PROCEEDINGS

OF THE

LEGISLATIVE COUNCIL OF INDIA,

FROM

January to December 1856.

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far. He proposed an alteration which would be more consistent both with the ideas which Hindoos had on the subject of marriage, and with our own. He moved that Section VI be left out of the Bill, and that another Section, which had the concurrence of the other Members of the Select Committee, be substituted for it.

The proposed Section, after some verbal amendments, was passed in the following form :—

"If the widow re-marrying is a minor, whose marriage has not been consummated, she shall not re-marry without the consent of her father, or, if she has no father, of her paternal grand-father, or, if she has no such grandfather, of her mother, or, failing all these, of her elder brother, or, failing also brothers, of her next male relative. All persons knowingly abetting a marriage made contrary to the provisions of this Section, shall be liable to imprisonment for any term not exceeding one year, or to fine, or to both. And all marriages made contrary to the provisions of this Section, may be declared void by a Court of Law. Provided that, in any question regarding the validity of a marriage made contrary to the provisions of this Section, such consent as is aforesaid shall be presumed until the contrary is proved ; and that no such marriage shall be declared void after it has been consummated. In the case of a widow who is of full age, or whose marriage has been consummated, her own consent shall be sufficient consent to constitute her re-marriage lawful and valid."

The Preamble and Title were then severally agreed to.

The Council having resumed its sitting, the Bill was reported.

ABKAREE REVENUE (BENGAL)

MR. CURRIE moved that a communication which he had received from the Government of Bengal relative to the Bill "to consolidate and amend the law relating to the Abkaree Revenue in the Presidency of Fort William in Bengal" be laid upon the table and referred to the Select Committee on the Bill.

Agreed to.

NOTICES OF MOTIONS.

MR. GRANT gave notice that, on Saturday next, he would move the third reading of the Bill "to remove all legal obstacles to the marriage of Hindoo widows."

MR. ELIOTT gave notice that, on Saturday next, he would move the first reading of a Bill to prevent the over-crowding of vessels carrying native passengers in the Bay of Bengal.

The Council adjourned.

Saturday, July 19, 1856.

PRESENT :

The Honorable J. A. Dorin, *Vice-President*, in the Chair.

Hon. Sir J. W. Colvile, C. Allen, Esq.,
Hon. J. P. Grant, E. Currie, Esq.,
Hon. B. Peacock, and
D. Eliott, Esq., Hon. Sir A. W. Buller.

HINDOO POLYGAMY.

THE CLERK presented a Petition from Ranee Soornomoy of Cossim Bazar, praying for the abolition of Hindoo Polygamy.

Also a Petition from Hindoo Inhabitants of Baranagur with the same prayer.

MR. GRANT moved that these Petitions be printed.

Agreed to.

ARTICLES OF WAR FOR THE NATIVE ARMY.

THE CLERK reported that he had received, by transfer from the Secretary to the Government of India in the Military Department, a letter enclosing a communication from the Judge Advocate General at Bombay, recommending the repeal of the 144th Article of War for the Native Army.

MR. PEACOCK moved that the communication be printed.

Agreed to.

EXECUTION OF CRIMINAL PROCESS.

MR. CURRIE presented the Report of the Select Committee on the Bill "to provide for the execution of Criminal process in places out of the jurisdiction of the authority issuing the same."

NATIVE PASSENGER VESSELS.

MR. ELIOTT moved the first reading of a Bill "to prevent the over-crowding of vessels carrying native passengers in the Bay of Bengal."

In doing so, he said this Bill was intended to give legal sanction and effect to certain rules which had been established by the Government of Madras for the control of vessels carrying native passengers from ports in the Presidency of Madras to places in the opposite Coast of the Bay of Bengal, and in the Straits of Malacca, and the Island of Ceylon, and to extend them to vessels carrying such passengers from Ceylon, the Eastern Coast, and the

Straits, to the Coast of Madras. The rules he referred to, the Madras Government had established in the beginning of 1853, in consequence of casualties having occurred on board vessels going across the Bay from and to ports in Madras, and between those ports and Ceylon, owing to their being over-crowded with passengers. At the same time that they established the rules for Madras, they communicated with the Government of India, suggesting that corresponding rules should be passed for vessels conveying passengers from Arracan, Rangoon, and the Tenasserim Coast to Madras. The Government of India approved of the rules generally, but thought that a legislative enactment was necessary for the purpose of giving them legal authority. In the meantime, the rules were found to be of little practical use, owing to the want of penalties which could be enforced by the Magistrates, and the Madras Government transmitted to him the Draft of an Act for the purpose of supplying that defect. Some correspondence had passed between him and the Madras Government on the subject, and the Bill which he now had the honor to present was the result.

The evil which it was designed to remedy was increasing with the growing demand for labor on the Eastern Coast and in Ceylon. The trade of carrying passengers was a lucrative one; and Masters of vessels were often reckless of the health and safety of passengers, and over-crowded their vessels in a manner which, in bad weather, could not fail to be fatal. Within the last day or two, he had seen a communication from the Madras Government in which there was notice of a letter from the Government of Ceylon mentioning the arrival of a small brig from the Coast with 428 passengers, being 291 in excess of the number permitted by the rules. The over-crowding of vessels in this manner was becoming a matter of constant occurrence, and it seemed to be imperative to check the dangerous practice.

He had confined his Bill to the regulation of the passage of Natives proceeding across the Bay of Bengal from and to the ports of Madras, and between places on the Madras Coast and Ceylon, because, having consulted with the Honorable Member for Bengal, he had been led to think that its provisions were not called for on this side of India.

There had been a good deal of discussion as to the expediency of making the English Passenger Act applicable to India. The Government of India, having had the subject before them, had come to the Resolution, in October 1851, that it was not necessary to introduce it into this country; and again, after a long correspondence with the Governor of the Straits respecting an Act proposed by him for preventing the over-crowding of vessels carrying pilgrims from the Straits to the Red Sea, they resolved, in 1852, not to legislate on the subject. But in 1854, the Governor of the Straits having again made a pressing representation of the necessity of such legislation, he was informed that the subject would be taken into consideration once more; and the papers connected with it formed one of the references to the Legislative Council.

The provisions of the English Passenger Act were unsuitable to the vessels for which this Bill was intended, and to the circumstances of the passengers carried by them, and would be unnecessarily burdensome, regard being had to the comparative shortness of the passage: and, perhaps, the simple provisions of this Bill would be insufficient for vessels making the long voyages contemplated by the Government of the Straits. He had thought it expedient, therefore, to confine the Bill to passenger vessels traversing the Bay of Bengal from Coast to Coast, or crossing from the mainland to Ceylon.

The Bill would apply to vessels carrying Native passengers in a proportion not exceeding one passenger for four tons of burden. It was not necessary that Masters of vessels which carried passengers in that proportion, should take out licenses, and the Bill, accordingly, did not require them to do so, but only subjected them to a penalty if they should carry a greater number than the specified proportion. Those Masters of vessels who wished to carry passengers in greater proportion were required to take out licenses; and the shipment of Native passengers was confined to certain ports of the Madras Presidency, to be appointed by the Madras Government.

The licenses were to be granted by Collectors of Sea Customs at their discretion, under general instructions from Government as to a survey to be made of the vessels.

The number of passengers to be carried by vessels so licensed was limited to one passenger for every ton of burden, with sufficient accommodation for all the passengers between decks, except in the case of vessels in ballast carrying passengers across the Straits between the Madras Coast and Ceylon. With regard to these, the proportion was increased to two and a half passengers for

every ton of burden, with accommodation under hatches for one-half the number of passengers.

The quantity of provisions and water to be supplied to the passengers was to be according to a scale to be fixed by the Madras Government from time to time, with reference to the distance of the voyage, and the time to be occupied by it. The Master of a vessel not supplying provisions to passengers daily according to the scale fixed, was made liable to a penalty for every omission.

For vessels carrying passengers to Ceylon, the scale of provisions was to be fixed by the Collector of the Sea Customs at the port of embarkation.

It was to be hoped that these provisions would prove effectual in checking the evil of over-crowding vessels, without being so burdensome as to impede the free transport of laborers from Coast to Coast.

At the suggestion of the Marine Board, the operation of the Bill had been limited to three years.

The Bill was read a first time.

ARTICLES OF WAR FOR THE NATIVE ARMY.

MR. PEACOCK moved the first reading of a Bill "to extend the provisions of the 101st Article of War for the Native Army," which enacts as follows :—

"At any Presidency where the Native Troops have hitherto been authorized to claim to be tried by European Courts Martial, every person amenable to these Articles of War, and who may be under orders for trial by a Court Martial, shall have the right to claim to be tried by European Officers ; and, should he make such claim, the Court, whether General, District, or Garrison, or Regimental, shall be composed of European Commissioned Officers, and the number of Members, and the proceedings, shall be governed in all respects by the provisions of these Articles."

The second paragraph of the Article said :—

"And it shall be competent to the Governor General of India in Council, by a General Order, to authorize the Native Troops *of any of the Presidencies* to claim to be tried in like manner by European Courts Martial."

The question had lately been considered by Government, whether it would not be right to extend to the Hyderabad Contingent, and to other Troops similarly circumstanced, the provisions of this Article. It would be observed that, by the second paragraph of the Article, it was competent to the Governor General of India in Council to authorize the Native Troops *of any of the Presidencies* to claim to be tried by European Courts Martial ; but this power could not be exercised in regard to the Hyderabad Contingent, and other Troops in a similar position, which did not belong to one of the Presidencies. The Government referred to the Resident at Hyderabad, requesting his opinion whether the option of claiming to be tried by European Courts Martial would be appreciated by that Force. The answer of the Resident was in the affirmative, and he stated his opinion that the option should be given to them ; but he proceeded to observe as follows :—

"The provisions of the 101st Article of War were not extended to the Contingent in consequence of the paucity of Officers, and the inconvenience that might be occasioned to the public service if the option of trial by European Officers existed, and it were vexatiously demanded for the investigation of trivial offences. The inconvenience would probably be found to occur more frequently than formerly, the complement of a Corps on the old Contingent having been five European Officers, instead of three, as now."

He added that he thought "that some discretion in granting the claim might with advantage be allowed in an Irregular Force of this description."

He (Mr. Peacock) believed that the smallest number of European Officers necessary to form a General Court Martial was seven. Therefore, it might happen, in some cases, that, if an absolute right were given to Native Soldiers in the Contingent to claim trial by European Courts Martial, a Soldier might insist upon that right in trivial cases when it might be inconvenient to obtain a sufficient number of European Officers to form a Court Martial.

The object of this Bill was to give to the Governor General in Council the power of authorizing Native Troops, whether belonging to, or serving in any of the Presidencies or not, to claim to be tried by European Courts Martial in the same manner as he was now empowered to authorize Native Troops in any of the Presidencies to claim that privilege ; and Section I extended the 101st Article of War accordingly.

But, with reference to the contingency suggested by the Resident, he had thought it right to introduce another Section, by which the claim, if made, and also the allowance or disallowance thereof, should be subject to such conditions and restrictions, if any, as the Governor General in Council should, by such General Order, direct. This Clause would enable the Governor General in Council, by the General Order by which

the privilege should be conferred, to authorize the disallowance of a claim if it were sought to be exercised in a trivial case, or where there was not a sufficient number of European Officers to form a Court Martial. This would not be taking away any privilege which was now enjoyed by the Native Troops not belonging to any of the Presidencies; but it would be giving them a new privilege, subject to conditions and restrictions, the object of which was that no inconvenience might arise to the public service.

With these observations, he begged to move the first reading of the Bill.

The Bill was read a first time.

CONSERVANCY (PRESIDENCY TOWNS, &c.)

MR. PEACOCK moved the first reading of a Bill "to amend Act XIV of 1856." He said, it would be in the recollection of the Council that, by that Act, Municipal Commissioners had power to make Bye-laws in certain cases—for instance, Bye-laws for the regulation of slaughter-houses and burial grounds, the mode in which offensive trades were to be carried on, &c. It also enacted that no such Bye-law should have any force unless it was confirmed by the local Government; that, previous to such confirmation, the Bye-law should be published, and that the confirmation by the local Government should also be published. After these provisions, the Select Committee to whom the Bill had been referred, had introduced a Section which said—

"Copies of such Bye-laws shall be transmitted to the Clerk of the Legislative Council as soon as conveniently may be after the confirmation thereof."

That Section stood as CXXII in the Bill as amended by the Select Committee, but as CXXI in the Act. When the Bill was before a Committee of the whole Council, the following words were added to it:—

"and no such Bye-law shall have effect if disallowed by order of the Legislative Council."

He had referred to the debate upon this Bill; but the observations made respecting Section CXXI, being only of a conversational nature, he found that they had not been noticed. He would therefore state to the Council what he believed had taken place in reference to the Section, as far as he could recollect at this distance of time. When the Section introduced by the Select Committee was proposed, he moved the addition of words to the effect that any such Bye-law might be repealed in the same manner as if it were part of the Act. His Honorable friend opposite, the Mover of the Bill (Mr. Eliott), suggested that this might raise a difficulty, inasmuch as the Standing Orders of the Council required that a Bill should be published three months before it could be passed, and that, if it should be necessary to pass an Act for the purpose of repealing Bye-laws made by the Municipal Commissioners, it would be three months before the Act could come into force. He (Mr. Peacock), when making his motion, had in his mind the Act by which power was given in England to the Judges for altering the rules of pleading. By that Act, the Judges were authorized to make rules for pleading; but those rules were not to come into force until they had been before Parliament six weeks. He believed that, in consequence of the Honorable Member's objections, he proposed to provide a similar check in this Bill, and to enact that Bye-laws made by the Municipal Commissioners should not come into effect until they should have been three months before the Legislative Council. He believed that it was thereupon suggested that it would be throwing an impediment in the way of making Bye-laws, if it were provided that they should not come into force until three months after they had been made. A conversation then ensued, and ultimately the words now in the Act were inserted. The Honorable and learned Chief Justice and the Honorable and learned Member opposite (Sir Arthur Buller) were both present on that occasion, and it had not occurred to them or to himself that any such provision would be contrary to, or in excess of, the powers of the Legislative Council. But it had been suggested since that it was a provision which went beyond the powers of the Council. He confessed that he was not of that opinion. He thought that, when the Legislative Council gave such a body as the Municipal Commissioners the power to make Bye-laws, it had the right to restrict that power, by directing that the Bye-laws should be subject to its sanction.

But then, another question had been raised. It had been asked, could the Legislative Council do any thing by an Order? Must it not do every thing by an Act, to which the assent of the Governor General was necessary? By the Charter under which the Council legislated, no Act which it passed could take effect until it had received the assent of the Governor General. The

Council could only pass an Act subject to the veto of the Governor General. If the Council could disallow a Bye-law by an Order, then it could disallow it without the assent of the Governor General. The objection suggested was, that the Legislative Council could not perform any executive function, and that what it did must be done by an Act, and not by an Order. He felt bound to say that he did not entertain that opinion. He thought that, when the Legislative Council gave to Municipal Commissioners the power of making Bye-laws, it might annex to it the condition that such Bye-laws should be laid before the Council, and that they should not take effect if they were disallowed by the Council. The Act which empowered the Council to legislate, did, indeed, say that the Legislative Council should not sit or vote except at Meetings held for the purpose of making Laws and Regulations; but it did not say that the Legislative Council should do nothing at such a Meeting except by a Law or Regulation. Consequently, when the Council gave another body the power of making Bye-laws, it had a right to say that the Bye-laws should cease to have effect if they should be disallowed by the Legislative Council, in the same manner as they had the right to say that they should not take effect unless confirmed by the executive Government. But whether he was right or wrong in this opinion, as he had no predilection for the words in the 121st Section of the Act, and as they had given rise to doubts which it was expedient to avoid, he had prepared the present Bill, which repealed that Section, and provided that no Bye-law made under the Act, although it might be confirmed by the local Goverment, should continue to be in force after it should have been disallowed by the local Government. He had no doubt in his own mind that, even without the words in the 121st Section of the Act, the Legislative Council had the power to pass an Act declaring that any Bye-law made by the Municipal Commissioners, which appeared to be objectionable, should not take effect. If he had thought that there was no such check over these Bye-laws, he should have been disinclined to give the Muuicipal Commissioners the power of making them at all, because the Act imposed a penalty not exceeding 50 Rupees for every breach of a Bye-law, and 10 Rupees every day in case of the offence continuing. Where the Council gave such a power, he had no doubt that it was competent to it to reserve to itself the right of disallowing without an Act any Bye-law which it thought ought not to exist. But he thought it advisable that the Section in the Act should not be retained if any serious doubts were entertained as to its validity. He did not see any objection to give the Municipal Commissioners the power of making Bye-laws subject to the confirmation of the local Government, and to give the local Government the power of disallowing any such Bye-law even after confirmation, if it should find that it was inexpedient that the Bye-law should be continued.

He had made these observations in introducing the Bill, because he thought it very important that this case should not be considered as a precedent for saying that the Legislative Council had no power to do any thing by an Order. He thought that, in certain cases, of which the present, in his opinion, was one, it had that power. He could suggest one case in which it had already acted by an Order, and not by a Law or Regulation. The Standing Orders of the Council had been passed, not by a Law or Regulation, but by a Resolution of the Council. In the same way, he thought that, if occasion should arise for the Council to call witnesses and to compel them to produce papers, it would have the right to pass an Act authorizing it to do so by a Resolution or Order. If the Council could not act in such cases by an Order, he was unable to see how it could act by any other means. It could not pass an Act every time it might want to summon a witness, or every time it might want to compel the production of a document.

Being willing, however, to avoid any dispute on the subject, he now moved the first reading of a Bill to amend Act XIV of 1856.

The 1st Section of the Bill repealed Section CXXI of that Act.

The 2nd Section provided that no Bye-law made under the provisions of that Act, though confirmed by the local Government, should continue in force after it should have been disallowed by the local Government, except as to any act done, or a breach of such Bye-law committed, before its disallowance.

The 3rd Section provided that every disallowance of a Bye-law should be published in the *Government Gazette*, or in one or more of the public newspapers, and that all Courts and Magistrates should take judicial cognizance of such disallowance.

With these observations, he begged to move the first reading of the Bill.

The Bill was read a first time.

BENGAL MARINERS' FUND.

MR. PEACOCK moved the second reading of the Bill "to provide for the dissolution of the Bengal Mariners' and General Widows' Fund Society, and the distribution of the funds belonging thereto."

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

INDIAN NAVY.

MR. PEACOCK moved the second reading of the Bill "to amend Act XII of 1844 (for better securing the observance of an exact discipline in the Indian Navy.)"

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

MARRIAGE OF HINDOO WIDOWS.

MR. GRANT moved the third reading of the Bill "to remove all legal obstacles to the Marriage of Hindoo Widows."

The question being proposed—

MR. PEACOCK said, considering the nature of this Bill, and the numerous Petitions that had been presented against it, he did not think it right to give a silent vote in favor of the motion for the third reading. He would, therefore, briefly state the reasons which induced him to give to the Bill his ready and cordial support.

The Bill had originated out of a Petition to this Council, signed by upwards of a thousand Hindoos. The Petitioners had laid before the Council the various inconveniences and evils that resulted from the law (which was stated to exist) that the marriage of a Hindoo widow was illegal. They had pointed out to the Council the difficulties which arose in consequence of that supposed law, the many mortifications and privations to which Hindoo widows were driven by it, and the immorality which it was calculated to engender. There had been many Petitions against the Bill, and many also in favor of it. The dispute as to the legality of the marriage of a Hindoo widow arose from a variance in the interpretation of the Shastras or holy books. One class of Hindoos, who he believed were equally as sincere and conscientious as the other, contended that, according to their reading of those holy books, the marriage of a Hindoo widow was not illegal: another class contended that the true construction of the holy books was, that a Hindoo widow must remain unmarried, undergoing privations and mortifications, and that, if she did marry, her marriage was illegal, and her children illegitimate, and not entitled to inherit any property. It was contended by some of the Petitioners that this Bill was an interference with the religion of the Hindoos, and that it was an interference with their usages. It appeared to him that the Bill was no interference either with the religion or with the usages of Hindoos, in the sense in which the Legislative Council should consider its effect. He had heard it said that the Hindoo law was so mixed up with the Hindoo religion that the two could not be separated. But he was not of that opinion. He was an advocate for liberty of conscience; and he thought that, so long as the interests of Society were not injuriously affected, no political Government ought to throw in the way of its subjects any impediment whatever against their following the dictates of their own consciences, either directly by subjecting them to penalties, or indirectly by subjecting them to disabilities, or refusing to allow them to participate in the benefits enjoyed by other citizens, or favoring those who entertained a particular belief. There was nothing in this Bill which would prevent any man or any widow from doing as he or she pleased. There was nothing in it which would compel any man to marry a widow, or any widow to re-marry. Every Hindoo whose religious feelings would not permit him to marry a widow would be free to abstain from such marriage; and every Hindoo widow who believed that, according to her religion, she was not entitled to re-marry, would be free to act in conformity with her belief, and remain a widow, subjecting herself to such mortifications and privations as her own conscience might dictate. But that was no reason why the sanction of law should be added to the sanction of religion. In our own church, we heard the Commandments constantly read, and we obeyed them in consequence of a moral, not in every case of a legal sanction. Sometimes, the law went along with religion, and prohibited what religion prohibited; but in many instances, the law prohibited what religion did not prohibit, and did not prohibit what religion prohibited. We were commanded, for example, not to worship any graven image, and to keep holy the Sabbath day. We were also commanded

not to murder, nor to steal, nor to commit adultery, nor to bear false witness against our neighbour, nor to covet. The law said—"If you murder or steal, or bear false witness against your neighbour, you shall be liable to penal consequences." But why did the law do that? Because it would be injurious to Society if any of those offences should be committed. It was an injury to Society for a man to murder, or rob, or bear false witness against his neighbour; and therefore the law prohibited those offences; but it did not prohibit them in order to give effect to the Commandment of religion. On the other hand, there was no law which said that persons must not worship a graven image, and that, if they did, they would be subject to penalties. There had been laws which subjected persons to penalties if they did not keep holy the Sabbath day, but they had been repealed; and he believed that, at present, there was no law of that nature in existence. The Council had lately had a Petition presented to it, asking for a law to shut up all taverns on Sundays with a view to check the open desecration of the Lord's day and the increasing vice of drunkenness, as if it were a greater crime to get drunk on the Sabbath than on any other day in the week! The Legislature prohibited the open desecration of every day, by acts injurious to Society. If a man, in a state of drunkenness, committed on any day an offence which was an injury to Society, the law would punish him for his offence. But the Legislature did not follow every man into his private home to restrain him from drunkenness or other immoral conduct not affecting Society. It left that to his own conscience and his sense of moral duty. A man's conscience was beyond the powers of law, and it had been truly said that Conscience was God's province. Where the commission of an act or the omission of a duty would be an offence against Society, a political Government interfered to prevent that act or omission. But it did that for the protection of Society, and not for the protection of religion. Upon what principle was it that the Indian Legislature had proceeded with reference to the practice of Suttee? Regulation XVII of 1829 dedeclared that practice to be illegal and punishable by the Criminal Courts; and the Preamble stated the reasons for the introduction of the measure. It said—

"The practice of Suttee, or of burning or burying alive the widows of Hindoos, is revolting to the feelings of human nature; it is nowhere enjoined by the religion of the Hindoos as an imperative duty: on the contrary, a life of purity and retirement on the part of the widow is more especially and preferably inculcated, and, by a vast majority of that people throughout India, the practice is not kept up nor observed: in some extensive districts, it does not exist: in those in which it has been most frequent, it is notorious that, in many instances, acts of atrocity have been perpetrated, which have been shocking to the Hindoos themselves, and in their eyes unlawful and wicked. The measures hitherto adopted to discourage and prevent such acts have failed of success, and the Governor General in Council is deeply impressed with the conviction that the abuses in question cannot be effectually put an end to without abolishing the practice altogether. Actuated by these considerations, the Governor General in Council, without intending to depart from one of the first and most important principles of the system of British Government in India, that all classes of the people be secure in the observance of their religious usages, so long as that system can be adhered to without violation of the paramount dictates of justice and humanity—has deemed it right, &c."

and then followed rules abolishing and making illegal the rite of Suttee. That rite was an injury to Society. It was an injury to Society that a widow should burn or bury herself with the body of her husband, or that any one should assist her in doing so; and, therefore, the Legislature had interfered, and made the practice illegal. If a person believed it to be his imperative duty to do an act which would not be an injury to his fellowmen or to Society at large, the Legislature would not forbid him to do it: but if he believed it to be his imperative duty to offer human sacrifice, the Legislature would interpose and say—"We will not allow you to carry out your belief to the injury of your neighbour." But what was there in this Bill which would prevent any Hindoo from following his or her own belief respecting the marriage of Hindoo widows? What was the imperative duty which it would prevent any Hindoo from performing? The Bill would not prevent any Hindoo from acting according to his own belief that the Hindoo religion forbade the marriage of widows; but it would enable those who entertained a different belief to act upon it. What the Council said was this—"We do not decide which is the orthodox opinion: it is not for us to do that: we merely enact that, if a Hindoo widow choose to re-marry, she may re-marry." One class of Hindoos petitioned the Council to relieve them from the prohibition of law, leaving the supposed prohibition of religion untouched. The Council had, accordingly, come in to

remove the legal prohibition, not with the view of compelling those Hindoo widows to re-marry, whose religious convictions were opposed to marriage, but with the view of protecting those Hindoo widows, who believed that they could re-marry, from the thraldom of the class which thought differently from them. If one Hindoo widow believed that her religion did not restrain her from re-marrying, why should the law restrain her because others of her community entertained a different opinion on the subject? No injury was done to Society by a widow re-marrying. If any such injury were done, the law ought to restrain Christian and Mahomedan widows from re-marrying. But the marriage of Hindoo widows was not an injury to Society: the injury arose from the law which prevented them from exercising their own free will upon the subject. That law was shown to be highly injurious, and there could be no objection to the Legislature withdrawing the legal prohibition. If a Hindoo widow should become a Christian, there would be no obstacle to her marrying again. Then, why should she not marry again while continuing in her own faith, if she believed in her conscience that the doctrines of that faith did not prohibit her re-marriage?

There was a great distinction between preventing a man from doing that which his religion directed him to do, and preventing him from doing that which his religion merely allowed him to do. If a man were to say that his religion did not forbid polygamy, and therefore that he might marry as many wives as he pleased, when it was impossible for him to carry out the contract of marriage, it would be no interference with his religion for the Legislature to say that the marrying of a hundred wives, and the subsequent desertion of them, was an injury to Society, and therefore that it should be illegal to do so. He (Mr. Peacock) maintained that it was the duty of the Legislature in such a case to prevent him from doing that which his religion merely permitted but did not command him to do. He could not be a husband to a hundred wives, and could not carry out the contract of marriage. Under no circumstances ought the Legislature to interfere with the privilege of a man to do any act which in his own conscience he believed he was bound to do, unless such act should be injurious to Society; but where such an act would be injurious to Society, he maintained that it was the duty of the Legislature to prevent him from doing it.

For these reasons, he was of opinion that this Bill ought to be passed. He felt deeply indebted to the Honorable Member opposite (Mr. Grant) for having introduced the measure, and he was delighted to see that the Petitions received in favor of the Bill contained enlightened and liberal sentiments which did honor to those gentlemen from whom they had emanated.

MR. GRANT'S motion was then carried, and the Bill read a third time.

NOTICES OF MOTIONS.

MR. CURRIE gave notice that, on Saturday next, he would move for a Committee of the whole Council on the Bill "to amend the law relating to the appointment and maintenance of Chowkeydars in cities, towns, stations, suburbs, and bazars in the Presidency of Fort William in Bengal."

MR. ALLEN gave notice that, on Saturday next, he would move the second reading of the Bill "to extend the provisions of Regulation VI. 1810 of the Bengal Code."

BENGAL MARINERS' FUND.

MR. PEACOCK moved that the Bill "to provide for the dissolution of the Bengal Mariners' and General Widows' Fund Society, and the distribution of the funds belonging thereto" be referred to a Select Committee consisting of Sir Arthur Buller, Mr. Currie, and the Mover.

Agreed to.

MESSENGER.

MR. GRANT moved that Mr. Peacock be requested to take the Bill "to remove all legal obstacles to the marriage of Hindoo widows" to the Right Honorable the Governor General for his assent.

Agreed to.

INDIAN NAVY.

MR. PEACOCK moved that the Bill "to amend Act XII of 1844 (for better securing the observance of an exact discipline in the Indian Navy)" be referred to a Select Committee consisting of Mr. Allen, Mr. Currie, and the Mover.

Agreed to.

The Council adjourned.

Saturday, July 26, 1856.

PRESENT :

The Honorable J. A. Dorin, *Vice-President*, in the Chair.

Hon. Sir J. W. Colvile, C. Allen, Esq.,
Hon. J. P. Grant, E. Currie, Esq.,
Hon. B. Peacock, and
D. Eliott, Esq., Hon. Sir A. W. Buller.

The following Message from the Governor General was brought by Mr. Peacock and read :—

MESSAGE No. 79.

The Governor General informs the Legislative Council that he has given his assent to the Bill which was passed by them on the 19th July 1856, entitled " A Bill to remove all legal obstacles to the Marriage of Hindoo Widows."

By order of the Right Honorable the Governor General.

CECIL BEADON,
Secy. to the Govt. of India.

FORT WILLIAM,
The 25th July 1856.

HINDOO POLYGAMY.

THE CLERK presented two Petitions from Inhabitants of Santipore and its neighborhood, praying for the abolition of Hindoo Polygamy.

Also a Petition of Inhabitants of Calcutta, with the same prayer.

Also a Petition from Sreemutty Rausmoney Dossee, with the same prayer.

SIR JAMES COLVILE moved that these Petitions be printed.

Agreed to.

REVENUE OF CALCUTTA.

MR. CURRIE presented the Report of the Select Committee on the Bill " relating to the administration of the public revenues in the Town of Calcutta."

OPIUM.

MR. CURRIE moved the first reading of a Bill " to consolidate and amend the law relating to the cultivation of the Poppy and the manufacture of Opium in the Presidency of Fort William in Bengal."

In doing so, he said this Bill was a kind of supplement to the Abkaree Bill, which he had had the honor to introduce some months ago, and which was now before a Select Committee.

The retail sale of Opium was a branch of the Abkaree Revenue ; and, therefore, the Abkaree Laws provided penalties for the illicit possession and sale of Opium. The unauthorized cultivation of the Poppy was closely connected with the illicit possession and sale of its produce ; and the same Regulations contained provisions respecting both offences. But, in revising the Abkaree Laws, it was considered desirable to restrict the Abkaree rules to the points of possession and sale, and to treat unauthorized cultivation as a separate subject, in connection with the cultivation of the Poppy and the manufacture of Opium for Government.

The Law, Regulation XIII. 1816, contained very stringent rules for regulating the cultivation on account of Government, and the dealings of the Opium Agents with the cultivators ; and these, of course, had no connection at all with the Abkaree. Accordingly, in the repealing Section of the Abkaree Bill, he had refrained from repealing those parts of Regulations which related to cultivation only, and he had made a reference, through the Bengal Government, to the Board of Revenue and the Opium Agents, requesting their opinions as to the necessity or desirableness of remodelling the law on that subject. He had been induced to do this, not only because he thought that a new and complete Opium Law would be far preferable to the retention of scraps of Regulations of which the greater part had been repealed, but also because he knew that the present practice of the Opium Agencies in their dealings with the cultivators was at variance with the provisions of the existing law. In reply to his reference, the Board of Revenue and the Opium Agents had expressed an opinion that it was very desirable that the Law should be remodelled in accordance with the present practice. This Bill has been framed for that purpose, and also for the purpose of throwing together all the provisions respecting Opium which were not embraced by the Abkaree Bill.

The first portion described and authorized the existing practice of the Agencies in their dealings with the cultivators ; and the latter portion contained provisions for penalties for the unauthorized cultivation of the Poppy, and for the connivance of Zemindars and officers of Government in such cultivation. He had, in some degree, modified