

Wednesday, February 10, 1864

**COUNCIL OF THE GOVERNOR GENERAL
OF INDIA**

VOL. 3

JAN. - DEC.

1864

P. L.

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 and 25 Vic., C. 67.

The Council met at Government House on Wednesday, the 10th February 1861.

P R E S E N T :

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 H. Sumner Maine.

The Hon'ble Sir C. E. Trevelyan, K. C. B.

The Hon'ble W. Grey.

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

The Hon'ble A. A. Roberts, C. B.

His Highness Nawab Mahomed Yousuf Ali Khan Bahadoor, K. S. I.,
Nawab of Rampore.

The Hon'ble H. L. Anderson.

The Hon'ble O. H. Brown.

The Hon'ble J. N. Bullen.

The Hon'ble Maharaja Vezcaram Guzzepetty Raj Bahadoor of Vizian-
gram.

The Hon'ble Rajah Sahib Dyal Bahadoor.

His Highness the Nawab of Rampore and the Hon'ble Rajah Sahib Dyal Bahadoor made a solemn declaration of Allegiance to Her Majesty, and that they would faithfully fulfil the duties of their Office.

TOLLS BILL.

The Hon'ble MR. MAINE, in moving for leave to introduce a Bill to amend Act VIII of 1851 (for enabling Government to levy tolls on Public Roads and Bridges), said that the Bill was one which involved no question of principle; not even raising the question whether it was desirable to levy such tolls at all. For while its object was to amend the Schedule of Act VIII of 1851, that Act was otherwise left untouched. The Schedule to Act VIII of 1851 had been proved by experience to be insufficient and in some respects bad. Some of its provisions, indeed, had manifestly been taken just as they stood from English Turnpike Acts without much reference to their applicability to this country. The Government of the North-Western Provinces objected to some of the details of the amended Schedule, and had

suggested improvements in them; while the Government of Bengal approved of the Bill in its present form. If he got leave to introduce a Bill, and it were referred to a Select Committee, these differences of opinion would be considered, and it would be seen to what extent the amended Schedule required alteration.

The Motion was put and agreed to.

HINDOO AND MAHOMEDAN LAW OFFICERS BILL.

The Hon'ble Mr. ROBERTS introduced the Bill to repeal the laws relating to the Officers of Hindoo and Mahomedan Law Officers, and to the Offices of Cazeer-ool-Cozaat and of Cazeer, and to abolish the former Offices, and moved that it be referred to a Select Committee, with instructions to report in four weeks. He said that when he obtained leave to introduce the Bill, he had stated the objects of it so fully that it was unnecessary for him now to enter at length into them. He might however repeat that such great changes had lately been introduced into the Criminal Law by the passing of the Indian Penal Code, that the Services of Mahomedan Law Officers were no longer necessary. Again, as regards Civil Justice, during the seventy years that the Officers of the British Government had taken part in the administration of Civil Justice, access had been obtained by means of translations and otherwise to all the principal Law Books, and a body of precedents, to be found in the decisions of the Courts, had grown up. The Judges were therefore now qualified to dispose of questions of Hindoo and Mahomedan Law themselves, and it was proposed that henceforth the Courts should expound the law for themselves. The Bill would also enable the Government to dis sever itself from all connection with the Office of Cazeer, which was an Office arising out of the constitution of Mahomedan Society. When the British Rule commenced in India, it was deemed expedient to utilize the Cazeers who were found already established, and consequently laws were passed, investing them with certain public functions in addition to their private duties. Latterly, however, Cazeers had ceased to do anything whatever for the State, but they continued nevertheless to be appointed and paid by the State. At the same time there were many self-appointed Cazeers who never had any connection with Government, and who exercised their calling among such of their countrymen as chose to employ them. Under the Bill now introduced, the Government would appoint no more Cazeers, but would leave all candidates for the Office to be selected by the persons who employed and paid them. He was authorized to state that the claims of all Law Officers and Cazeers on account of any pecuniary or other allowance of which they were in receipt from Government in virtue of their Offices would be separately and liberally considered.

His Highness the Nawab of Rampore said that the Bill contained two distinct propositions: it proposed 1st, to abolish the Offices of Cazeer-coo: Cozaat and Hindoo Law Officer—and 2nd, to dis sever the connection of Government with Town and Pergunna Cazees. To the first he saw no objection. But in regard to the second, he would observe that the appointment of Cazeer was primarily instituted for the general welfare of the people, and to prevent disputes regarding the reality or otherwise of marriages, the amount of marriage portions, and questions of succession and inheritance, and it was evident that the absence of all registry would not only give rise to such disputes, but would cause the Courts to be flooded with suits regarding them, and would thus protract litigation, and uselessly take up the time of the Judges. He would therefore propose that, as was now (some few Towns excepted) the practice, Government should not remunerate Cazees who performed their duties in virtue of the authority granted to them by Government, but that on the other hand Government should not dis sever its connection with the Cazees, but should frame rules for them, and for their control, as in the case of Pleaders and Ameens. Their duties would consist in registering every marriage, and forwarding monthly copies thereof to the District Court. From this, the following advantages would be derived:—1st, that the Zillah Authorities could, if necessary, refer any question of law to competent Cazees so appointed,—2nd, when the intention of Government to keep up their appointments was generally known, education would be stimulated by a desire to obtain them—3rd, the inconvenience attending a search for a Cazeer for the celebration of marriage ceremonies and the like, and the possibility of not finding one, which would probably follow their non-appointment by Government, would be obviated. The people of their own free-will paid the Cazees certain sums for the performance of the marriage ceremony, and these would still be the remuneration of the Cazees. Besides, the Government had acknowledged the advisability of registering the marriages of Mahomedans in the registers of Cazees by instituting a system of registry for the marriages of Christians: it was also clear that the interference of Government with respect to Cazees could only be productive of good, and would prevent disputes and litigation.

The Hon'ble Mr. ROBERTS said he regretted that His Highness had not been present when he (Mr. Roberts) had moved for leave to introduce the Bill, for if he had been present, he would have seen from his (Mr. Roberts') remarks, that no intention whatever was entertained to interfere with the duties of Cazees as Cazees. There were already thousands of Cazees who were self-constituted, and were elected by the people who employed them without the intervention of Government, and who never had any connection with it. The object of the Bill was merely to enable Government to withdraw from the exercise of the privilege of appointing Cazees. But the Bill would

not interfere with the duties usually performed by Cazees which did not depend upon any enactment of the British Legislature.

The Motion was put and agreed to.

PORT DUES (AMHERST) BILL

The Hon'ble MR. MAINS introduced the Bill to repeal Act VIII of 1861 (for the levy of Port dues in the Port of Amherst), and in moving that it be referred to a Select Committee, with instructions to report in three weeks said, that Act VIII of 1861 had not proved beneficial to the Port of Amherst or to the neighbouring Ports, and there seemed to be an unanimous local opinion that it ought to be repealed.

The Motion was put and agreed to.

COURT OF SMALL CAUSES (KURRACHEE) BILL.

The Hon'ble MR. ANDERSON introduced the Bill to give validity to certain proceedings of the Court of Small Causes of Kurrachee, and moved that it be referred to a Select Committee, with instructions to report in one week.

The Motion was put and agreed to.

CIVIL PROCEDURE (SINDE) BILL.

The Hon'ble MR. ANDERSON also introduced the Bill to give validity to the extension of Code of Civil Procedure to the Province of Sinde from the 1st day of January 1862, and moved that it be referred to a Select Committee, with instructions to report in one week.

The Motion was put and agreed to.

POORWA AND KHUDEE BILL.

The Hon'ble MR. HARRINGTON moved that the Report of the Select Committee on the Bill to bring the Jagheers of Poorwah and Khuddee, in the District of Banda, under the operation of the General Regulations be taken into consideration.

The Motion was put and agreed to.

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

The Motion was put and agreed to.

ADMINISTRATION OF JUSTICE AT ADEN.

The Hon'ble MR. ANDERSON moved that the Report of the Select Committee on the Bill to provide for the Administration of Civil and Criminal Justice at Aden be taken into consideration.

The Motion was put and agreed to.

The Hon'ble MR. ANDERSON also moved that the Bill be passed with the amendments recommended by the Select Committee.

The Motion was put and agreed to.

WHIPPING BILL.

The Hon'ble MR. ROBERTS postponed his motion that the Report of the Select Committee on the Bill to authorize the punishment of whipping in certain cases be taken into consideration, and that the Bill be passed with the amendments recommended by the Select Committee. He said he found that the Report of the Select Committee had been in the hands of Members barely the shortest time required by the Rules for the conduct of business: moreover, since coming into the Council-room, a petition had been put into his hands containing objections to the passing of the Bill in its present shape. Under these circumstances he would ask permission to postpone his Motion for one week.

FOREIGNERS' BILL.

The Hon'ble MR. MAINE moved that the Report of the Select Committee on the Bill to give the Government certain powers with respect to Foreigners be taken into consideration. He remarked that the Select Committee had made no alteration whatever in the principle of the Bill, but had done a good deal to add to the clearness and intelligibility of its expressions.

The Motion was put and agreed to.

The Hon'ble MR. MAINE also moved that the Bill be passed with the amendments recommended by the Select Committee.

The Motion was put and agreed to.

The following Select Committee were named :—

On the Bill to repeal the laws relating to the Offices of Hindoo and Mahomedan Law Officers, and to the Offices of Cazee-ool Cozaat and of Cazee, and to abolish the former Offices—The Hon'ble Messrs. Harington, Maine, Ellis, and Roberts, His Highness the Nawab of Rampore, and Mr. Anderson.

On the Bill to repeal Act VIII of 1861 (for the levy of Port dues in the Port of Amherst)—The Hon'ble Messrs. Harington, Maine, and Bullen.

On the Bill to give validity to certain proceedings of the Court of Small Causes of Kurrachee—The Hon'ble Messrs. Harington, Maine, and Anderson.

On the Bill to give validity to the extension of the Code of Civil Procedure to the Province of Sindh from the 1st of January 1862—The Hon'ble Messrs. Harington, Maine, and Anderson.

The Council adjourned.

CALCUTTA,

A. G. MACPHERSON,

The 10th February 1864. } *Offg. Dep. Secy. to Govt. of India, Home Dept.*