

Saturday, May 21, 1859

LEGISLATIVE COUNCIL
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MR. HARINGTON said, he had no objection to offer to the amendment proposed by the Honorable Member for Bombay, and was willing that the words suggested by him should be substituted for the words to which he had taken exception. On a former occasion the Clerk of the Council had been directed on his (Mr. Harington's) Motion to address a letter to the Secretary to Government in the Home Department for the purpose of obtaining some information required from his Office, and no objection had been urged by any Honorable Member to the mode of communication then followed, and he had therefore proposed that they should adopt the same mode on the present occasion. He had certainly overlooked the Standing Order referred to by the Honorable Member for Bombay; but even had he (Mr. Harington) adverted to it, he thought he should have had some doubts as to its applicability in the present instance. But if the Council were of a different opinion, he was quite prepared to alter his Motion so as to make it correspond with the order in question.

The Motion was by leave withdrawn.

MR. HARINGTON then proposed the same Motion in an altered form. The amended Motion commenced as follows:—

“That the Vice-President be requested to take a message to His Excellency the Right Honorable the Governor-General in Council, requesting that His Excellency in Council,” &c.

The Motion was carried.

REGULATION OF HACKNEY CARRIAGES.

MR. LEGEYT gave notice that he would, on Saturday next, move the first reading of a Bill “for the better regulation of Hackney Carriages in certain Towns.”

MADRAS POLICE.

MR. FORBES moved that Mr. Sconce be added to the Select Committee on the Bill “for the better regulation of the Police within the Territories subject to the Presidency of Fort St. George.”

Agreed to.

REGISTRATION.

Mr. Forbes moved that Mr. Sconce be added to the Select Committee appointed to take into consideration a communication from the Madras Government, suggesting improvements in the present system of registering assurances, and submitting the draft of an Act for affording protection to rights on property.

Agreed to.

MALABAR OUTRAGES.

MR. FORBES moved that the Bill for the suppression of outrages in the District of Malabar in the Presidency of Fort St. George “be referred to a Select Committee consisting of Mr. Harington, Mr. Sconce, and the Mover.”

Agreed to.

MADRAS POLICE.

MR. FORBES moved that certain papers received by him from the Madras Government be laid upon the table, and referred to the Select Committee on the Bill “for the better regulation of the Police within the Territories subject to the Presidency of Fort St. George.”

Agreed to.

The Council adjourned.

Saturday, May 21, 1859.

PRESENT:

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

Hon. Lieut.-Genl. Sir James Outram,	H. Forbes, Esq.,
P. W. LeGeyt, Esq.,	Hon. Sir C. Jackson,
H. B. Harington, Esq.,	and
	A. Sconce, Esq.

EXCLUSIVE PRIVILEGES TO INVENTORS.

THE VICE-PRESIDENT read a Message, informing the Legislative Council that the Governor-General had assented to the Bill “for granting exclusive privileges to Inventors.”

PUBLIC CONVEYANCES.

THE CLERK presented a Petition from certain Inhabitants of Calcutta,

praying for an Act to regulate the rates of hire for Conveyances.

MR. LEGEYT moved that the Petition be printed.

Agreed to.

MR. LEGEYT begged to move the first reading of a Bill "for regulating public conveyances in the towns of Calcutta, Madras, and Bombay, and the several stations of the Settlement of Prince of Wales' Island, Singapore, and Malacca."

He said, he was led to believe, from representations which had been made by persons whose opinions were entitled to some respect, that the want of a law of this kind was severely felt in Calcutta. It was obvious to any one who traversed the streets of this City, that the employment of hackrey carriages was very general; and the constant intercourse between the numerous ships in the river and the shore was necessarily carried on by means of hired boats. The complaints were numerous against the extortion and misconduct of the class of persons who were employed as drivers of these conveyances, and who navigated the boats. At the same time it was not reasonable to suppose that the cause of complaint was entirely on one side; and in providing for the convenience and protection of the public, he thought it was equally necessary to provide for the protection of the owners against oppression and fraud on the part of the hirers.

In their Annual Report for 1857, the Municipal Commissioners had stated:—

"Whilst on this subject, we beg to bring to your Honor's notice the imperative necessity which exists for putting a stop to the nefarious monopoly carried on by native livery stable-keepers, and for placing the same under regulations as exist in all the large towns of Europe—in London, in Paris, in Vienna; in fact, in every capital of Europe. The places or stands for conveyances on daily hire, as well as the rates of fare, are fixed by the authorities, and the time has arrived when these wholesome provisions should also be adopted in Calcutta. The absence of all regulations with regard to fare has been productive of a sort of monopoly on the part of native livery stable-keepers, which has entailed not only much inconvenience but considerable hardship upon a number of strangers, who, in the course of the year, passed through this town. Owing to the general rise in the cost of food, and also the increased demand for

hired carriages, the livery stable-keepers have raised the rates of fare of a gharree with two horses to three Rupees, and of a gharree and one horse to two Rupees per diem. Nobody can find fault with these rates, but what people complain of, and not without reason, is, that full fares are insisted upon, whether the conveyance be used for half an hour only, or for the whole day, and that, not unfrequently, when it does not suit the convenience of the drivers to move out of their stables, they refuse altogether to bring a conveyance.

"There have likewise been many complaints about the imposition practised upon visitors coming into town from the surrounding districts. From what has been reported to us, it appears that the drivers in many instances demand payment in advance, and that, in fact, they refuse to bring the conveyance unless the hire be paid first. They then take the party to the place where directed, but whilst the person hiring the carriage is paying a visit, or making purchases at a shop, the driver and carriage abscond. These complaints being on the increase, we consider it absolutely necessary that a stop be put to such malpractices on the part of livery stable-keepers. We would therefore propose that the hire of all similar conveyances be fixed by a tariff, regulating the rates of fare, conduct of drivers, and stands for vehicles, on the same principle as is done in London and Paris. Each hired conveyance should be compelled to exhibit, in a conspicuous place, within, the tariff, and any extortion should be liable to a heavy penalty."

It appeared that this Report of the Municipal Commissioners had been referred for the opinion of the late Honorable Member for Bengal, who did not think that the necessity for legislation had been made out. Mr. Currie remarked:—

"The question of fixing a tariff of fares for carriages let on hire is one which hardly falls within the scope of your present requisition, which speaks only of necessary amendments of the law. The moderate rates of charge, and the active competition which keep down those rates, do not, I think, indicate any necessity for the action of Government in the very questionable direction of an interference with the natural adjustment of wages and profits."

He (Mr. LeGeyt) believed that nothing more was done upon this Report by the authorities here. But the "natural adjustment" referred to by Mr. Currie did not appear to have come about, for a numerous signed petition had just been presented to the Council, praying for relief from this public

grievance. In addition to this, the Commissioner of Police had communicated with him on the subject, and had expressed it, as his opinion, that a law to regulate hackney carriages was absolutely required, and, in asking this, he said he only demanded what was accorded in almost every city and town where legislation had been established. Mr. Wauchope remarked :—

“ I believe some law regulating the rates of hackney carriages here to be absolutely required, and that, to the best of my knowledge, it is almost the only civilized town, or professing to be civilized, in which the hackney carriages are not placed under Police restrictions.”

In Bombay there had been a law, though an imperfect one, to regulate such conveyances for the last eighteen years, namely, Act IV of 1841, which had worked well as far as it went ; but he proposed by this bill, if it should pass into law, to repeal that Act and to give Bombay the advantage of a more modern system of regulating such matters.

In Madras he believed there was no law on the subject, nor was it within his knowledge that any representation had ever been made from that city, stating the necessity for such a measure. He had, however, included that Presidency town within the scope of the Bill, as so large and populous a city would, like other places, stand in need of such an Act, and he agreed with Mr. Wauchope in thinking that in all large towns an Act of the kind was very necessary.

The Straits Settlement had also felt the necessity for a regulation on the subject. The Governor of that place had lately submitted the Draft of an Act founded on Act IV of 1841 for Bombay. In submitting this Draft Act, Mr. Blundell said :—

“ The Act is similar in its provisions to Act IV of 1841, which apparently has never been repealed, though some of the provisions of that Act seem inconsistent with those of Acts XIII and XIV of 1856.

“ I am not aware whether Acts similar to IV of 1841 exist for the regulation of vehicles let to hire in Calcutta and Madras, but most certainly the want of some enactment of the kind is severely felt here, where unlimited license reigns on the part of the charges and imposition on strangers of the drivers of carriages and the tindals of boats.

“ I have always been alive to the necessity of some such enactment as this, and have made frequent representations on the subject ; but as nothing was ever done to remedy the evil, I presumed it was not intended that the subject should be legislated on. Seeing, however, that Bombay enjoys a regulating Act, and presuming that Calcutta and Madras have some old law still in existence to a similar effect, I am emboldened to solicit the consideration of the Council towards placing these Settlements in a similar position.”

Upon this authority he (Mr. LeGeyt) had placed the Straits Settlement within the provisions of the Bill.

His (Mr. LeGeyt's) own convictions were entirely with those who were desirous of legislation on this subject. He well remembered the trouble and annoyance which prevailed in Bombay prior to the passing of Act IV of 1841, and the relief which that Act afforded, not only to the hirers of carriages and boats, but in many instances to the proprietors of the conveyances themselves, who, till the passing of that Act, had to apply to a Civil Court for the recovery of their just dues.

With these facts before him, he (Mr. LeGeyt) thought that a sufficient case had been made out to warrant the passing of such a Bill ; and in bringing it forward, he had ascertained that the Honorable Member for Bengal did not consider that he (Mr. LeGeyt) was trespassing upon his manor. Whether he (Mr. Sconce) was more favorable to the measure itself than his Honorable predecessor, he (Mr. LeGeyt) did not know ; but he hoped he would not, when the time came, ask them to wait any longer for the “ natural adjustment of wages and profits” as a relief from the present inconvenience.

Mr. LeGeyt proceeded briefly to notice the several provisions of the Bill. With reference to Section IX, he said he had left the fixing of the fares to the Commissioners of Police at Calcutta and Madras, to the Petty Sessions at Bombay, and to the Quarter Sessions in the Straits Settlement, subject, however, to the confirmation of the local Governments. He did not think the Council was in a position to legislate on so purely local a point, and no evidence or information which it could obtain would enable it to do so, so well as the authorities on the

spot. The sanction of the local Government would, he thought, be a sufficient guarantee that the power would be exercised with proper discretion.

With regard to Section XXIII, it might possibly be objected that unoffending parties, the owners of conveyances, were made criminally responsible for the doings of their servants. Mr. Wauchope had informed him (Mr. LeGeyt) that he considered it essentially necessary in Calcutta that the authorities should know the proprietors, and that the proprietors should be responsible for the acts of their servants. His (Mr. LeGeyt's) own experience in Bombay induced him fully to concur in this opinion. The sense of this responsibility would force the owner to get a decent man for a driver, in the same manner as the knowledge that registration would not be permitted to an unsafe conveyance would compel the owner to provide safe conveyances and proper horses.

Section XXVI, which empowered the Commissioner of Police, in certain cases, to refuse or cancel registration, would enable that authority to control and check abuses, and to maintain efficiency and safety in the condition of the conveyances. This principle was sanctioned in Section LXXIX of Act XIII of 1856 in regard to boats; it was also fully recognized in Act IV of 1841 at Bombay, and was, he thought, essential to the well-working of the system.

The Bill was read a first time.

POWERS OF SESSION JUDGES.

MR. HARINGTON gave notice that he would, on Saturday next, move the first reading of a Bill to enable Session Judges to pass sentence in certain cases without reference to the Sudder Court.

RIVER SIGNALS.

MR. SCONCE gave notice that he would, on the same day, move the first reading of a Bill to enforce signals of the names of vessels passing signal stations established within the river Hooghly and the branches thereof.

Mr. LeGeyt

CATTLE TRESPASS.

MR. LEGEYT moved that Mr. Sconce be added to the Select Committee on the Bill "to amend Act III of 1857 (relating to trespasses by Cattle)."

Agreed to.

FRAUDULENT TRANSFERS AND SECRET TRUSTS.

MR. LEGEYT moved that Mr. Sconce be added to the Select Committee on the Bill "for the prevention of fraudulent transfers of Property and of Secret Trusts."

Agreed to.

POLICE (PRESIDENCY TOWNS AND STRAITS SETTLEMENT).

MR. LEGEYT moved that Mr. Sconce be added to the Select Committee on the Bill "to amend Act XIII of 1856 (for regulating the Police of the Towns of Calcutta, Madras, and Bombay, and the several stations of the Settlement of Prince of Wales' Island, Singapore, and Malacca)."

Agreed to.

RAILWAY CONTRACTORS AND WORKMEN.

MR. LEGEYT moved that Mr. Sconce be added to the Select Committee on the Bill "to empower Magistrates to decide certain disputes between contractors and workmen engaged in Railway and other works."

Agreed to.

APPEALS.

MR. HARINGTON moved that Mr. Sconce be added to the Select Committee on the Bill "to provide for the more speedy disposal of Appeals in cases appealable to the Sudder Court and of applications for Special Appeals."

Agreed to.

MADRAS POLICE.

MR. FORBES said, at the last Meeting of the Council he moved that Mr. Sconce be added to the Select

Committee on the Bill "for the better regulation of the Police within the Territories subject to the Presidency of Fort St. George." He was under the impression at the time that the late Member for Bengal was upon that Select Committee, and he had therefore proposed to substitute his successor for him. But he now found that the Select Committee on that Bill already contained its full complement of Members, and that he had labored under a misapprehension in supposing that the late Honorable Member for Bengal was one of them. He now begged to move that Mr. Peacock be relieved from that Committee.

Agreed to.

The Council adjourned.

Saturday, May 28, 1859.

PRESENT :

The Honorable B. Peacock, *Vice-President*, in the Chair.

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

APPEALS.

The Clerk presented a Petition from the Indigo Planters' Association against the Bill "to provide for the more speedy disposal of appeals in cases appealable to the Sudder Court, and of applications for special appeals."

Mr. SCONCE moved that the above Petition be referred to the Select Committee on the Bill.

Agreed to.

The Clerk also presented a Petition from the British Indian Association against the same Bill.

Mr. SCONCE moved that the above Petition be referred to the Select Committee on the Bill.

Agreed to.

TRIALS BY SESSIONS JUDGES.

Mr. HARINGTON moved the first reading of a Bill "to enable Sessions Judges to pass sentence in certain cases without reference to the Sudder Court."

He said, a Bill "to provide for the more speedy disposal of appeals in cases appealable to the Sudder Court, and of applications for special appeals," was, the Council would recollect, brought in by his Honorable friend, the late Member for Bengal, on the last day on which he sat as a Member of that Legislature. The object of that Bill, which, after being read a second time, was now under the consideration of a Select Committee, whose report upon it would be due in the course of a few days, was to afford relief to the Sudder Courts at Calcutta and Agra on the Civil side. The Bill, of which he was now to move the first reading, was introduced with a view still further to relieve those Courts, though on the Criminal side, and this it proposed to do by enabling Sessions Judges to pass sentence in certain cases which, under the law, as it now stood, required to be referred for the final orders of the Nizamut Adawlut. He had reason to know that the late Honorable Member for Bengal originally intended to include in the Bill brought in by him the whole of the provisions contained in the Bill which he (Mr. Harington) had prepared. The Sudder Court at Calcutta recommended, he believed, that those provisions should be introduced into that Bill, but as it was fully expected that the new Code of Criminal Procedure, which embraced all the modifications of the existing Regulations and Acts relating to the reference of Criminal trials to the Sudder Courts, now proposed for adoption, would soon become law, the late Honorable Member for Bengal considered it unadvisable to anticipate the new Code in the Bill brought in by him, and he, accordingly, confined the provisions of that Bill to the business coming before the Sudder Court on the Civil side. It was proper, therefore, that he (Mr. Harington) should explain why, instead of following the example set him by the late Honorable Member for Bengal, and waiting patiently for the passing of the new Code of Criminal Procedure, he was anxious to hasten matters, and had considered it necessary to bring in this Bill at the present time. The explanation which he had to offer to the Council on this point was this. Honorable Members were aware that considerable disappointment