

Saturday, 24 October, 1857

PROCEEDINGS
OF THE
LEGISLATIVE COUNCIL OF INDIA,

FROM

January to December 1857.

VOL. III.

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Committee, and that then the Honorable Member for Bombay, if he thought fit, should introduce a Bill raising the question which had been discussed between himself and the Honorable Member for Bengal. If the Council should agree to read that Bill a second time, and the present Bill were thereby rendered unnecessary, the Select Committee appointed upon it might be discharged.

The plan which was suggested by the Government of Bombay, and which he understood the Honorable Member to be willing to adopt, was that there should be one Bill for a cluster of Ports, and that the general Bill should be so modified that the Port-dues collected at each Port, instead of being applied exclusively to the purposes of that particular Port, should be carried to a general Fund to be formed for the requirements of all the Ports. But that would change altogether the principle of the present Bill, which proposed to raise duties for the Ports to which they related on the principle of Act XXII of 1855.

MR. LEGEYT then moved that the Bill be read a second time.

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

PORT-DUES (BOMBAY).

MR. LEGEYT moved that the Bill "for the levy of Port-dues and fees in the Port of Bombay" be now read a third time and passed.

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

PORT-DUES (TUNKARIA AND BROACH).

MR. LEGEYT postponed his Motion (which appeared in the Orders of the Day) for the third reading of the Bill "for the levy of Port-dues in the Ports of Tunkaria and Broach."

MERCHANT SEAMEN.

MR. CURRIE gave notice that he would, on Saturday the 24th instant, move the first reading of a Bill to amend the law relating to Merchant Seamen.

PORT-DUES (BOMBAY).

MR. LEGEYT moved that General Low be requested to take the Bill "for
The Chief Justice

the levy of Port-dues and fees in the Port of Bombay" to the Governor-General for his assent.

Agreed to.

PORT-DUES (CALCUTTA).

MR. CURRIE moved that General Low be requested to take the Bill "for the levy of Port-dues and fees in the Port of Calcutta" to the Governor-General for his assent.

Agreed to.

PORT-DUES (GULF OF CAMBAY).

MR. LEGEYT moved that the Bill "for the levy of Port-dues in certain Ports within the limits of the Gulf of Cambay" be referred to a Select Committee consisting of the Chief Justice, Mr. Currie, and the Mover—with an instruction to take into consideration such communications on the subject as had been received from the Government of Bombay.

Agreed to.

MR. LEGEYT moved that a communication received by him from the Government of Bombay relative to the levy of Port-dues in the Continental Ports under that Presidency, be laid upon the table and referred to the Select Committee on the Bill "for the levy of Port-dues in certain Ports within the limits of the Gulf of Cambay."

Agreed to.

SALE OF GANJA (BOMBAY).

MR. LEGEYT moved that a communication received by him from the Government of Bombay be laid upon the table and referred to the Select Committee on the Bill "relating to the sale of Ganja in the Presidency of Bombay."

Agreed to.

The Council adjourned.

Saturday, October 24, 1857.

PRESENT :

The Honorable J. A. Dorin, <i>Vice-President</i> , in the Chair.	
Hon. the Chief Justice,	P. W. LeGeyt, Esq.
Hon. Major General	E. Currie, Esq.
J. Low,	and
Hon. B. Peacock,	Hon. Sir A. W. Buller.

The following Messages from the Governor-General were brought by General Low and read:—

PORT-DUES (CALCUTTA).

MESSAGE No. 117.

The Governor-General informs the Legislative Council that he has given his assent to the Bill which was passed by them on the 10th October 1857, entitled "a Bill for the levy of Port-dues and fees in the Port of Calcutta."

By order of the Right Honorable the Governor-General.

CECIL BEADON,

Secy. to the Govt of India.

FORT WILLIAM, }
The 23rd Oct., 1857. }

PORT-DUES (BOMBAY).

MESSAGE No. 118.

The Governor-General informs the Legislative Council that he has given his assent to the Bill which was passed by them on the 17th October 1857, entitled "a Bill for the levy of Port-dues and fees in the Port of Bombay."

By order of the Right Honorable the Governor-General.

CECIL BEADON,

Secy. to the Govt. of India.

FORT WILLIAM, }
The 23rd Oct., 1857. }

SPECIAL APPEALS (BENGAL).

THE CLERK brought under the consideration of the Council a Petition of Sree Mutty Hurromohinee Dassee and Romanath Ghose, residents of Zillah Midnapore, praying, with reference to certain judicial decisions concerning the mode of computing the time within which special appeal Petitions must be presented, that Act XVI of 1853 may be amended.

MR. PEACOCK moved that the above Petition be referred to the Select Committee on the Bill "for simplifying the Procedure of the Courts of Civil Judicature of the East India Company in Bengal."

Agreed to.

MERCHANT SEAMEN.

MR. CURRIE moved the first reading of a Bill "for the amendment of the law relating to Merchant-Seamen."

He said, the question of the amendment of the Law relating to Merchant Seamen had long been before the Legislature. In the List of business depending before the Government of India at the time the Council was constituted, there would be found several entries bearing on the subject. The Committee which had prepared that List remarked, in reference to those entries—"We are of opinion that this is a question of great importance, and one deserving of the earliest attention of the Legislative Council."

The present Law on the subject was comprised in Act XXVII of 1850, which was entitled an Act for the Registry of Merchant Seamen, and in Act XXVIII of the same year, which was entitled an Act for the encouragement of Merchant Seamen. The Registry Act was generally considered to have failed of its object altogether. One palpable cause of this failure was that the Act, according to the construction put upon it by the Supreme Government in 1851, rendered it imperative on the Registrar to grant a Register Ticket to every seaman who was unprovided with one, even though the seaman might have forfeited his previous Ticket by desertion from his vessel. But, independently of this defect, the whole system introduced by the Act was thought to be ineffective. Apparently, the same system had been found equally ineffective in England, for the practice of granting Register Tickets had been abolished there in 1853. There seemed to be very sufficient reasons for abolishing it here likewise.

In the year 1851, the question of the advisability of extending to India certain provisions of the Mercantile Marine Act, in extension of the local Act (XXVIII of 1850), had been referred to the several local Governments, and all had reported in favor of the measure. Within the last two months, he had received a communication from the Bengal Government, with an Opinion by the Advocate General, having reference, apparently, to a question regarding the proper form of agreement to be made

use of in the case of seamen shipped in India on vessels registered in the United Kingdom, or in any British possession out of India, the question being whether the agreement should be entered into according to the local Act, or according to the English Merchant Shipping Act of 1854, which had taken the place of the Mercantile Marine Act of 1850. Mr. Ritchie, after stating his opinion on the case referred to him, proceeded to say—

“It appears to me, as I have on some former occasions suggested, that it would be much for the convenience of the shipping interests generally, if the Governor-General in Council were to extend and adapt to India, under the 288th Section, the general provision of the third part of the English Act of 1854, relating to masters and seamen, so as to place ships registered in India in the same position as to the qualification and duties of masters, and the shipment and duties of seamen on the same footing as ships registered in the United Kingdom, with such exceptions as to native vessels or seamen as may be deemed advisable. I think it will be desirable, also, that the system of Registry Tickets, which has been abolished in England since it was introduced by Act XXVII of 1850 in India, should be abolished here also—at all events as to sailors not being natives or lascars; and that the whole system of the engagement of seamen should be regulated in the same manner as in England.”

In pursuance of Mr. Ritchie's recommendation, and in accordance with a wish expressed by the Bengal Government, he had taken up the subject, and, with the assistance of the Clerk of the Council, had prepared a Bill repealing the Registry Act and Act XXVIII of 1850, and, in lieu of the latter, applying and adapting such portions of the English Merchant Shipping Act as appeared to him suited to the circumstances of this country.

With the permission of the Council, he would state the principal points upon which the Bill differed from the English Statute.

The first heading of the English Statute was “Local Marine Boards,” in reference to which it was provided that—

“There shall be Local Marine Boards for carrying into effect the provisions of the Act under the superintendence of the Board of Trade at those sea-ports of the United Kingdom at which Local Marine Boards have heretofore been established, and at such other places as the Board of Trade appoints for this purpose.”

Mr. Currie

There did not appear to be any necessity for the establishment of such Boards in India; and wherever those parts of the English Statute which had been imported into this Bill required particular acts to be performed by Local Boards, the Bill provided that the acts should be performed either by the local Governments, or by Officers appointed by the local Governments, as in each case seemed suitable.

The next heading of the English Statute was “Shipping Offices.” The Clauses relating to the establishment of Shipping Offices of course were necessary, and had been adopted in the Bill with some slight omissions and modifications.

The next heading of the Statute was “The Examinations and Certificates of Masters and Mates.” Many persons qualified to give an opinion on the subject had stated that some provisions of the kind made under this heading were very much required in India. The Shipburning Committee, the Superintendent of Marine, the Chamber of Commerce in Bombay, and the Commander-in-Chief of the Indian Navy, had all expressed an opinion to that effect.

In the English Act, provision was made for two classes of Certificates—Certificates for Masters or Mates of Foreign-going ships, and Certificates for Masters or Mates of Home-trade passenger ships. Following the English Act, this Bill also provided for two grades of Certificates, one for Foreign-going ships, that was, for ships trading to any place not in the territories of the East India Company or the Continent of India or the Island of Ceylon; and the other for Home-trade ships of a burthen not exceeding three hundred tons. This, it seemed to him, was the nearest approach which could be made to the English Statute. He was not sure, however, that the distinction was the best that could be selected, or, indeed, that there should be any distinction at all. But upon that point, after the publication of the Bill, the Council would doubtless be assisted by the opinions of the Marine Officers of Government, of ship-owners, the Chambers of Commerce, and others able to give useful advice.

In connection with this part of the Bill a difficulty had been felt with respect to

ships trading between the Indian Ports and the Coast of Arabia. These ships were of large size, and many of them had British registers under the local Act; and they were manned usually by Arabs, or other Asiatic seamen, and commanded by Asiatic Masters. These Masters, or *Nacodas* as they were called, could hardly be subjected to the examinations provided for European Masters; and therefore the Bill gave authority to the local Governments, if they should think fit, to prescribe rules according to which persons so situated should be examined.

The provisions in the English Statute respecting "Apprenticeships to the Se-service" were not applicable to India, and had not therefore been introduced into the Bill.

"The Master of every ship, except ships of less than eighty tons (registered tonnage) exclusively employed in trading between different ports on the Coast of the United Kingdom, shall enter into an agreement with every seaman whom he carries to sea from any Port in the United Kingdom as one of his crew."

The exception adopted in the Bill corresponded with the exception provided in the existing Law, Act XXVIII of 1850—namely, ships not exceeding three hundred tons burthen employed exclusively in the Home-trade. It appeared to him to be quite unnecessary to require the execution of agreements in the case of country craft above the English limit of eighty tons employed in coasting voyages. These vessels ranged, he believed, from twenty to two hundred tons, and they would all be excluded by adopting a limit of three hundred tons.

He had inserted a proviso that, in the case of lascars or other native seamen shipped in this country, the agreement should contain a stipulation for providing them with the means of returning to this country. The stipulation was to bind the owners, and might, he supposed, under Section CCLXXXVIII of the English Act, be enforced in England, as the Act expressly provided that the agreement might contain any stipulations not specified in the Act which were not contrary to Law.

He had also inserted a Section in the Bill making the rules respecting agreements applicable to Foreign ships which take seamen from any Indian Port. The necessity for this had been urged both

by the Bengal Government and by the Governor of the Straits.

He had thought it advisable to retain Section XI of the existing local Act, which authorized Shipping Masters to go on board ships which had taken crews in Indian Ports, for the purpose of seeing that no seaman had been shipped contrary to the provisions of the Act.

The next subject of the Bill was the regulation of advances to seamen. There were no provisions on this subject in the present English Act, although there had been such in the Bill as originally presented to Parliament. It seemed to him to be very necessary that there should be some Law on the subject in this country, especially with the view of restricting the amount of advances. This had been strongly urged by the Ship-burning Committee, and supported by the Bengal Government. The Sections in the Bill had been taken from the Mercantile Marine Act of 1850; and the amount of advances was limited, according to the recommendation of the Ship-burning Committee, to an amount equal to one month's wages.

It was not necessary that he should go through all the headings of the English Act. He thought it sufficient to observe that those parts of the Act which could be advantageously extended to India had been adopted in this Bill, with such omissions and modifications as the circumstances of the country seemed to require. Thus, he had adopted, with more or less modification, the Clauses respecting "Allotment of Wages," "Discharge and payment of Wages," "Legal Rights to Wages," all the Clauses respecting "Discipline," "Official Logs," and some others. There were other parts of the Act which were clearly inapplicable to India. Such were the provisions regarding "Remittance of Wages and Savings' Banks for Seamen," and "Relief to Seamen's Families out of Poor Rates." There were others in which the English Act was of general application, as "Volunteering for the Navy;" and others, again, in which the provisions of the English Act were, by the terms of the Act, of force in respect of ships registered in India without the necessity of any local enactment—such as "Leaving Seamen abroad," "Naval Courts, and Crimes committed on the high seas and abroad."

All these had been omitted from the Bill.

The Clauses in the English Statute respecting the provisions and accommodation to be furnished to seamen had been adopted with some modifications. It had been thought necessary to make some difference in the amount of compensation to be allowed in the case of a European seaman and in the case of a lascar when the quantity of provisions supplied was less than the quantity stipulated for in the agreement. In the present local Act no such distinction was made.

With respect to the provisions regarding Medicines, and Hurt and Injury to Seamen, he had retained two Sections of the local Act (XXIII and XXIV), instead of adopting the provisions of the English Act, the former being more suitable to the circumstances of the country.

He had inserted a Section which allowed a Shipping Master of his own motion to go on board any ship in which seamen had been shipped in any Indian Port, for the purpose of inspecting the provisions and accommodation provided for the crew. This was in accordance with a suggestion made by the Calcutta Superintendent of Marine.

With regard to the "Registration of, and Returns respecting Seamen," the English Act provided for a general Register and Record Office of Seamen in the Port of London, for the transmission to the Registrar General of agreements and other papers; and for the preparation of a general Register of all persons who served in ships subject to the provisions of the Act. It seemed to him that no such general registration as this could be established in this country. Certainly, no advantage could be expected from it, which would not be very much more than counterbalanced by the trouble and expense which the maintenance of the Office would entail. The Clauses, therefore, had been omitted from the Bill.

He thought it unnecessary to occupy the time of the Council with any further remarks, and would conclude by moving the first reading of the Bill.

The Bill was read a first time.

RECOVERY OF RENTS (BENGAL).

MR. CURRIE gave notice that he would, on Saturday the 31st Instant, move

Mr. Currie

the second reading of the Bill "to amend the Law relating to the recovery of Rent in the Presidency of Fort William in Bengal."

PORT-DUES (ADEN).

MR. LEGEYNT gave notice that he would on the same day move the first reading of a Bill "for the levy of Port-dues in the Port of Aden."

The Council adjourned.

Saturday, October 31, 1857.

PRESENT:

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

Hon. the Chief Justice,	P. W. LeGeyt, Esq.
Hon. Major General J. Low,	E. Currie, Esq.
Hon. B. Peacock,	and Hon. Sir A. W. Buller.

GANJA (BOMBAY).

MR. LEGEYNT presented the Report of the Select Committee on the Bill "relating to the sale of Ganja in the Presidency of Bombay."

PORT-DUES (ADEN).

MR. LEGEYNT moved the first reading of a Bill "for the levy of Port-dues in the Port of Aden." This Bill, he said, had been framed on the same principles as those of the Bills relating to the other Ports under the Presidency of Bombay. It appeared, from a Statement forwarded by the Government of Bombay, that all projected expenses for the Port of Aden would be sufficiently provided for by a duty of one anna per ton, not leviable oftener than once in each calendar month, on each vessel arriving at the Port, fishing-boats excepted. The only peculiarity in the Bill was this. Some doubts had been entertained as to whether Section XLVI of Act XXII of 1855 should be adopted in the Bill. That Section required every vessel, under a penalty of a hundred Rupees, to report its arrival in Port within a certain space of time. He had thought it better to exclude that provision from this Bill, as it might be found