

[Published with the "Bombay Government Gazette" of the 21st March 1872.]

PART VI.

BILLS OF THE GOVERNMENT OF INDIA.

LEGISLATIVE 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 28th February 1872, and was referred to a Select Committee with instructions to make their report thereon in a month:—

Bill No. 2 of 1872.

A Bill to provide for the Extradition of Criminals and for the trial of offences in Native States.

WHEREAS various Courts have been established by the Governor General in Council beyond the limits of British India for the trial of offences committed by British subjects beyond such limits; and whereas it is expedient to consolidate and amend the law relating to such Courts, and to offences committed by British subjects, beyond the limits of British India, and to the extradition of criminals; It is enacted as follows:—

1. This Act may be called "The Native Courts and Extradition Act, 1872":

Local extent. It extends to the whole of British India;

to all Native Indian subjects of Her Majesty without and beyond the Indian territories under the dominion of Her Majesty; and

to all European British subjects within the dominions of Princes and States in India in alliance with Her Majesty;

Commencement. And it shall come into force on the passing thereof.

2. The enactments mentioned in the first schedule hereto annexed are repealed to the extent specified in the third column thereof.

"Political Agent" defined. 3. In this Act the expression 'Political Agent' means and includes—

(1) the principal officer representing the British Government in any Native State;

(2) any officer in British territory appointed by the Governor General in Council to act as Political Agent for any place not forming part of the British territory.

v1.—64 c

'Native State' means, in reference to Native Indian subjects of Her Majesty, all States without and beyond the Indian territories under the dominion of Her Majesty; and, in reference to European British subjects, it means the dominions of Princes and States in India in alliance with Her Majesty.

COURTS IN NATIVE STATES.

4. The Governor General in Council may establish Courts of Justice with criminal jurisdiction for the trial of offences committed by Native Indian subjects of Her Majesty in the territories of Native States and Princes in and adjacent to British India.

Notification of establishment of such Courts. 5. The establishment of such Courts shall be notified in the Gazette.

The notification shall state:

(1.) What powers the Court is to have.

(2.) What is to be the course of commitment, and of appeal and revision to which the proceedings and judgments of such Courts are to be subject; and whether such Courts are in any, and, if so, in what, cases to report their proceedings to the Governor General in Council or to the Local Government for final orders.

(3.) What is to be the local area of the Court's jurisdiction within which they are to exercise the powers hereinafter described.

Every such notification shall have the force of law.

6. The Governor General in Council may also appoint any European British subject in any such State or territory to be a Justice of the Peace, and every such Justice of the Peace shall have all the powers conferred on Justices of the Peace by any law in force for the time being in British India. The Governor General in Council may direct to what Court having jurisdiction over European British subjects any such Justice of the Peace is to commit for trial.

7. All Courts heretofore established, and all Justices of the Peace heretofore appointed by the Governor General in Council in any such Foreign State as aforesaid, shall be deemed to be and to have been established and appointed, and to have had jurisdiction under the provisions of this Act.

8. The law relating to crimes and to criminal procedure in force in British India for the time being, shall extend to all British subjects, European and Native, in the territories of Native States and Princes in and adjacent to British India.

9. The Courts hereinbefore referred to shall have the same jurisdiction to inquire into, try and determine all charges against British subjects, European or Native, charged with any offence against such laws, as Courts with the same powers would have in British India, subject to such rules as may be contained in the notification by which they are established, or in any orders heretofore issued by the Governor General in Council.

INQUIRIES IN BRITISH INDIA INTO CRIMES COMMITTED BY BRITISH SUBJECTS IN NATIVE STATES.

10. All British subjects, European and Native, in the British territories, may be dealt with in respect of offences committed by them in Native States as if such offences had been committed in any place within the British territories in which any such subject may be or may not be found:

Provided that no charge as to any such offence shall be inquired into unless the Political Agent for the territory in which the offence is said to have been committed certifies that, in his opinion, the charge is one which ought to be inquired into.

11. All such proceedings shall be taken by officers in British territory for compelling the appearance of such persons before the British officers having jurisdiction in the Native territory in which the alleged offences were committed as might be had in British territory for compelling the appearance in one district of a person charged with committing an offence in another district:

Provided that any proceedings taken against any person under section ten which would be a bar to subsequent proceedings against such person for the same offence, if the offence had been committed in British territory, shall be a bar against further proceedings against him in respect of the same offence in Native territory under this section:

Provided, also, that the Political Agent may give over any such person being a Native Indian subject of Her Majesty to be tried by the ordinary Courts of the territory in which the offence was committed, if he is generally or specially directed to do so by the Governor General in Council, or by the Governors in Council of Madras and Bombay respectively.

12. Whenever any such offence as is referred to in section ten is being inquired into or tried, the Local Government may, if it thinks fit, direct that copies of depositions taken or exhibits produced in a State in which such offence is alleged to have been committed, or exhibits filed before a competent judicial officer of such State, shall be received as evidence by the Court holding such inquiry or trial, as though made or produced before such Court.

EXTRADITION.

13. When an offence has been committed or is supposed to have been committed in any such State against the law of such State by a person not being a European British subject, and such person escapes into, or is in British territory, the Political Agent may issue a warrant for his arrest and delivery at a place in such State, and to an officer of such State to be named in the warrant,

if he thinks that the charge is one which ought to be inquired into,

and if the act said to have been done would, if done in British India, have constituted an offence against any of the sections of the Indian Penal Code mentioned in the second schedule hereto,

or under any other section which may, from time to time, be specified by the Governor General in Council by a notification in the Gazette.

The warrant may be directed to the Magistrate of any district in which the accused person is believed to be, and shall be executed in the manner provided in the Code of Criminal Procedure; and the accused person, when arrested, shall be forwarded to the place and officer named in the warrant.

14. The Governor General in Council may make, and may from time to time alter, rules to provide for—

(1) the confinement, diet, and prison discipline of British subjects, European or Native, imprisoned by Political Agents under this Act;

(2) the removal of accused persons under this Act, and their control and maintenance until such time as they are handed over to the authorities of the State in which the offence is alleged to have been committed;

(3) and generally to carry out the purposes of this Act.

SCHEDULE I.

Number and year.	Title.	Extent of repeal.
26 Geo. III., C. 57..	An Act for the further Regulation of the trial of Persons accused of certain offences committed in the East Indies; for repealing so much of an Act made in the twenty-fourth year of the reign of his present Majesty (intituled "An Act for the better Regulation and Management of the Affairs of the East India Company, and of the British Possessions in India, and for establishing a Court of Judicature for the more speedy and effectual trial of Persons accused of Offences committed in the East Indies"), as requires the Servants of the East India Company to deliver Inventories of their Estates and Effects; for rendering the Laws more effectual against Persons unlawfully resorting to the East Indies; and for the more easy proof, in certain cases, of Deeds and Writings executed in Great Britain or India.	Section 29.
33 Geo. III., C. 52..	An Act for continuing in the East India Company, for a further term, the possession of the British Territories in India, together with their exclusive Trade, under certain limitations; for establishing further Regulations for the government of the said Territories, and the better Administration of Justice within the same; for appropriating to certain uses the Revenues and Profits of the said Company; and for making provision for the good order and government of the Towns of Calcutta, Madras and Bombay.	Section 67.
Act. I. of 1849 . . .	An Act to provide more effectually for the punishment of offences committed in Foreign States.	The whole.
Act VII. of 1854....	An Act for the apprehension within the territories under the Government of the East India Company, of persons charged with the commission of heinous offences beyond the limits of the said territories, and for delivering them up to Justice, and to provide for the execution of warrants in places out of the Jurisdiction of the authorities issuing them.	So much as is unrepealed.

SCHEDULE II.

SECTIONS OF THE INDIAN PENAL CODE REFERRED TO IN SECTION 12.

Sections 230 to 263, both inclusive; sections 299 to 304, both inclusive; sections 307, 310 and 311; sections 312 to 317, both inclusive; sections 323 to 333, both inclusive; sections 347 and 348; sections 360 to 373, both inclusive; sections 375 to 377, both inclusive; sections 378 to 414, both inclusive; sections 435 to 440, both inclusive; sections 443 to 446, both inclusive; sections 464 to 468, both inclusive; sections 471 to 477, both inclusive.

STATEMENT OF OBJECTS AND REASONS.

The object of this Bill is to throw the existing law as to offences committed in foreign territory into a more compact and convenient form; to provide in a distinct manner for the establishment of Courts in Native States for the trial of British subjects; and to lay down the conditions under which Extradition can be enforced.

(Signed) J. F. STEPHEN.

H. S. CUNNINGHAM,

*Officiating Secretary to the Council of the
Governor General for making
Laws and Regulations.*

The following Bill was introduced into the Council of the Governor General of India for the purpose of making Laws and Regulations on the 28th February 1872, and was referred to a Select Committee, with instructions to make their report thereon in a month:—

Bill No. 3 of 1872.

A Bill to amend Act XXIV. of 1867.

WHEREAS it is expedient to amend Act XXIV. of 1867; It is hereby enacted as follows:—

Preamble.

1. In section three of Act XXIV. of 1867, after the words "Presidency of Bengal includes the territories which are or shall for the time being be respectively under the Governments of the Lieutenant Governors of Bengal, the North-Western Provinces, and the Panjáb, and under the administrations of the Chief Commissioners of Oudh, the Central Provinces and British Burmah," the following shall be read:—

"and such other places within the territories of Native States and Princes in alliance with Her Majesty as shall be from time to time declared by the Governor General in Council by notification in the Gazette to form part of the Presidency of Bengal."

Amendment of section 52 of said Act. 2. After section 52 of the said Act, the following shall be read:—

"*Explanation.*—When an Administrator General, representing or having taken out letters of administration to an estate, pays, sets aside in account, or otherwise deals with any of the assets of such estate, at the request of an Executor or Administrator of such estate not in British India,

or, having declared a dividend or payment in full of the debts due by any estate which he represents, sets aside the funds to meet such dividend or payment in full on account of the creditors,

or, after payment of the debts due by any such estate, sets aside any of the assets of such estate to the account of a person entitled to a share in or legacy payable out of such estate,

there shall be and shall be deemed to have been a 'distribution' of the assets so paid, set aside or dealt with, within the meaning of this section, and of section 27 of Act VIII. of 1855."

3. This Act shall be read as part of the said Act XXIV. of 1867. read as part of the said Act XXIV. of 1867.

STATEMENT OF OBJECTS AND REASONS.

The object of this Bill is to enable the Governor General in Council to extend the Administrator General's Act, 1867, to places in Native Indian States in which, owing to the existence of a considerable European community, it is desirable that the Administrator General should be able to act. This has been done by providing that the "Presidency of Bengal" shall, for the purposes of the Act, include such places in Native States as the Governor General shall, by notification in the Gazette, declare to belong to it.

The occasion has also been taken to clear up some uncertainty which at present exists as to the meaning of the word "distribution" in section 52.

(Signed) J. F. STEPHEN.

The 7th February 1872.

H. S. CUNNINGHAM,

Officiating Secretary to the Council of the Governor General for making Laws and Regulations.