

Saturday, 8th September, 1855

PROCEEDINGS

OF THE

LEGISLATIVE COUNCIL

OF INDIA

Vol. I

(1854-1855)

to take into consideration the projects of law which had, at different times, been proposed relating to cattle trespass, and to prepare such Bill or Bills as might be necessary with reference thereto.

Agreed to.

Mr. CURRIE then moved that Mr. Elliott, Mr. Allen, and the Mover be appointed a Select Committee for the above purpose.

Agreed to.

GUARDIANSHIP OF MINORS AND COURT OF WARDS (BENGAL).

Mr. CURRIE next moved that Mr. Allen, Mr. LeGeyt, and the Mover be appointed a Select Committee on the Bill "for making better provision for the care of the persons and property of minors, lunatics, and other disqualified persons in the Presidency of Fort William in Bengal."

Agreed to.

Also on the Bill "to explain and amend Regulation X of 1793 and Regulation LII of 1803."

Agreed to.

NOTICES OF MOTION.

Mr. ELLIOTT gave notice that, on Saturday next, he would move the third reading and passing of the Bill "for amending Act No. VI of 1844."

Mr. ALLEN gave notice that, on Saturday next, he would move the second reading of the Bill "to abolish the levy of Customs duty on the import of Cotton into the North-Western Provinces of the Presidency of Bengal."

The Council adjourned.

—
Saturday, September 8, 1855.

PRESENT :

The Honorable Sir Lawrence Peel, *Vice-President*,
in the Chair.

Hon. J. A. Dorin,	C. Allen, Esq.,
Hon. J. P. Grant,	P. W. LeGeyt, Esq.
Hon. B. Poncock,	and
D. Elliott, Esq.,	E. Currie, Esq.

THE CLERK brought under the consideration of the Council the following Petitions :—

KOOLIN POLYGAMY.

A Petition from certain inhabitants of Burrisaul and Furreedpore praying for the abolition of Koolin Polygamy.

SEARCH FOR CONTRABAND SALT (NORTH-WESTERN PROVINCES).

A Petition from certain Bankers and Merchants of Furruckabad, offering suggestions on the Bill "to empower officers of the Customs and Revenue Departments to search manufactories and houses for contraband Salt in the North-Western Provinces."

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

Agreed to.

ABKAREE REVENUE (CALCUTTA AND MADRAS).

Mr. CURRIE moved the first reading of a Bill "to amend Act No. XI of 1849 and Act No. XIX of 1852." He said, a few words would be sufficient to explain the object of this short Bill. Act XI of 1849, which it proposed to amend, was the law which provided for the administration of the Abkaree Revenue of Calcutta. Section II of that Act placed the collection of the revenue arising from the retail of spirituous and fermented liquors and intoxicating drugs, within the town of Calcutta, under the charge of the Collector of Calcutta, subject to the control of the Commissioner of Abkaree and the Board of Customs, Salt and Opium : and Section XXXVI provided that,

"when any penalty or confiscation shall be adjudged by a Justice of the Peace under this Act, the Commissioner of Abkaree, or, in his absence, the Board of Customs, Salt, and Opium, within one month after judgment given, may call for the proceedings of the case, (with which requisition the Justice of the Peace shall be bound to comply), and, if he or they shall see cause, may direct that the seizure, or any part thereof, be restored, and may remit or mitigate any penalty, and discharge the party."

Both the authorities here mentioned—the Commissioner of Abkaree and the Board of Customs, Salt and Opium—had now ceased to exist. The powers formerly exercised by the Board of Customs, Salt, and Opium, had been transferred by a later Act to the Board of Revenue ; but there was no legislative provision made for the powers exercised by the Commissioner of Abkaree. The office of Commissioner of Abkaree was constituted under Act XXV of 1840, which provided that

"whenever a Commissioner or Commissioners shall be appointed by the Governor of Bengal, or by the Governor or Lieutenant Governor of the North-Western Provinces, with the sanction of the Government of India, for the superintendence of the Abkaree Revenue, such Commissioner or Commissioners shall exercise, within such districts as may be

assigned and prescribed from time to time by the said Governor or Lieutenant Governor, the powers, authority, and jurisdiction vested by the Regulations and Acts of the Government in Commissioners of the Land Revenue in all matters appertaining to the Abkaree Revenue."

Two Abkaree Commissioners were appointed under this Act for districts in the Bengal Province. After a course of years, it was thought unnecessary to maintain this special office; and first one and afterwards the other Commissionership was abolished.

With the withdrawal of the Abkaree Commissioners, the powers of the Commissioners of the Land Revenue as to the superintendence of the Abkaree revived in the Mofussil districts. An order of the Government was sufficient for the purpose; and in the order which abolished the Commissionership of the Calcutta Abkaree division, the Commissioner of Land Revenue was directed to assume the superintendence of the Abkaree of Calcutta, together with that of the Mofussil districts of the division.

But here a question arose—Act XI of 1849 was passed whilst the Abkaree Commissioners were in being; and there could be no doubt that the authority intended by that Act was the special office constituted by Act XXV of 1840. The Board of Revenue consulted the Advocate General on the subject; and he was of opinion that the Commissioner of Land Revenue could not legally exercise the powers vested in the Commissioner of Abkaree by Act XI of 1849. The question proposed to the Advocate General had special reference to Section XXXVI of the Act, which authorized the Commissioner of Abkaree, or the Board in his absence, to remit or mitigate any penalties adjudged by the Justices. Mr. Ritchie thought that, as this Section gave the Board power to act in the absence of the Commissioner, the Board might continue so to act in the permanent absence of the Commissioner, such absence being caused by the abolition of the office. The Board communicated this opinion to the Justices; but they declined to accept Mr. Ritchie's interpretation of the term absence, and intimated that they did not recognize any power of interference, as the law stood, either in the Commissioner or in the Board. The Bill which he (Mr. Currie) now had the honor to introduce, was intended to remedy this difficulty; and accordingly, the 1st Section provided that—

"the Commissioner of Revenue of the Division within which the town of Calcutta may be situated, shall possess the powers and perform the

Mr. Currie

duties vested by Act XI of 1849 in the Commissioner of Abkaree."

The Board of Revenue thought that the opportunity should also be taken to correct what appeared to be a defect in Act XI of 1849. Section XIX of the Act provided that—

"any Abkaree Officer may stop and detain any person carrying any spirituous or fermented liquors, or intoxicating drugs, without a pass, or otherwise liable to confiscation under this Act; and may seize the liquors or drugs, with the vessels, packages, and coverings in which the liquors or drugs are found, and the animals and conveyances used in carrying them."

It had been declared, in a judgment of the Supreme Court, that the stoppage and detention here authorized was intended only to enable Abkaree Officers to make seizure of the goods, and did not authorize them to arrest the offender. He did not know what the intention of the framers of the law might have been; but in his judgment this interpretation rendered the law defective, because confiscation of the illicit articles was not the only penalty to which an offender under the Section was liable. By Section XV of the Act, he was also liable to a fine not exceeding Rupees 500; and the power of subjecting him to fine or the alternative punishment of imprisonment must depend, very often, upon the power to make an immediate arrest. Such a power of arrest was given by other Excise Acts. It was given by the Abkaree Act passed two or three years ago for the Straits Settlements. In the old Salt Regulation, the power to seize contraband salt was given without any express authority to arrest the smuggler; but it was soon found necessary to supply that omission; and by Act XXIX of 1838, Section XII, it was provided that—

"whenever salt shall be seized as contraband, the person or persons conveying, or having in charge the same, shall be apprehended; and all officers who are empowered to seize salt, shall likewise be competent to arrest the parties having the salt in their possession."

He had introduced into the Bill a Section similar to this in order to cure the defect which appeared to exist in the Calcutta Law. The Madras Abkaree Act (No. XIX of 1852) was based on the Calcutta Act, and the defect which he had imputed to the latter was applicable also to the former. It appeared to him, therefore, advisable to extend to the Madras Act the amendment proposed in the Act for Calcutta.

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

The Bill was read a first time accordingly.

**FREE IMPORTATION OF COTTON
(N. W. PROVINCES).**

MR. ALLEN moved the second reading of the Bill "to abolish the levy of Customs duty on the import of Cotton into the North-Western Provinces of the Presidency of Bengal."

Motion carried, and Bill read a second time accordingly.

CUSTOMS (FORT ST. GEORGE).

MR. ELLIOTT moved that the Bill "for amending Act No. VI of 1844" be read a third time and passed.

Motion carried, and Bill read a third time.

**FREE IMPORTATION OF COTTON
(N. W. PROVINCES).**

MR. ALLEN moved that the Bill "to abolish the levy of Customs duty on the import of Cotton into the North-Western Provinces of the Presidency of Bengal" be referred to a Select Committee consisting of Mr. Grant, Mr. Currie, and the Mover.

Agreed to.

PATENTS FOR INVENTIONS.

MR. LEGEYT moved that a communication received by him from the Secretary to the Government of Bombay, relative to the Bill "for granting exclusive privileges to Inventors," be laid upon the table and referred to the Select Committee on the Bill.

Agreed to.

KOOLIN POLYGAMY.

MR. PEACOCK moved that a translation of the Petition from the Inhabitants of Burrisaul and Furroedpore presented this day, and which was in Bengali, be printed.

Agreed to.

The Council adjourned.

Saturday, September 15, 1855.

PRESENT :

The Honorable Sir Lawrence Peel, *Vice-President*,
in the Chair.

Hon. J. A. Dorin,	D. Elliott, Esq.,
Hon. Major-Genl. Low,	C. Allen, Esq.,
Hon. J. P. Grant,	P. W. LeGeyt, Esq. and
Hon. B. Peacock,	E. Currie, Esq.

REPORTS OF SELECT COMMITTEES.

MR. LEGEYT presented the Report of the Select Committee on the Bill "to amend Act No. XXVIII of 1839."

MR. ALLEN postponed the presentation of the Report of the Select Committee (which stood in the Orders of the Day) on the Bill "to empower Officers of the Customs and Revenue Departments to search manufactories and houses for contraband salt in the North-Western Provinces."

**ABKAREE REVENUE (CALCUTTA AND
MADRAS).**

MR. CURRIE moved the second reading of the Bill "to amend Act No. XI of 1849, and Act No. XIX of 1852."

Motion carried, and Bill read a second time accordingly.

CUSTOMS (FORT St. GEORGE).

MR. ELLIOTT moved that Mr. Peacock be requested to take the Bill "for amending Act No. VI of 1844" to the President in Council, in order that it may be forwarded to the Governor General for his assent.

Agreed to.

**POLICE AND CONSERVANCY PROJECTS
OF LAW.**

MR. ELLIOTT moved that Mr. Currie be added to the Select Committee appointed to prepare such Bills as may be necessary to provide for the Police and Conservancy of the town of Madras and the Settlements of Prince of Wales' Island, Singapore, and Malacca; and to amend the Law relating to the Police and Conservancy of Calcutta. The Select Committee, he said, had prepared Bills for the Conservancy and Police of the Straits Settlements and all the Presidency Towns. They had still to prepare Bills for the constitution of Municipal Boards for carrying out the contemplated objects of Conservancy, and for collecting and administering funds for municipal purposes; and they wished to have the assistance of the Honorable Member for Bengal in this work.

Agreed to.

LANDS FOR PUBLIC WORKS (BOMBAY).

MR. LEGEYT moved that a communication, which he had received from the Government of Bombay, relative to the Bill "to facilitate the acquisition of lands needed for public purposes in the Presidency of Bombay," be laid on the table and referred to the Select Committee on the Bill.

Agreed to.

The Council adjourned.