

Wednesday, November 5, 1862

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Abstract of the Proceedings of the Council of the Governor-General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament, 24 & 25 Vic., cap. 67.

THE Council met at Government House, on Wednesday, the 5th November, 1862.

PRESENT :

His Excellency the Viceroy and Governor-General of India, *presiding*.

His Honor the Lieutenant-Governor of Bengal.

Major-General the Hon'ble Sir R. Napier, K. C. B.

The Hon'ble H. B. Harington.

The Hon'ble W. Grey.

The Hon'ble C. J. Erskine.

The Hon'ble R. S. Ellis, C. B.

The Hon'ble W. S. Fitzwilliam.

The Hon'ble D. Cowie.

The Hon'ble Rajah Deo Narain Sing Bahadoor.

The Hon'ble Rajah Dinkar Rao Rugonauth Moontazim Bahadoor.

The Hon'ble MR. ELLIS took the Oath of Allegiance, and the Oath that he would faithfully discharge the duties of his Office.

SUBORDINATE MEDICAL OFFICERS' WIDOWS' AND ORPHANS' FUND.

HIS HONOR THE LIEUTENANT-GOVERNOR presented the Report of the Select Committee on the Bill to provide for the dissolution of the Subordinate Medical Officers' Widows' and Orphans' Fund, and the distribution of the funds belonging thereto.

CONSOLIDATED CUSTOMS BILL.

THE HONORABLE MR. ERSKINE presented the Report of the Select Committee on the Bill for the Consolidation and Amendment of the Law relating to Customs Duties.

CUSTOMS DUTIES.

THE HONORABLE MR. HARINGTON moved for leave to bring in a Bill to amend Act XI of 1862 (to amend the Duties of Customs on Goods imported

and exported by Sea). He said that the Bill proposed three amendments in Schedule A of the Act mentioned. None of these amendments were comparatively of very great general importance, though they all affected a large number of persons. The first amendment proposed was in Article 18 of the Schedule, relating to Machinery. Previously to the passing of Act VII of 1859, Machinery of all kinds imported by Sea into the Presidencies of Bengal and Madras was liable to a duty of $3\frac{1}{2}$ per cent. when imported on British Bottoms, and of 7 per cent. when imported on Foreign Bottoms. The same duties were chargeable at Bombay until the enactment of Act I of 1852. Under the two Acts just mentioned, Machinery imported for the improvement of the communications and the development of the resources of the country was allowed to be admitted free of duty, and by Act X of 1860 the exemption was extended to Machinery of all kinds. The same general exemption was contained in Act XI of 1862, which now regulated the rates of Customs Duties on Goods imported or exported by Sea throughout the British Territories in India. It was considered that the latter enactments had carried the exemption from duty beyond what was requisite or proper, and that they involved an unnecessary sacrifice of Customs Revenue. Under Article 18, as it now stood, many articles included under the head of Machinery might be admitted free of duty, for the exemption of which no special or adequate ground existed. It was proposed therefore to revert to the rule in force before the passing of Act X of 1860, and to confine the exemption from duty to Machinery used exclusively for purposes of agriculture, navigation, mining, or manufacture, or for Railway purposes, and materials forming necessary component parts of such Machinery. The latter part of this Article, amended as proposed, appeared to be a proper concession in favour of component parts of Machinery used exclusively for the purposes mentioned in the former part of the Article. The Bill also proposed a slight alteration in the Note to Article 18, in order to give the Local Governments, acting under the general instructions of the Government of India, authority to control the officers of their respective Custom Houses in construing the Article in question. A similar provision was contained in the new Customs Bill, as regarded the administration of the Department generally; and there seemed no doubt that the provision would conduce to the convenience of the public, while it left full power in the hands of Government of India, to issue such instructions as it might consider necessary for the protection of the Customs Revenue, and for maintaining uniformity of practice in the several presidencies.

The next alteration proposed was in Article 23 of Schedule, relating to the duty on Spirits. Under that Article, methylated Spirits, or Spirits used exclusively in Arts or Manufactures or in Chemistry, were liable, on importation by Sea, to the same duty as Spirits intended for human consumptions as a beverage. It was considered that, with a view to the promotion of Arts and Manufactures, a distinction should be made between Spirits used for the purposes thereof, and Spirits used for other purposes. Spirits of Wine, under

certain restrictions, were allowed to be used duty free in the United Kingdom ; and when the Bill to amend the law relating to the Abkaree Revenue of Bengal was before the late Legislative Council, a section was proposed, the object of which was to place the law in India on the same footing, in this respect, as the law at home ; but the proposition was opposed on two grounds. The first ground was, that the state of the Finances at the time would not admit of their giving up any source of revenue ; and that, while they were imposing new taxes, which would bear heavily on the poorer and lower classes, they ought not to remit any existing tax, however wise it might be on principle to do so. The second ground was, that no proper means existed in this country to prevent frauds on the revenue. With regard to the first of these grounds, the improvement which had since taken place in the state of the Finances had happily enabled the Government to remove the taxes alluded to as affecting the poorer and lower classes ; and financial considerations no longer appear to offer any obstacle to granting the remission of duty which had again been asked for in favor of Spirits used in Manufactures and Arts, or in Chemistry. The Lieutenant-Governor of Bengal supported the recommendation of the Board of Revenue at Calcutta, for a reduction of the present duty on methylated Spirits, and these authorities seemed to anticipate no difficulty in adopting measures which would prevent any abuses from taking place consequent on an alteration of the law. It was not proposed to admit methylated Spirits free of duty. What was proposed was, that such Spirits should on importation be charged with an *ad valorem* duty at the rate of 10 per cent., under such rules as the Government should from time to time prescribe for ascertaining that the Spirits were unfit for use as a beverage, and incapable of being converted to that purpose. Spirits distilled in the country, which might be intended to be used in Arts or Manufactures, or in Chemistry, would be dealt with separately.

The third and last alteration proposed in the Schedule, was the addition of an Article to exempt Fire-wood, when imported by Sea, from the payment of duty ; thereby placing Fire-wood on the same footing as Coke and Coal, which were admitted free of duty. Owing to the large consumption on the Railways, and other causes, Fire-wood had risen greatly in price ; and in some parts of the country it was becoming very scarce. It was desirable to encourage its importation as much as possible, but the present high duty was found to operate as a serious impediment. The amount of Customs Revenue realized on this article was very trifling, and on financial grounds, there was no object in retaining the duty.

The Motion was put and agreed to.

CIVIL PROCEDURE, &c., (BRITISH BURMAH).

The Honorable MR. MARINGTON moved for leave to bring in a Bill to define the jurisdiction and to regulate the procedure of the Courts of Civil Judicature in British Burmah, and to provide for the extension of certain Acts to the said

territory. He said that this Bill, while it maintained all the existing classes of Courts in British Burmah, defined the jurisdiction to be exercised by each class of those Courts, and laid down rules for the admission of Regular as well as Second and Special Appeals ; which, it was considered, would greatly improve the administration of Civil Justice in that branch of the Department. Special Appeals would be admissible on the same grounds as in the Regulation Provinces, namely, on the ground of the decision of the Court below being contrary to some law, or usage having the force of law, or of a substantial error or defect in law, or in the procedure or investigation of the case which might have produced error or defect in the decision of the case upon the merits. Special Appeals would be cognizable by the Chief Commissioner alone, in his capacity of Judicial Commissioner, or principal Civil Judge of the Province. But Divisional Commissioner would be allowed, on certain conditions, to admit a Second Appeal from the decisions passed in regular Appeal by the officers subordinate to them. No such Appeal was allowed in the Regulation Provinces ; but looking to the comparatively short period that British Burmah had been subject to their rule, and to other circumstances, it was considered desirable that, for a time at least, the appellate authorities immediately over the District officers should possess larger powers of interference with the decisions of their subordinates, than were exercised by the corresponding authorities in the older Provinces. The Bill proposed to extend the Code of Civil Procedure, with some modifications, to British Burmah generally. The Code was already in force, under an order of the Supreme Government, in the entire territory, excepting the province of Pegu, in which the proceedings of the Civil Courts were regulated by a Code prepared by Major Sparks, and bearing his name. Major Sparks' Code did not differ materially from the Code of Civil Procedure ; but it was considered that there should be a uniform Code for the whole province, and the modifications now proposed did not affect the general principles of that Code, but related chiefly to the powers to be exercised, in certain matters, by the controlling authorities, and were considered desirable to adapt the Code to the peculiarities of the province. It was thought that the Governor-General in Council, under the authority conveyed in one of the concluding sections of the Code, might extend the Code, by an order in Council, to the Province of Pegu ; but the Advocate General was of opinion that, as, subsequently to the passing of the Code, the Supreme Government had sanctioned the introduction of Major Sparks' Code into Pegu, and as the orders passed, conveying such sanction, had since received the force of law by a section in the Indian Council's Act of last year, an Act of the legislature was necessary to repeal Major Sparks' Code, and to substitute the Code of Civil Procedure for it in Pegu. The Bill also proposed to extend to Pegu, in supersession of the Law of Limitation contained in Major Sparks' Code, the General Law of Limitation contained in Act XIV of 1859. The opinion of the Advocate General, above referred to, applied equally to this case. Major Sparks had proposed two slight alterations in the General Law of Limitation, of which the Chief Commissioner had approved. One of them related to claims for the partition of joint undivided Estates, and the other to Mortgages.

The first alteration appeared to him (MR. HARINGTON) to be unnecessary, and to been proposed under a mistaken view of the law. The other ought not, in his opinion, to be adopted. Should the Council allow the Bill to go to a Select Committee, he proposed to move that the communications received from the Chief Commissioner and Major Sparks be referred to that Committee, for the purpose of considering the alterations alluded to; and also the expediency of adopting the provisions in Major Sparks' Code relating to insolvency, which that officer recommended to be retained. The other Acts which the Bill proposed to extend to British Burmah had been for some time in force in other parts of India, and has been found to work well. The Bill had been seen by the Chief Commissioner and Major Sparks, who considered it, upon the whole, admirably adapted to the existing Civil Judicial Constitution of British Burmah.

The Motion was put and agreed to.

APPEALS TO THE PRIVY COUNCIL (NON-REGULATION PROVINCES.)

The Honorable MR. HARINGTON moved for leave to bring in a Bill to regulate the admission of Appeals to Her Majesty in Council, from certain judgments and orders in Provinces not subject to the General Regulations. He said that the object of this Bill was to extend to the Non-Regulation Provinces the rules now generally in force in the Regulation Provinces, relating to the admission of Appeals to Her Majesty in Council, and to the execution of the decrees passed on such Appeals. The right of Her Majesty to admit Appeals from decisions passed by the Courts in the Non-Regulation Provinces, equally with Appeals from the decisions passed by the Courts in the Regulation Provinces, was not questioned. But there was no law authorizing the Courts in the Non-Regulation Provinces to allow, or even to receive, Appeals from their decisions to the Queen in Council; or, of their own authority, to transmit the records of the case in which the Appeal was made, or a translation of the papers, to England. Consequently, parties wishing to appeal to the Queen in Council, from decisions passed by the Courts in the Non-Regulation Provinces, were compelled to prefer their Appeals direct to the Privy Council; and an order had to be sent from home for the translation of the papers and their transmission to England. This necessarily added to the expense, and caused delay in the hearing and decision of the Appeal. A communication had been received from the Registrar of the Privy Council, conveying the opinion of the Judicial Committee of that Council, that measures should be taken to place the prosecution of Appeals from the highest Civil Tribunals in the Non-Regulation Provinces on the same footing as Appeals to Her Majesty in Council from the Courts in the Presidencies of Bengal, Madras and Bombay. It was in contemplation to revise the existing Rules relating to Appeals to Her Majesty in Council from the Courts in this country, and to frame a new Code of Rules to regulate such Appeals; but some time must necessarily elapse before the new Code was ready for promulgation.

The Motion was put and agreed to.

WORKS OF PUBLIC UTILITY BY PRIVATE PERSONS OR COMPANIES.

The Honorable MR. HARINGTON moved for leave to bring in a Bill to provide for taking land for works of public utility to be constructed by private persons or Companies, and for regulating the construction and use of works on lands so taken. He said that, in the early part of the year, their late lamented colleague, Mr. Ritchie, had obtained leave to bring in a Bill to provide for the construction, by Companies and private persons, of Branch Railways, Iron Tram-Roads, Common Roads, or Canals, as feeders to Public Railways, High Roads, Navigable Rivers or Canals. It was Mr. Ritchie's intention to have introduced a Bill similar, so far as details were concerned, to the Bill which was introduced with a similar object into the late Legislative Council, though with a somewhat wider scope. That Bill was not proceeded with in consequence of the abolition of that Council. The Bill, framed as intended by Mr. Ritchie, having been considered by the Government in the Public Works Department, it was thought that the scope of the Bill might be well extended beyond what was advised by Mr. Ritchie; and that any Bill introduced, instead of being confined in its application to Branch Railways, Iron Tram-Roads, Common Roads, or Canals as feeders to other works, might properly embrace many other works of public utility. Section II of the Bill which he was now asking leave to introduce, defined the works of public utility to which it was intended to apply the provisions of the Bill, to be Bridges, Roads Railroads, Tram-Roads, Canals for Irrigation or Navigation, Tanks, Works for the Improvement of Rivers or Harbours, Docks Quays, Jetties, Water-works, Gas-works, Mines, Iron or Copper-works, Drainage-works, or Electric Telegraphs; and also all works, subsidiary to such works. The same section of the Bill further gave power to the Governor-General in Council, from time to time by a declaration to be made to that effect, and published in the official Gazette, to order that any other class of works, other than those named, should be included among works of public utility within the Act. It might be thought that this part of the Bill went too far; but it appeared to him that the Government of India might be safely entrusted with the power thus proposed to be given to it, and that the public might feel satisfied that the power would be discreetly used, and that it would only be exercised for the public benefit. It was also considered that the details of the Bill, as proposed by Mr. Ritchie, might be greatly improved; and that they should be made to assimilate more nearly to the laws of the same nature which were in force at home. These considerations had led to an entire remodelling of the Bill. The Bill as now framed was in point of fact a new Bill, and it had been thought better therefore that, instead of introducing the Bill under the permission formerly accorded, he should ask for leave in the usual way to bring in the Bill. He believed the Bill would be found, in all respects, a very great improvement both on the Bill introduced into the late Legislative Council, and on the Bill proposed by Mr. Ritchie. The Bill in its present form appeared to him to be well adapted to the end in view; and if it should be allowed to become law, it would materially

promote the object contemplated in its introduction, and greatly facilitate the construction of works of public utility, such as are described in Section II of the Bill. In framing the Bill it had to be considered whether the Bill would be of general application; *i.e.*, whether its provisions should apply to all India, or whether the application of the Bill should be confined to those parts of India for which the Council of the Governor-General alone could legislate. As a general rule, he thought there could be no doubt that the Government of India would not legislate for the Local Governments which had Legislative Councils of their own, on any matters in respect of which those Governments were competent to legislate for themselves. The part of the Indian Councils' Act of last year, which related to legislation, was evidently framed on this principle. The soundness of the principle was fully recognized by the Government of India, and it would be scarcely necessary for him to say, that the Government of India could have no desire to encroach upon the functions of the local legislatures, or in any way to interfere with the exercise, by those legislatures, of the powers vested in them by the Act of Parliament just mentioned. But when a law was required for the Empire at large, whether the law was to be the work of a single legislature, or of several distinct legislatures, the general principles observed in framing it, and the essential details, must be the same. He ventured to think that there must be a great public convenience in having a single law for all India passed by the Government of India which alone was competent to pass a general law, instead of two or more laws passed by different legislatures acting independently of one another. The fact that there were, at the present time, two Branch Railways and other Public Works Bills pending; one before the Council of the Governor of Bombay, and the other before the Council of the Lieutenant-Governor of Bengal, the provisions of which differed little, if at all, from the Bill proposed by Mr. Ritchie; and that Mr. Ritchie considered that a Bill such as was proposed by him was all that was required for the entire country, would seem clearly to show, that the legislation needed at this time was of the general character which he had described; and that, consequently, there could be no necessity for separate Acts for the different presidencies, or for different parts of the same presidency.

In addition to what he had already mentioned in favor of a General Bill, such as he was now asking leave to introduce, he might repeat what was stated by Mr. Ritchie in the remarks with which he prefaced his motion for leave to introduce the Bill proposed by him; namely, that, as a Railroad for which feeders were to be provided (and the same observation applied to Canals, High Roads, and other public works) might pass through several districts, or different presidencies, two different Acts might be objectionable. Under these circumstances, he (MR. HARRINGTON) hoped that, when the Government of Bombay and His Honor the Lieutenant-Governor of Bengal saw the present Bill, they would agree in considering its provisions well suited to the territories under their

Governments, equally with the rest of India ; and that, concurring in the conclusion arrived at by the Government of India, that it would be in every way more convenient and desirable that the present Bill should apply generally to all India, rather than that separate Bills should be passed for the several presidencies, they would not consider it necessary to proceed with the Bills pending before their respective Councils.

The Honorable MR. ERSKINE said that he had no wish to offer the slightest opposition to this Bill ; and without expressing any opinion as to whether the Bill should or should not apply generally to all India, he should be glad if it were understood that, in assenting to the introduction of the Bill, he did not pledge himself on the question as to whether the Bill should have a larger or narrower application. One reason for hesitation would be that, if the Bill were passed by that Council, and subsequently modifications for one of the presidencies were required, they could not be made by a local legislature.

The Honorable MR. HARTINGTON said there could be no doubt that every Honorable Member would be perfectly free, when the Bill was introduced, to discuss the principle of it, and the expediency of legislating on the subject for all India in this Council. The present was merely a Motion for leave to bring in the Bill.

The Motion was put and agreed to.

CONFINEMENT OF PRISONERS (NATIVE STATES).

The Honorable MR. HARTINGTON introduced the Bill for the amendment of the law relating to the confinement of prisoners convicted of offences in Native States, and moved that it be referred to a Select Committee. He said that this Bill had already been published by the authority of the Governor-General in Council, under one of the Rules for the Conduct of Business in the Council. The object of it was to consolidate and amend the law relating to the confinement of prisoners convicted of offences in Native States. The laws proposed to be consolidated and amended were Act XVIII of 1843 and Act V of 1847. The former Act applied only to the offences of Thuggee and Dacoity, and of belonging to a gang of Thugs and Dacoits. It was considered advisable that its provisions should be extended to the crime of Suttee (burning alive), and to the crime of Sumadh (burying alive) ; and that the Governor-General in Council should have power to extend the provision of the Act to any other offences, its extension to which might be deemed by him desirable. The Bill contained provisions to that effect. The Native States in alliance with the British Government, acting in concert with the British Government, were making efforts to suppress the inhuman and barbarous practice of burning native females alive on the death of their husbands, or of those with whom they had lived as wives ; and it was thought that the success of the measures which had been adopted with this view, as well as to put a stop to the practice of burying wives alive, would be materially provided for if the persons who were convicted of

the offence were allowed to undergo the imprisonment to which they were sentenced within the British Territories. He believed it would be found, that the Bill contained ample provisions to secure that the authority which it gave should be exercised only after a full and careful investigation before a properly constituted tribunal.

The Motion was put and agreed to.

MERCHANT SEAMEN.

The Honorable Mr. HARRINGTON introduced the Bill to amend Act I of 1859 (for amendment of the Law relating to merchant Seamen), and moved that it be referred to a Select Committee. He said that Act I of 1859, which this Bill proposed to amend, empowered any Local Government to order an investigation into the conduct of any Master or Mate to whom such Government might have granted a certificate of competency or service, if it had reasons to believe that, either from incompetency or misconduct, such Master or Mate was unfit to discharge his duties. But, as the law now stood, only the Local Government which granted the certificate could order such investigation wherever the misconduct to be enquired into might have taken place. An instance had recently occurred showing the practical inconvenience of this restriction, and the necessity that existed for some modification of the law. The Master of a vessel holding a certificate from the Government of Bengal took his vessel to Bombay. A complaint of misconduct having been made against the Master on his arrival at Bombay, the Government of Bombay ordered an investigation; but being advised that it had no jurisdiction it abstained from passing any order in the case. There appeared no good reason why, in such case, the Local Government within whose territories the Master or Mate complained against happened to be at the time the complaint was preferred, should not be empowered to order an investigation, and on proof of incompetency or misconduct, showing such Master or Mate to be unfit to discharge his duties, to suspend the certificate held by him, although such certificate might have been granted by some other Local Government. The object of the present Bill was to give such power. Since this Bill was published a communication had been received from the Straits' Settlement, in which the Governor proposed a further amendment of Act I of 1859. The Governor said:—"On the 14th November 1859 I submit for consideration of the Legislative Council a petition from certain native ship-owners, praying for a modification of the provisions of Act I of 1859 in favor of small country vessels sailing from the Straits' Settlement. I then pointed out the prejudicial effect upon the interests of the petitioners likely to be occasioned by the operation of clause 13, unless the coasting vessels manned by Natives, and employed in carrying on our trade in the Archipelago might be considered as home Trade Ships. At present, absurd as it may

"appear, the Commander of one of these vessels may be deemed qualified "to take charge of his ship from this to Kurrachee, and yet he is prohibited "from retaining the command if she is ordered to make a coasting voyage "along the Eastern Coast of the Malayan Peninsula, or to visit one of the "neighbouring Islands, only a few hours' sail from the Port." If the Council allowed the Bill to go to a Select Committee, he (MR. HARINGTON) proposed to refer to the Committee the communication from the Governor of the Straits' Settlement, with a view to their considering the further amendment of the law proposed therein.

The Motion was put and agreed to.

RECORDER AND SMALL CAUSE COURTS (BRITISH BURMAH).

The Honorable MR. HARINGTON introduced the Bill to constitute Recorders' Courts for the Towns of Akyab, Rangoon and Moulmein, in British Burmah; and to establish Courts of Small Causes in the said Towns and moved that it be referred to a Select Committee. He said that this Bill had been published by the authority of the Governor-General in Council, under the Rule for the Conduct of Business in the Council to which he had referred before. The object of the Bill was to give effect to that part of the Resolution of the Government of India, dated the 31st January last, relating to the administration of British Burmah, which declared that, instead of a Judicial Commissioner for the whole Territory as had been proposed, there should be established at Rangoon and Moulmein a court to be presided over by a Barrister or advocate of not less than five years' standing; with full powers of Civil and Criminal jurisdiction, analogous to the powers now exercised by the Recorders of Prince of Wales' Island and Singapore, with exception to the power of trying cases in which European British subjects were charged with capital offences. The Bill went somewhat beyond the Resolution, inasmuch as it empowered the Governor-General in Council to establish a similar Court to that mentioned in the Resolution at Akyab also. The Town of Akyab already possessed a very large European community, and carried on a considerable export and import trade; and although a Court such as that proposed might not be immediately required, there could be no doubt that, at no distant date, it would be wanted; and it was as well, therefore, to make provision for its establishment in the present Bill.

It was probable that for some time there would not be sufficient civil and criminal work to justify the appointment of a Recorder to each of the Courts for the establishment of which provision was made in the Bill; and the Bill accordingly allowed the Governor-General to appoint a single Recorder to any two, or to all three, of these Courts; and in order that no public inconvenience might be experienced during the absence of the officer who might be the Recorder of more Courts than one, the Bill empowered the Government to appoint a Registrar to each Recorders' Court, who would be the chief Ministerial Officer of the Court, and as such would conduct the current duties, including the filing of plants, the issue of

notices to defendants, and of summonses to witnesses. The Registrars would also have the powers of Small Cause Court Judges in suits up to a certain amount; and would have power to try other suits of a small value, which might be referred to them by the Recorder. The effect of these provisions would be to relieve the Recorder of a good deal of work which might very well be performed, under his general supervision, by officers receiving a smaller salary; and to give him time for the disposal of the more important cases brought before him: they would also afford a speedy means of obtaining redress in cases of a small amount, and generally of a simple character, which was very desirable. As already noticed, the Recorder would have no power to try Europeans charged with capital offences. These cases would continue to be committed, as at present, to the High Court at Calcutta. In all other cases occurring within the limits of his jurisdiction, the Recorder would have the powers of a Sessions Judge as defined in the Code of Criminal Procedure. There would be no appeal from his orders; but it would be in his discretion to reserve points of law for the opinion of the High Court at Calcutta, and in criminal cases the Advocate General might certify that, in his judgment, there was an error in the decision of a point or points of law decided by the Recorder, or that a point of law which had been decided by the Recorder should be further considered by the High Court.

The Motion was put and agreed to.

EMPLOYMENT, &c., OF PEONS IN CIVIL COURTS (N. W. P.).

The Honorable MR. HARRINGTON introduced the Bill to consolidate and amend the Law relating to the employment and remuneration of Peons for the service and execution of Civil Process in the Courts of the North-Western Provinces of the Presidency of Fort William in Bengal, and moved that it be referred to a Select Committee. He said that the Code of Civil Procedure declared that "every process required to be issued under the Code should be served at the expense of the party at whose instance it was issued, unless otherwise specially directed by the Court; and that the sum required to defray the costs of such service should be paid into the Court before the process was issued, within a period to be fixed by the Court issuing the process." But the Code contained no rules for the appointment of the peons of the Civil Courts; for regulating the charges for such service; or for the remuneration of the peons employed on this duty. This Bill would amend the law which regulated the appointment and remuneration of the persons employed to serve the processes of the Civil Courts, so far as regarded the North-Western Provinces; leaving the other Local Governments to adopt any regulations on the subject which they thought proper. Under the present Regulations, the Nazirs of the Civil Courts were allowed to appropriate to their own use, in addition to any fixed salaries received by them, one-fourth of the subsistence or diet-money deposited for the service or execution of every process; the remaining three-fourths being paid to the peon employed to serve

or execute the process. The provision of law under which this appropriation took place applied originally only to the Nazirs of the Zillah Courts ; but it had been extended by subsequent enactments to all the subordinate Civil Courts. The effect of the provision had been, not only to raise the emoluments of the Nazirs of the Civil Courts generally much beyond what, looking to the position of these officers and the nature of their duties, might be considered an adequate remuneration for their services and responsibilities ; but frequently to give the Nazirs, in the Courts of the Moonsiffs, larger allowances than were received by the Moonsiffs under whom they were employed. This had led to abuses from which, there could be no doubt, the character of the Courts in which they had been practised had suffered. The Bill provided for the payment of the Nazirs by fixed salaries, or by fees. It also provided that, when the peons received fixed salaries, the sums paid into Court for the service of processes should be formed into a fund, out of which the salaries of the peons would be paid. When the peons were remunerated by fees, three-fourths of the money paid as above would be given to the peons employed to serve the process ; and the remaining one-fourth carried to the credit of Government to cover any charges to which the Government might be put in connection with the Department. Any surplus from this source, or from the fund before mentioned, would be at the disposal of the Local Government ; and was proposed to be applied by such Government, subject to the approval of the Governor-General in Council, to the improvement of the administration of Civil Justice in the North-Western Provinces.

The Motion was put and agreed to.

RULES FOR THE CONDUCT OF BUSINESS.

The Honorable MR. HARINGTON moved that the Honorable Mr. Erskine be added to the Select Committee appointed to consider all proposals to alter or amend the Rules for the Conduct of Business.

The Motion was put and agreed to.

The Honorable MR. HARINGTON moved that certain correspondence between the Secretary of State and the Government of India, relative to the Rules for the Conduct of Business, be referred to the said Committee ; and that the Committee be requested to revise the said Rules, and to propose any modifications thereof which they might consider necessary.

The Motion was put and agreed to.

EMIGRATION (SEYCHELLES).

The Honorable MR. HARINGTON moved that the Bill relating to Emigration to the British Colonial Dependency of Seychelles be referred to a Select Com-

mittee, consisting of the Honorable Mr. Erskine, the Honorable Mr. Ellis and the Mover ; and that the Select Committee be instructed to make their report in a fortnight.

The Motion was put and agreed to.

COURTS OF REQUESTS (STRAITS' SETTLEMENT) AND WHIPPING BILLS.

The Honorable Mr. HARINGTON moved that the Honorable Mr. Erskine and the Honorable Mr. Ellis be added to the Select Committee on the Bill to enlarge the jurisdiction of the Courts of Requests in the Settlement of Prince of Wales' Island, Singapore and Malacca ; and to the Select Committee on the Bill to authorize the punishment of whipping in certain cases.

The Motion was put and agreed to.

REGISTRATION OF ASSURANCES, EXECUTION OF MOFUSSIL PROCESS, AND RELIGIOUS ENDOWMENTS BILLS.

The Honorable Mr. HARINGTON moved that the Honorable Mr. Ellis be added to the Select Committee on the Bill to provide for the Registration of Assurances ; to the Select Committee on the Bill to extend Act XXIII of 1840 (for executing within the local limits of the jurisdiction of Her Majesty's Courts legal process issued by authorities in the Mofussil) ; and to the Select Committee on the Bill to enable the Government to divest itself of the management of Religious Endowments.

The Motion was put and agreed to.

The following Select Committees were named :—

On the Bill for the amendment of the Law relating to the confinement of prisoners convicted of offences in Native States—the Honorable Messrs. Harington and Ellis and Rajab Deo Narain Singh.

On the Bill to amend Act I of 1859 (for the amendment of the Law relating to Merchant Seamen)—the Honorable Messrs. Harington, Erskine and Fitzwilliam.

On the Bill to constitute Recorders' Courts for the Towns of Akyab, Rangoon and Moulmein, in British Burmah ; and to establish Courts of Small Causes in the said Towns—the Honorable Messrs. Harington, Erskine and Ellis.

On the Bill to consolidate and amend the Law relating to the employment and remuneration of Peons for the service and execution of Civil Process in the

Courts of the North-Western Provinces of the Presidency of Fort William in Bengal—the Honorable Messrs. Harington and Ellis and Rajah Deo Narain Singh

The Council adjourned.

M. WYLIE,

*Deputy Secy. to the Govt. of India,
Home Department.*

CALCUTTA,

The 5th November 1862.