Thursday,
11th July, 1895

ABSTRACT OF THE PROCEEDINGS

OF THE

Council of the Governor General of India,

LAWS AND REGULATIONS

Vol. XXXIV

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OF

THE COUNCIL OF THE GOVERNOR GENERAL OF INDIA,

ASSEMBLED FOR THE PURPOSE OF MAKING

LAWS AND REGULATIONS,

1895

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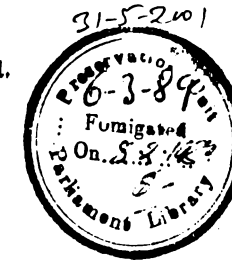

CALCUTTA
PRINTED BY THE SUPERINTENDENT OF GOVERNMENT PRINTING, INDIA,
1895

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 Indian Councils Acts, 1861 and 1892 (24 & 25 Vict., cap. 67, and 55 & 56 Vict., cap. 14).

The Council met at the Viceregal Lodge, Simla, on Thursday, the 11th July, 1895.

PRESENT:

His Excellency the Viceroy and Governor General of India, P.C., LL.D., G.M.S.I., G.M.I.E., *presiding*.
His Honour the Lieutenant-Governor of the Punjab, K.C.S.I.
His Excellency the Commander-in-Chief, K.C.B., G.C.I.E., V.C.
The Hon'ble Sir A. E. Miller, KT., C.S.I., Q.C.
The Hon'ble Lieutenant-General Sir H. Brackenbury, K.C.B., R.A.
The Hon'ble Sir J. Westland, K.C.S.I.
The Hon'ble Sir A. Mackenzie, K.C.S.I.
The Hon'ble A. C. Trevor, C.S.I.
The Hon'ble A. S. Lethbridge, M.D., C.S.I.

FOREIGN JURISDICTION AND EXTRADITION ACT, 1879, AMENDMENT BILL.

The Hon'ble SIR ALEXANDER MILLER moved for leave to introduce a Bill to amend the Foreign Jurisdiction and Extradition Act, 1879. He said :—"The Bill was originally intended for the purpose of making a small amendment to the Act, so as to make desertions from the Imperial Service Troops an extraditable offence. At present desertion from troops in a Native State is not an extraditable offence, and it is not proposed as regards the ordinary troops in Native States to interfere with the law as it stands. But it has been thought desirable to put desertions from the Imperial Service Troops on a different footing and to make that an extraditable offence. When, however, the Bill was being prepared for that purpose, it was discovered that there was another point in which it was desirable to amend the law. At present, when the Political Agent in a Native State sends a warrant under section 11 of the Extradition Act to this country for the extradition of an offender, although the offence may be one of a very small kind, which if committed in India would be a bailable offence, the Magistrate has no option but to have the man arrested and delivered over for

trial in the Native State. The question first arose, I believe, many years ago,—at least, I have had the advantage of reading a very elaborate note on the subject by the Lieutenant-Governor of the Punjab when Secretary in the Legislative Department,—and now, at last, that we are taking advantage of introducing a Bill for another purpose, we have thought it right to add a clause enabling the Political Agent at the time he sends his warrant to endorse upon the warrant liberty to take bail in a certain amount instead of arresting the man and handing him over for trial. That still leaves the whole matter in the hands of the Political Agent, but it enables him to do in regard to a Native State what a Magistrate would have the power to do if the same offence had been committed in British India. It does not go further than that."

The Motion was put and agreed to.

The Hon'ble SIR ALEXANDER MILLER also introduced the Bill.

The Hon'ble SIR ALEXANDER MILLER also moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English, and in the local official Gazettes in English and in such other languages as the Local Governments think fit.

The Motion was put and agreed to.

INDIAN PENAL CODE AMENDMENT BILL.

The Hon'ble SIR JAMES WESTLAND moved for leave to introduce a Bill to amend the Indian Penal Code. He said:—"The object of this Bill is to alter to some extent the definition of the word 'coin' with reference to the offences dealt with under Chapter XII of the Indian Penal Code. At present 'coin' is defined as metal used for the time being as money, and the consequence is that, if any offence under these sections has to be proved, it has to be shown that the coin was in use at the time of the offence as money. There is a process in coinage which is provided for by law, namely, in the Indian Coinage Act, which is termed 'the calling in of coin.' This gives Government an authority which it exercises under certain circumstances to call in coin and to cause it after a certain time to cease to be used as money. It is extremely doubtful whether, if the coin so called in has been counterfeited, a Court would hold that it was in use as money after the date of the proclamation which had called it in. After a certain time it would certainly cease to be in use as money. This power to call in money has been exercised in one case,—and I think in only

one,—namely, that of the Farukhabad rupee, which immediately preceded the existing Government rupee, or, as it was at first called, 'the Company's rupee.' It was called in in 1877. We have ascertained that this coin has been recently largely manufactured in Bombay. The manufacture has been carried on perfectly openly, and it has been brought to our notice by some of our Political Officers, who showed that it was being imported into Central India and Rajputana in considerable quantities. This manufacture we are unable, under the present law, to stop, because that particular coin is not in use at present as money. The immediate practical object of the change which I propose to the Council to make in the Indian Penal Code is to put a stop to this particular coinage. But it is obvious that the same necessity may arise in any future case. We may at any time find reason to call in any particular issues of the rupee, and it would be an extremely peculiar state of the law if an act which is to-day reckoned so harmful as to be punishable with ten years' imprisonment should to-morrow become a perfectly innocent one. It is to protect our action against a consequence of this kind that the measure is proposed.

"But there is a special necessity peculiar to India which arises in this connection. In a great part of the Native States of India coin is not current in the same legal sense in which it is current in British India; that is to say, there is no law of legal tender; and the consequence is that many kinds of coins pass in those Native States from hand to hand, not by reason of being legal tender, but by reason of each person who receives them knowing that they are customarily current in his own or other Native States, and that any other person will receive them in the same way as he receives them. From the fact that these Farukhabad rupees were imported in such large quantities into Rajputana and Central India, there can be little doubt that they are current in this sense in certain parts of Rajputana and Central India. No doubt they are largely imported for use as ornaments, but, knowing as we do the state of currency in those parts of India, we believe them to be used, and they are certainly capable of being used, as money also. It seems to me, therefore,—and it is one of the grounds on which we propose that this amendment should be made,—that we are under some obligation to the Native States in this matter not to permit a coin which passes, or which certainly might pass, there from hand to hand as an ordinary circulating coin, to be fabricated by private individuals in British India."

The Motion was put and agreed to.

The Hon'ble SIR JAMES WESTLAND also introduced the Bill.

The Hon'ble SIR JAMES WESTLAND also moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English, and in the local official Gazettes in English and in such other languages as the Local Governments think fit.

The Motion was put and agreed to.

PILGRIM SHIPS BILL.

The Hon'ble SIR ALEXANDER MACKENZIE moved for leave to introduce a Bill to make better provision for the regulation of Pilgrim Ships. He said:—"My Lord,—By a pilgrim ship is meant a vessel carrying Muhammadan passengers in the course of their pilgrimage to the holy places of the Hedjaz, from or to any port in India to or from any port in the Red Sea. Hitherto, as the Council are aware, these vessels have been regulated by the provisions of the Native Passenger Ships Act and the rules framed thereunder. It has now been deemed desirable to provide specially and separately for vessels of this class. We are compelled, for reasons which I shall presently explain, to impose upon pilgrim ships restrictions and conditions which are in no way applicable to ordinary passenger ships, and we have thought it best to bring together in a single enactment all those provisions of law which will in future apply to such vessels.

"We have been unable to leave the question for discussion by the Select Committee now dealing with the Indian Merchant Shipping Bill, because the Secretary of State has informed us that revised regulations for the pilgrim traffic to the Hedjaz must be brought into force before the pilgrim season of 1895-96 commences. The present Bill must, if those affected are to have proper notice of the changes made, come into force from the 1st October next, and the rules to be framed thereunder as soon as possible after that date.

"I have now to explain to the Council why it is necessary to amend the law affecting pilgrim vessels, and it will, I trust, become manifest in the course of that explanation why we have decided to treat them entirely apart from ordinary Native passenger ships.

"The fact is, my Lord, that the flow of Indian pilgrims to the Hedjaz is not a matter in which India alone is interested. It is regarded with feverish and not, as we think, always well-informed interest by the whole of Europe. The invasion of Europe, from time to time, by epidemic cholera has led the countries that have

suffered from its ravages to concert together measures for its prevention. The original home of cholera is undoubtedly in the East, and it is against the East that the nations of Europe principally direct their measures of exclusion and precaution. If, however, the history of all the recorded epidemics in Europe be carefully traced, it will, I believe, be found that, when they have come from outside at all and have not been clearly of local origin, they have travelled overland, entering as a rule by way of Russia. I think I am correct in saying that there is no well-authenticated instance on record of cholera having been imported either to Europe or Egypt from India by sea. Nevertheless, those nations who believe in the efficacy of quarantine have constantly in view the possibility of such importation, and have favoured, from time to time, regulations of the most stringent character as against ships coming from countries where cholera prevails.

"Arabia—especially that part of it where the places of Muhammadan pilgrimage are situated—has like the rest of the East been the seat of severe outbreaks of cholera. These Muhammadan holy places are visited by large numbers of pilgrims from Egypt and Eastern Europe, and it has been the constant object of the Continental States to prevent the transmission of cholera from Arabia to Egypt and from Egypt to Europe. Now, though there is no evidence that cholera has ever been introduced into the Hedjaz by ships from India, and though there is a mass of evidence to show that the insanitary condition of Mecca and the other towns of the Hedjaz are in themselves sufficient to account for the prevalence of cholera among pilgrims visiting them, the European Powers, outside Great Britain, are convinced that in the pilgrim traffic between India and the Hedjaz lies a constant source of danger to Arabia and Europe: and during the past thirty years repeated Conferences have been held to concert protective measures against it. The earlier of these Conferences, held at Constantinople in 1866 and Vienna in 1874, imposed restrictions of a very stringent kind upon all vessels coming from suspected ports, and such as interfered most seriously with British trade. The effect of the later Conferences, held at Venice in 1891 and Dresden in 1893, has been to replace these restrictions by measures more practical and less hampering to international communications, and as such they have been adhered to by Great Britain. India, however, was not represented at either Venice or Dresden. The provisions of the Venice Convention affected only traffic through the Suez Canal and the sanitary regulations in Egypt, and did not directly concern this country. The provisions of the Dresden Convention were more general, and the Government of India declined to adhere to them on the ground that they did not for the most part apply to the circumstances of India, and would impose objectionable obligations upon the local, and especially the

maritime, Governments of this country. Negotiations were, however, entered into with the Turkish Government with a view to assimilating the Indian and Turkish sanitary regulations on pilgrim ships and securing harmonious working in the control of the pilgrim traffic at both ends of the journey. A report of a Committee which sat in London and took a large amount of evidence on the subject was received from the Secretary of State in October 1893, and the Government of India were informed that the Secretary of State would defer action upon this until he received the views of this Government. Matters were at this stage when the Government of India, on the 11th January, 1894, received a telegram from the Secretary of State announcing that the French Government were about to convene a Conference at Paris on the 24th of that month 'to consider the means of preventing the spread of cholera in the Red Sea and the Persian Gulf,' and asking whether the Government of India wished to be represented along with Her Majesty's Government at the Conference. Supposing that the only matters to be discussed at the Conference were the sanitary precautions to be taken at Red Sea ports and towns, the Government of India suggested that Surgeon-General J. M. Cuningham, C.S.I., who was fully acquainted with their views on the question of cholera in the Red Sea, might be deputed to the Conference. Had it been aware that the Conference was to deal with the whole of the regulations affecting the pilgrim traffic between India and the Hedjaz, the Government would have pressed for delay until an officer acquainted with the administrative side of that question in its latest aspects could have been deputed to Europe. The Conference met and, on the 7th June, 1894, the Secretary of State forwarded a copy of a Convention which had been accepted (with certain reservations) as binding both upon Her Majesty's Government and upon the Government of India. The Secretary of State pointed out that it would be necessary to bring our Indian law and regulations into harmony with the Convention as so accepted.

"The view consistently held by the Government of India has been that, as the exportation by sea of cholera from India to the Red Sea and Europe has never been proved, elaborate precautionary measures, framed on the supposition that cholera had been so exported, are useless restrictions upon trade and upon the great Muhammadan population of India. We have held that the pilgrim traffic really calls for no more stringent regulations than long voyages of ordinary Native passenger ships. But we were always willing to adopt such reasonable special regulations as would satisfy the prejudices of Western nations, provided they did not interfere unduly with the transit of pilgrims or increase inordinately the cost to our Muhammadan subjects of making their pilgrimages.

"I regret to say, my Lord, that the provisions of the Convention of Paris do impose restrictions and burdens such as the Government of India have always deprecated. We have, however, no option in the matter. We cannot set aside the conclusions of an International Conference at which we were represented, even though there was, as I have said, probably some misunderstanding as to our position. We are bound to give effect to the arrangements entered into in the due exercise of their constitutional authority by Her Majesty's Government and to bring our law and rules into harmony therewith. In doing so we have not even the consolation of knowing that the Convention has secured for us the more reasonable terms of quarantine embodied therein—terms which would have given uninfected ships practically free *pratique;* for, though the Convention provides for this, the Turkish Government has so far declined to accept the Convention. This refusal of Turkey is perhaps fortunate in another way, for the Convention makes over the regulation of the pilgrim ships in the Red Sea itself to the Board of Health at Constantinople—an arrangement as affecting British shipping to which the Government of India strongly object. Negotiations on these points are still going on.

"I proceed now to notice the changes in the law regulating Native passenger traffic which the Convention renders necessary.

"In the first place, we have to define a pilgrim ship. The present law, while insisting that ships carrying Native passengers to the Red Sea must be driven by steam, exempts from its purview steamers not carrying as passengers more than 60 natives of Asia or Africa (or any less number down to 30 which may be fixed by Government). In future every vessel embarking pilgrims for the Hedjaz will be treated as a pilgrim ship, provided only that no ship carrying passengers other than pilgrims of the lowest class, and having on board pilgrims of the lowest class in a less proportion than one pilgrim for every hundred tons of the gross tonnage of the ship, shall be deemed to be a pilgrim ship. This provision will prevent the carrying of small bodies of pilgrims by cargo steamers.

"The next change is that the master of a pilgrim ship must give three days' notice of the time of his sailing instead of not less than 24 hours only as at present. This will not very seriously inconvenience ships leaving India, but it will also apply to them when leaving Red Sea ports for India, and the detention at that end will in some cases prove inconvenient and involve additional expense.

"The next matter which I must notice is by far the most serious of the modifications necessitated by the Convention. It relates to the amount of deck space to be allowed for each pilgrim.

"As the law stands (section 21 of Act X of 1887), the allowance in the between-decks for a steamer passenger on a long voyage (of five days or over) is a space of at least 9 superficial and 54 cubic feet; two children under twelve years of age, and not under one year, counting as one pilgrim, and children under the age of one year not counting. By section 56 of the present Act the Governor General in Council has power to prescribe, in modification or supersession of section 21, in the case of any class of ships, the superficial or cubic space to be available for passengers. The Convention provides for two square metres (21½ square feet) for each pilgrim of whatever age. But the British delegates made a reservation on this point and Her Majesty's Government did not accept the article. They have, however, intimated to the French Government, which convened the Conference, that a minimum standard of 1½ square metres (16 square feet), for every pilgrim of whatever age, will be prescribed on all Indian pilgrim ships, and the Bill has been drawn in such a manner as to enable the Governor General in Council to give effect to this by rule. It is recognized that this increase of space will cause increase in the cost of passage to the pilgrims, but Her Majesty's Government were of opinion that the concession should be made, as some increase of space was insisted on by the best sanitary authorities and by the vote of all the European Powers, including the Porte. The Government of India had no voice in this decision, but we propose to give effect to it from the 1st October next, from which date the new Act will come into force. We do not intend to stereotype the decision in the law, but to take power to regulate the space between-decks by rule so as to be in a position to take prompt advantage hereafter of any change of policy in this respect. The Convention itself is to hold good for five years only.

"The Convention provides that the upper deck shall be reserved for the use of the pilgrims and kept free of incumbrances. This is a useful provision and is inserted in the Bill.

"Not so defensible is the provision increasing the amount of hospital space so as to give accommodation to five per cent. of the pilgrims at 3 square metres (32 square feet) per head. This has, however, to be done.

"The Conference attached much importance to medical inspection of pilgrims before embarkation, to the disinfection of contaminated articles, and the detention of pilgrims suffering from cholera, or suspicious symptoms, or otherwise likely to carry infection. The Bill provides for all this.

"By another article of the Convention the captain of the pilgrim ship is bound to pay the whole amount of the sanitary taxes levied by the Turkish Government. This will of course be added to the price of the passage ticket. This proposal was adopted by the Conference on the ground that unless the Turkish authorities were assured of an adequate income from this source they could not be pressed to carry out much-needed sanitary reforms at their quarantine station and elsewhere in the Hedjaz. The difficulty felt by the Government of India in the matter is this. The pilgrimage of poor Muhammadans is not forbidden by Indian practice and is recognized by the Turks themselves, who exempt from fees persons too poor to pay them. I have here a letter from an Indian gentleman who made the pilgrimage this year. Writing of Camaran quarantine station he says:—

'A fee of Rs. 12-9 was charged as a quarantine fee, but I must say, to the credit of the authorities, that the fees of nearly 400 poor people in our camp were remitted without inquiry. Their words were accepted without a question.'

"Both the Government of India and Her Majesty's Government have repeatedly refused to make perquisition into the private means of intending pilgrims. Her Majesty's Government refused to accept an article in this very Convention which provided that no pilgrim should be allowed to sail unless he could show that he had ample funds in his possession for the journey. The Government of India would have been glad to leave the fees to be settled between the pilgrims and the Turkish authorities. We have, however, to provide in the Bill in accordance with the article which was adopted by the Conference, and this has been done. We have, nevertheless, made a suggestion to the Secretary of State, for the consideration of the Porte, that really needy pilgrims might be excused from payment of the sanitary taxes in addition to the steamer fare if they are granted passes signed by a District Officer or Political Officer on the advice of respectable Muhammadan residents of the neighbourhood in which they live, and countersigned by a Turkish Consul in India certifying that their pecuniary position justifies the exemption. This suggestion, if accepted, will, I hope, afford some relief to our poor Muhammadan subjects.

"The next matter to which we have given effect in the Bill is the appointment of a second Medical Officer on board a pilgrim ship carrying over 1,000 passengers. Few ships will now, with the enlarged limits of passenger space, carry anything like 1,000 passengers.

"The last change in the existing law to which I need refer is one introduced by the Government of India of its own motion. We have dropped the provision compelling pilgrim ships on the return voyage to call at Aden. It is on the return voyage in our belief that ships are most likely to be infected with cholera. We do not desire to have Aden placed in quarantine, as it would be if cholera ships were detained there. We are satisfied with the adequacy of our own port regulations for dealing with ships arriving here with cholera on board, and do not think it necessary on that account to compel them to call and detain them at Aden.

"I have now noticed all the main points in which this Bill differs from the Native Passenger Ships Act. Other differences are really only matters of drafting to make this a self-contained measure.

"The same power as now exists is taken to make rules, and in the rules we propose to give effect to those articles of the Convention that do not necessitate any provision of law. The changes in the rules will affect the water-supply, which has to be increased; the provision of a disinfecting stove; increased and improved latrine accommodation; the separation and deposit in the hold of all heavy luggage; the daily medical inspection of pilgrims on board; and a second medical inspection before the ship leaves if she is detained for more than two days after the pilgrims embark and cause for further inspection is suspected.

"My Lord, while I regret that some of the provisions of this Bill and of the Convention on which it is based will increase the cost of pilgrimage to our Muhammadan subjects, it is right that I should mention that Her Majesty's Government in concert with other Powers are doing all they can to induce the Turkish authorities to improve the sanitary arrangements of Camaran, the present quarantine station in the Red Sea for ships from India, and of the places of pilgrimage in the Hedjaz. Every effort is also being made to mitigate the hardships to which pilgrims have hitherto been exposed in Jeddah, Mecca and elsewhere: and notwithstanding the recent deplorable occurrence at Jeddah, in which a most excellent servant of the Indian Government, Vice-Consul Abdul Ruzzak, lost his life, and Her Majesty's Consul and the Consuls of other Powers were injured, or perhaps, I may say, in consequence of that occurrence, I am not without hope that we may ere long see a radical improvement in the conditions of the pilgrimage. The Government of India will certainly continue to urge such improvement and will lose no opportunity of safeguarding, as far as may be, the interests of its Muhammadan subjects."

The Motion was put and agreed to.

1895.] [*Sir Alexander Mackenzie; Sir Alexander Miller.*]

The Hon'ble SIR ALEXANDER MACKENZIE also introduced the Bill.

The Hon'ble SIR ALEXANDER MACKENZIE also moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English, and in the Fort St. George Gazette, the Bombay Government Gazette, the Calcutta Gazette and the Burma Gazette in English and in such other languages as the Local Maritime Governments think fit.

The Motion was put and agreed to.

CIVIL PROCEDURE CODE AMENDMENT BILL.

The Hon'ble SIR ALEXANDER MILLER moved for leave to introduce a Bill to amend sections 632 and 652 of the Code of Civil Procedure. He said:—"When the Supreme Courts in India were originally established, the Charters provided for the making of rules of procedure. I will only deal with the Charters of the Court in Calcutta, because, practically, I believe, there is no difference between these Charters and the Charters issued to Madras and Bombay. Section 38 of the Charter of 14 Geo. III—which created the Supreme Court of Calcutta—empowers that Court to frame rules of practice and to make standing orders for the administration of justice, and the due exercise of the civil, criminal, admiralty and ecclesiastical jurisdiction thereby created, and to do all such other things as should be found necessary thereunto. Such rules and orders were to be transmitted to the Privy Council, and that Council had power if they pleased to alter them, but otherwise they took effect under the Charter itself.

"The Sádr Court, which was then the Court of Appeal from the mufassal, was governed by rules of its own, ultimately superseded by the successive Codes of Civil Procedure.

"When the Supreme Courts and Sadr Courts were both merged in the present High Courts, section 9 of the Act of Parliament under which that was done provided that each of the High Courts to be established under that Act should have all civil, criminal, admiralty and vice-admiralty, testamentary, intestate and matrimonial jurisdiction of the old Supreme Courts, and all such powers and authority for and in relation to the administration of justice in the Presidency for which they were established as Her Majesty might by such Letters Patent as therein mentioned grant and direct, subject, however to such directions and limitations as to the exercise of original, civil and criminal jurisdiction beyond the limits of the Presidency-towns as might be prescribed

thereby; and, save as by such Letters Patent might be otherwise directed, and subject and without prejudice to the legislative powers in relation to the matters aforesaid of the Governor General of India in Council, the High Court to be established in each Presidency should have and exercise all jurisdiction and every power and authority whatsoever in any manner vested in any of the Courts in the same Presidency abolished under this Act at the time of the abolition of such last-mentioned Courts; that is to say, in either the old Supreme Court or the old Sadr Court.

"Then by the Letters Patent of the Calcutta High Court, section 37, it was ordained that it should be lawful for the Court from time to time to make rules and orders, for the purpose of regulating all proceedings in civil cases which might be brought before the said High Court; provided always that the said High Court should be guided in making such rules and orders as far as possible by the provisions of the Code of Civil Procedure, being an Act passed by the Governor General in Council, and being Act No. VIII of 1859, and the provisions of any law which had been made, amending or altering the same by legislative authority for India.

"Under these circumstances the present Code of Civil Procedure was passed which contains two provisions which it will be necessary for me to state shortly. First, section 632 says—'Except as provided in this chapter, the provisions of this Code shall apply to such High Courts,' that is to say, the Chartered High Courts.

"And section 652 says:—

'The High Court may, from time to time, make rules consistent with this Code to regulate any matter connected with its own procedure or the procedure of the Courts of Civil Judicature subject to its superintendence. All such rules shall be published in the local official Gazette, and shall thereupon have the force of law.'

"In practice, the old rules which were made by the Supreme Court, before it was turned into a High Court, or before it had anything to do with the civil procedure of the country at large, have to a certain extent continued operative, notwithstanding that they do not exactly coincide with the provisions of the Code of Civil Procedure. That I suppose has been done simply on the principle that as they were not formally set aside they might be considered as continuing. But a question as to the effect of these provisions has now arisen, because it is desired by the High Court of Calcutta to make certain new rules in order to regulate the commercial cases arising under the original jurisdiction in that

Court, which rules would be consistent with the old rules of the Supreme Court, but would not be altogether in conformity with the provisions of the Code of Civil Procedure; and the Judges of that Court have felt that, having regard to the provision that they are to be guided 'as far as possible' by the Code of Civil Procedure, they might be going beyond their powers if they were now to introduce a rule, which all agree would be a very desirable rule, but which would in some respects conflict with the provisions of the Code; and therefore they have asked—and the Government of India have considered their request a reasonable one—that provision should be made in the Code for such cases. What therefore we propose to do is to enact that, notwithstanding anything in the Code, the Chartered High Courts may make any rules of procedure consistent with their own Charters to regulate their original civil jurisdiction. We do not propose to give them any power to go outside the Code as regards the Courts subordinate to them, or as regards their appellate jurisdiction; but as regards their original civil jurisdiction, which is much more of the character of the jurisdiction of the old Supreme Courts than of the general litigation in the country, we propose to restore to the High Courts the same control over that particular jurisdiction that they had under their Charters before the Act creating a High Court was passed.

"With this explanation I beg to make the motion standing in my name."

The Motion was put and agreed to.

The Hon'ble SIR ALEXANDER MILLER also introduced the Bill.

The Hon'ble SIR ALEXANDER MILLER also moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English, and in the Fort St. George Gazette, the Bombay Government Gazette, the Calcutta Gazette and the North-Western Provinces and Oudh Government Gazette in English and in such other languages as the Local Governments think fit. He explained that practically there was no object in publishing the Bill in the North-Western Provinces and Oudh Government Gazette, because the High Court of those Provinces had no original civil jurisdiction; still there was no particular reason why it should be excepted from the motion.

The Motion was put and agreed to.

The Council adjourned to Thursday, the 25th July, 1895.

SIMLA;
The 12th July, 1895.

J. M. MACPHERSON,
Offg. Secy. to the Govt. of India,
Legislative Department.

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G. C. Press, Simla.—No. 169 L. D.—12-7-95.—328.