

Wednesday, February 11, 1863

**COUNCIL OF GOVERNOR GENERAL
OF
INDIA**

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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 and 25 Vic., C. 67.

THE Council met at Government House, on Wednesday, the 11th February 1863.

PRESENT :

Major-General the Hon'ble Sir R. Napier, K.C.B., *Presiding*.
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 C. J. Erskine.
The Hon'ble W. S. Fitzwilliam.
The Hon'ble D. Cowie.
The Hon'ble Rajah Deo Narain Singh Bahadoor.
The Hon'ble Rajah Dinkar Rao Rugonauth Moontazim Bahadoor.
The Hon'ble R. S. Ellis, C.B.
The Hon'ble A. A. Roberts, C.B.

PARTITION OF ESTATES BILL.

The Hon'ble Mr. HARRINGTON presented the Report of the Select Committee on the Bill to consolidate and amend the law relating to the Partition of Estates paying Revenue to Government.

MAHOBA AND JEITPORE BILL.

Also the Report of the Select Committee on the Bill to bring the Pergunnahs of Mahoba and Jeitpore, in the district of Humeerpore, under the operation of the General Regulations.

STRAITS MUNICIPAL BILL.

The Hon'ble MR. MAINE presented the Report of the Select Committee on the Bill to authorize the extension of the term of office of the Municipal Commissioners in the Settlement of Prince of Wales' Island, Singapore and Malacca.

HIGH COURT (BOMBAY) BILL.

The Hon'ble MR. MAINE moved for leave to introduce a Bill to empower Judges of the High Court, and other authorities at Bombay, to direct convicts to

be imprisoned either in the House of Correction or in the Common Jail. He said that the object of the Bill was described with sufficient accuracy in the Title. It was a Bill to empower the Judges of the High Court, the Justices of the Peace and Town Magistrates at Bombay, to direct the Common Jail to be the place of imprisonment for certain classes of convicts, as well as the House of Correction, which appeared to be inconveniently crowded. The Bill, it was necessary to state, had been originally introduced into the Council of the Governor of Bombay, and, after being passed, had received the assent of His Excellency the Governor. It was found, however, to be open to the objection that it amended certain provisions of an Act passed last year by the Council of the Governor-General, and known as Act XVIII of 1862, by which Act the House of Correction was solely appointed to be the place of imprisonment under the circumstances contemplated. Indeed he (Mr. Maine) perceived that the Bill, in the form in which it had first been brought into the Bombay Council, was denominated, with perfect correctness, "a Bill to amend Act XVIII of 1862," and the nature of the measure was clearly indicated in the last Clause, which was to the effect, that nothing in Act XVIII should be construed to interfere with the provisions of the Bill. The Select Committee of the Bombay Council had altered the Title and struck out the last Clause; but, of course, the mere omission of the express reference to Act XVIII of 1862, did not render the Bill in any less degree an attempt to amend the Imperial enactment. Now the Indian Councils' Act had empowered the Councils of the Presidencies for the purpose of making Laws and Regulations, to amend or repeal any Law or Regulation made by Imperial authority in India, previously to the passing of the Councils' Act, and had therefore, by direct implication forbidden those Councils to amend an Imperial Law or Regulation passed in India subsequently to that epoch. Indeed, the very existence of such a power would be inconsistent with the whole scheme of distributed legislation which the Indian Councils' Act had established. His Excellency the Viceroy and Governor-General had therefore been under the necessity of withholding his assent from the Bill. At the same time, it seemed to be most desirable that its object should be carried out, and accordingly he Mr. (Maine) proposed to introduce the Bill with merely verbal changes into the Governor-General's Council. As its policy seemed to have been thoroughly discussed at Bombay, he should, unless any Member objected request the President to suspend the Standing Orders at the next sitting, in order that the Bill might be at once passed.

The Motion was put and agreed to.

CONFINEMENT OF PRISONERS' BILL.

The Hon'ble MR. HARRINGTON moved that the Report of the Select Committee on the Bill for the amendment of the law relating to the confinement of Prisoners convicted of offences in Native States, be taken into consideration.

The Motion was put and agreed to.

The Hon'ble MR. HARRINGTON then applied to the President for the suspension of Rule 26 of the Rules for the Conduct of Business, and, on the suspension of the Rule, said that the High Court had an ordinary original Criminal Jurisdiction extending beyond the local limits of its ordinary original Civil Jurisdiction, and, as the proviso to Section II was intended to extend only to Jails and Houses of Correction within the local limits of the ordinary original Civil Jurisdiction of such Court, he would move that the word " Civil " be substituted for the word " Criminal. "

The Motion was put and agreed to.

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

The Motion was put and agreed to.

PEONS' BILL.

The Hon'ble MR. HARRINGTON said that, as there were errors in the copies which had been circulated among the Members of 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, he would, with the permission of the President, postpone his Motion for the passing of the Bill until next week.

CIVIL PROCEDURE BILL.

The Hon'ble MR. HARRINGTON moved that the Report of the Select Committee on the Bill to amend the Code of Civil Procedure be taken into consideration.

The Motion was put and agreed to.

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

The Motion was put and agreed to.

ADMINISTRATION OF CIVIL JUSTICE (DARJEELING) BILL.

The Hon'ble MR. MAINE moved that the Report of the Select Committee on the Bill to improve the administration of Justice in the District of Darjeeling be taken into consideration.

The Motion was put and agreed to.

He also applied to the President to suspend Rule 26 of the Rules for the Conduct of Business, and, on the suspension of the Rule, said that there were a few verbal amendments that appeared to be required in the Bill, and he moved that the Bill be therefore amended as follows :—

Section I, line 7 the omission of the word " other " and line 9, the substitution of the words " Judge of any such Court as aforesaid " for the words " such Judge as the case may be. "

Section II, line 6, the substitution of the words " Judge of any Court constituted as aforesaid " for the words " such Judge as aforesaid as the case may be, " and in line 9, the omission of the word " such. "

Section III, line 1 the substitution of the words " Judge as aforesaid " for the words " such Judge as the case may be. "

Section VII, line 7, the substitution of the words " Judge as aforesaid " for the words " such Judge as the case may be " ; in the same line the substitution of the word " aforesaid " for the words " as the case may be. "

The Motion for the adoption of the amendments was put and agreed to.

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

The Motion was put and agreed to.

The Council adjourned.

M. WYLIE,

Deputy Secy. to the Govt. of India,

Home Department.

CALCUTTA, }
The 11th February 1863.