

Saturday, May 15, 1858

**LEGISLATIVE COUNCIL  
OF  
INDIA**

**VOL. 4**

**JAN. - DEC.**

**1858**

**P . L .**

PROCEEDINGS

OF THE

LEGISLATIVE COUNCIL OF INDIA,

January to December 1858.

Published by the authority of the Council.

A. SAVINLE, CALCUTTA PRINTING AND PUBLISHING COMPANY (LIMITED),  
NO. 1, WESTON'S LANE, COSSITOLLAH.

1858.

other real property, of which possession may have been wrongfully taken during the recent disturbances in the North-Western Provinces of the Presidency of Bengal" to the President in Council, in order that it may be submitted to the Governor General for his assent.

Agreed to.

#### MERCHANT SEAMEN.

MR. LEGEYT moved that a communication received by him from the Bombay Government be laid upon the table and referred to the Select Committee on the Bill "for the amendment of the law relating to Merchant Seamen."

Agreed to.

The Council adjourned.

Saturday, May 15, 1858.

#### PRESENT :

The Honorable the Chief Justice, <i>Vice-President</i> , in the Chair.	
Hon'ble J. P. Grant,	E. Currie, Esq.,
Hon'ble Major General Sir James Outram,	H. B. Harrington, Esq.
Hon'ble H. Ricketts,	and
Hon'ble B. Peacock,	H. Forbes, Esq.
P. W. LeGeyt, Esq.,	

#### NEW MEMBER (MADRAS).

MR. FORBES was duly sworn, and took his seat as Legislative Councillor of the Council of India for the Presidency of Fort St. George.

#### REMOVAL OF PRISONERS.

MR. CURRIE moved the first reading of a Bill "to make further provision for the removal of Prisoners." He said, the power of removing persons under sentence of imprisonment from one place of confinement to another had always existed, though it had not always been vested in the same authority. By Regulation LIII. 1803, the Court of Nizamut Adawlut was declared competent to order the removal of all convicts under sentence of imprisonment to any jail or district within the Company's possessions in which it might be thought proper to keep or employ them during the period of their respective sentences, although no specific sentence of banishment might have been passed

*Mr. Harrington*

against them. Under this Regulation, therefore, the Sudder Court had the power of ordering the removal of a prisoner beyond the bounds of the Presidency to which the Court's jurisdiction was limited, provided the place of removal was within the Company's possessions. The Regulation had been virtually superseded by Act VII of 1850, which provided that—

"When any person is under sentence of imprisonment within the territories under the Government of the East India Company, or any other authority other than that of one of the Supreme Courts of Judicature established by Royal Charter, the Governor or Governor in Council, or other person administering the Government of the Presidency or place, may order the removal of such prisoner from the prison or place in which he is confined, to any other public prison or place of confinement within the same Presidency or Government."

Thus, the power of removal which was formerly vested in the Sudder Court, was transferred to the local Governments— with this restriction, however, that the removal must be to some public place of confinement within the same Presidency or Government.

The Lieutenant-Governor of Bengal, therefore, under the law as it now stood, might remove prisoners to Arracan; but he could not remove them to Moulmein, or any other place beyond the limits of the Bengal Presidency.

In the late troubles, when the Dinapore troops broke out into mutiny, and the prisoners had been liberated by the mutineers and rioters from two of the Jails in the Behar Division, it became necessary to consider what should be done with the prisoners at Deeghur and other places, which were or might be threatened by the rebels. It was not necessary for him to remind the Council that, when the mutineers and rebels obtained any temporary success, their first step always was to break open the jails, and liberate the prisoners, with the view of increasing the confusion; and it was, therefore, obviously the duty of Government to render such an occurrence as little injurious as possible, by removing the worse description of criminals, whose liberation, in the event of a disturbance, would be sure to aggravate and prolong it.

Influenced by these considerations, the Lieutenant-Governor determined to remove the more dangerous classes of prisoners from the jails of the Behar province; and as the Alipore Jail could not accommodate them, he obtained the sanction of the Supreme Government to transfer them to the Straits of Malacca and other places.

The object of this Bill was to legalize those proceedings, and any other measures of a similar character which might still be necessary. Considering the total want of suitable places of confinement in many parts of the country, and their insecurity in others, it might often be absolutely necessary for the safe custody of criminals, and, in consequence, for the peace of the country and public security, that they should be removed to some place beyond the limits of the Government within which they were confined. The Bill therefore provided that—

"Whenever it shall be judged necessary for the safe custody of any person who has been convicted of any heinous offence, and sentenced to imprisonment for life, or for any term exceeding three years, that such person should be removed to some place of confinement beyond the limits of the Presidency or Government within which he is confined, it shall be lawful for the Governor-General in Council, or for the Executive Government of the Presidency or place, with the sanction of the Governor-General in Council, to order the removal of such person from the prison or place in which he is confined, to any other prison or place of confinement within the territories in the possession and under the Government of the East India Company."

Section II gave legality to all such removals made previously to the passing of the Act.

The Bill was read a first time.

#### ARMY AND STATE OFFENCES: MUTINY AND DESERTION.

MR. PEACOCK moved the second reading of the Bill "to continue in force for one year Act XIV of 1857 (for the trial and punishment of certain offences relating to the Army, and of offences against the State), and Act XVII of 1857 (for the apprehension and trial of Native Officers and Soldiers for Mutiny and Desertion)."

The Motion was carried, and the Bill read a second time.

#### STAMP DUTIES (BENGAL).

MR. PEACOCK moved the second reading of the Bill "to amend Regulation X. 1829 of the Bengal Code."

The Motion was carried, and the Bill read a second time.

#### NATIVE PASSENGER SHIPS &c.

MR. LEGEYT moved that the Bill "for the regulation of Native Passenger Ships and of Steam Vessels intended to convey passengers on coasting voyages." be now read a third time and passed.

The Motion was carried, and the Bill read a third time.

#### HEINOUS OFFENCES.

MR. PEACOCK moved that the Standing Orders be suspended to enable him to introduce and proceed with a Bill "to continue in force for one year Act XVI of 1857 (for the trial and punishment of heinous offences in certain Districts)."

MR. HARRINGTON seconded the Motion, which was then agreed to.

MR. PEACOCK said, he had stated at the last Meeting of the Council that it was his intention to bring in this day a Bill to continue Act XVI of 1857 for a further period, but that he at that time thought it possible that the Act might be modified. He had since consulted the other Members of Government, and they considered that, under the present circumstances of the country, it would be better to continue the Act in its present shape. He, therefore, now moved the first reading of a Bill "to continue in force for one year Act XVI of 1857 (for the trial and punishment of heinous offences in certain Districts)."

The Bill was read a first time.

MR. PEACOCK said, as the Standing Orders had been suspended, he would now move the second reading of the Bill. His only object in doing this was that he might refer the Bill to-day to the same Select Committee to whom he was about to refer the Bill for continuing Acts XIV and XVII of 1857, so that they might consider the question as to all three Bills at one sitting. If, however, any Honorable Member considered it inexpedient to continue Act XVI of 1857 in its present form, and objected to the Bill being read a second

time to-day, he should postpone his Motion until the next Meeting of the Council.

MR. CURRIE said he was certainly under the impression that it would not be judged necessary to continue this Act for a further period, at least in its present form. The Act did not provide any special tribunals for the punishment of offences. It only provided very much severer punishment for certain specified offences. He had no disposition to oppose the second reading of the Bill, on the understanding that it would be open to the Select Committee to whom it might be referred, to consider whether modifications might not be made in the Act. Some of the offences specified were such as, he thought, ought not to be punished in the very severe manner provided by the Act.

MR. PEACOCK'S Motion was carried, and the Bill read a second time.

**ARMY AND STATE OFFENCES: HEINOUS OFFENCES: MUTINY AND DESERTION.**

MR. PEACOCK moved that the Bill "to continue in force for one year Act XIV of 1857 (for the trial and punishment of certain offences relating to the Army, and of offences against the State), and Act XVII of 1857 (for the apprehension and trial of Native Officers and Soldiers for Mutiny and Desertion)," and the Bill "to continue in force for one year Act XVI of 1857 (for the trial and punishment of heinous offences in certain Districts)"—be referred to a Select Committee consisting of Mr. Ricketts, Mr. LeGeyt, Mr. Currie, Mr. Harington, and the Mover.

Agreed to.

MR. PEACOCK moved that the Select Committee on the above Bills be instructed to present their Report at the next Meeting of the Council.

Agreed to.

**STAMP DUTIES.**

MR. PEACOCK moved that the Bill "to amend Regulation X. 1829 of the Bengal Code" be referred to a Select Committee consisting of Mr. Ricketts, Mr. LeGeyt, Mr. Currie, Mr. Harington, and the Mover.

Agreed to.

*Mr. Peacock*

**NOTICE OF MOTION.**

MR. HARINGTON gave notice that he would, on Saturday the 22nd instant, move the first reading of a Bill for the relief of persons who, in consequence of the recent disturbances, may have been prevented from instituting or prosecuting suits or appeals in the Courts of the North-Western Provinces within the period allowed by law.

**NATIVE PASSENGER SHIPS, &c.**

MR. LEGEYT moved that Sir James Outram be requested to take the Bill "for the regulation of Native Passenger Ships and of Steam Vessels intended to convey passengers on coasting voyages" to the President in Council, in order that it might be submitted to the Governor-General for his assent.

Agreed to.

**CIVIL PROCEDURE (MADRAS).**

MR. PEACOCK moved that Mr. Forbes be added to the Select Committee on the Bill "for simplifying the Procedure of the Courts of Civil Judicature of the East India Company in Madras."

Agreed to.

**CRIMINAL PROCEDURE (MADRAS).**

MR. PEACOCK moved that Mr. Forbes be added to the Select Committee on the Bill "for extending the jurisdiction of the Courts of Criminal Judicature of the East India Company in Madras, for simplifying the Procedure thereof, and for investing other Courts with Criminal jurisdiction."

Agreed to.

**KURNOOL (MADRAS PRESIDENCY).**

MR. CURRIE moved that Mr. Forbes be added to the Select Committee on the Bill "for bringing the District of Kurnool under the Laws of the Presidency of Fort St. George."

Agreed to.

**MARINE POLICE FORCE (MADRAS).**

MR. CURRIE moved that Mr. Forbes be added to the Select Committee on the Bill "for the maintenance of a Police Force for the Port of Madras."

Agreed to.

**FORT OF TANJORE.**

MR. CURRIE moved that Mr. Forbes be added to the Select Committee on the Bill "for bringing the Fort of Tanjore and the adjacent Territory under the Laws of the Presidency of Fort St. George."

Agreed to.

**MEERAS LANDS (BOMBAY).**

MR. LUGEYTT moved that Mr. Forbes be added to the Select Committee on the Bill "to limit the period within which a Meerasadar may assert his claim to lands which he has abandoned, or for which he may have failed to pay assessment."

Agreed to.

**GUARDIANSHIP OF MINORS AND COURT OF WARDS (BENGAL).**

MR. CURRIE moved that Mr. Harington be added to the Select Committee on the Bill "for making better provision for the care of the persons and property of Minors, Lunatics, and other disqualified persons in the Presidency of Fort William in Bengal," and the Bill "to explain and amend Regulation X of 1793 and Regulation LIII of 1803."

Agreed to.

The Council adjourned.

*Saturday, May 22, 1858.*

**PRESENT:**

The Hon'ble the Chief Justice, *Vice-President*,  
in the Chair.

Hon. Major Genl. Sir	E. Currie, Esq.,
J. Outram,	H. B. Harington, Esq.,
Hon. H. Bicketts,	and
Hon. B. Peacock,	H. Forbes, Esq.
P. W. LeGeyt, Esq.,	

**AUTHENTICATION OF STAMPS.**

THE VICE-PRESIDENT read a Message informing the Legislative Council that the Governor-General had assented to the Bill "to provide for the authentication of Stamped Paper issued from the Stamp Office in Calcutta."

**ARMY AND STATE OFFENCES; MUTINY AND DESERTION.**

MR. PEACOCK presented the Report of the Select Committee on the Bill "to continue in force for one year Act XIV of 1857 (for the trial and punishment of certain offences relating to the Army, and of offences against the State), and Act XVII of 1857 (for the apprehension and trial of Native Officers and Soldiers for Mutiny and Desertion.)"

**HEINOUS OFFENCES.**

MR. PEACOCK also presented the Report of the Select Committee on the Bill "to continue in force for one year Act XVI of 1857 (for the trial and punishment of heinous offences in certain Districts.)"

MR. PEACOCK moved that the above Report be adopted.

Agreed to.

**KURNOOL.**

MR. FORBES presented the Report of the Select Committee on the Bill "for bringing the district of Kurnool under the Laws of the Presidency of Fort St. George."

**INSTITUTION OF SUITS AND APPEALS (N. W. PROVINCES).**

MR. HARINGTON moved the first reading of a Bill "for the relief of persons who, in consequence of the recent disturbances, may have been prevented from instituting or prosecuting suits or appeals in the Courts of the North-Western Provinces within the period allowed by law." He said, he had lately received a communication from the Secretary to the Government of the North-Western Provinces, accompanied by a Report from the Sudder Court at Agra, in which the Court referred to the entire suspension of all business for several months of the past and present years in the great majority of the Civil Courts included within their jurisdiction, consequent on the disturbed state of the country, which rendered it quite impossible for the Judges to continue their sittings, or indeed, at most stations, to remain at their posts without