

Wednesday, March 16, 1864

**COUNCIL OF THE GOVERNOR GENERAL  
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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.*

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The Council met at Government House on Wednesday, the 16th March 1864.

**PRESENT :**

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

His Honour 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 W. Grey.

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

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

The Hon'ble H. L. Anderson.

The Hon'ble C. H. Brown.

The Hon'ble J. N. Bullen.

The Hon'ble Rajah Sahib Dyal Bahadoor.

**SMALL CAUSE COURTS (PRESIDENCY TOWNS) BILL.**

The Hon'ble Mr. MAINE, in moving for leave to introduce a Bill to extend the jurisdiction of the Courts of Small Causes at Calcutta, Madras and Bombay, and to provide for the appointment of an increased number of Judges of those courts said—"It is no doubt well known to your Excellency and the Council that a Bill intituled a Bill for the improvement of Civil Justice in Suits of Small Value was among those published by the late Viceroy under the 19th of our Rules for the conduct of business. It proposes certain alterations, which I believe to be improvements, in the constitution of the Small Cause Courts, and the Statement of Objects and Reasons sketches a plan, to be executively carried out, for the extension of the Small Cause Court system in the Mofussil. The measure is one to which I attach very great importance, but it must inevitably bring up a large number of fundamental questions respecting the administration of civil justice in India, and will probably give occasion for lengthened discussion. Now one result of the calamitous event which occurred in the autumn has been greatly to disturb all our legislative arrangements, and to materially shorten the time which, with due consideration for the Additional Members, can be appropriated to our sittings. Under these circumstances, I have deemed it right, though not without reluctance,

to give precedence to certain other Bills, which, though not of greater importance in some respects than the measure to which I have referred, have nevertheless been much longer before the Council, or much longer in preparation. The event has, I think, proved the propriety of this course, for the Council, before it separates will, I trust, have passed the Registration, Emigration and Cantonment Magistrates Bills—all of them measures long demanded and of first class importance—not to speak of measures also important in their way, such as the Whipping Act, the Aden Act, and the Official Trustee Bill. I do not therefore complain of the delay which has occurred in regard to the Bill to improve the administration of civil justice; indeed, much information on its subject has yet to come in from the local Governments, and I am constantly in receipt of suggestions (and of course of complaints also) which have reference to it, some of them valuable, others not perhaps very wise, but then there is at least this advantage even in foolish complaints that they attract attention to the points on which misapprehension exists. Moreover one of the Bills which I hope will be passed—the Registration Bill—is almost a condition precedent to any amendment of the administration of civil justice in India.” MR. MAINE, after stating that for these reasons he would not be able to take up the Bill to which he referred during the present sittings, proceeded to say that there was one class of Small Cause Courts which urgently and immediately demanded the attention of the Council, the Small Cause Courts of the Presidency Towns. There was no reason in theory why a Court which had jurisdiction up to 500 Rupees should not have it up to 1,000, and public feeling was, he believed, strongly in favour of the increase of jurisdiction. One remarkable proof of the necessity of such a measure was furnished by a paper supplied to him which showed that, in order so to reduce their claims as to bring them within the limit of Cause Court jurisdiction, persons sometimes abandoned a third of their debts, and it appeared that, in one case to which Europeans were parties on both sides, more than half the whole claim had been given up to gain the advantage of the speedier and cheaper procedure. Bills to increase the jurisdiction to the proposed amount had in fact been introduced into the Councils of the Governor of Bombay and of the Lieutenant-Governor of Bengal. The former measure came to maturity, but was vetoed by Lord Elgin under legal advice, owing to the peculiarity in the High Court Letters Patent, which was adverted to last week by the Hon’ble Mr. Anderson. The Bengal Bill was withdrawn on account of the same difficulty. The question, however, was one eminently for the decision of the local Councils, and the Viceregal Council would doubtless regard their desire as conclusive. The Bill would not interfere with a plaintiff’s power to proceed in the High Court if he pleased, under a certain disadvantage in respect of costs.

The Motion was put and agreed to.

The Hon'ble MR. MAINE having applied to His Excellency the President that the Rules for the conduct of business should be suspended,

The President declared the Rules suspended.

The Hon'ble MR. MAINE then introduced the Bill, and moved that it be referred to a Select Committee, with instructions to report in one week.

The Motion was put and agreed to.

### CALCUTTA MAGISTRATES JURISDICTION EXTENSION BILL.

The Hon'ble the Lieutenant-Governor of Bengal in moving for leave to introduce a Bill for extending the jurisdiction of the Magistrates of Police in Calcutta said—"The Bill which I now ask leave to introduce for the purpose of extending the jurisdiction of the Magistrates in Calcutta, differs materially from that which has been printed and is, I believe, in the hands of Hon'ble Members. It is of more limited extent, inasmuch as I propose to confine its operation to cases arising under Chap. XIV of the Indian Penal Code, and to confer upon the Magistrates, in respect to such cases only, those powers of punishment which may be exercised under the Mofussil Code of Criminal Procedure by a Subordinate Magistrate of the 1st Class. It is of wider scope, because I wish to extend to Calcutta certain provisions of the Code of Criminal Procedure for enabling the Magistrates to prohibit the continuance of nuisances, and to deal with them more effectually when they are committed or are not abated. The history of the Bill is briefly this. It will be in the recollection of the Council that a letter was recently written to the Commissioner of Police, directing him to prohibit the practice of throwing dead bodies into the river, and pointing out that the practice was an offence under the Indian Penal Code. The Commissioner, in reporting the measures taken to prevent it, stated as follows :—

Orders will be issued to prevent bodies being thrown into the river in Calcutta and the Suburbs so far as they are in my jurisdiction, and I will take the earliest opportunity of bringing to trial persons throwing them in. The Magistrates of Calcutta have, however, no power of trying cases summarily under the Penal Code, and the most trifling offence, if not included in the Police Act, must be sent up for trial to the High Court, the Judges of which naturally set their faces against their time and that of the Grand and Petty Juries being taken up by matters which might, with much greater advantage, be disposed of by the Magistrates. I am clearly of opinion that an Act of the Legislature should be passed similar to that in force in the Mofussil, giving the Calcutta Magistrates powers to dispose of cases under the Penal Code up to a certain extent.

"Concurring entirely in this opinion, I took immediate measures for bringing into the Bengal Council a Bill to give the Magistrates the necessary powers to deal with offences under the 14th Chapter of the Code; and after consultation with some of my colleagues, it was thought expedient so to frame the Bill

as to include all offences in the Code punishable with imprisonment not exceeding six months, and one or two crimes of a graver nature, in respect to which the Magistrates might convict and punish up to the limits of their power, reserving cases requiring a heavier punishment for commitment to the High Court. The object of this was to remove a long-standing cause of complaint, and to ensure more certain as well as speedier justice by enabling the Magistrates to deal with a number of petty offences under the Penal Code, as they are now competent to deal with other like offences under the Police Acts, instead of taking up the time of Judges, Grand Juries and Petty Juries, and setting in motion the whole machinery of High Court of Justice for the trial of such cases. I was not then fully aware of the objections that might be raised to this course,—objections affecting the competency of the Bengal Council to give to the Police Magistrates even a concurrent jurisdiction for the trial of these cases, which are now solely triable by the High Court, and objections restricting in some measure the liberty of even this Council to legislate on matters connected with the administration of Criminal Justice in the Presidency Towns. These objections, however, have since been made known to me, and it is for this reason that I now come to this Council and ask leave to introduce a Bill affecting no doubt the administration of Criminal Justice in Calcutta, but affecting it only for the purpose of preventing offences against the health and safety of the public, and one of an urgent and temporary character, to be superseded whenever a comprehensive Code of Criminal Procedure for the Presidency Towns may be enacted. Since the question was first raised, I have also been put in possession of a Minute by Mr. John Strachey, the President of the Bengal Sanitary Commission, from which, as I believe it has not yet been seen by Hon'ble Members, I beg leave to read some extracts. Mr. Strachey observes—

For many years past the sanitary condition of Calcutta has been a constant subject of complaint, and this condition has probably never been much worse than it is at the present time. The state even of the Southern Division of the Town, which contains the fine houses of the principal European inhabitants, is often most offensive and objectionable, while with regard to the Northern or Native Division of Calcutta, which contains some hundred thousand people it is no figure of speech, but the simple truth, to say that no language can adequately describe its abominations. In the filthiest quarters of the filthiest towns that I have seen in other part of India, or in other countries, I have never seen anything which can be for a moment compared with the filthiness of Calcutta. This is true not merely of the inferior portions of the Town, or of the bye-ways and places inhabited by the poorer classes, but it is true of the principal thoroughfares and of the quarters filled with the houses of the richest and most influential portion of the Native community. If a plain unvarnished description of the street of the Northern Division of Calcutta, bordered by their horrible open drains in which almost all the filth of the City stagnates and putrifies, were given to the people of England, I believe that they would consider the account altogether incredible. The condition of the river upon the banks of which Calcutta stands is as abominable as that of the City itself. I need only mention one

fact regarding it. More than five thousand human corpses have been every year thrown from Calcutta into the river which supplies the greater part of the inhabitants with water for all domestic purposes, and which for several miles is covered with shipping as thickly as almost any river in the world. Fifteen hundred corpses have actually been thrown into the river in year from the Government Hospitals alone. That such things should be true, seems really so be hardly credible. I am aware that measures have now been taken by the Government of Bengal for putting a stop to this shameful practice, but they have only been taken during the last few days, and I have referred to it here because it serves as a good index to the state of things which has hitherto existed. Of the many other ways in which the water of the river is polluted, it is not necessary now to speak.

“ Now with respect to this I may remark that the Government of Bengal has not been insensible to the disgraceful and injurious character of this practice. In 1854 an endeavour was made to suppress it, and after opinions had been called for from the Local Officers, the papers were referred to Mr. Mills, the Bengal Member of the Legislative Council in order that if possible a Law might be passed to prevent it: but Mr. Mills, one of the ablest and most trusted Officer that the Government ever had, after further enquiry and consultation with the Clerk Assistant of the Council, reported that if the Hindoos were prohibited from throwing their dead into the river, it would be regarded as an unwarrantable interference with the Hindoo religion, and the subject was consequently dropped. I am happy to add that, during the ten years that have intervened since that time, public opinion on this subject has so far advanced, that at a recent Meeting of the Justices of Calcutta, the Native Justices unanimously adopted a resolution condemnatory of the practice which is now prohibited with universal consent. The intelligent portion of the Hindoo community are now satisfied that religion does not require them to cast their dead into the river, and that health and decency require that the practice should cease. So as regards cremation, it has been lately represented that to prevent the Hindoos of Calcutta from openly burning their dead at a public ghat in the midst of the Town, is an interference with their religion. This I entirely deny. No one can be more averse to interference with the religion of the Natives than I am. I have incurred much obloquy on account of my supposed proclivity towards the Natives in this respect, and in regard to certain educational questions, am even now regarded in some quarters as little better than obstructive. But when a cry of interference with religion is raised merely for some temporary purpose, and the sacred promise of the Queen is used as a pretext to justify opposition to measures deemed necessary for the public health, I think that such pretexts and pretences may very properly be disregarded. Mr. Strachey goes on to say :—

It is not my wish to attempt to describe in detail the condition of Calcutta. To all who are here upon the spot, the facts are notorious. The state of the Capital of British India, one of

the greatest and wealthiest Cities in the world, is a scandal and a disgrace to a civilized Government. The questions that are involved are not mere questions of ordinary sanitary improvement, such as those which commonly arise in other Cities and in other countries. The condition of this City is such that it is literally unfit for the habitation of civilized men. Even if we put aside all questions of Public Health, and look on the matter as one of common decency, or as one of good government, the state of Calcutta is disgraceful to the last degree.

The constitution of the Calcutta Municipality under the new law which came into operation last year is, doubtless, an immense improvement upon all that had preceded it, and it would be very unjust to throw upon the present Municipal Body the discredit of the state of things which actually exists. On the contrary, the Municipality appears to deserve great credit for many important measures that it has carried out. But in the administration of that part of its duties which concerns the maintenance of the Town in a proper sanitary condition, the Municipality has necessarily failed, because it has not possessed the necessary power.

The rules and regulations which already exist are, as I have before said, for the most part good. Their improvement is not the work that is now urgently necessary. The first thing required is the provision of an executive authority strong enough to carry out necessary regulations and to enforce the Law for the suppression of the most disgusting nuisances.

And then, after recommending that the Head of the Municipality should also be Head of the Police, he proceeds to point out what change in the Law is required. With regard to the union of these two offices, I beg leave to remind the Council that, before the existing Calcutta Municipal Act was passed the great objection made by the public to the former system was that it was impossible for one Officer to do justice to both duties, and that the Officer charged with the Superintendence of the Police, whose duty consists not only in the prevention of nuisances and the enforcement of sanitary laws, but also in the suppression and detection of crime and the preservation of order, could not properly direct the conservancy of the Town. Individually I did not concur in that objection, but I was assured by some of the independent Members of the Bengal Council that the Bill (whereby a large weight of taxation was imposed on the Town) could not be carried unless on the understanding that the Head of the Municipality should have nothing to do with the Police : and though with some difficulty the Council were induced to agree to a clause enabling the Government to appoint the Chairman of the Justices to be also Commissioner of Police, yet it was understood that this arrangement was not to take effect till the new system had had a fair trial, and the result of the separation of the two offices could be dispassionately judged. I do not think that sufficient time has yet elapsed to form a decided opinion upon the working of the present system, or to justify me in making the appointment which the Law allows. And I am certain that if the Commissioner of Police, who is himself one of the Justices, pays, and requires his subordinates to pay, the same attention to their conservancy duties that they do to the preservation of the peace and the de-

tection of crime, there need be nothing to complain of. Mr. Strachey then remarks,—

Legislation would, I believe, still be wanted to place the Municipal constitution on a completely satisfactory footing. At present it may, for all practical purposes, be considered that the only two laws under which a Magistrate in Calcutta can deal summarily with criminal cases that come before him are in the Police Act (Act XIII of 1856) and the Conservancy Act (Act VI of 1863). Under these laws he can deal with most of the nuisances that arise, but not with all. Thus, for example, in the matter of throwing dead bodies into the Hooghly, the orders of his Honor the Lieutenant-Governor, lately addressed to the Commissioner of Police, points out that this is a public nuisance within the meaning of Section 268 of the Indian Penal Code, and that it is punishable under Section 290. But, although legally a public nuisance, this is not a nuisance the punishment of which is provided for by either of the laws under which the Magistrates of Calcutta act, and consequently every case of the kind must be committed for trial to the High Court. This is almost equivalent to saying that nothing can be done at all. It appears essential that the Police Magistrates of Calcutta should be empowered by law to deal summarily with all offences affecting the public health, safety, convenience, decency, and morals punishable under Chapter XIV of the Indian Penal Code, and in which the penalty does not exceed six months' imprisonment.

It appears essential that power should exist similar to that which Section 68 of the Code of Criminal Procedure gives to the Magistrate of the district in all places outside Calcutta. Under that Section, the Magistrate may, except in certain specified classes of cases, 'without any complaint, himself take cognizance of any offence which may come to his knowledge' and may issue a summons, or, in cases where a warrant may issue, a warrant of arrest against 'the person known or suspected to have committed such offence, in the same manner as if a complaint had been made against such person.'

I think that the head of the Municipality, who under the plan suggested in this Minute would also be Head of the Police, and a Magistrate, ought certainly to possess this power of instant action in all offences under the Police and Conservancy Acts, and under Chapter XIV of the Indian Penal Code. Whether the same power should be given to all Magistrates appears questionable. It might be desirable to provide by law that this authority shall be exercised only by such Magistrates as shall be duly empowered by the Local Government.

I think also that powers similar to those described in Sections 62 and 63 of the Code of Criminal Procedure should be given to all Magistrates in Calcutta. These Sections make it lawful for any Magistrate by a written order to prevent obstructions and nuisances, and to prohibit any person from repeating or continuing a public nuisance.

The whole of Chapter XX of the Code of Criminal Procedure regarding local nuisances might also, with great advantage, be made applicable to Calcutta.

Under this Chapter the appointment of a Jury is necessary in all doubtful cases, and security is provided for full publicity, and against the exercise of any improperly arbitrary power.

"I would therefore ask the Council for leave to bring in a Bill to provide immediately, and temporarily, pending the enactment of a more comprehensive law of Criminal Procedure in the Presidency Towns,—*first*, for enabling the Cal-

cutta Magistrates to deal summarily with offences against the 14th Chapter of the Penal Code with power to punish up to the limits prescribed by the Code of Criminal Procedure for Subordinate Magistrates of the 1st Class,—and *second*, for extending to Calcutta the provisions of Sections 62, 63, and 68, and Chapter XX of the Code of Criminal Procedure, so that the Magistrates, and especially the Commissioner of Police, may be empowered the more effectually to prevent injury to human life, health and safety, and to deal generally with local nuisances in the same way as they can now be satisfactorily dealt with in the Mofussil. And I trust that the Select Committee to whom the Bill, if introduced, will be referred may be able to present it next week in a shape in which the Council can pass it."

The Hon'ble MR. HARRINGTON said His Honour the Lieutenant-Governor of Bengal having materially altered the scope of his Bill as printed and circulated and having agreed to restrict the application of the Bill to a very small class of cases, in respect of which it certainly seemed desirable, in connection with the measures now in progress, or under consideration, for improving the sanitary condition of the Town of Calcutta, that the jurisdiction of Police Magistrates in Calcutta should be enlarged, the objections which he (Mr. Harrington) originally entertained to the Bill had been removed, and he was quite satisfied to say "aye" to the motion before the Council. He was in favour of the extension to the Town of Calcutta of the Chapter of the Code of Criminal Procedure relating to local nuisances. He had no doubt that the provisions of that Chapter would prove very useful in carrying out the measures of sanitary reform to which he had referred, and that they would greatly strengthen the hands of the local authorities. He should be prepared to vote for the extension to the town of Calcutta, and, indeed, to the other Presidency Towns, of the other Sections of the Code of Criminal Procedure to which the Lieutenant-Governor had alluded, with the reservations mentioned by His Honour. He might add that the Government of India had long felt that it was not fair to the High Courts of Judicature at the several Presidency Towns to impose upon those Courts the trial of the numerous offences of comparatively trifling nature, which were committed for trial before them at every Criminal Sessions, and the Government of India would long since have caused a Bill to be introduced into this Council for the purpose of relieving the High Courts of the trial of such offences, but the Secretary of State had intimated that the whole question of the administration of Criminal Justice in the Presidency Towns was under the consideration of Her Majesty's Government and that the views of Her Majesty's Government would shortly be communicated to the Government of India. The Government of India awaited this communication before determining upon the measures to be adopted in the direction of affording relief to the High Courts as regarded some portion of the original Criminal jurisdiction now exercised by them.

His Honor the Lieutenant-Governor said he desired to express his opinion of the very great necessity which existed of at once doing something to relieve the High Courts of the smaller class of cases with which the time of the Judges was now occupied. He trusted that His Excellency the Viceroy would call the attention of the Home Authorities to the matter, as early action was certainly required.

The Hon'ble MR. MAINE said he must remind his Hon'ble friend that the alternative was not exclusively between the High Court and the Magistrates. There was an intermediate expedient, the creation of a Court of Session on the principle of an English Court of Quarter Sessions, or a Recorder's Court. For his part, he must own that, if there was one prepossession of his countrymen with which he sympathized more than another, it was their prejudice in favour of trial by Jury. It seemed to him to be a point on which popular feeling exactly coincided with soundest principle and with the results of the most certain experience. It was of course true that the system broke down in extreme cases on account of its costliness and lengthiness, and he (Mr. Maine) was heartily in favour of the Bill as now limited by his Hon'ble friend, but he could not quite admit that all jurisdiction taken away from the High Court must necessarily be transferred to the Police Magistrates.

The Motion was put and agreed to.

The Hon'ble the Lieutenant-Governor having applied to His Excellency the President that the Rules for the conduct of business should be suspended,

The President declared the Rules suspended.

The Hon'ble the Lieutenant-Governor then introduced the Bill, and moved that it be referred to a Select Committee, with instructions to report in one week.

The Motion was put and agreed to.

#### HINDOO AND MAHOMEDAN LAW OFFICERS' BILL.

The Hon'ble MR. ROBERTS moved that the Report of the Select Committee on the Bill to repeal the laws relating to the Offices of Hindoo and Mahomedan Law Officers, and to the Officers of Cazeoool-Cozaat and of Cazeo, and to abolish the former offices, be taken into consideration.

The Motion was put and agreed to.

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

The Motion was put and agreed to.

## BURMAH CUSTOMS BILL.

The Hon'ble MR. MAINE moved that the Report of the Select Committee on the Bill to give further effect to the provisions of Act IV of 1863 (to give effect to certain provisions of a treaty between His Excellency the Earl of Elgin and Kincardine, Viceroy and Governor-General of India, and His Majesty the King of Burmah) be taken into consideration.

The Motion was put and agreed to.

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

The Motion was put and agreed to.

## EMIGRATION BILL.

The Hon'ble MR. MAINE, in moving that the Report of the Select Committee on the Bill to consolidate and amend the laws relating to the Emigration of Native laborers be taken into consideration, said that the Committee stated in their report that they had made a considerable number of alterations in details, but had not changed the general principle of the Bill. He himself was a Member of the Committee, but his name was also on the back of the Bill, and therefore he might perhaps venture to say that the labors of the Committee had greatly contributed to the lucidity of the Bill and to the success of the system it embodied. One part of the Report should be read—

"Among other papers to which our attention has been directed, is a report addressed in January 1863 by Mr. Hay Hill, Her Britannic Majesty's Consul at Réunion, on the subject of the condition and treatment of Indian laborers in that settlement. It does not appear that the matters referred to by Mr. Hill can be dealt with through legislation in the Council of the Governor-General for making Laws and Regulations, and we therefore content ourselves with calling the attention of the Executive Government to this important report. Assuming the correctness of Mr. Hill's statements, it would seem that there is much difficulty in obtaining information as to the treatment of laborers after distribution in the Island of Réunion, and in procuring trustworthy statistics of the mortality prevailing among them. We desire to express a strong opinion of the value of such information and statistics, inasmuch as without them, the powers reserved to the Governor-General in Council by Sections LXIV, LXV, and LXVI of the Bill, may be rendered nugatory, and the securities afforded by protective legislation, whether on the part of British or of Foreign Colonies, may be seriously impaired."

With reference to this passage, he might state that the Committee's report had met with the most respectful consideration from the Executive Council, and that the attention of the Home Government would be without delay called to the subject. A communication had lately been received from the Government of the Mauritius, containing many objections of detail to the Bill, and some objections which could only be called sweeping. Nearly all the objections of detail had been already met by the amendments made by the Select Committee. The other

objections consisted of general charges, mere inuendoes in fact against the Bill. Of these one was that the Bill was intended to stop Emigration. The answer to this was simple : namely that the system of the Bill is identical with the system of the law recently passed for the regulation of the Emigration of laborers from one part of Bengal to another. So that if the Mauritius Government held that this measure was intended to stop Emigration, they must go further and hold also, that the Indian Government intended by the law to which he had referred to stop Emigration of laborers from one part of India to another and that supposition he would take the liberty of calling absurd. In introducing the Bill, he had said that, if it erred at all, it was on the side of stringency. But he must now withdraw even that conditional admission, for the Select Committee had struck out everything which looked like a superfluous precaution, and as the Bill now stood, he was convinced there was nothing in it to prevent any Colony and least of all a Colony which had so high a character as the Mauritius, from obtaining, if it only used fair means, as many Emigrants as it pleased to recruit. A still more extraordinary charge, and one which argued little knowledge of India was advanced by the Mauritius Government. It appeared to suppose that there was a lack of proper control over the Magistrates who had to give effect to certain provisions of the measure. Thus it was actually insinuated that Civil Officers in India were under too little control and had too much discretion. A more unfounded imputation was never directed against a Government not unused to baseless complaints. The reverse would be nearer the truth. He was almost afraid to say to how many superior authorities a Magistrate would be amenable, who misconducted himself as the Mauritius Government had suggested. If any Magistrate refused to register an Emigrant out of mere caprice or some general dislike to emigration, there was not a shadow of doubt that he would speedily encounter the marked disapproval of his superiors. On the whole, he considered that the Bill was one which held the balance with extreme fairness between the Emigrant who needed protection and the Colony which required labour.

The Motion was put and agreed to.

The Hon'ble Mr. MAINE, with the permission of His Excellency the President then moved the following amendments, of which notice had not been given :—

The addition at the end of Section XXXI of the words—" on proof of the desertion of any Emigrant before reaching the depôt for which he was registered, the fee paid in respect of such Emigrant may be refunded by the Magistrate to the Recruiter by whom it was paid, under such rules as shall from time to time be made in that behalf by the Governor-General of India in Council."

The addition at the end of Section XXXIV of the words—"on proof of the desertion of any Emigrant before reaching the depôt for which he was registered, the fee paid in respect of such Emigrant may be refunded by the Protector to the Recruiter by whom it was paid, under such rules as shall from time to time be made in that behalf by the Governor-General of India in Council."

And the addition at the end of Section LI of the words—"if it shall appear to the satisfaction of the Protector of Emigrants that any Emigrant has lost the copy of the registration aforesaid, the Protector may furnish such Emigrant with a copy of such registration to be made from the copy received by the Protector from the Magistrate under Section XXXII, or from the Register kept by himself under Section XXXIII, and shall thereupon allow such Emigrant to embark."

The Motions were severally put and agreed to.

The Hon'ble Mr. BULLEN said that in Section LIX a slight amendment was required. As it stood, every vessel carrying Emigrants was bound to leave Garden Reach within 24 hours of the embarkation of the Emigrants. Now the Bill applied to Emigration from Madras and Bombay as well as from Calcutta and it was clear that vessels sailing from Madras or Bombay could not by any possibility sail from Garden Reach at all. Therefore he thought the Section should be so altered as to show that it was meant to apply only to vessels sailing from Calcutta. He moved that the words "from the Port of Calcutta" be added after the word "Emigrants" in the second line of Section LIX.

The Motion was put and agreed to.

The Hon'ble Mr. MAINE having applied to His Excellency the President to suspend the Rules for the conduct of business.

The President declared the Rules suspended.

The Hon'ble Mr. MAINE then moved that the Bill be passed with the amendments recommended by the Select Committee and those now adopted.

The Motion was put and agreed to.

#### TOLLS BILL.

The Hon'ble Mr. MAINE presented the Report of the Select Committee on the Bill to amend Act VIII of 1851 (for enabling Government to levy Tolls on Public Roads and Bridges).

#### OFFICIAL TRUSTEE BILL.

The Hon'ble Mr. MAINE also presented the Report of the Select Committee on the Bill to constitute an Office of Official Trustee.

## LUCKNOW MUNICIPAL BILL.

The Hon'ble MR. MAINE also presented the Report of the Select Committee on the Bill to provide for the appointment of a Municipal Committee for the City of Lucknow.

## MIRZAPORE BILL.

The Hon'ble MR. HARRINGTON presented the Report of the Select Committee on the Bill to remove certain tracts of country in the district of Mirzapore from the jurisdiction of the local Courts.

## KONKAN BILL.

The Hon'ble MR. ANDERSON presented the Report of the Select Committee on the Bill to give validity to certain acts and proceedings of the Joint Judge of the Konkan, and having applied to His Excellency the President that the Rules for the conduct of business should be suspended,

The President declared the Rules suspended.

The Hon'ble MR. ANDERSON then moved that the report be taken into consideration.

The Motion was put and agreed to.

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

The Motion was put and agreed to.

## MINOR'S (BOMBAY) BILL.

The Hon'ble MR. ANDERSON also presented the Report of the Select Committee on the Bill for making better provision for the care of the persons and property of Minors in the Presidency of Bombay.

The following Select Committees were named :—

On the Bill to extend the jurisdiction of the Courts of Small Causes at Calcutta, Madras, and Bombay, and to provide for the appointment of an increased number of Judges of those Courts—His Honor the Lieutenant-Governor of Bengal and the Hon'ble Messrs. Harrington, Maine, Ellis, Anderson, and Brown.

On the Bill for the extension of the jurisdiction of the Magistrates of Police in Calcutta—His Honor the Lieutenant-Governor, and the Hon'ble Messrs. Harrington, Maine, Ellis, and Bullen.

The Council adjourned.

CALCUTTA,  
The 16th March 1864.

A. G. MACPHERSON,  
Offg. Depy. Secy. to Govt. of India,  
Home Dept.