HOBHOUSE also moved that the Hon'ble Mr. Inglis be added to the Select Committees on the following Bills:—

To regulate Irrigation, Navigation and Drainage in Northern India.

To consolidate and define the law relating to the settlement and collection of Land-revenue in Oudh.

The Motion was put and agreed to.

ARMS AND AMMUNITION BILL.

The Hon'ble MR. HOBHOUSE asked leave to postpone the motion, which stood next in the List of Business, that the Hon'ble Mr. Inglis and the Hon'ble Mr. Bullen Smith be added to the Select Committee on the Bill to consolidate the law relating to the manufacture, importation and sale of Arms and Ammunition, and the right to keep and use the same.

Leave was granted.

OBSOLETE ENACTMENTS REPEALING BILL.

The Hon'ble MR. HOBHOUSE then moved that the Hon'ble Messrs. Chapman and Inglis be added to the Select Committee on the Bill for the repeal of certain obsolete enactments.

The Motion was put and agreed to.

The following Select Committee was named :—

On the Bill to consolidate and amend the law relating to District Munsifs in the Presidency of Fort St. George—The Hon'ble Mr. Bayley, His Highness the Maharájá of Vizianagram and the Mover.

RULES FOR THE CONDUCT OF BUSINESS.

The Hon'ble MR. HOBHOUSE gave notice that, at the next meeting of the Council, he would move for the appointment of a Committee to revise the Rules for the Conduct of Business.

The Council then adjourned to Tuesday, the 7th January 1873.

CALCUTTA ;
The 31st December 1872. }

WHITLEY STOKES,
Secy. to the Govt. of India,
Legislative Dept.