



SUPPLEMENT
TO THE
BOMBAY GOVERNMENT GAZETTE
CONTAINING
BILLS OF THE GOVERNMENT OF INDIA.

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THURSDAY, 4TH DECEMBER 1862.

Separate Paging is given to these Supplements, in continuation from one to the other, that the Bills may be collected into a separate Compilation.

HOME DEPARTMENT (Legislative).

The following Report of a Select Committee was presented to the Council of the Governor General of India for the purpose of making Laws and Regulations on the 19th November 1862:—

HOME DEPARTMENT—*Legislative.*

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 relating to Emigration to the British Colonial Dependency of Seychelles was referred, have the honour to report that no communication has been received on the subject of the Bill, and that we have no amendment to suggest.

(Signed) H. B. HARRINGTON.
" H. S. MAINE.
" C. J. ERSKINE.
" R. S. ELLIS.

The 14th November 1862.

M. WYLIE,

Depty. Secy. to the Govt. of India,
Home Department.

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 19th November 1862, and was referred to a Select Committee with instructions to make their Report thereon in two weeks:—

GOVT. INDIA BILLS—109

No. 53 of 1862.

A Bill to amend Act XI. of 1862 (to amend the duties of Customs on Goods Imported and Exported by Sea).

Whereas it is expedient to amend the law relating to Customs Duties; It is enacted as follows:—

I. Article 18 of Schedule A of the said Act New Article substituted XI. of 1862, and the Note for Article 18 of Schedule thereto, are repealed, and, A. instead thereof, the following words shall be read as Article 18, and the Note thereto:—

ARTICLE 18.—Machinery used exclusively for purposes of agriculture, navigation, mining, or manufacture, or for Railway purposes, and materials forming necessary component parts of such machinery Free.

And the Officer in charge of the Custom House, subject to the orders of the Local Government acting under the general instructions of the Government of India, shall decide what Articles come within the definition of such machinery or materials forming component parts thereof, and such decision shall be final in law.

II. The following Proviso shall be read after Proviso after Article 23 Article 23 of the said of Schedule A. Schedule A:—

Provided that 10 per cent. *ad valorem* shall be charged on all Spirits used exclusively in arts and manufactures, or in chemistry, subject to such

rules as the local Government shall, from time to time, prescribe for ascertaining that such Spirits are unfit for use as a beverage and incapable of being converted to that purpose. And the Officer in charge of the Custom House, subject to the general instructions of the Local Government, shall decide what Spirits fall within this Proviso, and his decision thereon shall be final in law.

III. The following additional Article shall be Additional Article of read as part of Schedule Schedule A. A of the said Act:—

Firewood.....Free.

IV. This Act shall be read and taken as part Act to be read as part of the said Act XI. of Act XI. of 1862. 1862.

STATEMENT OF OBJECTS AND REASONS.

This Bill proposes three amendments in Schedule A of Act XI. of 1862 (to amend the *Duties of Customs on Goods imported and exported by Sea*).

The first amendment proposed is in Article 18 of the Schedule relating to Machinery.

Previously to the passing of Act VII. of 1859, Machinery of all kinds imported by sea into the Presidencies of Bengal and Madras was liable to a duty of 3½ per cent. when imported on British Bottoms, and of 7 per cent. when imported on Foreign Bottoms. The same duties were chargeable at Bombay until the enactment of Act I. of 1852. Under the two Acts just mentioned Machinery imported for the improvement of the communications and the development of the resources of the country was allowed to be admitted free of duty, and by Act X. of 1860 the exemption was extended to Machinery of all kinds. The same general exemption is contained in Act XI. of 1862, which now regulates the rates of Custom duties on Goods imported or exported by Sea throughout the British Territories in India.

It is considered that the later enactments have carried the exemption from duty farther than was requisite or proper, and that they involve an unnecessary sacrifice of Customs Revenue. Under Article 18 as it now stands, it must be obvious that many articles included under the head of Machinery may be admitted free of duty, for the exemption of which no special or adequate ground exists. It is proposed therefore to revert to the rule in force previously to the passing of Act X. of 1860, and to confine the exemption from duty to Machinery used exclusively for purposes of agriculture, navigation, mining, or manufacture, or for Railway purposes and materials forming necessary component parts of such Machinery. The latter part of the Article, amended as proposed, appears a proper concession in favour of component parts of Machinery used exclusively for the purposes mentioned in the former part of the Article.

A slight alteration is also proposed in the Note to Article 18, in order to give the Local Governments, acting under the general instructions of the Government of India, authority to control the Officers of their respective Custom houses in construing the Article in question. A similar provision is contained in the new Customs Bill as regards the administration of the Department generally. There seems no doubt that the provision will conduce to the convenience of the public, while it will

leave full power in the hands of the Supreme Government to issue such instructions as it may consider necessary for the protection of the Customs Revenue, and for maintaining uniformity of practice in the several Presidencies.

The next alteration proposed is in Article 23 of the Schedule, which relates to the duty on Spirits. Under that Article, methylated Spirits, or Spirit used exclusively in arts or manufactures, or in chemistry, are liable, on importation by sea, to the same duty as Spirits intended for human consumption as a beverage. It is thought that, with a view to the promotion of arts and manufactures a distinction should be made between Spirits exclusively used for the purposes thereof, and Spirits used for other purposes. Spirits of Wine under certain restrictions are allowed to be used duty free in the United Kingdom, and when the Bill to amend the Law relating to the Abkaree Revenue of Bengal was before the late Legislative Council, a Section was proposed, the object of which was to place the law in India on the same footing in this respect as the law at home, but the proposition was opposed on two grounds. The first ground was that the state of the Finances at the time would not admit of our giving up any source of Revenue, and that, while we were imposing new taxes which would bear heavily on the poorer and lower classes we ought not to remit any existing tax, however wise it might be on principle to do so. The second ground was that no proper means existed in this country to prevent frauds on the Revenue.

With regard to the first of these grounds, the improvement which has taken place in the state of the Finances since this ground of objection was urged, has enabled the Government to remove the taxes alluded to as those which would affect the poorer and lower classes, and Financial considerations no longer appear to offer any obstacle to granting some remission of duty, which has again been asked for, in favour of Spirits used in manufactures and arts or in chemistry. The Government of Bengal supports the recommendation of the Board of Revenue at Calcutta for a reduction of the present duty on methylated Spirits, and these authorities seem to anticipate no difficulty in adopting measures which will prevent any abuses from taking place consequent on an alteration of the law. It is not, however, proposed to admit methylated Spirits free of duty. What is proposed is, that such Spirits shall be charged with duty at the rate of 10 per cent. *ad valorem*. The importation will also be subject to such rules as the Government shall, from time to time, prescribe for ascertaining that the Spirits are unfit for use as a beverage, and incapable of being converted to that purpose. Spirits distilled in the country, and which may be intended to be used in arts or manufactures or in chemistry, will be dealt with separately.

The third and last alteration proposed in the Schedule is the addition of an Article to exempt firewood when imported by Sea, from the payment of duty, thereby placing firewood on the same footing as coke and coal which are admitted free of duty. Owing to the large consumption on the Railways and other causes, firewood has risen greatly in price, and in some parts of the country it is becoming very scarce. It is desirable to encourage its importation as much as possible, but the present high duty is found to operate as a

serious impediment. The amount of Customs Revenue realized on this article is very trifling, and on Financial grounds there is no object in retaining the duty.

(Signed) H. B. HARRINGTON.

The 5th November 1862.

M. WYLIE,

Depty. Secy. to Govt. of India,
Home Department.

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 19th November 1862, and was referred to a Select Committee with instructions to make their report thereon in six weeks:—

No. 54 of 1862.

A Bill to define the jurisdiction and to regulate the procedure of the Courts of Civil Judicature in British Burmah, and to provide for the extension of certain Acts to the said Territory.

WHEREAS it is expedient to define the limits of the jurisdiction of the Courts of Civil Judicature in British Burmah; and whereas it is also expedient that the Code of Civil Procedure should have effect throughout British Burmah subject to certain alterations and provisos, and that provision should be made for extending the operation of certain Acts to the said Territory; It is enacted as follows:—

Preamble.

I. The Code called the Civil Code of the Province of Pegu is hereby repealed.

II. There shall be six grades of Courts in British Burmah, which shall be in addition to any Recorder's Courts, Courts of Small Causes, or other Courts established under any Act which may be hereafter passed, namely:—

1. The Court of the Extra Assistant of the third class, or the Myooke's Court.

2. The Court of the Extra Assistant of the second class, or the Tseekey's Court.

3. The Court of the Assistant Commissioner, and the Court of the Extra Assistant of the first class.

4. The Court of the Deputy Commissioner.

5. The Court of the Commissioner, and

6. The Court of the Chief Commissioner.

III. The Court of the Extra Assistant of the third class, or the Myooke's Court, shall have power to receive, try, and determine suits of every description not exceeding 500 Rupees in value or amount.

IV. The Court of the Extra Assistant of the second class, or the Tseekey's Court, shall have power to receive, try, and determine suits of every description not exceeding 3,000 Rupees in value or amount.

V. The Court of the Assistant Commissioner and the Court of the Extra Assistant of the first class shall have power to receive, try, and determine suits of every description not exceeding 5,000 Rupees in value or amount.

VI. The Court of the Deputy Commissioner shall have power to receive, try, and determine suits of every description exceeding 5,000 Rupees in value or amount, and appeals from the decisions, and, where an appeal is allowed by the Code of Civil Procedure, from the orders of the Courts of the Extra Assistants of the third class or the Myooke's Courts, and of the Courts of the Extra Assistants of the second class, or the Tseekey's Courts, and of the Courts of the Assistant Commissioners and Extra Assistants of the first class, in the District of such Deputy Commissioner.

VII. The Court of the Commissioner shall have power to hear and determine appeals from the original decisions and, where an appeal is allowed by the Code of Civil Procedure or by this Act, from the orders passed by the Courts of the Deputy Commissioners in the Division of such Commissioner. The Commissioner may also receive a second appeal from the decisions of the Courts of the Deputy Commissioners in his Division passed in regular appeal, reversing or modifying the decision of the Court of original jurisdiction, if on a perusal of the grounds of appeal and of the judgments of the Courts below, copies of which shall be filed with the petition of Appeal, a further consideration of the case shall appear to him to be requisite for the ends of justice. The decision or order of the Commissioner on such second appeal, whether for rejecting the appeal, or for confirming, modifying, or reversing the decision of the lower Appellate Court, shall be final, and no special appeal shall be allowed in such case to the Chief Commissioner from the decision of the Deputy Commissioner passed in regular appeal, or from the decision or order of the Commissioner of the Division passed on such second appeal.

VIII. The Court of the Chief Commissioner shall, except as provided in the last preceding Section, and in Section XVIII. of this Act, have power to hear and determine special appeals from the decisions passed in regular appeal by the Deputy Commissioners and by the Commissioners of Divisions.

IX. Every suit shall be instituted in the Court of the lowest grade competent to try it.

X. It shall be lawful for the Deputy Commissioner to withdraw any suit instituted in any Court subordinate to such Deputy Commissioner, and to try such suit himself or to refer it for trial to any other Court subordinate to his authority and competent in respect of the value of the suit to try the same. And it shall be lawful for the Chief Commissioner, or for the Commissioner of a Division, to order that the cognisance of any suit or appeal which shall be instituted in any Court

subordinate to such Chief Commissioner or Commissioner shall be transferred to any other Court subordinate to his authority and competent, in respect of the value of the suit or appeal, to try the same.

XI. If the suit be for land or other immovable property situate within limits of different Districts within the same Division, the suit may be brought in any Court otherwise competent to try it within the jurisdiction of which any portion of the land or other immovable property in suit is situate, but in such case the Court in which the suit is brought shall apply to the Commissioner of the Division for authority to proceed with the same. If the suit is brought in any Court subordinate to the Court of the Deputy Commissioner, the application shall be submitted to the Commissioner of the Division through the Deputy Commissioner to whom such Court is subordinate.

Suits for immovable property situate in different Districts.

Suits for immovable property situate in different Districts subject to different Commissioners.

XII. If the Districts within the limits of which the property is situate are subject to different Commissioners, the application shall be submitted to the Commissioner to which the District in which the suit is brought is subject, and the Commissioner to which such application is made may, with the concurrence of the Commissioner to which the other District is subject, give authority to proceed with the suit.

XIII. Except when otherwise provided in any Regulation or Act for the time being in force, an appeal shall lie from the decisions of the Courts of the Courts authorised by this Act to hear appeals from the decisions of those Courts.

Appeal to lie from all decisions except when expressly prohibited.

XIV. The memorandum of appeal prepared in the form and containing the particulars mentioned in the Code of Civil Procedure, shall be presented in the Court empowered to hear the appeal within the period hereinafter specified, unless the appellant shall show sufficient cause, to the satisfaction of such Court, for not having presented the memorandum of appeal within such period; that is to say, within thirty days if the appeal lie to the Court of a Deputy Commissioner, and six weeks if the appeal lie to the Commissioner of a Division. The period shall be reckoned from and exclusive of the day on which the judgment appealed against was pronounced, and also exclusive of such time as may be requisite for obtaining a copy of the decree from which the appeal is made. Appeals from orders, when such appeal is allowed by the Code of Civil Procedure or by this Act, shall be presented within the same period as appeals from decisions.

Memorandum of appeal to be presented to the Appellate Court within specified time.

XV. In cases of appeal preferred to a Deputy Commissioner under Section VI., or to a Commissioner under Section VII. of this Act, it shall not be necessary to summon the respondent in the first instance; and if upon

Deputy Commissioner and Commissioner may confirm decision of lower Court appealed from without summoning the respondent.

the perusal of the petition of appeal, and of the judgment of the Court below, or of the whole or any part of the record of the original suit, in the presence of the appellant or of his duly constituted agent, the Deputy Commissioner or the Commissioner, as the case may be, shall see no reason to alter the decision appealed from, it shall be competent to him to confirm the same, recording his reasons for rejecting the appeal. In such case, the Deputy Commissioner or the Commissioner shall cause the order for confirmation to be made known to the respondent through the Court from whose decision the appeal was made.

XVI. Applications for a second appeal under Section VII. of this Act shall be preferred in the manner and within the period prescribed in the last preceding Section for regular appeals, to the Commissioner of a Division, and if the Commissioner shall see fit to admit any such second appeal, it shall be heard and determined in every respect as an ordinary regular appeal.

XVII. Applications for the admission of a special appeal, which the Chief Commissioner is empowered by Section VIII. of this Act, to receive and determine, may be on any of the grounds specified in Section 372 of the Code of Civil Procedure. The application shall be presented within ninety days reckoned from and exclusive of the day on which the judgment of the lower Appellate Court was pronounced, and also exclusive of such time as may be requisite for obtaining a copy of the decree appealed against, unless the applicant shall show sufficient cause, to the satisfaction of the Chief Commissioner, for not having presented the application within such period. The application shall be subject to all the conditions, whether as regards Stamp duty, remission of a portion thereof when the application is made in *forma pauperis*, or otherwise contained in the said Code in cases of application for the admission of a special appeal to the Sudder Court.

Applications for the admission of a special appeal, which the Chief Commissioner is empowered by Section VIII. of this Act, to receive and determine, may be on any of the grounds specified in Section 372 of the Code of Civil Procedure. The application shall be presented within ninety days reckoned from and exclusive of the day on which the judgment of the lower Appellate Court was pronounced, and also exclusive of such time as may be requisite for obtaining a copy of the decree appealed against, unless the applicant shall show sufficient cause, to the satisfaction of the Chief Commissioner, for not having presented the application within such period. The application shall be subject to all the conditions, whether as regards Stamp duty, remission of a portion thereof when the application is made in *forma pauperis*, or otherwise contained in the said Code in cases of application for the admission of a special appeal to the Sudder Court.

XVIII. No special appeal shall lie from any decision or order which shall be passed in regular Appeal by any Court after the passing of this Act, in any suit of the nature cognizable in Courts of Small Causes under Act XLII, of 1860, when the debt, damage, or demand for which the original suit shall be instituted shall not exceed the sum of five hundred Rupees.

XIX. If in any case of regular Appeal in which under the last preceding Section no special appeal is allowed or in any case of second Appeal admitted under Section VII. of this Act, any question of law or usage having the force of law, or the construction of a document affecting the merits of the case shall arise, on which the Court trying the Appeal shall entertain reasonable doubts, the Court may, either of its own motion or on the application of either of the parties to the Appeal, draw up a statement of the case, and submit such statement with its own opinion for the decision of the Chief Commissioner. The provisions contained in Sections 29 to 34 of Act XXIII. of 1861 (*to amend Act VIII. of 1859, for simplifying the procedure of the Courts of Civil Judicature not established by Royal Charter*) shall

No special appeal from decision of any Court in suits cognizable in Small Cause Courts.

Reference of question to the Chief Commissioner.

Section no special appeal is allowed or in any case of second Appeal admitted under Section VII. of this Act, any question of law or usage having the force of law, or the construction of a document affecting the merits of the case shall arise, on which the Court trying the Appeal shall entertain reasonable doubts, the Court may, either of its own motion or on the application of either of the parties to the Appeal, draw up a statement of the case, and submit such statement with its own opinion for the decision of the Chief Commissioner. The provisions contained in Sections 29 to 34 of Act XXIII. of 1861 (*to amend Act VIII. of 1859, for simplifying the procedure of the Courts of Civil Judicature not established by Royal Charter*) shall

be applicable to the statement so submitted, and the Chief Commissioner shall proceed in the case under the Rules contained in the said Sections for the direction of the Sudder Court so far as the same are applicable.

XX. Applications to be allowed to appeal in

Applications to appeal in *formâ pauperis* shall be written on Stamp paper of the value of one Rupee if the Appeal lie to the Court of the Deputy Commissioner, and on Stamp paper of the value of two Rupees if the Appeal lie to the Court of the Commissioner or to the Court of the Chief Commissioner, and shall be presented in the Court competent to receive the same within the period prescribed by this Act for the presentation of Appeals from decisions, or when the application is made to the Chief Commissioner within the period prescribed by this Act for the presentation of an application for the admission of a special Appeal.

XXI. Any person considering himself aggrieved by a decree of a Court of original jurisdiction from which no Appeal shall have been preferred to a superior Court, or by a decree passed in appeal from which no second or special Appeal shall have been admitted, or by a decree of the Court of the Chief Commissioner, from which either no Appeal shall have been preferred, to Her Majesty in Council, or any Appeal having been preferred no proceedings in the suit shall have been transmitted to Her Majesty in Council, and who from the discovery of new matter or evidence which was not within his knowledge, or could not be adduced by him at the time when such decree was passed, or from any other good and sufficient reason, may be desirous of obtaining a review of the judgment passed against him, may apply for a review of judgment by the Court which passed the decree.

On what grounds review of Judgment may be applied for.

Such application shall be presented within the period of ninety days from the date of the decree sought to be reviewed, unless the applicant shall show good and sufficient reason for not presenting it within such period.

Time for presentation of application for review.

XXII. Act XIX of 1841 (*for the protection of*

Extension of certain Acts to British Burmah.

movable and immovable Property against wrongful Possession in cases of successions), Act XL of 1858 (*for making better provision for the care of the persons and property of Minors in the Presidency of Fort William in Bengal*) and Act IX. of 1861 (*to amend the law relating to Minors*) are hereby extended to British Burmah.

All cases or proceedings arising under the said Acts or under Act XXXV. of 1853 (*to make better provision for the care of the estates of Lunatics not subject to the jurisdiction of the Supreme Court of Judicature*) or Act XXVII. of 1860 (*for facilitating the collection of debts on successions, and for the security of parties paying debts to the representatives of deceased persons*) shall be received and determined by the Deputy Commissioner of the District, subject to the provisions in the said Acts contained, respectively, as to jurisdiction and otherwise. All orders passed by the Deputy Commissioners in such cases or proceedings

Trial of cases or proceedings under the above and other Acts.

Appeal.

Appeal.

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shall be open to appeal to the Commissioner of the Division, provided that no such appeal shall be allowed unless it be presented within thirty days from the date of the order appealed against, or unless the party making the appeal can show good and sufficient cause to the satisfaction of the Commissioner for not presenting the appeal within such period. The order of the Commissioner on any such Appeal shall be final.

XXIII. Except as is in this Act otherwise provided, the proceedings in Civil suits of every description between party and party brought in the Courts of Civil Judicature in British Burmah mentioned in Section II. of this Act, shall be regulated by the said Code of Civil Procedure, and, except as otherwise provided by this Act, or by any Law which may hereafter be passed, by no other Law or Regulation.

Procedure of Civil Courts in British Burmah to be regulated by Code of Civil Procedure.

XXIV. Act XIV. of 1859 (*to provide for the Limitation of Suits*), as amended by Act XIV of 1862, is hereby extended to the Province of Pegu, and shall take effect therein from the date on which this Act comes into operation in British Burmah in supersession of any law of limitation in force in the said Province. Provided that all suits pending in any of the Civil Courts in the said Province upon the date upon which this Act comes into operation in British Burmah shall, so far as regards the provisions in this Section contained, be tried and determined as if this Act had not been passed.

XXV. Except as otherwise provided in this Act, the powers vested in the Sudder Court by the Code of Civil Procedure, shall be exercised in British Burmah by the Chief Commissioner.

XXVI. Except as provided in Section XIX. of this Act, the Stamp Duties prescribed by Schedule B, annexed to Act X. of 1862 (*to consolidate and amend the law relating to Stamp Duties*) for Instruments and Writings in the Sudder Court and the Courts subordinate to the Sudder Court, shall be chargeable on Instruments and Writings in the Court of the Chief Commissioner and the several Courts subordinate to the Chief Commissioner.

XXVII. The local jurisdiction of a Deputy Commissioner shall be deemed a District for the purpose of this Act, and the Court of such Deputy Commissioner shall be deemed the District Court within the meaning of the Code of Civil Procedure.

XXVIII. This Act shall come into operation on the 1st day of January 1863.

Commencement of Act.

STATEMENT OF OBJECTS AND REASONS.

This Bill, while maintaining all the existing classes of Courts in British Burmah, defines the jurisdiction to be exercised by each class of Courts, and lays down rules for the admission of Regular as well as Second and Special Appeals, which, it is considered, will greatly improve the administration of Civil Justice in that branch of the Department.

Special Appeals will be admissible under the Bill on the same grounds on which such Appeals may be admitted in the Regulation Provinces, that is, on the ground of the decision of the Court below, being contrary to some law or usage having the force of law, or of a substantial error or defect in law, or in the procedure or investigation of the case which may have produced error or defect in the decision of the case upon the merits. Special Appeals will be cognizable by the Chief Commissioner alone in his capacity of Judicial Commissioner, or principal Civil Judge of the Province. In order to keep the law settled, it is obviously desirable that there should be only one tribunal for the determination of the questions which may arise in Special Appeal. But it is proposed that the Divisional Commissioners shall be allowed, on certain conditions, to admit a Second Appeal from the decisions passed in Regular Appeal by the Officers subordinate to them. No such Appeal is allowed in the Regulation Provinces, but, looking to the comparatively short period that British Burmah has been subject to our rule, and to other circumstances, it is thought desirable that, for a time at least, the Appellate Authorities immediately over the District Officers should possess larger powers of interference with the decisions of their subordinates than are exercised by the corresponding Authorities in our older Provinces.

The Bill proposes to extend the Code of Civil Procedure, with some modifications, to British Burmah generally. The Code is already in force, under an order of the Supreme Government, in the entire Territory, with exception to the Province of Pegu, in which the proceedings of the Civil Courts are regulated by a Code prepared by Major Sparks, the Commissioner of Pegu, and which bears that Officer's name. Major Sparks' Code does not differ very materially from the Code of Civil Procedure, but it is considered that there should be a uniform Code for the whole Province. The modifications proposed to be made in the Code in its application to British Burmah do not affect the general principles on which the Code is based. They relate chiefly to the powers to be exercised, in certain matters, by the controlling Authorities, and are considered desirable to adapt the Code to the peculiarities of the Province.

It was thought that the Governor General in Council, acting under the authority conveyed in one of the concluding Sections of the Code, might extend the Code, by an order in Council, to the Province of Pegu, but the learned Advocate General has given it as his opinion that, as, subsequently to the passing of the Code, the Supreme Government sanctioned Major Sparks' Code being introduced into the Province of Pegu, and the order conveying such sanction has since received the force of law by a Section in the Indian Councils Act of last year, an Act of the Legislature is necessary to repeal Major Sparks' Code and to authorise the substitution for it, within the Province of Pegu, of the Code of Civil Procedure contained in Act VIII. of 1859.

The Bill further proposes to extend to the Province of Pegu, in supersession of the Law of Limitation contained in Major Sparks' Code, the general Law of Limitation contained in Act XIV. of 1859, which is already in force in the remaining portion of the Territory. The opinion given by the Advocate General that a new law is necessary to introduce the Code of Civil Procedure into the

Province of Pegu, in the place of Major Sparks' Code, applies equally to the general law of Limitation. Major Sparks has proposed two slight alterations in the general Law of Limitation, should it be determined to extend that law to British Burmah; and the Chief Commissioner agrees with him, and thinks that, so far as British Burmah is concerned, the two alterations proposed by Major Sparks should be made general. One of these alterations relates to claims for the partition of joint undivided Estates, and the other to Mortgages. The first alteration appears to me to be unnecessary, and to have been proposed under a mistaken view of the law. The other proposed alteration ought not, in my opinion, to be adopted. The other Acts which the Bill proposes to extend to British Burmah have been, for some time, in force in other parts of India, and have been found to work well, and as cases such as those to which the provisions of these Acts are applicable, must frequently occur in British Burmah, where no law now exists for their disposal, the extension of the Acts to the Province seems desirable.

(Signed) H. B. HARRINGTON.

The 5th November 1862.

M. WYLIE.

Depty. Secy. to the Govt. of India,
Home Department.

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 19th November 1862, and was referred to a Select Committee with instructions to make their Report thereon in six weeks:—

No. 55 of 1862.

A Bill to regulate the admission of Appeals to Her Majesty in Council from certain judgments and Orders in Provinces not subject to the General Regulations.

WHEREAS it is expedient to regulate the admission of Appeals to Her Majesty in Council from certain judgments and orders in Provinces not subject to the General Regulations; It is enacted as follows:—

I. If a party in a suit is desirous of preferring an Appeal to Her Majesty in Council from any final judgment, decree, or order made on Appeal or revision by the Court of highest Civil jurisdiction in any Province in British India not subject to the General Regulations, or from any such final judgment, decree, or order made in the exercise of original jurisdiction by the said Court, in any case in which the sum or matter at issue is above the amount or value of 10,000 Rupees, or in which such judgment, decree, or order shall involve, directly or indirectly any claim, demand, or question, to, or respecting, property amounting to or of the value of 10,000 Rupees, or from any other final judgment, decree, or order made either on appeal or otherwise as aforesaid, when the said Court shall declare that the case is a fit one for appeal to Her Majesty in Council, such Court shall admit such Appeal, subject to such rules and orders as shall be in force, or shall from time to time be made in that behalf by Her Majesty in Council in respect of such Appeals from Her Majesty's High Courts of Judicature in British India.

II. It shall further be lawful for such Court, at its discretion, upon the petition of any party who considers himself aggrieved by any preliminary or interlocutory judgment, decree, order, or sentence of such Court in any such proceeding as aforesaid (not being of Criminal jurisdiction), to grant permission to such party to appeal against the same to Her Majesty in Council, subject to such rules, regulations, and limitations as shall be in force, or as shall, from time to time, be declared by Her Majesty respecting Appeals from final judgments, decrees, orders, and sentences of Her Majesty's said High Courts of Judicature.

III. On the admission or permission of the Appeal by the Court as hereinbefore provided, the Court shall forthwith cause notice to be given to the other party that the Appellant has preferred an Appeal to Her Majesty in Council.

IV. The Court, if applied to, may either order the Judgment or determination appealed against to be enforced, taking sufficient security for the performance of such order or decree as Her Majesty in Council may make on the Appeal; or it may direct, on similar security being found, that no order for enforcing the judgment or determination shall be issued pending the Appeal, and that, if any such order has been issued, it shall, so far as it has not been executed, be suspended.

V. In either of the cases mentioned in the last preceding Section, the Court shall require the Appellant to find security for the payment of such costs as it may think likely to be incurred by the Appeal.

VI. If a party who is desirous of preferring an Appeal to Her Majesty in Council in any of the cases mentioned in Section I. or Section II. of this Act, shall require the assistance of the said Court for obtaining security from the other party for staying execution of the judgment, decree, order, or sentence that has been passed, or for any other purpose, he shall present his Petition to the said Court within six calendar months from the date of the judgment or determination appealed against.

VII. If at any time pending an Appeal under this Act, the security taken from either party appears inadequate, whether from the increase or improvement of the property forming the subject of appeal, or from the insufficiency of the securities, the Court before which the Appeal is pending may, on the application of the other party, require further security.

VIII. In default of such further security being found, if the original security was furnished by the Appellant, the Court may issue an order for enforcing the judgment or determination appealed against as if no such original security had been given, and if the original security was furnished by the respondent, the Court,

so far as may be practicable, shall compel him to deliver up the property forming the subject of appeal, which shall be disposed of in conformity with such of the rules in force as may be applicable to the particular case.

IX. In every case of Appeal under this Act, the Court shall certify and transmit to Her Majesty in Council under the seal of the Court two true and Correct copies of all evidence, proceedings, judgments, decrees, and orders, had or made in the case appealed, so far as the same have relation to the matters of appeal, together with a copy of the reasons given by such Court for or against the judgment or determination appealed against.

X. The expense of preparing the two aforesaid copies, and of translating into English so much of the original documents as may not be in that language, shall be defrayed by the party prosecuting the Appeal.

XI. The Court shall cause the deposit by the Appellant, within the time allowed for furnishing security for costs of Appeal, of such a sum as shall be sufficient to cover the expense of making the two aforesaid copies, and when such deposit shall have been made, and not till then, to declare the Appeal admitted, and to give notice thereof to the Appellant and respondent respectively.

XII. Either party, on application, may obtain one or more authenticated copies of any of the papers in the suit on paying the reasonable expenses incurred in preparing them.

XIII. Either party, in like manner, may obtain an authenticated copy of any local regulation or law which he may require in the Appeal.

XIV. The orders or decrees of Her Majesty in Council, when duly certified, shall be enforced and executed, under the directions of the said Court, by the Judge or Officer by whom the suit was originally tried in such manner and according to the rules and laws applicable to the execution and enforcement of original orders or decrees made by such Judge or Officer.

XV. Any party desirous of enforcing or obtaining execution of any such decree or order made in Appeal as aforesaid, shall present a petition for that purpose, to the Court which made the first decree or order appealed from, and the said petition shall be accompanied by a certified copy of the decree or order made in Appeal and sought to be enforced or executed.

XVI. An Appeal shall lie from any decree or order made by such last mentioned Court relating to the enforcement or execution of any such decree or order made in appeal

as aforesaid in the same manner and subject to the same laws, rules, and regulations as an Appeal from an order or decree made upon a petition for the enforcement of execution of the decree or order first appealed from, would have been.

XVII. Nothing herein contained shall be construed so as to prevent the said Court of highest Civil jurisdiction from enforcing or obtaining execution of a decree or order made or passed by Her Majesty in Council, if Her Majesty in Council shall think fit to decree or order the said Court to enforce or execute the same.

XVIII. Nothing in this Act contained shall be understood to bar the full and unqualified exercise of Her Majesty's pleasure upon all Appeals to Her, either in rejecting any she may consider inadmissible, or in receiving any she may judge admissible.

XIX. The words "British India" denote the Territories which are or may become vested in Her Majesty by the said Statute 21 and 22 Vic. c. 106, entitled "An Act for the better Government of India."

STATEMENT OF OBJECTS AND REASONS.

The object of this Bill is to extend to the Non-Regulation Provinces the Rules relating to the admission of Appeals to Her Majesty in Council, and to the execution of the decrees passed on such Appeals which are now in force in the Regulation Provinces of the three Presidencies.

The right of Her Majesty to admit appeals from decisions passed by the Courts in the Non-Regu-

lation Provinces, equally with appeals from the decisions passed by the Courts in the Regulation Provinces, is not questioned. But there is no law empowering the Courts in the Non-Regulation Provinces to allow or even to receive Appeals from their decisions to the Queen in Council, or of their own authority, to transmit the records of the cases in which the appeal is made, or a translation of the papers, to England. The consequence is that parties wishing to appeal to the Queen in Council from decisions passed by the Courts in the Non-Regulation Provinces, are compelled to prefer their Appeals direct to the Privy Council, and an order has to be sent from home for the translation of the papers and their transmission to England. This necessarily adds to the expense of the Appeal, and also causes delay in the hearing and decision of the Appeal. The present Bill is introduced in consequence of the receipt of a communication from the Registrar of the Privy Council intimating that, in the opinion of the Lords of the Judicial Committee of the Privy Council, measures should be taken to place the prosecution of Appeals from the highest Civil tribunals in the Non-Regulation Provinces on the same footing as Appeals to Her Majesty in Council from the Courts in the Presidencies of Bengal, Madras, and Bombay.

It is proposed shortly to revise the existing rules relating to Appeals to Her Majesty in Council from the Courts in this country, and to frame a new Code of Rules to regulate such Appeals; but some time must necessarily elapse before the new Code is ready for promulgation.

(Signed.) H. B. HARINGTON.

The 5th November 1862.

M. WYLIE.

Depy. Secy. to the Govt. of India,
Home Department.