

Wednesday, December 16, 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., cap. 67.

THE Council met at Government House, on Wednesday, the 18th December, 1863.

PRESENT :

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

His Honour the Lieutenant-Governor of Bengal.

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 W. S. Fitzwilliam.

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.

FOREIGNERS' BILL.

The Hon'ble MR. MAINE, in introducing the Bill to give the Government certain powers with respect to Foreigners, and moving that it be referred to a Select Committee, with instructions to report in three weeks, said that the Bill was one of those which had already been published by the order of the late Governor General. The Foreigners' Act was originally passed in the year of the Mutinies, but it was a temporary measure terminable in December 1859 : it had, however, been since continued from time to time, and expired only on the 5th of this present month of December. The last of the Acts continuing the Foreigner's Act in operation was in truth passed in order to give the Government of India time to consult the local Governments as to the necessity of renewing the Act. The replies of the local Governments had lately been received. These replies had not been circulated to the Members, chiefly because they were all brief, and all much to the same effect. They all said that, although they very rarely had occasion to put in force the powers vested in them by the Foreigners' Acts, still they considered that they ought not to be wholly deprived of those powers in case any necessity for making use of them should arise. Thus the Government of Bombay said—"It will be observed

that the Act appears to have been brought very little into play in the Bombay Presidency, but when a necessity has arisen for enforcing it, it appears to have worked satisfactorily. His Excellency the Governor in Council would therefore recommend the continuance of Act XXXIII of 1857 as a permanent enactment." So the Government of Madras reported—"The Inspector General of Police reports that Act XXXIII of 1857, continued by Act I of 1862, is now practically a dead letter. The Magistrates do not enforce its provisions, and the Police have been instructed not to molest persons travelling without a licence. The Inspector General considers that the provisions of the Act, although inoperative in times of peace are calculated to be useful during periods of popular excitement, and that the Act should be perpetuated, with the modification that it should be put in force at any time and in any part of the Presidency by an order of the local Government." With reference to the proposal to perpetuate Act XXXIII of 1857, he thought it an evil to keep in the Statute Book any Act which was inoperative, especially an Act which was a severe one in its provisions. He therefore did not propose simply to perpetuate the old Act. When the opinions of the local Governments were examined, it would be seen that it was in fact only a very few of the provisions of the old Act which it was considered to be necessary to keep in force. Those provisions might be divided into three classes—*Firstly*, those enabling the local Government to order any Foreigner to leave the country; *Secondly*, those establishing a system of granting licences to Foreigners to reside in the country; and *Thirdly*, those giving the power of searching and examining for the purpose of identification and the like. It was only of the provisions of the first kind that the local Governments were unwilling to be deprived. He therefore proposed that the first four Sections only of the Bill which he now introduced, should be in force everywhere throughout India: the rest of the Bill would only be in force when it was specially required, and had been specially extended. The first four Sections only gave the Government powers which, according to the better opinion, belonged to the English Crown under the common law. The other portions of the Bill resembled more in their character the special terminable Acts which had been occasionally passed in Great Britain, in times of public peril.

The Motion was put and agreed to.

ALIMENTARY SALT (CENTRAL PROVINCES) BILL.

The Hon'ble MR. HARRINGTON introduced the Bill for regulating the importation and manufacture of alimentary Salt in the Territories administered by the Chief Commissioner of the Central Provinces, and moved that it be referred to a Select Committee, with instructions to report in three weeks. He

said that, on his applying for leave to introduce this Bill, certain observations had fallen from His Excellency the President as to the effect which Section II of the Bill might have upon the Presidency of Madras in respect to Salt, which, having already paid Duty at Madras, was subsequently sent for sale to the Central Provinces. He had since taken the subject into consideration and it had occurred to him that in order to meet any objections such as had been mentioned by His Excellency, words might be introduced into the Section, either excluding from its operation Salt which had paid Duty prior to its being brought into the Central Provinces, or confining the operation of the Section to Salt imported from Foreign Territories. If the Council allowed the Bill to be referred to a Select Committee, he would propose to the Committee an amendment to the effect which he had mentioned.

The Hon'ble SIR CHARLES TREVELYAN said that it seemed to him at the last Meeting to have been agreed that it would be sufficient to establish a maximum rate of Duty, and that within that maximum, the scale might be so adjusted as to meet every possible state of circumstances. Thus, when Salt had previously paid highly, a low rate of Duty or no Duty at all might be levied; on Salt from Cambay or elsewhere, where only a low Excise Duty was levied, a somewhat higher rate might be imposed; and on any Salt which had previously paid no Duty a still higher rate might be levied.

The Hon'ble MR. HARRINGTON remarked that the adoption of Sir Charles Trevelyan's proposition would render it necessary to alter the wording of the Section. The nature of the alterations to be introduced had better, he thought, be left for the consideration of the Select Committee in the first instance.

His Excellency THE PRESIDENT thought that it might be left to the Select Committee to do what was requisite.

The Hon'ble SIR CHARLES TREVELYAN said, he had inferred from what Mr. Harrington had said, that it was his intention to introduce a provision that no second Duty should ever in any case be levied. He thought it very undesirable to lay down any such principle.

The Motion was put and agreed to.

POORWAH AND KHUDEE BILL.

The Hon'ble MR. HARRINGTON applied to His Excellency the President to suspend the Rules for the Conduct of Business, to enable him to introduce the Bill to bring the Jagheers of Poorwah and Khudee, in the district of Banda, under the operation of the general Regulations.

His Excellency THE PRESIDENT declared the Rules to be suspended.

The Hon'ble MR. HARRINGTON introduced the Bill, and moved that it be referred to a Select Committee with instructions to report in three weeks.

The Motion was put and agreed to.

OUDH CLAIMS COMMISSIONERS' BILL.

The Hon'ble MR. MAINE presented the Report of the Select Committee on the Bill to provide for the appointment of Commissioners to enquire into certain claims against the late Native Government of Oudh. He read the report which was in the following terms—"We, the undersigned, the Members of the Select Committee of the Council of the Governor General of India for the purpose of making Laws and Regulations, to whom the Bill to provide for the appointment of Commissioners to enquire into certain claims against the late Native Government of Oudh was referred, have the honour to report that we have considered the Bill and recommend certain amendments. We would add the words 'either in person or by Agent duly constituted,' after the word 'respectively' in line 13 of Section IV. In Section V we would add the words 'claimants and' before the word 'witnesses' in line 6; the words 'the reception of documents' after the word 'witnesses' in the same line; and the words 'under the Code of Civil Procedure' after the word 'suit' in line 9. In Section VI we think that the Proviso beginning at line 25 should be omitted. And in Section VIII we recommend the omission of the following words beginning at line 5—*viz.*—"being a person living within fifty miles of the place at which he shall be required to attend."

The Hon'ble MR. MAINE also moved that the Report be taken into consideration.

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.

GAZETTE OF INDIA BILL.

The Hon'ble MR. MAINE also presented the Report of the Select Committee on the Bill to give effect to the publication of certain orders and other matters in the Gazette of India, stating that the Select Committee had no amendments to suggest.

The Hon'ble MR. MAINE moved that the Report be taken into consideration.

The Motion was put and agreed to.

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

The Motion was put and agreed to.

ACT XX OF 1862, CONTINUANCE BILL.

The Hon'ble MR. MAINE also presented the Report of the Select Committee on the Bill to continue in force Act XX of 1862 (to provide for the

levy of fees and Stamp Duties in the High Court of Judicature at Fort William in Bengal, and to suspend the operation of certain Sections of Act VIII of 1859 in the said High Court)—adding, that the Select Committee did not recommend any alterations in the Bill.

The Hon'ble MR. MAINE moved that the Report 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.

The following Select Committees were named :—

On the Bill to give the Government certain powers with respect to Foreigners: The Hon'ble Messrs. Harington, Maine, Ellis, Roberts and Anderson.

On the Bill for regulating the importation and manufacture of alimentary Salt in the Territories administered by the Chief Commissioner of the Central Provinces: The Hon'ble Messrs. Harington and Maine, the Hon'ble Sir Charles Trevelyan, and the Hon'ble Mr. Ellis.

On the Bill to bring the Jagheers of Poorwah and Khuddee, in the district of Banda, under the operation of the General Regulations: The Hon'ble Messrs. Harington, Maine and Roberts.

The Council adjourned.

A. G. MACPHERSON,

Offg. Depy. Secy. to the Govt. of India,

Home Department.

CALCUTTA;
The 16th December, 1863. }