

Saturday, December 24, 1859

LEGISLATIVE COUNCIL
OF
INDIA

VOL. 5

JAN. - DEC.

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TOLLS (CIRCULAR AND EASTERN CANALS).

MR. SCONCE moved that the Bill "to amend and extend Act XXII of 1836 (relating to the levy of a Toll on boats, rafts, and floats passing through the Circular and Eastern Canals) be referred to a Select Committee consisting of Mr. LeGeyt, Mr. Forbes, and the Mover.

Agreed to.

EUROPEAN PRISONERS.

MR. LEGEYT gave notice that he would, on Saturday next, move the first reading of a Bill for increasing the diet money for Europeans imprisoned for debt.

The Council adjourned.

Saturday, the 24th December 1859.

PRESENT:

The Hon'ble H. Ricketts, Senior Member of the Council of the Governor-General, presiding.

Hon'ble Sir H. B. E. Frere.	H. Forbes, Esq.
P. W. LeGeyt, Esq.	Hon'ble Sir C. R. M. Jackson, and
H. B. Harington, Esq.	A. Sconce, Esq.

NATIVE PASSENGER VESSELS (BAY OF BENGAL); ARMS AND AMMUNITION; ARMY AND STATE OFFENCES.

THE PRESIDENT read Messages informing the Legislative Council that the Governor-General had assented to the Bill "to prevent the overcrowding of vessels carrying Native Passengers in the Bay of Bengal," the Bill "to continue in force for a further period Act XXVIII of 1857," and the Bill "to continue in force for a further period Acts XIV of 1857, XVI of 1857, and XVII of 1857."

CIVIL PROCEDURE.

THE CLERK presented to the Council a Petition from the British Indian Association concerning the Bill "to amend Act VIII of 1859 (for simplifying the Procedure of the Courts of Civil Judicature not established by Royal Charter)."

MR. HARRINGTON moved that the above Petition be printed.

Agreed to.

THE CLERK reported to the Council that he had received from the Home Department communications from the Governments of Bengal and the North-Western Provinces connected with Act VIII of 1859 (for simplifying the Procedure of the Courts of Civil Judicature not established by Royal Charter).

ELECTRIC TELEGRAPHS.

THE CLERK also reported to the Council that he had received from the Home Department a communication from the Governor of the Straits Settlement suggesting, with reference to the line of Telegraph which is being laid down by the Dutch Government between Batavia and Singapore, that due protection under law should be granted to any line of Telegraph laid within British Territory by a Foreign power.

MR. LEGEYT moved that the above communication be printed.

Agreed to.

MEERAS LANDS.

MR. LEGEYT presented the Report of the Select Committee on the Bill "to limit the period within which a Meerasdar may assert his claim to lands which he has abandoned, or for which he may have failed to pay assessment."

PASSENGERS.

MR. LEGEYT presented the Report of the Select Committee on the Bill "to amend the law relating to the carriage of Passengers by Sea."

JAMSETJEE JEJEEBHAY BARONETCY.

MR. LEGEYT presented the Report of the Select Committee on the Bill "for settling Promissory Notes of the Government of India producing an annual income of one lac of Rupees and a Mansion house and hereditaments called Mazagon Castle in the Island of Bombay, late the property of Sir Jamsetjee Jejeebhoy, Baronet, deceas

ed, so as to accompany and support the title and dignity of a Baronet lately conferred on him and the heirs male of his body, by Her present Majesty Queen Victoria, and for other purposes connected therewith."

JOINT STOCK BANKING COMPANIES,
LIMITED.

MR. SCONCE presented the Report of the Select Committee on the Bill "to enable Joint Stock Banking Companies to be formed on the principle of limited liability."

IMPORT DUTY ON SALT (N. W. P.)

MR. HARRINGTON moved the first reading of a Bill "to empower the Governor-General in Council to raise the Duty on Salt imported into the North-Western Provinces of the Presidency of Bengal." He said, in the remarks with which he prefaced the introduction of the Bill, brought in by him in the month of August last, for licensing Trades and Professions as a means of augmenting the general Revenues of the country, he alluded, amongst other sources from which additional Revenue might be obtained, to the possibility of increasing the Duty upon Salt. As regarded the Presidency of Bengal, he observed that "the Government of India had already power by law to raise the Duty paid by Salt in the Lower Provinces of Bengal to Rupees 3-4 per maund—the Duty now paid was Rupees 2-8 per maund—that whether any increase should take place, and if so, what should be its extent, were questions which would be considered on the receipt of a report which had been called for from the Government of Bengal—that in the North-Western Provinces a Duty of Rupees 2 per maund was levied on all Salt crossing the frontier, and a further Duty of 8 Annas per maund on any Salt which might pass Allahabad—that a uniform Duty of Rupees 2-8 per maund had been proposed on all Salt crossing the frontier, the extra Duty now taken at Allahabad being abolished—that some Officers had, indeed, proposed that the Duty should be increased to Rupees 3 per maund—that the question of increasing the Duty on Salt in the North-Western Provinces had to be

considered in connection with Oude, which was a large Salt-producing country, and that reports had been called for from both the Chief Commissioner and the Lieutenant-Governor of the North-Western Provinces—that their answers might possibly show that it was not expedient to make any alteration in the rates of Duty now levied in the North-Western Provinces; but this was a point upon which he (Mr. Harrington) purposely abstained from giving any opinion at present, because he felt that he was not in a position to do so with satisfaction to himself."

The result of the enquiries instituted by the Governor-General in Council, through the local Governments of the Lower and North-Western Provinces of Bengal, had been to satisfy His Excellency that the Duty on Salt in both Divisions of the Presidency would admit of being increased to the extent of 8 Annas a maund, that is to say, that in the Lower Provinces the Duty might be raised from 2 Rupees 8 annas to 3 Rupees per maund, and in the Upper Provinces from 2 Rupees to 2 Rupees 8 annas per maund. It would still be necessary to retain the additional or differential Duty which was now paid by Salt from the North-West on passing Allahabad, as below that place the North-Western Salt came into competition with the Salt supplied from the coast; and where that was the case, it was only fair and proper that, in point of taxation, both Salts should be placed on a level.

As had been stated in the remarks to which he had referred, it was quite competent to the Government of India, without any new law, to raise the Duty upon Salt in the Lower Provinces of Bengal to 3 Rupees 4 Annas per maund, which would more than cover the increase now proposed in respect to those Provinces, and accordingly, as Honorable Members would have observed, an Official Gazette had just been issued, which declared that from and after the date thereof the rate of Duty to be charged on Salt imported by sea into any part of the Presidency of Fort William in Bengal would be 3 Rupees upon every maund of 3200 tolas. But the duty on Salt imported into the North-Western Provinces from across the

Rupees 4

frontier being fixed by Section II Act XIV of 1843 at 2 Rupees per maund, a new law was required to raise the duty on Salt so imported to 2 Rupees 8 Annas per maund, and the Bill of which he was now to move the first reading had been framed with a view to give the Government this power. Instead, however, of limiting the power of Government to raise the duty upon Salt imported into the North-Western Provinces to 2 Rupees 8 Annas per maund which was all that was now intended or desired, it was proposed to extend the limit to 3 Rupees. This would still be less than the sum to which the Government of India was competent, under the existing law, to raise the duty upon Salt in the Lower Provinces of Bengal, and it was hoped that this proposed extension of the discretionary power to be vested in the Government of India in respect to Salt imported into the North-Western Provinces, so as to place it nearly upon a footing with the power which the Government of India already possessed as regarded the Salt of the Lower Provinces of Bengal, would not be objected to by the Council.

Before determining upon increasing the duty upon Salt in Bengal to the extent which he had mentioned, the probable effect of the increase upon the public Revenue and upon the health and comfort of the people at large and particularly the poorer classes had, he need scarcely say, been carefully and fully considered by the Government of India. If the effect of the proposed increase should be to diminish the consumption of Salt to any great extent so that the higher duty on the smaller quantity consumed would produce little, if any, more revenue than had hitherto been obtained from the lower rate on the larger consumption, the increase would, obviously, be highly impolitic and inexpedient, but after making full enquiry, the Government saw no reason to anticipate that the higher rate of duty would check consumption in any material degree, and it seemed to be the very general belief amongst those who might be regarded as competent judges, that the increase which might be expected to take place in the price of Salt in consequence of the increase in the rate of duty, would be so very trifling, that it would scarcely be felt even by the labor-

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ing population, who could the least afford any extra charge on account of the articles of food consumed by them. The condition of this class was daily undergoing considerable improvement from the higher price that they could now command for their labor. It was well known that the value of labor was rapidly increasing throughout the country from the large public and private works which were being carried on and from other causes. With regard to the extent to which the duty upon Salt pressed upon the people, he would, with the permission of the Council, read an extract from a despatch of the late Governor General, the Most Noble the Marquis of Dalhousie. Writing as Governor of Bengal, His Lordship observed—

“Notwithstanding the general assertions made in Parliament and elsewhere of the baneful effects of the Salt tax on the condition of the people, there is no reason whatever to suppose that such assertions are founded on fact, or that the very poorest classes suffer any appreciable degree of pressure or inconvenience from this their only contribution to the public revenue of the country. Assuming the population of the Provinces supplied with Salt subject to this tax at 50 millions, the average annual payment per caput, on the supposition that all consume alike, is only 5½ annas, while, on the same supposition, each individual has 5½ seers of Salt for his yearly consumption. If the population be less than 50 millions, the average consumption is of course greater. And as Salt in Bengal is not used for any but alimentary purposes, this amount of consumption is not consistent with the belief that the economical effects of the tax are more injurious to the people, than those of any other tax of similar amount would be.”

Mr. George Plowden, again, in his able and elaborate Report upon the duty on Salt said:—

“It has been argued that it is grievous to tax Salt in India because Salt is the only condiment an Indian laborer consumes with his food, which is of such a nature that without Salt it would be unbearably insipid. But this is a mistake of fact. Dr. Bedford's paper on the income, expenditure, and food of the poor classes in Bengal shows that, dear as Salt is in Bengal, usually as much is spent by these very classes upon pepper and other untaxed spices (exclusive of the very important item of oil also untaxed) as upon Salt, and sometimes more. The daily food of the cooly or common working man in Bauleah is shown to consist of dhal, fish, meats, spice, green vegetables, milk, and oil, besides rice and Salt. This paper also

shows that usually half as much is spent by the poorer classes on tobacco (also untaxed) as on Salt. The Indian laborer then, when the facts of his case are ascertained, is found to be much more fortunate in the fiscal system under which he lives than the English laborer. I am not aware what condiment, except Salt, the latter can enjoy untaxed. In tobacco alone, I imagine, many laborers in England contribute more to the revenue of their country in proportion to their income than the Indian laborer does in Salt; and those English laborers who may consume occasionally sugar, coffee, tea, malt liquor, pepper, or other spices, and the like small luxuries corresponding with the spice, milk or dye, oil, and tobacco of the Bengalee, pay very heavy taxes to which there is nothing corresponding in the Indian fiscal system as it affects any class of people. Mr. T. L. Peacock, in his evidence before the Select Committee of 1836, says—'I think the English laborer's taxes bear a greater proportion to his wages' (than the Salt Tax paid by the Bengal laborer bears to his wages); and speaking of the English system of taxation, he says—'almost all the taxes that fall upon the (English) laborer are out of the necessaries of life; many taxes have been taken off of late years; the taxes are taken off soap, leather, and candles; formerly there was scarcely any thing that was not the subject of taxation to the poor man in England.' I have not observed that any witness in 1836 or on any other occasion has controverted this statement."

And further on, in the same Report, Mr. Plowden observed, in reference to the North-Western Provinces—

"The cost of an adequate supply of salt cannot be regarded as burdensome to the laborer in the North-Western Provinces. Much less can it be said that an adequate supply of good wholesome salt is beyond his reach."

This opinion was confirmed in a letter received by him (Mr. Harington) not long ago from the Commissioner of Customs for the North-Western Provinces who wrote—

"If the tax on salt is raised to 3 Rupees per maund in the North-Western Provinces, it will not be felt. At the above rate of duty, a cooly receiving 3 Rupees per mensem, and consuming 6 seers of salt per annum (the estimated amount), his contribution towards the expense of the State would be 6 annas 2 pies, the 80th part of his annual earnings, or about 1 25 per cent."

At 2 Rupees 8 annas per maund, the percentage would of course be less.

"The production price of the salt (the Commissioner went on to say) with all the expenses attending the manufacture and

transportation of the article to the markets where it is sold, which the cooly would have to pay whether there was a duty or not, must be deducted from the amount of actual taxation. So little is the salt tax felt that not one man in a hundred knows that he is subjected to it. The poorer people in purchasing atta or flour have always a portion of salt with a little pepper given with it, which is charged for the price of the atta."

It was calculated that the increase in the rate of duty upon Salt in the Presidency of Bengal, now proposed, would yield an additional Revenue of between forty and fifty lacs of Rupees, or nearly half a million a year, and, as had been said, it was hoped that the increase would be obtained without any very sensible pressure upon the consumers of the article from which it was derived. The necessity for this increase, or for the measure by which it was expected to be produced, was to be found in the financial difficulties with which the Government were still contending. With the extent of those difficulties, as well as with the measures in progress to meet them, the Council had already been made acquainted, and he did not know that he could advantageously or usefully add any thing, at present, to the information given to the Council on both points on previous occasions. He would not therefore occupy the time of the Council by repeating the very full statement in respect to the finances, made in this chamber in the early part of the year by His Excellency the Governor General at the time that His Lordship introduced the Bill to alter the duties of Customs on goods imported or exported by sea, or what was said in the debates which took place on the motions for the first and second reading of the Bill for licensing Trades and Professions, though he might mention that there had been no abatement of the anxiety felt by the Government of India to reduce the expenditure in every branch of the public service to the utmost possible extent consistently with efficiency, and that the measures which had been adopted with that view had already produced a very considerable saving.

As regarded Madras and Bombay, a slight increase had lately been made in the duty on Salt in both those Presidencies. This increase had taken

place under the orders of the Government of India in accordance with instructions from home, and not, as had been erroneously stated by him (Mr. Harington) on a former occasion, by recourse to fresh legislation, which was not necessary. But even with this increase, the duty paid by Salt in Madras and Bombay would continue very much less than what was proposed for Bengal, and the people of Bengal might not unreasonably complain of the distinction, and, as respected the duty under consideration, might not unfairly claim equality of taxation in the three Presidencies. On this point he might observe that the Government of India had by no means conceded that the present duty on Salt in Madras and Bombay was nearly at a maximum. In the case of both Presidencies the Government of India had, for the present, yielded to the special considerations which had been pressed upon it by the local Governments. In urging these considerations, in so far as Bombay was concerned, the Government of that Presidency had frankly and fairly admitted that hereafter a further advance in the rate of duty might be made if the late increase, which was to the extent of 4 annas per maund, was found not to have produced any ill effect, and as regarded Madras, it was hoped that the improvements, now in progress in that Presidency under its present able and energetic Governor, and which embraced a reform of the Police, the settlement of Inams, and a reduction of the assessment upon land, would produce an amount of prosperity which would enable the people of Madras, at no distant date, to bear a duty upon Salt more nearly approaching the rate imposed upon the people of Northern India.

It only remained for him to say that it being obviously most undesirable that there should be any interval between the announcement to the public of the intention of the Government to raise the duty upon Salt in the North-Western Provinces to 2 Rupees 8 annas per maund and the carrying out of that intention, the higher duty had been ordered to be levied from this date, and, as was usually done in

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the like cases, a Section had been added to the Bill, which it was hoped would be assented to by the Council, for the purpose of indemnifying all persons who might be concerned in levying the higher rate of duty previously to the sanction of the Legislature being given to the same.

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

ZILLAH COURT OF FURRUCKABAD.

MR. HARINGTON moved the first reading of a Bill to "repeal certain Laws relating to the jurisdiction of the Zillah Court of Furruckabad." He said that, by the first article of a treaty entered into in the year 1802 with the Nawab of Furruckabad, after the cession of that district by the Nawab Wuzeer to the Honorable the East India Company, it was stipulated that "the authority of the Court of Adawlut should not extend to the person of the Nawab; but as his connexions and dependants were undefined, and it was the object of the British Government to introduce a fair and impartial administration of justice throughout the Province of Furruckabad, it was agreed that whatever complaint might be preferred against any of the Nawab's dependants, should in the first instance be referred to the Nawab; and in the event of the complainant not receiving any speedy justice, or being dissatisfied with the Nawab's decision, the complaint should be decided in the Adawlut."

This stipulation was embodied in Regulation II. 1803 of the Bengal Code and would be found in Section VIII of that enactment. Subsequently, Act XII of 1836 was passed, which declared that "from the 1st day of June 1836, if the holder of a decree passed by the Nawab of Furruckabad under the provisions of Section VIII of Regulation II. 1803, shall be unable to obtain execution of the said decree by the Nawab for a period of six weeks (which period of six weeks shall be calculated from the said first day of June, if the decree were passed before the said first day of June, and from the time of passing the decree, if the decree were passed on or after the said first day of June), the said holder shall be

at liberty to sue out execution of the said decree in the Zillah Court of Furruckabad; and the Judge of that Court, on application made to that effect, shall execute the decree in the same manner in which a decree of the said Zillah Court is executed."

This law, as well as the law of 1803, was still in force, but the conduct of the Nawab of Furruckabad during the temporary cessation of British authority in that district in the year before last, which had rendered his name infamous, having led to the banishment of the Nawab from the British Dominions in India, to the confiscation of his property and to the extinction of his title, it was not now possible, nor, if it were possible, would it be necessary or proper to continue to the followers and dependants of the Nawab the privilege of having complaints, when made against them, heard by him, which was conferred upon the followers of the Nawab by the terms of the treaty of 1802; and there being no longer any reason for placing those persons on a different footing in matters connected with the administration of Civil Justice in the district from the other residents thereof, the present Bill was introduced with the view of doing away with the distinctions in favor of the Nawab and his dependants which were contained in the existing Regulations, by repealing the same.

The Bill was read a first time.

KING OF OUDE.

MR. HARRINGTON moved the first reading of a Bill "to provide for the execution of Process within the precincts of the residence of His Majesty the King of Oude." He said, the Council was probably aware that His Majesty the King of Oude, who, notwithstanding the annexation of his kingdom to the British Dominions in India, retained his title, had lately taken up his residence at a place in the neighborhood of Calcutta, where His Majesty had become the proprietor by purchase of several houses with the grounds attached thereto, in which he and his family with their connexions and followers were at present living, and the object of the Bill, of which he was now to move the first reading, was to make

the same provision for the execution of legal processes within the precincts of His Majesty's residence which was made by law in the case of the Nawab Nazim of Bengal at Moorshedabad. This was considered desirable by the Government and it was hoped that the measure would materially facilitate the execution of legal processes within the precincts of the premises occupied by the King of Oude without interfering improperly or inconveniently with the ordinary jurisdiction of the local Civil and Criminal Courts, to which His Majesty and his followers, by taking up their abode within the territorial limits of the same, had rendered themselves amenable. The Bill related simply to the execution of the processes of those Courts, from which it did not propose to exempt any of the persons to whom it would apply, and in framing the Bill the wording of the corresponding enactment for regulating the execution of legal processes within the precincts of the palace of the Nawab Nazim of Bengal at Moorshedabad, had been closely followed.

The Bill was read a first time.

KONKAN PORT-DUES.

MR. LEGEYNT postponed the Motion (which stood in the Orders of the Day) for the first reading of a Bill for the levy of Port-dues in the Ports of the Konkan Division of the Presidency of Bombay.

EUROPEAN PRISONERS.

MR. LEGEYNT also postponed the Motion (which stood in the Orders of the Day) for the first reading of a Bill to make further provision for the subsistence of Europeans imprisoned under Civil Process.

MILITARY POLICE BATTALIONS.

MR. SCONCE moved that the Bill "to provide for the good order and discipline of the Battalions of Military Police" be read a second time.

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

CIVIL PROCEDURE.

MR. HARRINGTON postponed the Motion (which stood in the Orders of

the Day) for a Committee of the whole Council on the Bill "to amend Act VIII of 1859 (for simplifying the Procedure of the Courts of Civil Judicature not established by Royal Charter)."

MILITARY POLICE BATTALIONS.

MR. SCONCE moved that the Bill "to provide for the good order and discipline of the Battalions of Military Police" be referred to a Select Committee consisting of Sir James Outram, Mr. Harington, Sir Charles Jackson, and the Mover.

Agreed to.

IMPORT DUTY ON SALT (N. W. P.)

MR. HARINGTON gave notice that he would, on Saturday next, move the second reading of the Bill "to empower the Governor-General in Council to raise the Duty on Salt imported into the North-Western Provinces of the Presidency of Bengal," and, in the event of that Motion being carried, the suspension of the Standing Orders with a view to the Bill being passed through its remaining stages forthwith.

DISSOLUTION OF MARRIAGES BY CHRISTIAN CONVERTS.

SIR CHARLES JACKSON gave notice that he would on the same day move the first reading of a Bill to provide for the dissolution of certain Marriages entered into by Christian Converts before their conversion.

ZILLAH COURT OF FURRUCKABAD.

MR. HARINGTON give notice that he would on the same day move the second reading of the Bill "to repeal certain Laws relating to the jurisdiction of the Zillah Court of Furruckabad."

KING OF OUDE.

MR. HARINGTON gave notice that he would on the same day move the second reading of the Bill "to provide for the execution of process within the precincts of the residence of His Majesty the King of Oude."

WATER-SUPPLY (KURRACHEE.)

MR. LEGEYT moved that Sir Bartle Frere be added to the Select Committee on the Bill "to provide for better supplying with water the Town and Suburbs of Kurrachee."

Agreed to.

PENAL CODE.

MR. LEGEYT moved that a communication received by him from the Bombay Government respecting the power of Zillah Judges to award sentences of solitary confinement, be laid upon the table and referred to the Select Committee on "The Indian Penal Code."

Agreed to.

The Council adjourned.

Saturday, December 31, 1859.

PRESENT :

The Hon'ble Sir Barnes Peacock, *Vice-President*, in the Chair.

Hon. Lieut.-Genl. Sir J. Outram,	H. B. Harington, Esq.,
Hon. H. Ricketts,	H. Forbes, Esq.,
Hon. Sir H. B. E. Frere,	Hon. Sir C. R. M. Jackson,
P. W. LeGeyt, Esq.,	and
	A. Sconce, Esq.

DISSOLUTION OF MARRIAGES BY CHRISTIAN CONVERTS.

SIR CHARLES JACKSON begged leave to move the the first reading of a Bill "to provide for the dissolution of certain Marriages entered into by Christian Converts before their conversion." The object of the Bill was to remove certain disabilities affecting Native Christian Converts. Owing to the custom of early marriages in this country, most Converts were married at the time of their conversion. The consequence of a Mahomedan or Hindoo becoming Christian was simply this, that the Hindoo or Mahomedan who remained true to his own faith was considered freed from the marriage tie, the marriage itself being dissolved; while on the other hand, according to Christian doctrine, the Convert was