Friday, November 25, 1870

ABSTRACT OF THE PROCEEDINGS

COUNCIL OF THE GOVERNOR GENERAL OF INDIA

LAWS AND REGULATIONS.

VOL 9

Jan to Dec

1870

PL

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 25th November 1870.

PRESENT:

His Excellency the Viceroy and Governor General of India, K. P., G. C. S. I., *presiding.*
The Hon'ble John Strachey.
The Hon'ble Sir Richard Temple, K. C. S. I.
The Hon'ble J. Fitzjames Stephen, Q. C.
The Hon'ble B. H. Ellis.
Major-General the Hon'ble H. W. Norman, C. B.
The Hon'ble D. Cowie.
The Hon'ble Francis Steuart Chapman.
The Hon'ble J. R. Bullen Smith.
The Hon'ble F. R. Cockerell.

PENAL CODE AMENDMENT BILL.

The Hon'ble MR. STEPHEN moved that the final report of the Select Committee on the Bill to amend the Indian Penal Code be taken into consideration. He said that this Bill had excited, as they were all aware, very considerable discussion; and he proposed to fulfil his promise to enter into a full explanation of the policy of the Government in respect to the measure. He did, in fact, explain briefly the objects of the Bill, when it was introduced into the Council. But the subject appeared to require some further explanation, which he would now proceed to give. Complaints had been made that the Bill was to be passed hurriedly through the Council and at a distance from the centres of public opinion and discussion. As the fact was that there was really no hurry in proceeding with the Bill, he had proposed that its passing should be deferred, and it had now been more than three months before the public. He did not know that any part of the Bill had attracted the particular attention of the community, with the exception of section five, which referred to the offence of exciting disaffection. He should therefore confine what he had to say to that particular section, but he would first take the opportunity of making one remark on the section immediately preceding it. This section rendered the offence of conspiring to deprive the Queen of the sovereignty of British India

or to overawe the Government punishable with transportation for life or for any shorter term, or with imprisonment which might extend to ten years. He had to observe, with regard to that section, that the Committee had thought it right to make the offence of conspiring by criminal force or by the show of criminal force more severely penal than the offence of actually taking part in an unlawful assembly, having for its object the overawing of the Government. The reason was this, that persons who, by conspiring together to bring about such a result, set the whole matter in motion, seemed more criminal and far more deserving of punishment than those who were their mere tools and only took part in such an assembly.

He would now pass to the explanation of the fifth section, which related to the exciting of disaffection. He thought that section had been very severely criticized, or rather it had been severely blamed, for of really intelligent criticism there had been far less than he should have been glad to see. He proposed to state generally the purpose of the section, and how it effected that purpose. The object of the section was this. In connection with the preceding section it embodied, and, he hoped, improved and condensed, the existing English law on the subject to which it related. It might be said of the Indian Penal Code in general, that it was the English Criminal Law freed from the defects which from a variety of causes had affected it. By some means or other the Penal Code as it stood had entirely omitted that branch of the English Criminal Law which consisted of the Treason-Felony Act and the law relating to seditious words and libels. It contained no section by which you could punish conspiracies to wage war against the Queen or deprive her of the sovereignty of British India, unless the conspiracy proceeded so far as to be followed by open acts or actual preparations for rebellion. But besides this, the Code contained no provision whatever with respect to exciting disaffection by speaking or writing, and that, he said, although the contrary had been asserted, was a great defect, and one which ought not to be permitted to exist in any rational system of criminal law whatever. The only means by which offences of that kind could be punished under the Penal Code was by treating them as cases of abetment. It might be said that, if the speaking or writing went the length of advising persons to wage war against the Queen, it was abetment, and those who instigated the commission of the crime were abettors. In some cases it might be so; but in the vast majority of cases he had no doubt it would be otherwise: for the crime of rebellion, speaking broadly, was not a crime committed, like theft, murder, or house-breaking, by one single act, done at one single moment, and proceeding from some one motive. It was, on the contrary, the result of

a great variety of feelings excited in various ways, and therefore, if rebellion itself was to be regarded as a crime (and it was needless to argue with those who thought it was not), it was necessary to punish acts which led or were intended to lead to it, even if they did not fall within those narrow limits within which abetment was comprised in common cases. It was necessary to have a wider definition of abetment in the case of rebellion than in the case, say, of murder or theft, because the causes which produced rebellion were wide, and the acts were numerous and were spread over a large space of time. It was on these grounds that he said there was a serious defect in the absence from the Penal Code of all provision for the punishment of offences of this kind.

He now came to the question, whence did this defect arise? When he addressed the Council on a former occasion, and also in the Statement of Objects and Reasons which was before the public, he said that the defect arose from oversight on the part of those who passed the Code. It might be that he ought to have produced at greater length the evidence on which he made that assertion. But he must confess that he felt somewhat aggrieved by the manner in which his assertion had been treated. That the Bill itself should be objected to was natural; that the clauses of the Bill should be the subject of criticism was just what he wished; but when a public man in this country committed himself to a definite statement, the least you could do was to contradict him; this had not been done in the present case. His deliberate statement had been passed over without the slightest notice, and its probability had been discussed upon abstract grounds, as if the fact that he had made it was of no importance whatever. He knew there was a disposition in this country to treat oral evidence with considerable indifference, but he thought an exception should be made in favour of a distinct assertion made by a member of the Government upon a matter regarding which he must be fully informed. It so happened that he had before him information which would convince the public that the assertion was true. It was a letter written so far back as the 7th June 1869 by Sir Barnes Peacock to Mr. Maine, and he would observe, in reference to that date, that, when the late unfounded rumour of disturbances at Allahabad reached England, an English newspaper, *The Spectator*, which was peculiarly well informed on Indian matters, observed, with reference to this Act, that he (MR. STEPHEN) had hastily drawn a Bill for the suppression of seditious language. It appeared from the letter in question that the Bill was under consideration in June 1869, and it was one of the earliest measures to which his attention was directed on his arrival in this country in December last. It had absolutely no connection whatever with the occurrences of the past summer and spring.

The letter of Sir Barnes Peacock to which MR. STEPHEN had referred was as follows. Sir Barnes Peacock said :—

"I have looked to my notes, and I think the omission of a section in lieu of section 113 of the original Penal Code must have occurred through mistake, though I have no distinct recollection of the subject. After the original Code had been carefully revised, the original Code and the revised Code were printed in double columns. I send herewith a copy of the proposed in the revised Code to be substituted for section 113.

We had many discussions as to section 113, and I recollect that I thought that the words 'attempts to excite feelings of disaffection to the Government,' &c., were objectionable, and were not much less vague and undefined than the charge in one of the counts in *Reg.* v. *O'Connell*, of 'conspiring to bring into hatred and contempt the tribunals of the country,' as to which, see the arguments in 11 Clarke & Finnelly 195. After the revised Code had been printed, I find that I proposed to amend the section to be substituted for section 113. I send you a copy of my proposed section, as it would have stood if the section in the revised Code had been amended.

"At the foot of that section I wrote 'explanation in margin as amended, *stet*,' that explanation being the explanation as it originally stood to section 113, substituting the words 'within the last clause,' for the word 'disaffection' in the original explanation.

"This leads me to think that, at that time, the clause substituted in the revised Code for section 113 must have been intended to stand, either as originally prepared, or as I proposed to alter it.

"I am strengthened in this view by finding that I have written, against the section in the revised Code as I proposed to alter it, 'see new section as taken down by Mr. Morgan' (who was then Clerk to the Legislative Council).

"Looking at this note I feel almost confident that, upon my proposing to amend the substituted section in the revised Code, the Committee, after discussion, must have agreed upon a section to be substituted, and that it was taken down by the Clerk of the Council, and afterwards omitted by some mistake or oversight. I have also got a memorandum 'of publishing false news or reports to induce persons to mutiny or rebel—see Begum's Proclamation,' as a matter for consideration whether the section in the revised Code would meet such a case. I think when you consider section 113 and the explanation, you will find that the explanation very much narrows the definition, and that it will be better to define the offence more accurately than is done by section 113. You will find a good deal upon section 113 in the Second Report of the Indian Law Commissioners on the Indian Penal Code, published in 1847.

"You will also find that Mr. Bethune proposed to substitute, for section 113, two sections, 131 and 132 of his revised Code, upon which Sir Lawrence Peel expressed his views in a letter to the Government of India, dated September 11th, 1851.

"As the report of the Indian Law Commissioners and the letter of Sir Lawrence Peel (with which Sir Arthur Buller concurred generally) may not be at Simla, I have had copies

made for you, which I send herewith. Sections 131, 132 of Mr. Bethune's revised Code are set out in Sir Lawrence Peel's remarks. You will bear in mind that 'banishment' is not one of the punishments included in the Penal Code.

"There may possibly be some memorandum in the Legislative Council Office, which may show the precise terms of the section taken down by Mr. Morgan. I am sorry that I cannot throw any further light upon the matter, as I have no note as to the adoption or rejection of that clause. I feel, however, that it was an oversight on the part of the Committee not to substitute some section for section 113."

That, he (MR. STEPHEN) thought, was as strong evidence as it was possible to obtain at the present time for the assertion made by him. He had sent Sir B. Peacock's letter to Sir Walter Morgan, now Chief Justice of the High Court of the North-Western Provinces. Sir Walter said that he had preserved no notes of what took place at the meetings of the Select Committee, and had no recollection of the subject. MR. STEPHEN therefore repeated the statement which he originally made, that there was a section to the present effect, which ought to have been submitted to the Council, and to have been passed, and that it was omitted through a mistake or oversight which it was difficult now to account for. He had referred to the debates which took place in the Council, but there was no reference in those debates to any such provision. The result seemed to him to be clear, that when the Bill was finally passed through the Committee, a section equivalent to the present section was omitted by some mistake. Be that how it might, he proposed to proceed with the subject.

In an event of this kind, what was the duty of the Government? He said that it was to repair the omission, whoever might have been to blame for it. Various objections had been taken to this course. One was that the country was now in so loyal and peaceable a state, and that all things were going on so pleasantly, that no such measure was required. He would answer that that appeared to be the very reason why we should repair the omission, which, upon that view of the case, could not give offence to anybody. Certainly, if no one had the slightest intention of exciting disaffection, no one would have any objection to punish those who at any future time might excite, or be disposed to excite, such disaffection. He must confess that objections of this kind never weighed with him. Any time was good for stopping a gap: stop it as soon as you find it out—in a quiet time if possible, and in troubled times if you must. If you had the opportunity of rectifying mistakes of this nature in a quiet time, it was surely better to do it when the matter could be quietly discussed, than to wait to do it till agitating and exciting circumstances suggested a measure of exceptional severity.

He now had to consider the exceptions taken to the clause. Sir Barnes Peacock had appended to his letter the section as he drew it, and which was proposed to be substituted for one which appeared in the original draft of the Code. A great deal of discussion had taken place on the section now proposed, and after that discussion the Commissioners by whom the Code was drawn adhered to their draft, assigning their reasons, and they had answered the objections, as he (MR. STEPHEN) thought, in a very satisfactory manner. Sir Barnes Peacock's proposed section was in its turn anxiously considered by the Committee whose final report the Council was now considering. The Committee, with all respect to Sir Barnes Peacock, came to the conclusion that it was not an improvement on the original draft of the Commissioners. For one thing, it was very much more severe: the section was as follows:—

"Whoever attempts to excite or to induce, or does anything which he knows to be likely to excite or to induce, the people, or any class or portion of the people, who live under the Government of India, to entertain such feelings of disaffection to that Government or to any Government in India, as are likely to induce or cause them to resist or disobey the lawful authority of the Government of India or of such other Government, or to abet such resistance or disobedience, or by reason of such disaffection to break the peace or to violate the law, or to abet any such breach of the peace or violation of the law, shall be punished," &c.

The section now before the Council did not make it criminal to do things which people knew to be likely to excite disaffection. To punish the doing of an act which you knew to be likely to produce disaffection might be to punish a man for doing an act which he had a right to do, although it produced disaffection. He could imagine many things which a public man might have a right to do, even at the expense of exciting disaffection, but which, nevertheless, should not be punishable. Then, the section proceeded to describe the kinds of disaffection which it would be a crime to excite. These were such feelings of disaffection as were likely to induce any portion of the people, not only to resist, but to disobey the authority of the Government of India. That was carrying things a very long way, because the mere omission to do what you were told to do was disobedience. The mere non-payment of a tax was disobedience; and to punish a man for doing what was likely to induce people to disobey an unpopular law of any kind was far beyond what in his (MR. STEPHEN'S) judgment was desirable. In short, the Committee came to the conclusion that this clause was considerably more severe than the clause originally drawn by the Commissioners. That clause was greatly discussed at the time, and adhered to after careful discussion; and although he (MR. STEPHEN) was not prepared to say that it was the best that could have been adopted, the Committee unanimously came to the conclusion that the best course was to leave it as the Commissioners had settled it. The clause was somewhat

lengthy, but its substance was sound good sense. It provided that anybody who attempted to excite disaffection might be punished; but it insisted on the distinction between disaffection and disapprobation. It expressly provided that people might express or excite disapprobation of any measure of the Government, that was compatible with a disposition to render obedience to the lawful authority of the Government; in other words, you might say what you liked about any Government measure or public man; you might publish or speak whatever you pleased, so long as what you said or wrote was consistent with a disposition to render obedience to the lawful authority of Government. Let it be shown that the matter complained of was not consistent with a disposition to obey the law; let it be shown that it was consistent only with a disposition to resist the law by force, and it did fall under this section. Otherwise not.

He now proceeded to assert that this law was substantially the same as the law of England at the present day, though it was much compressed, much more distinctly expressed, and freed from a great amount of obscurity and vagueness with which the law of England was hampered.

He would shortly refer to a comparison which had been drawn between the section in question and the law of England, in a memorial presented by the British Indian Association—in itself perfectly proper and well expressed, although he disagreed with many of its arguments. That memorial shewed that those who drew it up were under a very false impression as to what the law of England on this subject was. They said:—

"The experiences of England have always been a guide in matters of legislation in India, and it may fairly be asked whether there is any law in force in that country analogous to the one proposed for India? The Committee are aware of none."

They then proceeded to quote at length several passages from a work published by him (MR. STEPHEN) some years since under the title of 'A General View of the Criminal Law of England.' One passage quoted was in these words:—

"In the year 1795 an Act was passed (35 Geo. III, cap. 7) which considerably enlarged the definition of treason, embodying by express enactment, in the old definition, most of the constructions put upon it by Hale and Foster. The definition includes 'any person who shall, within the realm or without, compass, imagine, invent, devise, or intend death or destruction, maim or wounding, imprisonment or restraint of the person of the sovereign, or to deprive or depose him from the style, honour, or kingly name of the imperial Crown, or to levy war against His Majesty, in order by force and constraint, to compel him to change his measures or counsels, or in order to put any force or constraint upon, or to intimidate, or over-awe both Houses or either House of Parliament, or to move or stir any foreigner or stranger with force to invade this realm, or any other His Majesty's dominions, and such compassings, &c., shall express, utter, and declare, by publishing any printing or writing, or by any overt act or deed.' By an Act passed in 1848, on occasion of the violent

language used in newspapers and elsewhere by the Irish agitators, this Act was repealed, except in so far as it related to offences against the person of the sovereign; but the other clauses were re-enacted, and their operation was extended to Ireland, though the quality of the offence was altered from treason to felony punishable by transportation."

Upon these passages, the memorial observes :—

"There is nothing in the above to shew the existence of a law similar to the one proposed for India. The Committee need hardly observe that there is considerable similitude between the political relation of India and Ireland to England, though happily the feeling of the people here is one of strong attachment to the British Government; but if the Imperial Parliament has not seen the necessity of restraining the right of speech and writing in Ireland, surely the Indian legislature has much less reason to do so. If the Treason-felony Act, cited by the Hon'ble Mr. Stephen in his book, is deemed sufficient for the safety of the State in Ireland, it may well be deemed equally sufficient for the same purpose in India. The only omission which there was in the Indian Penal Code on the subject has been supplied by section five of the Bill under notice, and the succeeding section is therefore quite superfluous."

The Association would seem not to have understood what they quoted, for the passage which he had read distinctly stated that; to express in writing any "compassing," &c., (which was equivalent to any intention or wish) to compel the Crown by force to alter its measures, or to do many other things, was what is called in England treason-felony, which was much the same as the offence created by the section under consideration.

He would now proceed to state how the law of England to which the Association appealed stood upon this subject. It consisted of three parts. There was, first, the Statute, commonly called the Treason-Felony Act (technically the 11 Vic., c. 12); secondly, the common law with regard to seditious libels; and thirdly, the law as to seditious words. He might observe, in regard to this law, that section 2 of the Penal Code enacted that every person shall be liable "to punishment under this Code and not otherwise for every act or omission contrary to the provisions thereof." Hence, the criminal law which prevailed before the passing of the Penal Code was still in force as to such offences as the Code did not punish. The result might very possibly surprise some gentlemen, especially those who were connected with the Press in the presidency towns, and he would draw attention to it. In the presidency towns, the criminal law of England was still in force, except in so far as it was superseded by the Penal Code. Any person who, within the Mahratta ditch or in Bombay or Madras, wrote anything which at common law would be a seditious libel, would be liable to the penalties which the law of England inflicted, which were fine and imprisonment at least, to say nothing of whipping and the pillory. No doubt the penalties last-mentioned would not now be enforced, but the law still existed, and he (MR. STEPHEN) wished to point out that, so far from enacting a

severe law, we were, in truth, doing away to a considerable extent with severe laws. As for the Mofussil, it appeared that the Muhammadan criminal law prevailed so far as it was not superseded by the Penal Code. He had tried to ascertain what the Muhammadan law was. He had found nothing on the subject of seditious libel, but had found much on the subject of rebellion, which, however, was so vaguely expressed, that it might possibly justify the infliction of very strange penalties for sedition and libel.

The first part, then, of the English criminal law was the Treason-Felony, the third section of which was as follows:—

"And be it enacted, that if any person whatsoever after the passing of this Act shall, within the United Kingdom or without, compass, imagine, invent, devise, or intend to deprive or depose our most Gracious Lady the Queen, Her heirs or successors, from the style, honour, or royal name of the Imperial Crown of the United Kingdom, or of any other of Her Majesty's dominions and countries, or to levy war against Her Majesty, Her heirs or successors, within any part of the United Kingdom, in order by force or constraint to compel her or them to change her or their measures or counsels, or in order to put any force or constraint upon or in order to intimidate or overawe both Houses or either House of Parliament, or to move or stir any foreigner or stranger with force to invade the United Kingdom or any other Her Majesty's dominions or countries under the obeisance of Her Majesty, Her heirs or successors, and such compassings, imaginations, inventions, devices, or intentions, or any of them, shall express, utter, or declare, by publishing any printing or writing, or by open and advised speaking, or by any overt act or deed, every person so offending shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the Court, to be transported beyond the seas for the term of his or her natural life, or for any term not less than seven years, or to be imprisoned for any term not exceeding two years, with or without hard labour, as the Court shall direct."

That long string of words meant in plain English this. Any one who conceived in his heart any one of all these intentions, and who shewed that intention either by any act or any writing (for the provision as to words was temporary), was liable to transportation for life. That section was quoted by the British Indian Association to show that the section proposed was more severe than the law of England. It shewed, in fact, the very reverse, for it shewed that the law of England, though similar to the proposed section, was more severe. The proposed section says, if you excite feelings of disaffection, either by speaking or writing, you shall be liable to punishment; and the law of England says, in substance, that if you yourself feel disloyal towards the Queen and show that feeling by any writing, you shall be liable to punishment. The proposed section did not relate to a man's feelings or wishes, but simply to his writings or words, and the feelings which they were

intended to produce in others. But the great peculiarity of the English law of treason was to regard every thought of the heart as a crime, which was to be punished as soon as it was manifested by any overt act. That was the English law as it stood according to the Treason-Felony Act.

He came now to the law of seditious libel; and in the book which was commonly quoted on all subjects connected with English criminal law (Russell on Crimes), there was a very long history about seditious libel compiled from various authorities. The law was very vaguely expressed, and he hoped that some one might soon reduce to a few short sentences the great mass of dicta on the subject.

The following was put forward as the test by which the seditious character of a publication on political subjects might be determined:—

"Has the communication a plain tendency to produce public mischief by perverting the mind of the subject and creating a general dissatisfaction towards Government?"

That was infinitely stronger than anything now proposed. It would make any publication a crime which excited any general dissatisfaction with Government, however reasonable that dissatisfaction might be. The proposed section did nothing of the kind. It said, in so many words, you may create disapprobation as much as you please, so long as it is consistent with a disposition to render obedience to the lawful authority of Government.

He would proceed to notice some of the other objections which had been raised to the proposed clause. He thought that, if those who urged those objections carried them out to their legitimate results, they would see that their objections really proved too much, for they proved, not that the particular section proposed was a bad one, but that there should be no legislation on the subject. It was said that the language of the section was vague; that disaffection was a vague word. He was perfectly willing to admit that that statement had some truth in it. But all human language was more or less vague. In a general way, everybody knew what disaffection was, but in that and every other word of the sort, there must be a good deal of vagueness from the imperfection of the human mind itself. Look, for instance, at such words as "negligence," "morally wrong," "malignantly," "possession," all of which occurred in the

Penal Code. They were all more or less vague; but if the law was honestly administered, it would be found that they really carried out the purposes which they were intended to effect.

The second objection, as to the severity of the punishment, deserved more attention. With respect to that, he had only to say that there were cases known to the law (in English law they were very common) in which persons brought themselves within the same definition with various degrees of criminality. If you looked at any section of the Penal Code and set yourself to conceive possible cases, you would find that, in numberless instances, most severe punishments could be inflicted for very small offences indeed. So strongly had that been felt by the legislature, and so strongly, too, by the framers of the Code themselves, that they had adopted the principle which he (MR. STEPHEN) had always regarded as an extremely sound one, of almost entirely excluding minimum punishments. In a few cases there was a minimum penalty; for instance in the punishments for murder and waging war; but he did not at present remember any other. With those exceptions, in every instance they had left it to the discretion of the person who tried a case to inflict the smallest punishment, imprisonment for a day, or a nominal fine. That was the case with regard to ordinary crimes, such as theft and murder, and other crimes against person and property, but surely there was no crime with regard to which it was so true as the crime of exciting disaffection. He could conceive instances in which a man who had done so was deserving of any punishment which the law could inflict. In 1857, for instance, a man who excited disaffection would have been guilty of a terrible offence. On the other hand, there might be cases where, from the strength of the Government, and the contemptible character of the crime, it might not be desirable to inflict more than a slight punishment. The punishment required did not vary according to the mode in which the disaffection was excited, but it varied according to the state of public affairs, and the position, character and circumstances of the criminal; and for that reason the widest latitude in the punishment for the offence was required. He would observe that, in criticising any provision of law, especially of the criminal law, credit ought always to be given to those who were to administer it for some degree of common sense and moderation. Let him call attention to a law which had originated with his illustrious predecessor—Lord Macaulay—the provisions of the Penal Code about defamation:—

499. Whoever, by words either spoken or intended to be read, or by signs or by visible representations, makes or publishes any imputation concerning any person, intending to harm or knowing or having reason to

Defamation.

believe that such imputation will harm the reputation of such person, is said, except in the cases hereinafter excepted, to defame that person.

Section 499 and explanation 4 taken together defined defamation thus—'making any imputation concerning any person intending or knowing or having reason to believe that that imputation will lower the moral or intellectual character of that person.' There were, no doubt, many important exceptions, but that was the general rule, and by section 500 the offence of defamation might be punished by two years' imprisonment and fine.

He (MR. STEPHEN) would ask His Lordship, or any one of his colleagues, whether he could say that he had ever been to a dinner-table at Calcutta, or anywhere else, where that law was not broken; where something was not said by somebody which conveyed an imputation concerning somebody else likely to lower his moral or intellectual character. Why, he saw before him those who were great masters of their pencil, and who had a power of representing persons in a manner which certainly would, by a visible representation or design, lower their moral or intellectual character; and by the Indian Penal Code any person who did this was liable to simple imprisonment for a term which might extend to two years, or to a fine, or to both. In no society in which he had ever been, or which he had ever heard of, would any person escape punishment if this law were carried out to its full extent, unless, indeed, he were the dullest of mankind. But severe as the law was, it was reasonably administered, and he did not think that either private conversation or public writing on general subjects was, in point of fact, under greater restrictions in India than elsewhere. He mentioned this in connection with the section now under the consideration of the Council, as showing that, in all cases, you must credit the persons who would administer the law with some degree of common sense.

There was another objection which had been urged by the British Indian Association, to which great weight was due. They said that, if legislation once took the shape proposed, there would be no end to malicious prosecutions. This, however, was completely answered by the provision, that no prosecution should be commenced under this section except under the authority of the Government. That shewed that this was a weapon to be used in no case except where the peace of the country was, in the opinion of those who were put at the head of the Government, seriously endangered, and that was a very effectual check to prevent the law being used in an oppressive manner.

Another objection was that the law punished intention, and we were told that the effect of it would be, that people whose intentions were innocent might be convicted. That merely amounted to saying that mistakes might be made; but that was the case with all laws. In the Penal Code, wherever you might refer to it, you would find that the intention made the crime. It was strange that that argument should be used, when it was considered that the Act which declared that the intention of the publisher of an alleged libel should be determined like other questions of fact, had always been regarded as one of the greatest triumphs of the popular cause in England.

There was one last objection to which he would refer in a more general way. It was the general phrase that this was an interference with the liberty of the Press.

Short phrases of this kind involved a surprising quantity of nonsense. He thought that that unfortunate phrase in particular had been made the subject of more fallacies than almost any other sentence. Liberty and law simply exclude each other: liberty extended to the point at which law stopped; liberty was what you might do, and law was what you might not do. To advocate the liberty of the Press absolutely, would be nothing else than to advocate the doctrine that everybody should be allowed to write what he liked. That was obviously absurd. Everybody admitted that personal slander ought not to be permitted: it confused the whole matter. Hence the phrase 'liberty of the Press' was mere rhetoric. It contained no definite meaning whatever. The question was not whether the Press ought or ought not to be free, but whether it ought to be free to excite rebellion. He did not believe that any sane man would say, in so many words, that all people ought to commit any crime whatever, so long as they did not commit overt acts themselves; but no degree of liberty short of this would justify a journalist or any one else in exciting people to commit rebellion. The British Indian Association said:—

"The Committee will be the last persons to believe that the noble Lord at the head of the Government, or his hon'ble and learned colleagues, themselves nurtured under the free institutions of their native land, and some of them, perhaps, once members of the great fourth estate, the claims of which the Committee now advocate, are inimical to a free Press in India; but they will not rule for ever, and it is difficult to say what they or their successors may do in times of political excitement, when passions may be excited by hostile criticisms, and personal feeling may usurp the place of judgment."

With regard to this last observation he had a few remarks to make. He perfectly understood what was meant by some of them "being members of the

great fourth estate;" it seemed to say that when he (MR. STEPHEN) was in England he used to write for the newspapers. That was perfectly true, and he was not ashamed of it. Journalism, when properly conducted, was as honourable a pursuit as any other. He made this personal remark to show that he took a special interest in journalism. He could not imagine a worse policy than to permit journalists to do what they would not permit other people to do. If we wished the Indian Press to be what it ought to be; if we wished it to be conducted honestly and to criticise the proceedings of Government fairly; we could not do worse than treat it like a spoiled child. It would be monstrous to say to any newspapers, Native or English, "We permit you to slander private persons and to excite the public at large to rebellion and massacre, because we want to nurse you up into something great." That was not the way to bring the Press or any other profession to good. We should protect them so long as they did not commit crime, and punish them if they did. It had been said that a few prosecutions would crush the Native Press, and that they were not strong enough to bear the possibility of being misunderstood and punished for expressing intentions which they had never entertained. Such apprehensions appeared to him contemptible. Men must be content to take the risks incidental to their profession. A journalist must run the risk of being misunderstood, and should take care to make his meaning plain. If his intentions really were loyal, there could be no difficulty in doing so. If not, he could not complain of being punished.

Let us consider, however, whether this terrible danger did really exist. He had already shewn what was the law of seditious libel in the presidency towns, and those were the towns in which the great majority of newspapers were published. One paper had said, "if this law passes, we shall never know what we might say and what we might not." If they wanted to see what they might say, all they had to do was to read the English newspapers, which were published under the same law, and they did not write very much as if they were under tyrannical rules. Their liberty included the following items at least. They might refute anything which had been put forward and abuse anybody for bringing it forward; and if they wanted to see more particularly what sort of things they were perfectly at liberty to say, they had only to refer to the files of the English newspapers printed during the last eight months, and read the articles on the Income-tax. Nobody ever said or thought that the authors of those articles were exciting disaffection. If a man was permitted to say everything that had been said about the members of the Government in general, and particularly about his hon'ble friend who was in charge of the

Financial Department, and was not satisfied with such liberty, he (MR. STEPHEN) must say that that man had a most insatiable appetite for using strong language. So long as the English papers in this country published what they did publish, about every man, every measure, every principle which they thought it right to discuss, the Native papers need not be under the smallest apprehension that they would fall under the pale of the law. He would appeal to anybody who knew what English public life was, whether any Government which existed in this country was ever likely to bring a newspaper published in this town into Court on a charge of exciting sedition for mere discussion, however violent, personal, or unfair. It was absurd to suppose that anybody here wished to do it, or would dare to do it; it would be altogether repugnant, not only to the law, but to the habits in which English public men were trained up.

So much with regard to what people might say. He would now state what they might not say. They might not say anything of which the object was intention was to produce rebellion. It might be difficult to frame a definition which would, by mere force of words, exactly include the liberty of saying all that you meant to allow to be said, and exclude the liberty of saying all that you did not mean to allow to be said. But although there was considerable difficulty in framing a definition of the kind, there was none whatever in drawing the line for yourself. Every man who was going to speak, every man who was going to write, ought to know perfectly well whether he intended to produce disaffection. If he did, he had himself to thank for the consequences of his acts: if he did not, he (MR. STEPHEN) was quite sure of this, that no words which that man could write would convey to other people an intention that he did not intend to express. He (MR. STEPHEN) did not believe that any man who sincerely wished to excite disaffection ever wrote anything which any other honest man understood to be intended to excite disaffection. You could no more mistake the severity of criticism, or the severity of discussion, for the writing of a person whose object was to produce rebellion or excite disaffection against the Government, than you could mistake the familiarity of friendship for the familiarity of insult. Try to define what it was that made a difference between that neglect of ceremony which you expect from a friend, and that neglect of ceremony which was intended for insult, and you would be unable to express it in words. But no one could mistake the two things, and it was the same with exciting political disaffection.

Finally, he wished to observe that, if any one thought that there was absolutely no occasion for any law of this kind, he ought to look back to incidents

which happened not many weeks ago. A man was convicted and sentenced to transportation for life, substantially for committing the very offence at which this section was directed: it was preaching a *Jehád* or holy war against Christians in India. He (MR. STEPHEN) had carefully read the evidence, and supposing it to be true, it proved that this person was in the habit, for weeks and months and years, of going from village to village, and preaching in every place he came to that it was a sacred religious duty to make war against the Government of India. Is that to be permitted, or is it not? If any one really meant to say that it was no crime to go into villages and tell the people that a rebellion against the Government was a sacred duty, he could not argue with such a person. But if such conduct was admitted to be a crime, he would ask any person who objected to the proposed section to frame a better one. Besides the man to whom he had referred, there were eight other men under commitment at Patna, who were charged with very similar offences.

Having referred to this matter of the Wahábí conspiracy, he had just one more remark to make on the subject. We had all seen, in the newspapers published both in England and in India, accounts of the disaffection created by that conspiracy represented in a very formidable manner. It was his belief, however, that although the matter was one which ought not to escape the attention of the Government, and which certainly had been shown to exist, yet it was the easiest thing in the world to exaggerate its importance and extent. He had read with great pain—and he was very glad that he had an opportunity of disavowing and denying—an imputation made by some papers against the general loyalty of the Muhammadan population of India. These imputations were most unfounded and unjust, and he believed that the only class of persons who deserved them were one of those miserable sects of fanatics who were to be found in every creed. Fanaticism was by no means peculiar to the Muhammadan religion. No one who had seen or read of the world in which we lived, could find it in his heart to speak with disrespect of any of the great religions which had gained the affections of mankind; and he would not say one word against a religion which had preached, with unequalled efficiency, the great cardinal doctrine that lay at the root of all creeds. But it was a common misfortune of all creeds that in every religion there were those who would carry their theories to extreme results, to an extent inconsistent with peace and good order. His Lordship knew better than most of us, that there was no class of people in the world who had greater public virtues of every kind than the Roman Catholics, and there were no better men and women in private life. But there was a way of looking at the Roman Catholic creed which had been adopted

by some persons, and which was inconsistent with real allegiance to the civil Government. And the same might be said with regard to the Protestant religion, although it had been the very life of many European nations, and especially of our own. There had been Protestant fanatics who had been fully as dangerous as Roman Catholics. We had had those who believed that the Pope ought to be able to depose Kings, and we had also had those who preached that there was no King but Jesus, and that they, and they alone, were his representatives. There were some who entertained the opinion that peace between the Muhammadan population and their Christian rulers, however just, was a thing impossible, and that it was a religious duty to make war under such circumstances. He could only say on this subject, that if people would declare war against mankind, they must take the consequences.

It was not with regard to them that he wished to speak. He wished to speak more particularly of the degree in which that doctrine had been rejected by the great body of the Muhammadans. He could not of course enter upon technical questions as to the provisions of the Muhammadan law, but he wished to state as publicly as possible that the Government of this country had no suspicions of the Muhammadan community as such, and knew how to distinguish between the rash opinions of a small and obscure sect, and the sentiments of the vast Muhammadan population, as expressed in the papers he had before him on the subject. He had several letters, but he would only read one: it was the opinion of a large number of Maulavís upon the question of the lawfulness of a *Jehád* in British India, which he would read to the Council:—

"The Mussulmans here are protected by Christians, and there is no *Jehád* in a country where protection is afforded, as the absence of protection and liberty between Mussulmans and infidels is essential in a religious war, and that condition does not exist here. Besides, it is necessary that there should be a probability of victory to Mussulmans and a glory to the Islam. If there be no such probability the *Jehád* is unlawful.

The concluding sentences of the futwa were to the effect that, if a Christian were oppressive and did not afford protection, a *Jehád* would be lawful if there was a probability of success. Upon this he need say nothing more than that it was much like the common European opinion, that when a Government is very bad, the question whether rebellion is justifiable is mainly a question of prudence. In the present case this question did not arise. The substance of the first part of the futwa was that a *Jehád* was unlawful against a Government which afforded, and by people who had accepted, protection. Whether this opinion was really contained in the Korán and the traditions, was

not for him to say; but this he would say most emphatically, that the common good sense and common good feeling of the whole human race would justify it. He should be sorry to believe that the religion of a large portion of mankind could teach the horrible doctrine that it was lawful for a man to pretend to live in peace and good terms with his rulers, to submit to them, to accept offices from them, and to nurse in his mind a fixed intention of breaking out into massacre and plunder against them on the first favourable opportunity. He was glad to believe that this was repudiated by orthodox Muhammadans. The doctrine which the gentlemen in question asserted to be the true doctrine of their religion was that, where protection was given and accepted, there arose a contract between the sovereign and the subject which it was forbidden by every law of God and man to break. If liberty and protection formed a contract, no subject ought to rebel against his sovereign so long as the sovereign discharged his part of the contract; and to break that contract was not only to commit a great crime, but also a most grievous sin. That was a doctrine which certainly commended itself to the reason of the whole human race. It rendered it possible and natural that loyalty should exist, and would, he trusted, continue from generation to generation to bind together the Queen of England, her representatives in this country, and the vast body of her loyal Muhammadan subjects.

The Motion was put and agreed to.

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

The Motion was put and agreed to.

INDIAN REGISTRATION BILL.

The Hon'ble MR. COCKERELL introduced the Bill for the Registration of Assurances, and moved that it be referred to a Select Committee with instructions to report in two months. He said that as, besides the Registration Act of 1866, there were two other enactments appertaining to registration on the Statute-book, the incorporation of the substance of these outlying enactments with the main law fell within the general consolidation scheme, and fresh legislation on the subject must have been undertaken for that purpose. Such legislation was further needed to provide for the exemption from compulsory registration of title-deeds granted by the Inám Commissioner in the Madras Presidency, and to extend the operation of the law to territories in which it was not at present in force.

Moreover, there were certain doubtful points in the existing law regarding which the Civil Courts had pronounced judicial decisions, and questions had arisen from time to time which had been noted as requiring the attention and consideration of the legislature when the occasion for reviewing and amending the law should arise.

The new system of registration had now been in operation, at least in the provinces into which it was first introduced, for the last five years, and the undoubted success of the measure emphatically testified to the wisdom and ability with which the law regulating that system was framed.

The steadily progressive increase, year by year, of the number of instruments registered, which the statistical returns of the Registration Department exhibited, marked the growing popularity of the system. The total number of registrations effected in the last year of report was upwards of 800,000, more than half of which occurred in lower Bengal and the North-Western Provinces. In those territories, the progressive rate of increase had been such, that the number of instruments registered during the latest year of report was considerably more than double that of the first year,—a result which was probably mainly due to the energy and ability of the officers directly charged with the supervision of the local administration of the Registration Department.

To give an idea of the magnitude of the transactions publicly recorded under the present system of registration, he might mention that the estimated value of the property affected by documents registered in 1869-70 was, in lower Bengal, about 8½, and in Madras 7½ crores of rupees.

The returns indicated a remarkable variation of the relative proportions of compulsory and optional registrations.

In the Panjáb notably, and also in the North-West and Central Provinces, the optional registrations largely preponderated, whilst in Madras and Bombay especially, and, in a less degree, in lower Bengal, Mysore and Coorg, the directly opposite result was obtained. This was, no doubt, partly due to the larger number of transactions, forming the subject of optional registration, which presumably took place in and about the great trading marts of Northern and Central India, but it was also, he thought, in some measure to be accounted for by the greater facilities afforded for registration through the lower minimum rate of registration-fee and, the more accessible registering agency which obtained in the provinces in which the excess number of optional registrations prevailed.

The rates of fees charged for registration under the different local administrations varied not only in amount, but also in regard to the principle on

which the amount was fixed. In Bengal one *ad valorem* rate obtained for both classes of registrations, whilst in most of the other provinces, with the view of encouraging optional registration, a preferential rate was accorded to that class. He thought the equity of such an arrangement open to question.

Generally, too, it might be said that the average rate of fees was too high even in Bengal proper, where it was lower than in any other province, and some portion of the surplus which now annually accrued from the operations of the Registration Department should certainly be devoted to making registration cheaper, if its utmost practicable development was to be looked for in the future.

At present, the average fee for each registration ranged from one rupee and nine annas, in Bengal, to upwards of two rupees and eight annas, in Madras and Bombay.

Still more essential to the promotion of the successful working of the system was the easy accessibility of the registering officer, and there was doubtless much room for improvement in this respect.

He would not take up the time of the Council by going into any detail of the results of the working of a special registration-agency. It would be sufficient to say that it had everywhere been found eminently successful in inducing registration.

Experience had shown that the multiplication of registration-offices, the devotion of the *exclusive* services of Registrars and Sub-Registrars to the work of registration, and the maintenance of an active supervision had, wherever they had been in operation, been attended by a great increase in the number of registrations, both as regards instruments the registration of which was optional, and those which were by the law declared to be invalid unless registered. So, also, every temporary curtailment of registering agency,—he referred to the case of lower Bengal, where an attempt to place two or more registration-offices under one Sub-Registrar, on the plan of the Small Cause Court administration system, had been made, but was now abandoned—had been followed by a corresponding decrease in the number of registrations.

To promote the development of the registration-system, a larger expenditure was required, and it seemed to Mr. Cockerell that some legal provision was wanted to enforce this. At present, a large surplus accrued yearly to the general revenue. That surplus, reckoned from the commencement of the registration-scheme up to the current year, aggregated no less a sum than thirteen lákhs of rupees. It was never intended that the registration law should

be worked so as to make it a source of public revenue. If the Department paid its expenses without any charge, or even with only a small charge, on the public revenue, the anticipations of the projectors of the system would, as regards its financial aspect, have been fully realized.

He was strongly of opinion that greater latitude must be given to the local administrations in the expenditure of the income of the Department for the purpose of increasing its working efficiency.

Much economy of labour might be effected by the relaxation of some of the stringent provisions of the existing law in regard to the forms and records to be prepared and kept in the different registration-offices.

In the interests of the public, it was important to refrain from imposing any legal obligation the public advantage to be derived from which was not commensurate with the expenditure of labour entailed by it, and viewed in this light, Part XI of the Bill certainly went too far.

The number of indexes required to be kept under the present law might be substantially reduced without the smallest sacrifice of public convenience. All that the law need make obligatory on registering officers was the keeping up indexes Nos. I and II. The choice of such subsidiary records as might serve to assist the search for registered documents and the identification of the property affected by them, might be advantageously left to the discretion of the Registrar General, subject to the general control of the Local Government.

The provisions of sections twenty-one, seventy-three and seventy-six, in regard to the transmission of copies, called for amendment. Much unnecessary labour was imposed on registering officers by the present requirements of the law in this matter.

Greater facility for registration would be afforded also by some relaxation of the provisions of section twenty-nine, in regard to the place where an instrument was to be presented for registration. It frequently happened that the convenience of all the parties who had to appear before a Sub-Registrar would be met by power to register at places where no portion of the property forming the subject of the deed requiring registration was situated within the local limits of that officer's jurisdiction. Instances had come to notice where, to meet the conditions of the law, a fictitious tree or strip of land had been inserted in the deed, to make it registrable at a particular office to which it best suited the convenience of the parties to the transaction to take the document for registration.

The Bill now before the Council provided for the consolidation of the existing law and its extension to British Burma. It also proposed—(1*st*) to exempt from compulsory registration Inám title-deeds granted by the Inám Commissioner in the Madras Presidency; (2*nd*) to render compulsory the registration of written authorities to adopt; (3*rd*) to extend to Sub-Registrars the power of registering wills, receiving sealed covers for deposit, and instituting, without reference to the District Registrar, criminal prosecutions and it further contained amendments of the law on a very few points in regard to which it had not worked satisfactorily, and on others where a certain degree of ambiguity as to the intentions of the legislature had been suggested by the decisions of the High Courts.

One of the two main objects of the registration law was the prevention of fraud, in regard to the devolution and transfer of real property, theretofore so prevalent in this country.

There was no form of transfer of property which was attended with so much risk of fraudulent practices as that which arose out of the law of adoption. Where the authority to adopt was given verbally, there was no means of protecting the person injured by the falsely propounded authority, but the registration law did afford the means of reducing the risk of fraud where the authority was in writing.

It might be said that the written authority to adopt was in the nature of a testamentary document, and should not be treated differently from a will, the registration of which was allowed to remain optional.

But wills, in Bengal at least, where they were to be found in far greater numbers—as the registration statistical returns clearly proved—than in other parts of India, were by the recent extension of the Indian Succession Act already subject to the test of probate, and it might reasonably be expected that the testamentary portion of the Succession Act would before long be extended to all places in which the practice of will-making was shown to exist.

The extension of the power of registering wills, which by the existing law was vested in Registrars only, to Sub-Registrars, had been rendered especially necessary, to prevent inconvenience to the public from the creation of special District Registrars, and the consequent reduction of the number of District Registrars' offices. It might be doubted, however, whether the proposed permission to deposit sealed covers at the offices of Sub-Registrars would work well; for, having regard to the expense which such a provision would entail, it would be hardly feasible to supply fire-proof boxes for the safe custody of those

covers to all registration offices, and there would be a difficulty in carrying out the provisions of section forty-five as to the identification of the persons by whom such covers had been originally deposited.

Section thirty-six of the Bill required the appearance of all the parties to an instrument presented for registration before the registering officer within the period allowed for the presentation of the instrument. The peculiarity of the existing law was, that it provided for the presentation of an instrument only within a certain period, and placed no limit on the time within which the registration, if admissible, must take place. The limitation as to presentation might serve the purpose of guarding against fraud, but the completeness of the record of title was impaired by the want of some restriction as to the time within which the registration must be effected.

Connected with this subject was the alteration contemplated by section fifty-seven. The present practice was to enter a copy of any instrument presented for registration in the register at the time of such presentation. This system, obviously in the case of instruments not eventually admitted to registration, not only involved useless labour, but also had the effect of impairing the correctness of the record; and it was therefore proposed to substitute for it the provision of the Bill; unless, however, some limitation was applied to the completion of the registration of an instrument, the practice of transcribing it at the time of presentation could hardly be dispensed with.

Sections forty-one and forty-two of the Bill were framed to meet the present difficulty in securing the registration of all decrees of court affecting the title to immovable property, and in the realization of the fees due on such registrations: the amendments of the existing practice propounded in these sections were in accordance with the suggestions of the High Courts.

Many officers doubted the expediency of maintaining the requirements of the law in regard to such registrations.

It was found impracticable to provide for the registration of decrees and orders of revenue courts and officers, and the theory of working the registration law so as to maintain a complete record of title to real property in the archives of a single Department, was held to be incapable of attainment.

It became then an important question for the consideration of the Committee to which this Bill might be referred, whether the gain to the object of completeness of record was commensurate with the expenditure of time and labour which the maintenance of this class of registrations, numbering about 85,000 per annum, involved.

The case for the maintenance of the provisions of section forty-one was certainly stronger than it was as regards section forty-two, but he was of opinion that both sections might with advantage be omitted.

Of the amendments suggested by the rulings of the High Courts, the most important was to be found in sections forty-eight and forty-nine. Section forty-eight of Act XX of 1866 declared, broadly, that all instruments (excluding wills and authorities to adopt) duly registered, and relating to any property movable or immovable, should take effect against any oral agreement or declaration relating to the same property.

The High Court of Calcutta held, in the case of *Selam Sheikh* v. *Bydonath Ghatuk*, that this provision could not be intended to apply where the parol contract was supported by the transfer of possession, and could not be reasonably construed as entitling a registered deed of conveyance to prevail against a title founded on such possession.

An attempt was made in the Bill to settle this point, by drawing a distinction, such as was believed to be in accordance with the general policy of the registration law, between immovable and movable property, applying the words of the existing law in their widest signification to the case of the former class of property, and narrowing them to the Court's construction as regards movable property.

The question would require the careful consideration of the Select Committee. He was not prepared to say that he thought this provision of the Bill offered the best solution of the doubt. It seemed to him that, even in the case of immovable property, a registered deed could only be regarded as conferring a *primâ facie* paramount title, and that it could not ultimately prevail against possession, fortified by proof of adequate consideration having been given for such possession.

In section fifty-three, an amplification of the provisions of the corresponding clause of the Act of 1866 had been made, embodying the rulings of the Madras High Court in the cases of *Pudiyaporayil Mamy* v. *Madakarath Amman Kutti*, and of *Subbuviyan petitioner*, to the effect that the remedy allowed by the law on this subject could be enforced only by or against the actual parties to the specially registered contract.

To section seventy-five, a new proviso had been added in the sense of the ruling of the High Court of Bombay in the matter of the Will of *Nagin Dass*, authorizing the registering officer to surrender a sealed cover deposited under

section forty-four, when such cover was called for by a Civil Court for the purpose of probate.

This, however, left the case of a Will deposited under a sealed cover in a registration office, and required to be produced in a Civil Court as evidence, unprovided for.

The Bill contained other amendments of the existing law on minor points, to which it was unnecessary to make any special reference at the present time; but there was one important alteration of the law, not included in the Bill as it now stood, which was strongly advocated in some quarters, and especially by the Government of the North-Western Provinces.

At present, the registration of deeds affecting title to immovable property not exceeding one hundred rupees in value was optional. This exception to the general rule regarding instruments affecting that class of property was probably intended to prevent the conditions of the law working harshly in the case of transactions of a petty character; but as, in this country, the mass of transactions did partake of that character, the effect of the exception was to check very materially one of the chief objects of the registration-system, the attainment of a complete record of title to immovable property.

The very large number of documents of this class which were now registered, though their registration was optional, pointed to the conclusion that to make such registrations compulsory would entail no hardship or serious inconvenience, whilst the gain to the completeness of the record of title to immovable property, which the registration-system was specially designed to afford, would be very great.

Some exception would of course have to be made in respect of leases for fixed periods not exceeding one year, or the cost of registration might be found to exceed the value of the occupancy; but if the registration-charges were reduced as they ought to be, and the facilities for registering increased by improved agency, in no other cases could the application of compulsory registration be reasonably objected to.

Since the Bill was drawn a proposal had come up to extend the operation of the law to Oudh.

In that province, a rough system of voluntary registration had been in force for the last ten years. In some respects that system had worked well, but the

advanced requirements of the province were now thought to call for the more elaborate machinery which was elsewhere in operation, and as the local administrative officers were generally in favour of extending the law, which the Bill made applicable to all other parts of British India, the expediency of obtaining a general uniformity of system through such extension could hardly be questioned.

The Motion was put and agreed to.

PRISONS' ACT EXTENSION (COORG) BILL.

The Hon'ble MR. CHAPMAN moved for leave to introduce a Bill to extend the Prisons' Act, 1870, to Coorg. He said that there was no law in the province of Coorg to regulate prison-management and discipline. At the request of the Chief Commissioner, it was proposed to introduce Act XXVI of 1870, which was the latest enactment on the subject.

The Motion was put and agreed to.

COMMITMENTS FROM ANDAMANS BILL.

The Hon'ble MR. CHAPMAN also moved for leave to introduce a Bill to authorize the committal of European British subjects by Courts in the Andamans to the High Court at Fort William. He said that European British subjects, who might commit offences at the Andamans not punishable with death and not within the jurisdiction of a Justice of the Peace, were, under Act XXI of 1863, section 41, committed to the Recorder at Maulmain. As there were now no regular means of communication between the Andamans and British Burma, it would be more convenient to have such offenders tried by the High Court at Calcutta.

The Motion was put and agreed to.

CHAUKÍDÁRÍ ACT EXTENSION BILL.

The Hon'ble MR. CHAPMAN also moved for leave to introduce a Bill to authorize the extension of the Chaukídárí Act (XX of 1856) to places where there is no Jamadár of Police. He said that, at present, the Chaukídárí Act could only be introduced into towns and places where there was a Government Police-station under the charge of an officer of rank not lower than that of a Jamadár. It was proposed to remove this restriction and to empower the Local Governments to apply the Act to all towns. The exemption in favour of

agricultural villages would remain unaltered. The proposal had originated with the Government of the North-Western Provinces, and had the approval of the Governments of Bengal and the Panjáb.

The Motion was put and agreed to.

The following Select Committee was named:—

On the Bill for the Registration of Assurances———The Hon'ble Messrs. Strachey, Stephen, Chapman and Bullen Smith and the Mover.

The Council adjourned to Friday, the 2nd December 1870.

CALCUTTA,
The 25th November 1870.

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

Office of Supdt. Govt. Printing.—No. 1450 L. C.—30-11-70.—220.