

Saturday, August 21, 1858

**LEGISLATIVE COUNCIL
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PROCEEDINGS

OF THE

LEGISLATIVE COUNCIL OF INDIA,

January to December 1858.

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sence and with the assistance of the Jury so appointed."

* THE CHAIRMAN said, this Section made it imperative to appoint a Medical Officer of Government. He thought, however, that, at the places where this Bill would be brought into operation, there would seldom be more than a single Medical Officer resident. He probably would have attended or examined the supposed Lunatic. He might obviously be able to give the most important testimony in the case; and it was better that he should do this as a witness in open Court and subject to cross-examination, rather than bring his knowledge to bear on the decision of the case whilst exercising the functions of a juror. Of course he assumed a paucity of Medical men to exist in the Mofussil. He therefore moved the omission of the words "a medical officer of Government and two," and the substitution for them of the words "at least three."

After some discussion, the Motion was agreed to, and the Section, as amended, was then passed.

MR. PEACOCK thought that the Act should contain some provision requiring notice of the intended enquiry to be given to the alleged Lunatic. He therefore moved that the following Section be introduced after Section IV namely:—

"Before the enquiry shall be held, the alleged Lunatic shall have sufficient notice of the time and place at which it is proposed to hold the enquiry."

Agreed to.

MR. PEACOCK suggested that the Bill should provide for the constitution of the jury, and also for compelling their attendance.

MR. HARINGTON drew attention to the provision on the subject of the constitution of Juries, which was contained in Section CCLX of the Code of Criminal Procedure proposed by Her Majesty's Commissioners.

After some further conversation—

MR. CURRIE moved that the Bill be referred back to the former Select Committee with the addition of Mr. Peacock, in order that the questions just raised might receive a more careful consideration.

Agreed to.

LUNATIC ASYLUMS.

MR. CURRIE postponed the Motion (which stood in the Orders of the Day) for a Committee of the whole Council on the Bill "relating to Lunatic Asylums."

ESTATE OF THE LATE NABOB OF THE CARNATIC.

MR. PEACOCK moved that Mr. Ricketts be requested to take the Bill "to provide for the administration of the estate and for the payment of the debts of the late Nabob of the Carnatic" to the President in Council, in order that it might be submitted to the Governor General for his assent.

Agreed to.

SETTLEMENT OF ALLUVIAL LANDS (BENGAL).

MR. CURRIE moved that Mr. Ricketts be requested to take the Bill "to make further provision for the settlement of land gained by alluvion in the Presidency of Fort William in Bengal" to the President in Council, in order that it might be submitted to the Governor General for his assent.

Agreed to.

FORT OF TANJORE.

MR. FORBES moved that Mr. Ricketts be requested to take the Bill "for bringing the Fort of Tanjore and the adjacent territory under the Laws of the Presidency of Fort St. George" to the President in Council, in order that it might be submitted to the Governor General for his assent.

Agreed to.

The Council adjourned.

Saturday, August 21, 1858.

PRESENT:

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

Hon'ble H. Ricketts,		H. B. Harington,
Hon'ble B. Peacock,		Esq.,
P. W. LeGeyt, Esq.,		and
E. Currie, Esq.,		H. Forbes, Esq.
Hon. Sir A. W. Buller,		

POLITICAL PENSIONS.

THE CLERK presented to the Council a Petition from Ramchunder Venku-

tash Goona of Poona, praying to be informed to what pensions or allowances Act VI of 1849 (for securing Military and Naval pensions and superannuation allowances) was intended to apply, and whether it was applicable to pensions granted in commutation of Surinjams.

THE VICE-PRESIDENT conceived that this Petition could hardly be received. It asked for a legal opinion from the Council.

INDIGO PLANTERS.

THE CLERK also presented a Petition from the Indigo Planters' Association, praying, on behalf of Indigo Planters, for further protection and improved means of redress against Ryots to whom they had made advances and who broke their engagements; and also against persons, Zemindars or others, by whose inducement or interference such breaches of engagement were brought about, and against those who purchased or received Indigo Plant from Ryots, knowing that the Ryots were committing a breach of contract in selling or delivering it to them.

Mr. CURRIE moved that the above Petition be printed.

Agreed to.

STAMP DUTIES (BENGAL).

MR. PEACOCK presented the Report of the Select Committee on the Bill "to amend Regulation X. 1829 of the Bengal Code" (for the collection of Stamp Duties.)

SIR JAMSETJEE JEJEEBHOY'S ESTATE.

Mr. LEGEYT begged to move the first reading of a Bill "for settling a sum of Company's Rupees twenty-five lacs Bengal Government four per centum Promissory Notes, and a Mansion-house and hereditaments called Mazagon Castle on the Island of Bombay, the property of Sir Jamsetjee Jejeebhoy, Baronet, so as to accompany and support the title and dignity of a Baronet lately conferred on him by Her present Majesty Queen Victoria, and for other purposes connected therewith."

He said, the object of this Bill was sufficiently set forth in the title which had just been recited. It would probably be in the recollection of the

Honorable Members that the individual on whom the Sovereign had been pleased to confer the dignity of a Baronet was a Parsee gentleman of Bombay, distinguished alike for his success during a long and honorable commercial career, his consistent loyalty to the Government, and his unceasing efforts in promoting the welfare of his fellow-citizens and relieving the necessities of those standing in need of charitable aid.

He (Mr. LeGeyst) believed he was not wrong in saying that this distinguished gentleman had expended upwards of forty lacs of Rupees on works of charity and public utility in Bombay and its neighbourhood. His private charities also were unbounded, and he had attained the years usually allotted to man, beloved and respected by all classes. Two years ago, the community, European and Native, of Bombay, resolved to erect a statue in his honor. That statue had just been completed and was now on its way from England for the purpose of being placed in the Town Hall of Bombay in juxtaposition with those of Elphinstone, Malcolm, Sir Charles Forbes, and other worthies whose names lived in the recollection of the community of Western India.

Several years ago, the Queen was pleased to confer on this gentleman the honor of Knighthood; and last year, as a special mark of Her Majesty's sense of his merits, he was advanced to the dignity of a Baronet, and was the first native of India on whom a hereditary English title of distinction had ever been conferred. It was thought proper, in the uncertainty of the Parsee laws and customs of inheritance which unhappily prevailed in that tribe, to make some arrangements by which the hereditary dignity and title should not, at any future time, descend to a person unable to keep it up with honor and respectability. It was suggested to Sir Jamsetjee Jejeebhoy, and readily acquiesced in by him, that a certain sum of money should be vested in Trustees for the use of the person on whom the Baronetcy might descend, and that the income of the capital so vested should be paid to such holder. The sum of twenty-five lacs of Rupees in the four per cent. Company's Paper was agreed on, as a proper sum to be so invested; and to

this, at Sir Jamsetjee Jejeebhoy's own request, a Mansion-house and estate near Bombay, which went by the name of the Mazagon Castle, had been subsequently added, with a condition that every future Baronet should assume the name of "Jamsetjee Jejeebhoy" in lieu of any other.

To give effect to this measure, a Bill was prepared by the legal Officers of the East India Company in communication with Sir Jamsetjee Jejeebhoy's friends in London, which it had been proposed to present to the Imperial Parliament. But it was afterwards ascertained that the settlement was a subject which could be more conveniently disposed of by the Indian Legislature. The Bill which he now had the honor to lay before the Council was prepared in exact conformity with the draft framed in England.

The Preamble enumerated the several purposes of the proposed Act.

Section I provided for the Governor in Council of Bombay being a Corporation for the execution of the trusts created by the Act. Now, with regard to this, a doubt had been started as to the power of this Council to create Corporations. But he did not think it worth while to await the opinion of the Company's Law Officers in England to whom the question had been referred. The Council had on several occasions legislated in the matter; and he had found on record a Despatch from the Honorable the Court of Directors, dated 3rd July 1830, in which the Court observed:—

"You will have the satisfaction of learning that, in the opinion of the Attorney and Solicitor General and the Company's Standing Counsel, the creation of a Corporation by an Act of the Governor General of India in Council is valid, and, moreover, that the same authority has the power of limiting the liability of members of a Trading Association to the same extent as the Crown may do under the Act of the 7th William IV and 1st Vic: Cap. 73."

This authority seemed to him a sufficient warrant for the introduction of the Bill; the propriety of its being further proceeded with could be discussed on its second reading.

Section II provided that the future Baronets should take the names of the first Baronet.

Mr. Le Geyt

Section III related to the investment of twenty-five lacs of Rupees in trust for the use of the Baronet in possession.

Section IV provided for the settlement of the Mansion-house (called the Mazagon Castle) and its hereditaments in support of the Baronetcy.

Section V provided for the refusal or discontinuance to use the names of the first Baronet.

Section VI conferred the power of jointure on the Baronet in possession; and Section VII limited the aggregate of jointure payable contemporaneously.

Section VIII provided that the Mansion-house and hereditaments should not be subject to Dower. Section IX prohibited alienation during the Baronetcy. Section X provided indemnity for Trustees, and Section XI was a general saving Clause.

The Bill and papers would be printed as soon as possible, and circulated to the Honorable Members, whereupon he would give notice of a day for the second reading thereof. He would also, in consequence of a communication which he had received from Bombay, move for a suspension of the Standing Orders in order that the Bill might be forthwith passed through its remaining stages without the usual delay attending its publication. Sir Jamsetjee was at an advanced age, and it was his particular desire that all the necessary arrangements might be fully carried out in his life-time, and the Bombay Government as well as Sir Jamsetjee had expressed a wish that the Bill might be passed into law as speedily as possible.

The Bill was read a first time.

RYOTWAR SETTLEMENTS (MADRAS PRESIDENCY).

MR. FORBES moved that the Bill "for the better recovery of arrears of Revenue under Ryotwar Settlements in the Madras Presidency" be now read a second time.

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

INDIAN NAVY.

MR. PEACOCK moved that the Council do resolve itself into a Committee on the Bill "to amend Act XII of 1844" (for better securing the observance of an exact discipline in the

Indian Navy); and that the Committee be instructed to consider the Bill in the amended form in which the Select Committee had recommended it to be passed.

Agreed to.

The Bill passed through Committee without amendment, and was reported.

RYOTWAR SETTLEMENTS (MADRAS PRESIDENCY).

MR. FORBES moved that the Bill "for the better recovery of arrears of Revenue under Ryotwar Settlements in the Madras Presidency" be referred to a Select Committee consisting of Mr. LeGeyt, Mr. Currie, Mr. Harington, and the Mover.

Agreed to.

MR. FORBES moved that a communication received by him from the Madras Government be laid upon the table and referred to the above Committee.

Agreed to.

The Council adjourned.

Saturday, August 28, 1858.

PRESENT :

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

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

CARE OF ESTATES OF LUNATICS NOT SUBJECT TO THE SUPREME COURTS.

MR. CURRIE presented the Report of the Select Committee on the Bill "to make better provision for the care of the Estates of Lunatics not subject to the jurisdiction of Her Majesty's Courts of Judicature."

MUNICIPAL ASSESSMENT (SCINDE).

MR. LEGEYT moved the first reading of a Bill "for enabling improvements to be made in certain districts and towns in the Province of Scinde."

He said, the object of this Bill was to enable the Chief Commissioner in Scinde to carry out certain Municipal

and other improvements in that province, and to provide by taxation the necessary funds for those improvements. Its provisions, it would be seen, went far beyond the mere Municipal provisions of Act XXVI of 1850 which, it was found after trial, did not, in that Province at least, answer the purpose for which it was passed. Perhaps in no part of the British dominions in India had that Act received a fairer trial than in the Province of Scinde. Perhaps also there was a feeling among the inhabitants of that Province to promote local improvements and to foster institutions which were recognized in all civilized countries to be beneficial to the community. Though they, in common with all other Asiatics, were very averse to devise any scheme of self-taxation, they were yet willing (as would be found from the correspondence which would form the annexure to the Bill) to pay taxes, provided they were told what benefit they would derive therefrom.

Mr. Frere, with his accustomed philanthropy and zeal, had for some years laboured very much to introduce Municipal and local improvements into the towns of the Province subject to his control, and his success had been very great, particularly in Kurrachee. But the inhabitants of the smaller towns objected that, while the inhabitants of towns had to pay for improvements, the inhabitants of districts were not taxed. The object of this Bill was to extend taxation to the districts.

Mr. Frere had gone farther even than Act XXVI of 1850 provided. He (Mr. LeGeyt) had before him the fifth annual Report of the Proceedings of the Kurrachee Municipality for 1857-58, which contained a full account of what was now going on at Kurrachee. Besides the ordinary improvements of towns, the Municipality had been able to create a Charitable Dispensary which afforded great relief to the poorer portion of the population. Acting upon this, Mr Frere proposed to extend the operation of the Bill to Hospitals, Asylums, and Infirmaries for persons unable from mental or bodily ailments to provide for themselves, schools, district roads, and bridges.

He had printed in the annexure to this Bill a correspondence between the Government of Bombay and the Government of India. From this correspond-