

PROCEEDINGS



OF THE

LEGISLATIVE COUNCIL OF INDIA,

FROM

January to December 1856.

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So the motion was negatived.

Sections LXXXI to LXXXIV were then severally passed as they stood.

Section LXXXV was passed, after an amendment.

Sections LXXXVI to LXXXVIII were passed as they stood.

Section LXXXIX was passed after an amendment.

Section XC was negatived as unnecessary after the omission of Section IV.

Section XCI was passed as it stood.

Section XCII was passed after an amendment.

The Council having resumed,—

NOTICES OF MOTIONS.

MR. ALLEN gave notice that he would, on Saturday the 13th instant, move the second reading of the Bill “for the acquisition of land for public purposes.”

SIR JAMES COLVILE gave notice, that he would, on the same day, move the second reading of the Bill “relating to the imprisonment of Criminals in the Settlement of Prince of Wales Island, Singapore, and Malacca.”

MR. LEGEYTT gave notice that he would, on the same day, move the second reading of the Bill “for taking account of the population of the Town of Bombay.”

MR. ELIOTT gave notice that he would, on the same day, move the second reading of the Bill “for the regulation of Native Passenger Ships.”

POLICE AND CONSERVANCY (SUBURBS OF CALCUTTA AND HOWRAH.)

MR. CURRIE moved that the Bill “to make better provision for the order and good government of the Suburbs of Calcutta and of the Station of Howrah” be referred to a Select Committee consisting of Mr. Elliott, Mr. Allen, and the Mover.

Agreed to.

NOTICES OF MOTIONS.

MR. PEACOCK gave notice that he would, on Saturday the 13th instant, move the second reading of the Bill “to enable the Governor General of India in Council to suspend the operation of certain Acts relating to the Emigration of Native Laborers.”

Also that he would, on the same day, move that the Standing Orders be suspended, to

enable him to pass the Bill through its subsequent stages.

The Council adjourned.

Saturday, September 13, 1856.

PRESENT :

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

Hon. the Chief Justice.	D. Elliott, Esq.,
His Excellency the	C. Allen, Esq.,
Commander-in-Chief,	and
Hon. B. Peacock,	P. W. LeGeyt, Esq.,

HINDOO POLYGAMY.

THE CLERK presented the following Petitions, praying for the abolition of Hindoo Polygamy :—

Seven Petitions of Hindoo Inhabitants of Calcutta.

A petition of Hindoo Inhabitants of Autpore in the District of Hooghly.

And four Petitions of Hindoo Inhabitants of Kishuaghur.

SIR JAMES COLVILE moved that the above Petitions be printed.

Agreed to.

MUNICIPAL ASSESSMENT (CALCUTTA).

THE CLERK also presented a Petition from Messrs. Cook and Co., of Calcutta, concerning the proposed tax on Horses and conveyances provided in the Bill “for appointing Municipal Commissioners and for levying rates and taxes in the Town of Calcutta.”

MR. ALLEN moved that the above Petition be referred to the Select Committee on the Bill.

Agreed to.

HOUSES WITHIN MILITARY CANTONMENTS.

THE CLERK reported to the Council that he had received, by transfer from the Secretary to the Government of India in the Military Department, a letter from the Bombay Government drawing attention to a former communication relating to an order made by the Judge of Dharwar directing the attachment of a house situate within the Belgaum cantonment at the suit of a mortgagee whose mortgage deed had not been registered or sanctioned by the Commanding Officer.

MR. LEGEYT moved that the above communication, together with the former correspondence on the subject, be printed.

Agreed to.

PORT-DUES AND FEES (STRAITS SETTLEMENT).

THE CLERK also reported to the Council that he had received a communication from the Officiating Under-Secretary to the Government of India in the Home Department, drawing attention to a Rule proposed to be laid down for levying a Registration fee on cargo and other boats (except passenger boats) plying within the ports of Singapore and Penang, in order that it may be sanctioned in the new Act for fixing Port-dues and fees.

PIRATICAL VESSELS (STRAITS SETTLEMENT).

MR. PEACOCK moved the first reading of a Bill "to authorize the arrest and detention, within the Ports of the Settlement of Prince of Wales' Island, Singapore, and Malacca, of Junks or Native Vessels suspected to be piratical." He said, it had lately been represented by the Governor of the Straits Settlement that Chinese Junks and other Vessels of a piratical character were in the habit of resorting to the Ports of that Settlement for the purpose, not only of fitting out, but also of obtaining information as to the cargoes and movements of native trading Vessels. The Straits Settlement had, some time ago, sent up the draft of a Police Act, in which were inserted certain clauses to enable the Governor to cause any Vessel that was suspected of piracy to be seized by Officers of Government. The Act was passed without these clauses; and certainly, it appeared to him that provisions of such a nature would better form the subject of a separate enactment than part of a Police or Municipal measure. The Governor had lately sent up the draft of an Act applicable to Junks or other Vessels suspected of being piratical, and containing clauses similar to those in the draft Act previously forwarded.

He (Mr. Peacock) had slightly altered the draft. As it now stood, the Bill would enable the Chief Resident Civil Authority of any station of the Settlement to cause any Chinese Junk or Native Vessel to be searched and to cause enquiries to be made for the purpose of ascertaining whether the Vessel was piratical or not. There might be many circumstances to lead to the sus-

picion that a Vessel was piratical—as, for instance, a large crew armament, but no cargo and no papers. To allow such a ship to lie alongside of Native Vessels preparing to leave the Port with large cargoes would be very objectionable. There were no Customs in the Straits Settlement, and, without the means which this Bill provided, it could not be ascertained whether any particular Vessel carried a cargo, or an armament, or stink-pots which were used for boarding Vessels.

The second Section provided that, if it should be proved upon oath, that there was reason to suspect that a Vessel was piratical, it might be seized and detained.

He (Mr. Peacock) had inserted a Section in the Bill which would be useful in enabling the Authorities to ascertain whether there were real grounds of suspicion against a Vessel or not. It empowered the Chief Resident Civil Authority to summon the Master, or person in charge, and any of the Crew of the Vessel suspected, and compel them to produce the ship's papers, if any; also to examine them, upon oath or affirmation, touching any matter that was material for the purpose of ascertaining whether the Vessel was piratical or not.

He had also inserted a clause which provided that, whenever a Vessel should be seized or detained as piratical, proceedings might be taken in the Admiralty or Vice-Admiralty-Court for her condemnation or her restitution. By a recent Act of Parliament,—the 13 and 14 of Victoria, c. 26—it was provided that whenever any of Her Majesty's Ships, or any of the Ships of the East India Company, should attack or be engaged with any persons alleged to be Pirates, it should be lawful for the High Court of Admiralty of England, and for all Courts of Vice-Admiralty, to take cognizance of and determine whether the persons or any of them so attacked or engaged were Pirates; and it seemed to him right that jurisdiction should also be given to the Vice-Admiralty-Court to condemn Vessels that were seized as piratical, or, where the seizure was shewn to be groundless, to restore them to the Masters.

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

The Bill was read a first time.

LANDS FOR PUBLIC WORKS.

MR. ALLEN moved the second reading of the Bill "for the acquisition of land for public purposes."

MR. LEGEYT said, he did not rise to offer any opposition to the second reading of this Bill; but he wished, before it was read a second time, to draw the attention of the Council to Section VII. To the provision of that Section, he could not give his assent. The Section said:—

“When the Collector or other officer has made an award or directed a reference to arbitration, he may take immediate possession of the land, which shall thenceforward be vested absolutely in the Government, free from all other estates, rights, titles, and interests. Provided always, that nothing in this Act contained shall affect the liability of any person who may receive the value of any land so taken without having a good title to the same.”

The part of this Section to which he objected was, that the Collector or other officer of Government, when he had directed a reference to arbitration, might take immediate possession of the land. The previous Section shewed that a reference to arbitration was to be directed when the owner of the land and the Collector or other officer should be unable to agree as to the amount of compensation to be awarded for the land. When a similar Bill was before the Council last year—a Bill which was confined to the Presidency of Bombay—a Petition from the Bombay Association was forwarded to this Council, in which that body remarked as follows:—

“That Section II authorizes the Governor in Council, in case of there being any hindrance to the acquisition of land by purchase from the parties interested, to take immediate possession of any land which has been declared by Government to be required for public purposes, without previously settling claims for compensation. Your petitioners submit that this provision in its present form is highly objectionable; because it might and probably would happen that, immediately on the occupation of a piece of land for a public work, the Engineers or Collectors would proceed to the removal of buildings, trees, &c. standing thereon. It is evident in such a case that the land-owners or others interested in the land would be highly embarrassed, if not altogether deprived of the power of subsequently establishing the value of the property thus removed or destroyed. No jury or arbitrators would be able to form an adequate notion of the real value of the landed property as it originally existed, or to assess the proper amount of compensation that should be awarded for improvements. Your petitioners therefore pray your Honorable Council to modify the second Section of the Bill, by adding a proviso that no land of a person who is unwilling to sell it for public purposes shall be taken possession of under the Act, nor shall any buildings, trees, or other property standing thereon be removed, until the arbitrators or jury, to whom the question of compensation to the owner may be referred, have had ample opportunity of surveying and

estimating the value of lands, buildings, improvements, &c.”

Now, he must submit that that was a perfectly sound principle; and that to go in opposition to it in this Bill, would be to render the measure extremely objectionable. The effect would be particularly felt in Bombay; because by no Law there could any land required for public purposes be given to a Government Officer until the price to be paid for it was definitively settled between such Officer and the owner, or, in case of dispute, until the award of arbitration was made and the money so awarded paid. It was only when this was done that the land was given over to a public Officer, under Act XXVIII of 1839. He apprehended that there could be no danger of any great delay in awaiting the decision of the Arbitrators; and certainly if, as the Bombay Association said, the public Officer were to take land into his possession, and deal with it as if it were entirely his own before such decision, the features of the property might be considerably changed—buildings might be thrown down, wells filled up, trees removed; and when the Arbitrators met, they might find the land in a very different state from that in which it had stood when the Government determined to take it for public purposes.

As he had said before, it was not his intention to oppose the second reading of the Bill: but if the Section to which he referred were retained by the Select Committee to whom the Bill might be referred, he reserved to himself the right of moving, in Committee of the whole Council, an amendment with the view of preventing the delivery over of any land to a public Officer, before the price to be paid for it should be definitively settled.

MR. ALLEN'S motion was agreed to, and the Bill read a second time.

IMPRISONMENT OF CRIMINALS (STRAITS SETTLEMENT).

SIR JAMES COLVILE moved the second reading of the Bill “relating to the imprisonment of Criminals in the Settlement of Prince of Wales' Island, Singapore, and Malacca.”

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

BOMBAY CENSUS.

MR. LEGEYT moved the second reading of the Bill “for taking account of the population of the Town of Bombay.”

MR. ALLEN said, he had no objection whatever to the taking of an accurate account of the population of the Island of Bombay. Indeed, he thought it was very advisable to do so; nor did he wish to throw any obstacle whatever in the way of obtaining any statistical information. But he thought that the necessity for passing any Act for the purpose of obtaining this information had not been shewn; and again, if it was necessary for Bombay, there was no reason why it should not also be necessary for other parts of India, and therefore no reason why the measure should be confined to Bombay.

The Bill enjoined the enumeration of the particulars of the inmates of private dwellings, and prescribed penalties for those who should give, either verbally or in writing, false statements and answers to such returns and questions as might be required of them. It certainly was not necessary to pass an Act to enable the Commissioner of Police to send Policemen round to every house to make enquiries; and as to enforcing penalties against persons who returned false answers to such enquiries, it did seem to him that it was very objectionable. It was not only at Bombay that attempts had been made to enumerate the people. Such attempts had been made in very many parts of India—perhaps, all over India. He would content himself by speaking of the North-Western Provinces. The first attempt made there, was at the time of the general survey, when the Surveyors were directed to take an account of the population, dividing the members of each village into sexes, religions, and occupations, so far as to distinguish agriculturists from non-agriculturists. The Census which was prepared in pursuance of these instructions, went home, and was criticised very severely by the Court of Directors, who pointed out many errors in it. On receipt of this criticism, the Lieutenant Governor of the North-Western Provinces took other steps for obtaining an accurate account of the population: but he did not come to the Legislature for an Act to enable him to do so—he did not ask that threats should be thrown out—he did not declare that penalties would be awarded if people did not give correct replies to the questions that might be put to them. On the contrary, he did everything in his power to encourage the people to make true returns, and to decrease any fears which they might have regarding the real object of securing a correct Census. He

issued a Circular to the Collectors, intimating in it what the Census was wanted for, and how it should be taken, and what would be its use. He took the pains of having the Circular translated, and the translations distributed all over the country, so that all the inhabitants might see what it was that the Census was really intended for. The result of these measures had been printed and published by him in a book, at the end of which was a Minute by himself, in which he stated distinctly that the Officers engaged in collecting the requisite information had unanimously said that no householder had refused to give the information; that the people did so without fear. But the Lieutenant Governor spoke very strongly of the novelty of the thing, and of the inaptitude of the instruments employed to take the account; and to that circumstance he ascribed whatever imperfections the Census might have. The Natives of this country had none of that feeling which made the Saxon say, "Where is your Law and authority for asking me this question?" They were too apt to submit at once to whatever was demanded of them; and they defended themselves by fraud, deceit, and lying, and not by standing on their rights, or refusing to give the information required of them. No one, he thought, who had ever asked a Native for any information, but must have been struck with the observation that bullying and threatening did not make him tell what he was wanted to tell; but that a little kindness, encouragement, and consideration drew it out of him.

The Honorable Member had said, in his Statement of objects and reasons, that the Bill was intended "to obviate difficulties which may arise" in obtaining a new and complete Census for Bombay. Now, he (Mr. Allen) did not think that this Council was to legislate for difficulties which *may* arise. There was nothing to lead the Council to believe that they had arisen. The Magistrates who had made the former attempts to obtain a correct Census, had made no report that they had found the people disinclined to give the information required. In all Reports on the subject which he had seen in this country, the Magistrates expressed themselves satisfied with their own enumerations. It was only after-criticism that had found them to be defective.

This Bill gave the duty of enumerating the people to the Police. He thought this at all times objectionable, and likely to lead to oppression; and that objection would be much

increased if the Police could, as they were allowed by this Bill, threaten the people with three months' imprisonment or a heavy fine.

The fact, too, of the Bill having passed the Legislative Council, would be more likely to make the people fancy that it was the prelude to a poll-tax—a fear of which, as the Honorable Member had said, in his Statement of objects and reasons, had always presented itself to them, at every attempt to take a Census—than when it was merely the act of the Commissioner of Police, who, having no law to back him, would be obliged to encourage the people to tell the number of their families.

Thinking, then, as he did, that this Bill, if published, would create the alarm which the Honorable Member himself deprecated, he should oppose the motion for the second reading.

MR. LEGEYT said, he hardly expected to find a Bill of this sort meet with any opposition. The Honorable Member had enumerated several difficulties which he apprehended would fall in the way of taking a correct Census, and had shown what the difficulties had been that were met with in the North-Western Provinces, where the facilities for obtaining an accurate return must have been greater than in the large Presidency Towns. He had also argued that, if a measure like this was necessary for Bombay, it was also necessary for other parts of India. Far be it from him (Mr. LeGeyt) to deny that proposition. He believed that we had a tolerably accurate Census of the population in the Mofussil of all the Presidencies—at least, he knew that there had been, for some years past, a Census of the population in the Mofussil of Bombay, which was considered satisfactory, and the materials of which had been collected much in the same way that the Honorable Member stated the materials of the Census of the North-Western Provinces had been collected. But in the Presidency Town, the endeavors which had hitherto been made to obtain a correct account of the population, had not been attended with satisfactory results. He had endeavored to show, in his Statement of objects and reasons relating to this Bill, that it was the apathy and carelessness of the people of Bombay in giving verbal or written answers necessary to the preparation of a Census which, in the opinion of the Government of Bombay, rendered this measure necessary; and he thought it scarcely requisite to go over the same ground again.

The Honorable Member, if he understood him aright, would advise the Government of Bombay to make another trial of the same measures which had hitherto proved unsatisfactory, if not abortive. He (Mr. LeGeyt) for his own part, did think that it would be very ungracious of the Council to tell the Bombay Government—"You must try again what you tried without success before." The Bombay Government came forward to ask a measure which was not opposed to the feelings of the people of Bombay, or violently distasteful to them, but which would merely give the Government the power of saying to every householder—"You must give accurate answers to our questions, in order that we may have faithful data for an important statistical return." According to an inveterate habit, Natives in this country, especially where there was no legal power for demanding information from them, would give it carelessly and, very often, untruly. In the Mofussil, the personal knowledge of the officer who had to collect the information would, in a great measure, be a check upon any inaccurate replies which a householder might give; but that could not be the case in a large Presidency Town.

With regard to the Honorable Member's objection to the duty of collecting the information being entrusted to the Police, he must repeat what he had said in moving the first reading of the Bill—that, with a fully accurate knowledge of Bombay and of the Police Force in that Presidency, he did not think that any class of servants could be obtained who would discharge the duties with so little annoyance to the people as Members of that Force. Those of their number who would be selected for the duty, would be well known to all householders whom they might visit; and it was not to be supposed that they would behave more oppressively towards householders living within their beat than any other class of servants. If the duty were entrusted to the Conservancy Branch, the plan would not work so well. The Police were a more intelligent and better disciplined body. If the duty were entrusted to a class of educated men, the expense, in the first place, would be very great, and numerous other difficulties would be felt. He conscientiously believed that the inhabitants of Bombay would much rather be visited by Officers of Police whose beat was in their neighborhood, than by a stranger swaggering into their house and saying—"Give me the names and ages of

your wives, your sisters, and your children." It was very desirable that a measure like this should be carried out as much as possible by conciliatory means; but he had no doubt that, under this Bill, the means adopted would always be characterised by kindness and moderation. The Commissioner of Police at Bombay was a man who had the confidence of the inhabitants, and was liked by them; and he, on his part, was perfectly conversant with the habits, opinions, and prejudices of the people; and he (Mr. LeGeyt) was quite sure that, if the supervision of the Census were entrusted to his hands, no steps would be taken that could give any unnecessary annoyance to householders.

In conclusion, he hoped that this salutary and extremely desirable measure—desirable for a variety of purposes—would not be treated by the Council as unnecessary; and that the Government of Bombay would not be told to try again means which had hitherto been found to be insufficient. He hoped that the Council would agree to the second reading of the Bill, and also that it would pass it, in due course, through its subsequent stages. If, in the meantime, Honorable Members should desire any information regarding the Bill, he need scarcely say he should be happy to give it.

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

NATIVE PASSENGER SHIPS.

MR. ELIOTT moved the second reading of the Bill "for the regulation of Native Passenger Ships."

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

EMIGRATION OF LABORERS.

MR. PEACOCK moved the second reading of the Bill "to enable the Governor General of India in Council to suspend the operation of certain Acts relating to the Emigration of Native Laborers."

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

MR. PEACOCK moved that the Standing Orders be suspended, to enable him to pass the Bill through its subsequent stages.

SIR JAMES COLVILE seconded the motion.

Agreed to.

MR. PEACOCK moved that the Council do resolve itself into a Committee on the above Bill.

Mr. LeGeyt

Agreed to.

The Bill was passed through Committee without amendment.

MR. PEACOCK moved the third reading of the Bill.

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

ABKAREE REVENUE (BENGAL PRESIDENCY).

On the Order of the Day for the adjourned 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" being read—the Council resolved itself into a Committee for the further consideration of the Bill.

Section LXXV, the further consideration of which had been postponed, was read by the Chairman and the question put that it stand part of the Bill.

The amended Section was agreed to.

MR. LEGEYT moved that the following new Section be introduced after Section LXXV:—

"Every person who shall be imprisoned by reason of the non-payment of any sum forfeited under this Act for the illicit construction or working of any Distillery, or for the manufacture, removal, re-land, sale, transport, or possession of any spirituous liquors or intoxicating drugs, contrary to the provisions of this Act, or for conniving at the same, or for the contravention of the terms of any license given under this Act, or of any rules passed by the Board of Revenue under the authority of this Act, and every person sentenced to imprisonment under the last preceding Section, shall be confined in the Civil Jail of the District."

Agreed to.

The Preamble and Title were passed as they stood.

The Bill was then reported.

IMPRISONMENT OF CRIMINALS (STRAITS SETTLEMENT).

SIR JAMES COLVILE moved that the Bill "relating to the imprisonment of Criminals in the Settlement of Prince of Wales' Island, Singapore, and Malacca" be referred to a Select Committee consisting of Sir Arthur Buller, Mr. LeGeyt, and the Mover.

Agreed to.

LAND FOR PUBLIC WORKS.

MR. ALLEN moved that the Bill "for the acquisition of land for public purposes" be referred to a Select Committee consisting

of Mr. Elliott, Mr. LeGeyt, Mr. Currie, and the Mover.

Agreed to.

NATIVE PASSENGER SHIPS.

MR. ELLIOTT moved that the Bill "for the regulation of Native passenger Ships" be referred to a Select Committee consisting of Mr. Allen, Mr. LeGeyt, and the Mover.

Agreed to.

BOMBAY CENSUS.

MR. LEGEYT moved that the Bill "for taking account of the population of the Town of Bombay" be referred to a Select Committee consisting of Mr. Elliott, Sir Arthur Buller, and the Mover.

Agreed to.

MESSENGER.

MR. PEACOCK moved that the Vice-President be requested to take the Bill "to enable the Governor General of India in Council to suspend the operation of certain Acts relating to the Emigration of Native Laborers," to the Governor General for his assent.

Agreed to.

MUNICIPAL ASSESSMENT (MADRAS).

MR. ELLIOTT moved that a communication received by him from the Madras Government, be laid upon the table, and referred to the Select Committees on the Bill "to comprise in one Act the provisions necessary for the assessment and collection of municipal rates and taxes in the Towns of Calcutta, Madras, and Bombay, and the several stations of the Settlement of Prince of Wales' Island, Singapore, and Malacca" and the Bill "for appointing Municipal Commissioners, and for levying rates and taxes, in the Town of Madras."

Agreed to.

NOTICES OF MOTIONS.

MR. PEACOCK gave notice that he would, on Saturday the 20th instant, move the second reading of the Bill "to authorize the arrest and detention, within the Ports of the Settlement of Prince of Wales' Island, Singapore, and Malacca, of Junks or Native Vessels suspected to be piratical."

MR. LEGEYT gave notice that he would, on the same day, move the second

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

The Council adjourned.

Saturday, September 20, 1856.

PRESENT :

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

His Excellency the Com- D. Elliott, Esq.,
mandar-in-Chief, C. Allen, Esq.,
Hon. J. P. Grant, and
Hon. B. Peacock, P. W. LeGeyt, Esq.

The following Message from the Governor General was brought by the Vice President, and read :—

MESSAGE No. 83.

The Governor General informs the Legislative Council that he has given his assent to the Bill which was passed by them on the 13th September 1856, entitled "A Bill to enable the Governor General of India in Council to suspend the operation of certain Acts relating to the Emigration of Native Laborers."

By Order of the Right Honorable the Governor General.

CECIL BEADON,

Secretary to the Govt. of India.

FORT WILLIAM, }
The 19th Sept. 1856. }

BANKS.

THE CLERK presented a Petition signed by the Secretaries and Managers of the European Banking Institutions in Calcutta, stating that instances had occurred in which some of the Petitioners, notwithstanding every possible precaution, had been obliged to pay a second time the amounts of cheques drawn payable to order, by reason of one endorsement having been forged; and praying for the passing of an Act to secure to the Banks of this country similar protection to that afforded to Bankers in the United Kingdom by the Statute of the 16 and 17 Vic., c. 69, s. 19.

MR. PEACOCK moved that the above Petition be printed.

Agreed to.