

Saturday, 23rd June, 1855

PROCEEDINGS

OF THE

LEGISLATIVE COUNCIL

OF INDIA

Vol. I

(1854-1855)

LANDS FOR PUBLIC WORKS (BOMBAY).

MR. LEGEYT moved that the Bill "to facilitate the acquisition of land needed for public purposes in the Presidency of Bombay" be referred to a Select Committee consisting of Mr. Peacock, Mr. Elliott, and the Mover.

Agreed to.

NOTICE OF MOTION.

MR. ALLEN gave notice that he would, on Saturday next, move the second reading of the Bill "to empower officers of the Customs and Revenue Departments to search manufactories and houses for contraband Salt in the North-Western Provinces."

The Council adjourned.

Saturday, June 23, 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. LeGeyst, Esq.,
Hon. B. Peacock,	and
Hon. Sir James Colville,	E. Currie, Esq.

AMEENS (BENGAL).

MR. CURRIE moved the first reading of a Bill "to amend the Law respecting the employment of Ameens by the Civil Courts in the Presidency of Fort William."

He said, the object of this Bill was to provide a better agency for the performance of the duties now entrusted to the class of officers called Ameens. By Regulation IV of 1793, Section XVII, the Civil Courts were authorized to employ Ameens in cases of disputed property regarding lands, houses, or their limits or boundaries, in which the Courts might deem a local investigation proper. The Ameen was to make his report in writing, and to deliver it into Court on a certain day, which was to be specified in his commission. The report was to be received by the Court as evidence in the cause with regard to the matters which the Ameen might be commissioned to investigate, and no other. The Court might order such sum to be paid to the Ameen as might be thought reasonable for his trouble; and the amount was to be added to the costs, and paid by the person against whom the decree might be passed.

The persons usually employed for the performance of the duty here described, were hangers-on of the Courts, or of the Native Judges by whom the local investigations were directed. Much confidence could not be placed in the proceedings of persons so selected and so remunerated; and the report of the Ameen was sure to be impugned by one or other of the parties to the suit.

A second Ameen was frequently sent, and sometimes a third. It was not surprising that the conduct of these Ameens, their venality and partiality, was the theme of general complaint.

In the year 1837, the Sudder Court directed that an Ameen should be appointed to each Moonsiffship; and the Courts were desired to employ no other person for the conduct of local investigations, unless it should happen that there was no fixed Ameen available for the purpose. But no alteration was made in the mode of their remuneration, which still continued to be a small pittance at a certain daily rate, for the time during which they might be employed; and no prospect of official advancement was held out to them as an inducement to honesty and good faith. The orders of 1837, therefore, produced very little amelioration, and complaints continued as rife as ever.

Besides the particular service for which the deputation of Ameens was expressly authorized by Regulation IV of 1793, Ameens were also employed on all the duties enumerated in Sections L, LI, and LII of Regulation XXIII of 1814. These were inquiries into questions relating to the adjustment of accounts in revenue or mercantile transactions; or regarding the boundaries of land or houses; or regarding the right of ways or roads and path-ways; or regarding any rights in forests, commons, rivers, lakes, ponds, wells, reservoirs, or water-courses; or regarding the quantity or description of land and the rent to which it is liable; and generally all questions of local rights and usages which cannot be conveniently decided without an inquiry on the spot. Also the delivering over formal possession of lands, houses, or other real property, in conformity with decrees, regular or summary:—and the attachment of personal property, for the purpose of realizing the amount of fines, or of decrees, regular or summary. But the Regulation authorized the Courts to employ *Moonsiffs* only for the performance of these duties; and it was questionable whether they could be legally performed by Ameens. The Sudder Court, however, a great many years

ago, directed that Moonsiffs should be employed as sparingly as possible on such duties; and they subsequently held that the Ameens appointed under the orders of 1837, were ministerial officers of the Court, and, as such, might be employed on any merely executive duties, as the delivery of the possession of lands, or the sale of property. Supposing that construction to be correct, still there was no authority for employing Ameens on such a duty as that of adjusting accounts of *mesne* profits in cases of dispossession, which was one of the most common subjects of inquiry for which the Courts were in the habit of availing themselves of the services of Ameens. The change which had been made since 1841 in the constitution of the office of Moonsiff, and the very largely extended judicial powers which the Moonsiffs now exercised, rendered it very desirable that legal provision should be made for the performance of the duties assigned to them in Sections L, LI, LII, and LIII Regulation XXIII of 1814, by some other agency. It was therefore the more necessary that measures should be taken for raising the character, and increasing the respectability, of the office of Ameen.

The Bill, of which he had the honor to move the first reading, provided for the appointment in each district of such number of persons as might be necessary, who would be empowered to perform all the duties enumerated in Sections L, LI, LII, and LIII of Regulation XXIII of 1814—to take evidence, and to conduct and report their proceedings in the manner prescribed for Moonsiffs.

The designation which he had given in the Bill to the officers to be so appointed was "Civil Court Ameens." He would have been glad to have dropped altogether the name of Ameen, which had fallen into so much disrepute; but he was not aware of any other appropriate term.

The Bill further provided that the sanction of the Sudder Court should be necessary for the appointment of the Civil Court Ameens, and that they should be remunerated by a fixed monthly allowance.

The fees to be charged for the services of the Ameens, would be credited to Government; and these fees might be so regulated as to secure the Government from any additional charge on account of the newly-appointed officers.

It was intended that they should be selected from persons who had passed the prescribed examination, and held diplomas of qualification for the office of Moonsiffs; and

they would have the prospect of advancement to judicial office, as a reward for honest and faithful service.

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

The Bill was read a first time accordingly.

SEARCH FOR CONTRABAND SALT (NORTH-WESTERN PROVINCES).

Mr. ALLEN moved that the Bill "to empower officers of the Customs and Revenue Departments to search manufactories and houses for contraband salt in the North-Western Provinces," be now read a second time.

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

MINORS (FORT ST. GEORGE).

Mr. ELIOTT moved that the Council resolve itself into a Committee on the Bill "for making better provision for the education of male minors, and the marriage of male and female minors, subject to the superintendence of the Court of Wards in the Presidency of Fort St. George;" and that the Committee be instructed to consider the Bill in the amended form in which it was recommended by the Select Committee to be passed.

Motion carried, and Committee formed accordingly.

Sections I to VIII were passed as they stood.

Section IX was passed after some slight amendments.

Section X was passed as it stood.

The Preamble was passed after a slight amendment.

The Title was passed as it stood.

The Council then resumed its sitting, and the President reported the Bill with amendments.

MESSAGE.

The following Message from the Most Noble the Governor General was brought by Mr. DORIN, and read:—

MESSAGE No. 42.

The Governor General informs the Legislative Council that he has given his assent to the Act passed by them on the 28th April 1855, entitled "An Act to improve the law relating to the Copper Currency in the Straits."

By Order of the Most Noble the Governor General.

G. F. EDMONSTONE,

*Secy. to the Govt. of India,
with the Govr. Genl.*

OOTACAMUND, }
The 29th May 1855. }

SEARCH FOR CONTRABAND SALT
(NORTH-WESTERN PROVINCES).

MR. ALLEN moved that the Bill "to empower officers of the Customs and Revenue Departments to search manufactories and houses for contraband salt in the North-Western Provinces" be referred to a Select Committee, consisting of Mr. Elliott, Mr. Currie, and the Mover.

Agreed to.

NOTICES OF MOTION.

SIR JAMES COLVILLE gave notice that he would, on Saturday next, move the first reading of a Bill "to provide for the acquirement and extinction of rights by prescription, and for the limitation of suits."

MR. LEGEYT gave notice that he would, on Saturday next, move that a communication from the Bombay Government and the correspondence therein contained, relative to a judgment of the Supreme Court at that Presidency, in the matter of a writ of execution issued under process from the Zillah Court of Surat, be referred to a Select Committee.

TENASSERIM AND ARRACAN.

MR. PEACOCK moved that Mr. Currie be added to the Select Committee on the Bill "to provide for the administration of civil and criminal Justice, and of Police, and for the collection of the public revenue in the Provinces of Tenasserim and Arracan."

Agreed to.

The Council adjourned.

Saturday, June 30, 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.,
Hon. B. Peacock,	and
Hon. Sir James Colville,	E. Currie, Esq.

The following Message from the Most Noble the Governor General was brought by GENERAL LOW, and read :—

MESSAGE No. 43.

The Governor General informs the Legislative Council that he has given his assent to the Bill passed by them on the 5th of May 1855, entitled "A Bill to remove doubts relating to the power to grant pardons and reprieves, and remissions of punishments in India."

By Order of the Most Noble the Governor General.

G. F. EDMONSTONE,

*Secy. to the Govt. of India,
with the Govr. Genl.*

OOTACAMUND, }
The 6th June 1855. }

APPEALS.

THE CLERK brought under the consideration of the Council a Petition from certain Mookhtears attached to the Sudder Dewanny Adawlut at Calcutta, and others, suggesting some amendments in the law relating to appeals.

MR. PEACOCK moved that the above Petition be printed.

Agreed to.

REGISTRATION OF ASSURANCES.

Also a Petition from Mr. Archibald Grant, Solicitor, praying that a Draft of a proposed Act for the registration of Assurances in India, which accompanied the Petition, may be taken into consideration by the Council.

REPORTS OF SELECT COMMITTEES.

MR. PEACOCK stated that he was not prepared to present to the Council the Report of the Select Committee, which appeared in the Orders of the Day, on the law relating to Patents for Inventions.

MR. PEACOCK presented the Report of the Select Committee on the Bill "to substitute penal servitude for the punishment of transportation in respect of European convicts, and to amend the law relating to the removal of such convicts."

SIR LAWRENCE PEEL presented the Report of the Select Committee on the Bill "to amend the English law in force within the Territories in the possession and under the Government of the East India Company