

Friday, January 12, 1866

**COUNCIL OF THE 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., cap. 67.

The Council met at Government House on Friday, the 12th January 1866.

P R E S E N T :

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

His Honour the Lieutenant-Governor of Bengal.

The Hon'ble H. Sumner Maine.

The Hon'ble W. Groy.

The Hon'ble G. Noble Taylor.

The Hon'ble Colonel H. M. Duraud, C.B.

The Hon'ble J. N. Bullen.

The Hon'ble Mahārājā Vijayarāma Gajapati Rāj Bahādur of Vizianagram.

The Hon'ble Rājā Sāhib Dyal Bahādur.

The Hon'ble W. Muir.

The Hon'ble D. Cowie.

The Hon'ble Stewart St. John Gordon.

RURAL POLICE ACT AMENDMENT BILL.

The Hon'ble MR. MUIR moved that the Report of the Select Committee on the Bill to amend Act No. II of 1865 (to provide for the maintenance of the Rural Police in the Territories under the government of the Lieutenant-Governor of the North-Western Provinces and elsewhere) be taken into consideration. He said that he had had the honour to present the Report of the Select Committee last Friday, and he then explained the slight alteration which had been made by the Committee in the Bill, in order to provide for the careful exercise of the authority conferred by the Bill. As the Report had now been in the hands of Members for a week, he begged to move that it be taken into consideration.

The Motion was put and agreed to.

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

The Motion was put and agreed to.

INDIAN RAILWAYS' ACT AMENDMENT BILL.

The Hon'ble MR. TAYLOR introduced the Bill to amend Act No. XVIII of 1854 (relating to Railways in India), and moved that it be referred to a Select Committee with instructions to report in six weeks. He said that a few weeks ago, when he had asked for leave to introduce a Bill to amend the law relating

in their nature, and, further, there was no intention whatever to press the present Bill through any of its stages. Opportunity would be given for the fullest and freest discussion ; the opinions and views of all the Officers at the head of the various Railways would be obtained, and if necessary the London Boards of the different Companies would be consulted before the Bill became law.

The Motion was put and agreed to.

BURMESE RECORDERS COURTS' ACT AMENDMENT BILL.

The Hon'ble Mr. MAINE introduced the Bill to amend Act No. XXI of 1863 (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, with instructions to report in one month. He said that this was a Bill which had been published by their late Colleague (Mr. Harrington) with His Excellency's permission, and bore Mr. Harrington's name upon the back. The Act which it professed to amend, Act XXI of 1863, provided for the constitution of Recorders' Courts for the Towns of Akyab, Rangoon, and Moulmein in British Burmah and admitted of the appointment of a Recorder for each of those Courts. But in the commencement of these new Courts in British Burmah, His Excellency in Council had thought fit to suspend the establishment of the Recorder's Court at Akyab and to appoint only one Recorder for the two Courts of Rangoon and Moulmein. Now the facts, he believed, had justified His Excellency's caution, because, from information which had recently reached him (Mr. MAINE), he was inclined to think that the united business of the two Courts did not suffice, or at all events did not more than suffice, to fill up the time of a single Recorder. But there were some inconveniences in having but one Recorder for two Courts. He could not be in two places at the same time, and therefore, as Mr. Harrington had said in his Statement of Objects and Reasons :—

“ Although a Recorder's Court has been established under Act XXI of 1863 at Moulmein as well as at Rangoon, there is only one Recorder for both Courts, and during the time that he is engaged in holding sittings at one of these places, there is no person present in the Court at the other place who has power to make the interlocutory orders which are occasionally required in a suit ; and the consequence is that very serious inconvenience often ensues, which in some cases amounts to positive injustice, and causes very serious loss or injury to the parties. ”

And then Mr. Harrington went on to say :—

“ The present Bill proposes to supply this defect by empowering the Registrar of each Court, who is always on the spot, to make orders for arrest or attachment of property before judgment, for the protection and management, during litigation, of property in dispute, and for injunctions restraining breaches of contract or wrongful acts.”

The Council would understand that the Registrar was a permanent Officer always on the spot, and that he was an Officer of some responsibility, for

in the original Act (XXI of 1863) he was empowered to exercise the functions of a Small Cause Court Judge in suits not exceeding in amount or value 200 Rupees; and His Excellency in Council had the power to give him higher powers as a Small Cause Court Judge to a considerably larger amount.

The only Section of the Bill, beyond those which were merely technical and intended to carry out the object in view, was that which provided for an acting Recorder being occasionally appointed in British Burmah. The Act to be amended merely said that, when the Recorder was absent, the Commissioner of the Town should act as Recorder. That was very well so far as occasional brief absence went. But when a permanent Recorder had taken fifteen months' leave, of course it was not to be expected that the Commissioner should assume his functions during his absence to the detriment of his own proper duties. The residents were also entitled to expect that the acting Recorder should have the same qualifications as the permanent Recorder. His Excellency in Council had got over the difficulty in the present case by declaring the Office of the Recorder to be vacant, and by appointing a new Recorder on the understanding that his appointment would be recalled on the return of the former Recorder.

The Motion was put and agreed to.

The following Select Committees were named :—

On the Bill to amend Act No. XVII of 1854 (relating to Railways in India)—His Honour the Lieutenant-Governor, the Hon'ble Messrs. Maine, Bullen, Cowie, Gordon and the Mover.

On the Bill to amend Act No. XXI of 1865 (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 Hon'ble Messrs. Grey, Taylor, Gordon and the Mover.

The Council adjourned till the 19th January.

WHITLEY STOKES,

Asst. Secy. to the Govt. of India,

Home Dept. (Legislative.)

CALCUTTA,

The 12th January 1866.

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