

PROCEEDINGS



OF THE

LEGISLATIVE COUNCIL OF INDIA,

FROM

January to December 1856.

VOL. II.

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Published by the Authority of the Council.

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175.

CALCUTTA:

PRINTED BY P. M. CRANENBURGH, MILITARY ORPHAN PRESS.

1857.

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Bill which, as it involved a general question, he might take this opportunity of noticing. The Bill provided a double penalty for the infraction of the rules which were laid down in it. By Section XIX, Tobacco illegally imported, removed, &c., was to be liable to confiscation: by Section XX, the person who committed the offence was to be subject to a fine. By Section XXI, the confiscation was to be adjudicated by a Revenue Officer. And by Section XXII, the fine was to be adjudged by a Magistrate of Police. Now, the offence was one, and it was inexpedient that there should be two trials by different authorities for the same offence, since they might be attended by discrepant results. The Revenue Officer, for example, might be of opinion that the Law had been infringed, and might adjudge the Tobacco to be confiscated; whereas the Magistrate of Police might be of opinion that the Law had not been infringed, and might refuse to impose any fine. The Calcutta Excise Acts (XI and XIII of 1849) provided that both confiscation and fine should be adjudicated by a Magistrate. In the Mofussil, the Law was that both should be adjudicated by Revenue Officers. Whether the adjudication were left to the one or the other class of officers, it appeared to him that the whole penalty should be awarded by the same authority.

MR. LEGEYT said, the objection felt by the Honorable Member hardly affected the principle of the Bill, and it would probably be better if it were considered in Select Committee. He would take a note of it, and submit it to the Select Committee to whom the Bill might be referred.

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

#### CRIMINAL JURISDICTION OF MOONSIFFS AND TUHSEELDARS (N. W. PROVINCES).

MR. ALLEN moved that the Bill "for conferring Criminal jurisdiction on Moonsiffs and Tuhseeldars in the North-Western Provinces" be referred to a Select Committee consisting of Mr. Elliott, Mr. Currie, and the Mover.

Agreed to.

#### DUTIES ON TOBACCO (BOMBAY).

MR. LEGEYT moved that the Bill "to amend the law relating to the duties payable on Tobacco, and the retail sale and warehousing thereof in the Town of Bom-

*Mr. Currie*

bay" be referred to a Select Committee consisting of Mr. Elliott, Mr. Currie, and the Mover.

Agreed to.

#### NOTICES OF MOTION.

MR. LEGEYT gave notice that he would, on Saturday next, move the second reading of the Bill "to make better provision for the collection of Land Customs on certain Foreign Frontiers of the Presidency of Bombay."

Also that he would, on the same day, move the first reading of a Bill "for taking account of the population of the Town of Bombay.

And of a Bill "to provide for the taking of Evidence by the Legislative Council of India."

The Council adjourned.

*Saturday, August 30, 1856.*

#### PRESENT :

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

Hon. Sir J. W. Colville,	D. Elliott, Esq.,
His Excellency the Com- mander-in-Chief,	C. Allen, Esq.,
Hon. J. P. Grant,	P. W. LeGoyt, Esq.,
Hon. B. Peacock,	and E. Currie, Esq.

The following Messages from the Governor General were brought by Mr. Grant and read:—

#### MESSAGE No. 81.

The Governor General informs the Legislative Council that he has given his assent to the Bill which was passed by them on the 9th August 1856, entitled "A Bill to provide for the execution of Criminal process in places out of the jurisdiction of the authority issuing the same."

By Order of the Right Honorable the Governor General.

CECIL BEADON,

*Secretary to the Govt. of India.*

FORT WILLIAM, }  
The 23rd August, 1856. }

#### MESSAGE No. 82.

The Governor General informs the Legislative Council that he has given his assent to the Bill which was passed by them on

the 16th August 1856, entitled "A Bill relating to the administration of public Revenues in the Town of Calcutta."

By Order of the Right Honorable the Governor General.

CECIL BEADON,

*Secretary to the Govt. of India.*

FORT WILLIAM, }  
The 23rd August, 1856. }

#### HOUSE OF CORRECTION (CALCUTTA).

The Clerk presented a Petition from Mykurn Doas, a prisoner in the House of Correction, praying for a remission of his sentence; and reported that the Petition was not framed in conformity with the Standing Orders, and did not relate to any matter connected with the business of the Council.

The Petition was not received.

#### HINDOO POLYGAMY.

The following Petitions for the abolition of Hindoo Polygamy were also presented:—

A Petition from Hindoo Inhabitants of Beerbhoom.

A Petition from Hindoo Inhabitants of Bancoorah.

Two Petitions from Hindoo Inhabitants of Kishnaghur.

A Petition from Hindoo Inhabitants of Simlah in Calcutta.

MR. GRANT moved that these Petitions be printed.

Agreed to.

#### LANDS FOR PUBLIC PURPOSES.

MR. ALLEN presented the Report of the Select Committee on the Project of Law for the acquisition of land needed for public purposes in the several Presidencies.

#### NATIVE PASSENGER SHIPS.

MR. ELIOTT moved the first reading of a Bill "for the Regulation of Native Passenger Ships." He said, in introducing the Bill "to prevent the over-crowding of vessels carrying Native Passengers in the Bay of Bengal," he had adverted to a correspondence between the Government of India and the Governor of the Straits respecting an Act proposed by that Officer for preventing the over-crowding of vessels carrying pilgrims from the Straits to the Red

Sea. He had observed that, in 1852, the Government of India resolved not to legislate on the subject; but that in 1854, on a further and more urgent representation from the Governor of the Straits, they agreed to take the question into consideration once more. The subject was amongst those which were referred to the Legislative Council on its institution, and the connected papers were to be found under No. 50 of the list of pending business. On reading the correspondence, it appeared to him that the Governor of the Straits had shewn sufficient reason for an enactment for the Regulation of Native passenger vessels; but seeing that the Committee appointed by the Government of Bombay in 1852, had expressed the opinion that vessels carrying pilgrims to Arabia required regulation, he had been led to think that, if a Law were to be passed, it ought to be a general one, applicable to all Merchant Vessels carrying passengers by sea other than those traversing the Bay of Bengal for which the Bill already adverted to was meant to provide. This Bill had accordingly been prepared. It was intended mainly to apply to all pilgrim ships sailing between the Straits and other parts of India, and the ports in the Red Sea; and it was so framed as, besides its primary object, to be applicable to the case of vessels carrying lascars as passengers to Australia for the purpose of navigating vessels in that quarter. It was an object of great interest, after the discovery of gold in those colonies, to provide substitutes for the seamen who were tempted to desert their ships, and betake themselves to the diggings, and it was thought a feasible plan to engage lascars in India for that purpose and to send them to Australia as passengers by Merchant ships. The exigency had now passed away, but the history of one or two vessels which had taken lascar-passengers to Australia and afterwards returned to Calcutta, afforded abundant proof of the necessity for placing vessels engaged in this traffic under stringent Regulations.

The Bill was meant to include steamers carrying passengers coast-wise, whatever the duration of the voyage might be. It was thought that these provisions would answer the object of the Government of Bombay, which had sent up, in 1855, the Draft of an Act founded on 14 and 15 Vic. c. 79, which the Chamber of Commerce at Bombay, upon a reference made to it, stated they considered to involve a machinery more cumbrous and more costly than was necessary for securing the object contemplated by

that body—namely, to provide some precaution to secure the sea-worthiness of the coasting steamers belonging to Bombay.

With these observations, he begged to lay the Bill before the Council, referring for further particulars to his statement of objects and reasons.

The Bill was read a first time.

#### BOMBAY CENSUS.

MR. LEGEYT moved the first reading of a Bill "for taking account of the number of the population of the Town of Bombay."

The object of the Bill, he said, was to obtain for the Government of Bombay a correct Census of the population of the Town and Island. The Local Government had several times attempted to obtain such a Census, but it had not succeeded in securing one that was worthy of any great confidence. This partial failure was attributed to various causes—among others, to a feeling amongst the people that the object was to impose a future tax upon them in the shape of a poll tax. This feeling gave rise to all sorts of contrivances to evade the questions which were put to the different householders for eliciting the information necessary to the preparation of a Census. It was believed, however, that these ideas had now passed away. Three or four attempts to obtain the desired information had been made within the last ten years, and, as the result had not assumed any obnoxious form, there was reason to believe that the eyes of the people had been opened to the real object of the Government—viz. the obtaining of a correct statistical record. It was accordingly now thought advisable to undertake a new and complete Census, which it was intended should be carried out in the ensuing year 1857.

To obviate the difficulties and inconveniences which had attended the previous attempts, it was deemed advisable to obtain by legislative enactment certain powers to demand replies as to the numbers and particulars of the inmates of private dwellings, and to provide reasonable penalties for making false returns. The present Bill had been framed for that purpose. Its provisions had been taken, with the necessary alterations from 13 and 14 Vic. c. 53, which was an Act for taking an account of the population of Great Britain.

It had been suggested to him that the domiciliary visits, for which the Bill provided in cases where occupiers were unable

*Mr. Elliott*

to give the requisite information from not knowing to write, might be viewed with jealousy and dislike by householders. It was impossible to deny that such a feeling might be called forth to a certain extent; but he did not think that any means could be devised which would not be viewed by householders with some degree of jealousy and dislike. It was his belief, however, that the state of native Society in Western India did not present such strong features of domestic seclusion as that of those parts of India in which the Mahomedan customs had taken deeper root; and he did not think that, in the Presidency Town of Bombay at least, so long as the minds of the people were disabused of the fear of a future unequal taxation, any real difficulty would be met with in completing a full and accurate Census.

The Bill named several classes of officers as enumerators.

A subordinate body would be employed, who would be Members of the Bombay Police Force, and whose duty would consist in collecting and receiving Schedules from those occupiers who were capable of furnishing information in writing, and obtaining verbal answers from those who were not.

The Bill also provided reasonable penalties in cases of refusal or obstruction.

The Bill was read a first time.

#### TAKING OF EVIDENCE BY THE LEGISLATIVE COUNCIL.

MR. LEGEYT moved the first reading of a Bill to provide for the taking of evidence by the Legislative Council of India. In introducing this Bill, he said, he felt bound to ask for the indulgence of the Council in bringing forward a measure which, he could not but think, was one of very great importance, and would demand from the Council a considerable degree of consideration. The object of the Bill was to supply a want which, he thought he was justified in stating, had, on many occasions, been felt by Honorable Members whose antecedents or previous experience might not have furnished them with the particular knowledge of local and peculiar matters which they could not but desire to possess and make use of in legislating for a people composed of such various tribes, whose habits were often so strangely dissimilar, as the nations which were subject to the rule of the British Government in India.

It was proposed in this Bill to bring such information before the Council in the shape of evidence to be taken orally from witnesses summoned for that purpose before the Council when practicable, and, when distance or other circumstances might render personal attendance inconvenient, to obtain the same end by issuing Commissions to fit and proper persons, who would collect the information required, and return it to the Council.

He thought it might reasonably be expected that the information obtained in this way would be found to be highly important and valuable. It would form a record of public opinion given, not hastily or in a spirit of partisanship, but carefully and considerately, in reply to questions which would be put honestly and fairly, for the sake of solving doubts and clearing away obscurities, by those who had already well considered the subject under discussion, and endeavored to master it. He thought that, when men able to give clear and good opinions felt that what they were about to state was to be taken down with care, and generally to be submitted to the criticism of the Press and the Public, they would weigh carefully what they were about to say, and it appeared to him that such evidence would be of a much more weighty and important character than the prayer of a Petition conceived and framed, it might be, under an impulsive feeling of hostility towards a measure which might be obnoxious to the feelings of an individual.

He thought that this measure would also place the Council in possession of the feelings and wishes of people at a distance respecting contemplated measures, which it was now almost impossible for it to obtain. It was all very well to say that people throughout India had, at present, an opportunity of making their sentiments known by petitioning the Council, and that such Petitions would be attentively considered. But when we considered the almost natural apathy of the people of this country to take into consideration any future measures, we must see that, except in very peculiar cases, such Petitions would not be presented. Bills would be allowed to be passed into Law, and then the persons affected by them would, for the first time, discover that they were objectionable, and would cry out, "who would have thought that the Legislature would have carried out such measures!"

If this Bill should pass, it would be in the power of any Member of the Council, or of

any Select Committee specially empowered, if they considered it desirable to obtain the opinions of people affected by a particular Law, to issue summonses and to compel the attendance of witnesses and the production of documents, and in certain cases, to issue Commissions under which evidence at a distance might be taken.

In proposing the present Bill, he proposed to introduce no novelty in legislation. The power which it gave to this Council, was a power generally exercised by all legislative assemblies. Its non-exercise was the exception, and not the rule. Recently, it had been warmly contended that such power was inherent in all legislative bodies. He would not stop to discuss that question now. But whether the power was inherent or not, it was highly advisable that, where conferred, its exercise should be regulated by fixed rules. The present Bill contained such rules as seemed to be required for this purpose.

It also laid down rules for hearing and determining objections; and provided suitable penalties for contempts.

The Bill was read a first time.

#### ACQUISITION OF LAND FOR PUBLIC PURPOSES.

MR. ALLEN moved the first reading of a Bill "for the acquisition of land for public purposes." He said, the courtesy of his colleagues, rather than any special trouble that he had taken in the preparation of this Bill, had put him forward to bring it before the Council. Sometime ago, a Bill was read a second time "to facilitate the acquisition of lands needed for public purposes in the Presidency of Bombay." The Select Committee on that Bill reported that it was founded, in a great measure, on the Madras Act of 1852, which needed some modifications; and that it would not be expedient to make those modifications in the Bombay Bill without in like manner amending the Madras Act. The Select Committee also reported that the Straits Settlement had no Law for the acquisition of land for public purposes, and that a separate Bill would be necessary for the Non-Regulation Provinces; and they recommended the framing of one comprehensive Act, which would be applicable to the whole of India. Their Report had been referred to a Select Committee, and he had now the honor to present a Bill prepared by that Committee.

The Law for Bengal was chiefly comprised in Regulation I of 1824, which ap-

plied to all parts of the Presidency beyond the limits of Calcutta. That Regulation had been extended by Act I of 1850 to Calcutta; and there was also another Act relative to Railways in Bengal. Besides these Regulations, we had in Calcutta Act XXII of 1847, which gave to the Municipal Commissioners a certain mode of acquiring land needed for public purposes. This last mentioned Act had been repealed by the new Conservancy Act, namely, Act XIV of 1856. For the Presidency of Madras, there was Act XX of 1852 which had been framed, to a considerable extent, on the Bengal Regulation. For Bombay, there was no power of compulsorily taking land for public purposes outside the Islands of Bombay and Colaba. The Bill which he now presented followed chiefly Act XX of 1852. It provided that the Government might, by its *ipse dixit*, declare any land to be needed for public purposes, and that, on such declaration, it might after giving due notice and after marking out and measuring the land proceed to take it compulsorily, the value being fixed by arbitration. Act XXII of 1847, which provided a mode of taking land within the limits of Calcutta, proceeded in a different way. A Jury was to be summoned by the Sheriff to assess the value of the land. But the Municipal Commissioners reported, during the present year, that they had found that Act very inconvenient. The Arbitration principle, which was the Madras principle, had been found to work well, and it had been adopted by the Committee. This Bill differed from Act XX of 1852, when several persons were interested in one piece of land. The old Law declared that, when the several parties interested could not agree on the election of the persons who were to act as Arbitrators on their behalf, each of them should nominate one person, and the Collector or other officer of Government should select by lot one of the persons so nominated, and he was to be Arbitrator for the whole. It had appeared to the Select Committee that, by this mode, the person least interested in the land might become the Arbitrator for all. They accordingly proposed that, where the persons claiming had a joint interest, they should be forced to agree in the nomination of an Arbitrator; and that when the several interests were distinct, the Collector or other Government Officer should either select one of those persons best entitled to represent the others, or arbitrate on the interest of each separately. As a general rule, they

*Mr. Allen*

thought that the better plan would be for the Government to declare the value of the land in one sum; but in special cases, where the interests were conflicting, it had appeared to them that it would be better to allow each interest to be separately arbitrated.

The Select Committee had adopted from the English Act the provision that a portion of a house should not be taken if the owner wished to sell the whole of it; and the Bill also provided, on the principle followed in the new Conservancy Act, that owners of adjoining lands, who sustained damage by the taking of lands, should have a right to receive compensation.

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

The Bill was read a first time.

#### SUBURBS OF CALCUTTA, AND HOWRAH.

MR. CURRIE moved the first reading of a Bill "to make better provision for the order and good government of the Suburbs of Calcutta and of the Station of Howrah." The object of the Bill, he said, was to extend to the Suburbs of Calcutta and the Station of Howrah certain provisions of the Police and Conservancy Acts which had recently been passed for the Presidency Towns.

He need hardly inform the Council that, for a distance of about three miles, the boundary of Calcutta was marked by a road, and that the population on the eastern or outer side of that road was not less dense than the population on the western or inner side. Under such circumstances, there was apparently no good reason why there should be one Law for the one side and another Law for the other side; or why that which was an offence when committed on the western side of the road should not also be an offence when committed on the eastern side of the road. The practical inconvenience arising from the existing state of the Law had long been felt. Almost immediately after the passing of the Town Police and Conservancy Acts of 1852, the Magistrate of the 24-Pergunnahs suggested the expediency of extending some of their provisions to the suburbs; and more than a year ago, the subject was brought to his (Mr. Currie's) notice by the Lieutenant Governor of Bengal. But it was in contemplation, at that time, to amend the Acts of 1852; and he was consequently unable then to do anything in the matter. The projected amendment had now been carried out by the pass-

ing of Acts XIII and XIV of the present year ; and the time had, therefore, arrived when measures might properly be taken for extending to the suburbs the remedy which had so long been called for.

He proposed then to extend to the suburbs of Calcutta about 50 selected Sections of the new Police and Conservancy Acts, with such modifications, in many instances, as circumstances seemed to require. From the Police Act, he had taken only those provisions which related to offences peculiar to densely populated towns, and which might therefore properly be made the subject of a local enactment ; and he proposed to apply to them the general rules which regulate the proceedings of Magistrates. He did not anticipate, therefore, that the Bill would interfere either with the Penal Code, or the Code of Criminal Procedure.

From the Conservancy Act, he had endeavoured to select those provisions which seemed suitable to the somewhat different circumstances of the suburbs. He had omitted altogether the Sections which related to an organised system of drainage. The Calcutta Assessment Bill, which was now before a Select Committee, contained a provision for extending those Sections to such parts of the suburbs as it might be thought advisable to include in the drainage Scheme to be adopted for Calcutta.

In the general term "Suburbs," he had included Kidderpore, Allipore, and other places to the south of Tolly's Nullah. In Kidderpore, which was the resort of a large number of Sailors, the Police provisions were very urgently required. And for similar reasons, he had provided that the Bill should have effect in the Station of Howrah. There was now, in that Station, a considerable European population, which must, in time, be greatly increased by the Railway Terminus. Moreover, Howrah, like Kidderpore, was much resorted to by sailors.

If, after the publication of the Bill, the range which he proposed to give to it should be shown to be too extensive, it could, of course, be reduced by the Select Committee.

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

The Bill was read a first time.

#### LAND CUSTOMS (BOMBAY PRESIDENCY).

MR. LEGEYTT moved the second reading of the Bill "to make better provision for the collection of Land Customs on certain

Foreign Frontiers of the Presidency of Bombay."

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

MR. LEGEYTT moved that the Bill be referred to a Select Committee consisting of Mr. Elliott, Mr. Currie, and himself.

Agreed to.

#### NOTICES OF MOTION.

MR. CURRIE gave notice that, on Saturday next, he would move for a Committee of the whole Council on the Bill "to consolidate and amend the Law relating to the Abkaree Revenue in the Presidency of Fort William in Bengal."

Also, that he would, with the permission of the Council, move the second reading of the Bill "to make better provision for the order and good government of the suburbs of Calcutta and of the Station of Howrah." The Bill was rather a long one, but its provisions were for the most part taken from Acts which had been recently passed by this Council, and although questions might arise as to whether particular Sections should be retained, or whether other Sections of the Police and Conservancy Acts which had been omitted from this Bill, ought not to be included in it, such questions would properly be for the consideration of the Select Committee to whom the Bill might be referred. The only question, on the motion for the second reading, would be the general one, whether or not it was expedient to extend some of the Sections of the Police and Conservancy Acts for the Presidency Towns, to those Sections more or less, to the suburbs of Calcutta and the Station of Howrah.

The Council then adjourned, on the motion of the Chief Justice.

Saturday, September 6, 1856.

#### PRESENT :

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

Hon. the Chief Justice.	C. Allen, Esq.,
Hon. J. P. Grant,	P. W. LeGeyt, Esq.,
Hon. B. Peacock,	and
D. Elliott, Esq.,	E. Currie, Esq.

THE CLERK presented the following Petitions :—

#### MUNICIPAL ASSESSMENT (CALCUTTA).

A Petition of the Mahomedan Association concerning the Bill "to comprise in one Act the provisions necessary for the assess-