

Saturday, 3 January, 1857

PROCEEDINGS
OF THE
LEGISLATIVE COUNCIL OF INDIA,

FROM

January to December 1857.

VOL. III.

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ERRATA.

- Column 167. Omit the 16th line from the bottom.
- „ 240. For the heading “*Bombay University*” read “*Madras University.*”
- „ 256. After line 13, read as follows :
“The Council having resumed its sitting, the Bill was reported.”
- „ 323. Line 25 from the bottom. Omit the word “*Town.*”
- „ 508. Line 23 after the word “*adopted,*” read “*and communicated to the Govern-
ment of Bombay.*”

PROCEEDINGS

OF THE

LEGISLATIVE COUNCIL OF INDIA.

Saturday, January 3, 1857.

PRESENT :

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

Hon. the Chief Justice,	D. Elliott, Esq.,
Hon. Major Genl. J. Low,	C. Allen, Esq.,
Hon. J. P. Grant,	P. W. LeGeyt, Esq.,
Hon. B. Peacock,	E. Currie, Esq., and Hon. Sir A. W. Buller.

HINDOO POLYGAMY.

THE CLERK presented a Petition of Inhabitants of Sheekhola in Hooghly, praying for the abolition of Hindoo Polygamy.

MR. GRANT moved that the Petition be printed.

Agreed to.

NAWAB OF THE CARNATIC.

THE CLERK presented a Petition of Soojan Mool Lallah, Soucar, describing himself as a creditor of the Estate of Enayut Begum (deceased), mother of the late Soubadhar Nawab of the Carnatic, praying for a Law to provide for the fair liquidation of claims, which, according to the custom of Mahomedans, might be found to be a legal charge against the Estate of the late Nawab.

Also a Petition of Govindur Doss, Soucar, describing himself as a creditor of the Estate of the late Nawab of the Carnatic, praying that provision might be made by Law for the due administration of the Estate.

VOL. III.—PART I.

MR. ELIOTT moved that these Petitions be printed and referred to the Select Committee on the Bill "for repealing Act I of 1844."

Agreed to.

LAND CUSTOMS (BOMBAY PRESIDENCY.)

MR. LEGEYT presented the Report of the Select Committee on the Bill "to make better provision for the collection of Land Customs on certain Foreign Frontiers of the Presidency of Bombay."

DUTIES ON TOBACCO (BOMBAY.)

Also, the Report of the Select Committee on the Bill "to amend the Law relating to the duties payable on Tobacco, and the retail sale and warehousing thereof in the Town of Bombay."

CALCUTTA UNIVERSITY.

THE CHIEF JUSTICE said, he had been honored by the Government of India with a request that he should introduce and take charge of a Bill "to establish and incorporate an University at Calcutta."

The scheme of a University in this City was by no means a modern one. He recollected that, when he landed in India some eleven years ago, he found that a scheme, complete in nearly all its parts, had been propounded by Mr. Charles Cameron, an able and zealous friend—throughout his Indian career, and since the close of that career, in England—of Native Education, for the

establishment of a University in Calcutta. When he spoke of Mr. Cameron, he would of course be understood to include, as acting with him, the other gentlemen who constituted at that time the body known as the Council of Education. That scheme had been submitted to the then Government of India, which, he believed, approved of it, but referred it to the Honorable the Court of Directors for their sanction. The Court of Directors thought that, whatever might be its intrinsic merits, the adoption of it at that time would be premature—that the country was not yet ripe for an institution of that kind; and the scheme was accordingly laid aside. He did not quarrel with that decision of the Honorable Court. No one who had watched the progress of education in India during the last eleven years, more especially in this part of India, could come to the conclusion that the decision had materially tended to check that progress. The demand for English schools had constantly increased: new Colleges had sprung up: and the Hindu College had been opened to all classes, and placed on a wider basis, including many Professorships which it had not possessed before. On the other hand, it appeared to him that there was, at the present moment, a much better chance than there was in 1845 that the University which was about to be established would take that place among other Institutions of a similar character which all of us were desirous that it should take. In establishing such Institutions, we must always remember that we might go too fast—that we might force them upon communities not yet ripe for them;—and if we did that, we should run the risk of checking, rather than increasing, their development, just as we should check the free action of a child by stifling it in the garments of a man. His own opinion—which, however, might be of little importance when weighed against the opinion of Mr. Cameron—was that, eleven years ago, Calcutta was not ripe for a University. But in saying that, he felt bound emphatically to acknowledge that the merit of the conception of the Institution at the birth of which, after eleven years' gestation, he was now assisting, belonged to Mr. Cameron and his then colleagues in the Council of Education.

The Chief Justice.

The scheme, having been referred to the Court of Directors, slept until 1854. It was revived by the well-known Despatch of the Court on the subject of Education, dated the 19th of July 1854. That Despatch contemplated three principal objects. The Council must be aware that this country had long possessed educational establishments of different kinds. There were Government establishments; there were establishments which those zealous and earnest men, who had come to this country principally with the object of preaching the Gospel and acting as Missionaries, had very wisely engrafted on their original scheme—institutions in which a general education was given to Natives, in most cases without any attempt at proselytizing, but in which a certain amount of religious instruction was given, and in which in particular the Bible was used as a class-book; there were also other institutions which owed their origin either to the benevolence of living persons or to private enterprise; and there were institutions, like the Martinière, which derived their existence from the posthumous liberality of testators. The Despatch of 1854, finding this state of things, had treated the whole subject of education in India, and had dealt more or less with all these different classes of institutions.

Its first object—an object which he had long desired to see effected—was, considering the great expansion of the Government system, to remove the conduct of the Government Institutions from the Council of Education, and to constitute, in the place of that body, a regular Department with a responsible officer of Government at its head.

The second object was to connect Government with the private Institutions to which he had referred, by contributing towards their support from the public funds by means of what were termed grants-in-aid,—leaving them, however, independent of the control of Government, except in the exercise of the right to see that the money which Government granted was properly and efficiently applied.

The third object was the object to which the Bill which he now introduced was intended to give effect—namely, to found a University which should open a

field for free and generous competition between all the different Educational Institutions, whether founded by Government, or aided by Government, or standing altogether on an independent basis, and exclusively supported by their own funds. The desire to bring the pupils of private Institutions into competition with pupils of the Government Institutions, had long existed. The proposition had been several times before the Council of Education, and the Council had always been anxious to meet the wishes entertained on the subject; but under the old system, it was found impracticable to devise a mode of examination which should carry on, as the Council wished to carry on, the course of Education adopted in the Government Institutions, and at the same time enable the pupils of Institutions where a different system obtained to compete on equal terms, or what they considered terms of equality, with those of Government Colleges. The University, however, which rested on a much larger basis, would of course afford far better means for a purpose of that kind. It was due to Mr. Cameron to say that his scheme likewise contemplated competition between pupils of the private, and pupils of the Government Institutions; but it contained the defect which was hit by the Despatch of the Honorable Court in 1854,—namely, that the organisation of the University which it proposed, was on far too narrow a basis. The Senate of the University according to that scheme, was to consist of certain high functionaries, and of the Members of the Council of Education for the time being—of those, therefore, who would either have some other official duties to perform, or who, as Members of the Council of Education, would be more or less connected with the Government system of Education. The scheme propounded in the Despatch and embodied in this Bill, was far wider and more catholic. It was impossible for any one to read the names of those who were to be the first Members of the new Corporation, and, as such, the Senate of the University, without seeing that the Government had evinced the most liberal spirit possible in selecting a body which would fairly represent the private Institutions, and even the different shades of opinion which the conductors of those

Institutions might be supposed to hold. There was the name of the Reverend and learned Principal of Bishop's College, who would represent the Church of England, and the Institutions in connection with it; there was a name which would certainly live as long as, probably longer than, any other to be found in the list, as that of one who had labored earnestly for the advancement of Native Education in this country—the name, he meant, of Dr. Duff, who would represent the Free Church of Scotland. The list also included representatives of the Established Church of Scotland, of the Roman Catholic Church, and of several dissenting bodies; and he, therefore, repeated that no one could reasonably desire a constitution on a wider or more catholic basis, or one which would more fairly represent the various institutions which could be properly affiliated to the new University.

Upon the receipt of the Despatch of the Court of Directors, the late Governor General appointed a Committee constituted very much as the proposed Senate of the University was constituted by this Bill. The functions of that Committee were to draw up rules which might hereafter be adopted by the Senate, and also to report generally on the best mode of giving effect to the suggestions of the Court of Directors. The Committee had divided themselves into several Sections. One Section undertook to frame rules for examinations for the grant of Degrees in the Faculty of Arts: another undertook to frame rules for examinations for the grant of Degrees in the Faculty of Law: another undertook the Department of Medicine: and a fourth, the new Department of Civil Engineering. The Sub-Committees made their Reports to the general body of the Committee. Those Reports had been sent to the Governments of the other Presidencies and of the North-Western Provinces, with a view to elicit their opinions. Upon the receipt of those opinions, all the Reports of the Sub-Committees had been revised, and, on their adoption by the general Committee, a Report had been submitted by that body to Government. The whole subject had since been under the consideration of the Government of India, and the results at which they had arrived had been embodied in the Resolution

published a fortnight ago, and dated December, 1856.

It was not necessary for him in that place to consider the different courses of study proposed by the Committee. The functions of the Council were to do that which the Committee had not felt competent to do;—namely, in general accordance with the sense of the Resolution of the Government of India, to frame a legal constitution for the University.

The Government had determined, for the most part, to retain the same titles of honor which, as degrees, were familiarly known in Europe. In the Faculty of Arts, the Degrees which the Committee proposed to confer were “Bachelor of Arts” and “Master of Arts.” There was one novelty in the plan they proposed—for it was a deviation from the system observed even in the University of London, which was taken generally as the model for the Indian Universities. It was, that the Degree of Master of Arts was proposed to be conferred on those who should take honors in the Honor Examinations, which were to succeed the ordinary examinations for a Degree in Arts. The same Degree was, however, made obtainable by students who should go through the Honor Examination at some later period. The only distinction would be, that those who came up at a later period would merely obtain the Degree of Master of Arts, and not those honors which they would have gained if they had passed their examination earlier.

With respect to the Faculty of Law, from which he anticipated great advantages to the Community, in supplying to the Provincial Courts a higher class of Pleaders, and in putting upon the Benches of the subordinate Courts a more scientifically-educated class of Judges, the Committee proposed to have but one Degree. They proposed that it should be essential to a Degree in Law that the candidate should first have taken a Degree in Arts. He thought that this was necessary, to secure an object which was most desirable—that the University should send out clothed with Degrees in Law not mere Lawyers, but men well grounded in general knowledge, and possessing the inestimable advantages of a liberal education.

The Committee had adopted the

The Chief Justice.

same rule with respect to the Faculty of Civil Engineering. The Degree which they proposed to confer in that Faculty was “Master of Civil Engineering;” and they had determined that no person should take that Degree until he should first have taken a Degree in Arts.

The Committee did not propose to adopt precisely the same rule with regard to the Faculty of Medicine. They were extremely unwilling to interfere with the system which they found established in one of the most flourishing and successful Institutions in India—the Medical College of Calcutta; and had determined, wisely as he thought, to leave undisturbed the system which they found working there, and working well. The scheme contemplated two Degrees in Medicine—the Degree of Licentiate in Medicine, which might be gained after a certain period of study in the Medical College, and to which a Degree in Arts would not be necessary; and the Degree of Doctor of Medicine, to which a Degree in Arts would be necessary.

He would now advert generally, though not in detail, to the provisions of the Bill.

The Bill began with the usual clauses constituting the Body which was to form the University a Body corporate, with the usual powers of a Corporation. It then provided that the University and the Senate of the University should consist of a Chancellor, a Vice-Chancellor, and certain Fellows. The Chancellor was always to be the Governor-General of India for the time being. The Vice-Chancellor was to be appointed by the Governor-General in Council. But it was thought, and, in his judgment, very properly, that it was desirable that there should be a frequent change in that office; and, accordingly, the Bill provided that the Vice-Chancellor should be appointed for a term of two years only; but it gave the Governor-General in Council power, whenever a vacancy should occur in the office by effluxion of time, to re-appoint the ex-Vice-Chancellor for a further period of two years. The Fellows would be partly ex-officio, and partly men appointed for the time being by the Governor-General in Council. The ex-officio Fellows were de-

clared by the Bill to be the two Lieutenant Governors, the Chief Justice of Bengal, the Bishop of Calcutta, and the Members of the Supreme Council, all for the time being.

The subsequent Sections of the Bill provided merely for the functions of the Senate, to whom it gave very considerable latitude in the way of framing bye-laws, which, when approved by the Governor-General in Council, would guide them in their future proceedings. It would be very inconvenient to fetter the Senate in this respect by unnecessary restrictions; because in such an Institution, there would probably be frequent changes in the rules by which it was governed; and it would be highly inexpedient to render it necessary to apply to the Legislature whenever such a change was required. It could not be denied by those who read the Bill that, though the circumstances of this country might, in time to come, so alter as to make it necessary to place the University on another basis, still, while those circumstances continued to be much the same that they were now, the University might be carried on for many years without any further appeal to the Legislature; for, by virtue of the powers which the Bill gave to the Senate to frame bye-laws, all the means were secured which were necessary to the future development of the Institution.

The Bill next provided the mode in which the Senate were to act. It provided that they should appoint Examiners for the examination of Candidates for Degrees; and that the examinations should be held in a particular way. It gave the Senate power to grant Degrees, and to raise certain fees as incident to the grant of those Degrees; and it required them to submit the accounts of the University once every year to the Governor-General in Council.

The Visitatorial power was vested in the Governor-General in Council.

The Governor-General in Council would also have the power of nominating the Fellows; and, so far, the University would be closely connected with the Government. But within itself, the University would have all the freedom of action which it was, at present, desirable that it should have.

It would have full power to frame bye-laws for itself, subject only to the condition that the bye-laws should be approved by the Governor-General in Council. That approval would be necessary, because the intention was to establish Universities in other parts of India and it was desirable that the course of education in all should be kept as uniform as it could be consistently with the circumstances of the different Presidencies.

These were the principal provisions of the Bill, and its principal objects. He need hardly say that he felt peculiar satisfaction in laying the Bill on the table of the Council, when he considered that, during the many years he had been in India, he had always been more or less connected with the conduct of Native Education as a Member of the Old Council of Education—a period during which his services, though he feared they had been of little value, had always been readily and cheerfully given. But he could not sit down without expressing that which he was satisfied must be the feeling of every Member of the Council, that, however sound and liberal might be the principles upon which the Institution about to be formed should be organised, its ultimate success must rest, not with the Council or the Government, but with the people of the country. The husbandman might prepare the soil, and sow the seed; but on the nature and fertility of that soil must depend the harvest;—and if this University was to take the place which it was hoped it would take among other Institutions of the same kind, its graduates must remember that their functions did not cease when they had passed the examinations necessary for obtaining Degrees or even honors accompanying those Degrees; but that it was their duty to uphold the character of the Institution by shewing, when they went forth into the field of active labour, to what end they had obtained their honors. Those who should gain honors in Literature, must continue to cultivate those tastes and habits which they would acquire at College: those who should gain honors in Science, must, as far as their opportunities would allow them, either prosecute their enquiries in the field of speculative Science, or apply

scientific principles to the material world around them. Those who should gain honors and diplomas in the special Faculty of Law or of Medicine, must not avail themselves of them as the mere means of earning a livelihood, but must employ the talents which God had given them under the sense of the responsibility which lay upon them to make the knowledge subservient to the glory of God and the good of their fellow-men. If the graduates did this, then, considering the extreme aptitude of the Native mind for acquiring knowledge—considering, also, that the progress of social improvement would, he trusted, year after year diminish those peculiarities of an oriental life which were so apt to destroy in the man the promise of his youth, he saw no reason why we should not look hopefully to the future of this University. But however that might be, the future was in the hands of God. The Council could but do their best to lay the foundation of the Institution, the full development of which they none of them would live to see.

The Bill was read a first time.

INDIAN PENAL CODE.

MR. PEACOCK said he should have mentioned, when he moved the first reading of the Indian Penal Code, that a Bill was in preparation for repealing all the Acts and Regulations which would be superseded by the Code, and that he had not thought it necessary to delay the introduction of the Code until that Bill was ready. He hoped to be able to bring in the Bill very shortly, and he should now move the second reading of the Code.

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

SONTHAL DISTRICTS.

MR. CURRIE moved the second reading of the Bill "to amend Act XXXVII of 1855" (to remove from the operation of the General Laws and Regulations certain Districts inhabited by Sonthals and others, and to place the same under the superintendence of an Officer to be specially appointed for that purpose.)

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

The Chief Justice.

NATIVE PASSENGER VESSELS (BAY OF BENGAL.)

MR. ELIOTT moved that the Council resolve itself into a Committee on the Bill "to prevent the over-crowding of vessels carrying Native Passengers in the Bay of Bengal;" and that the Committee be instructed to consider the Bill in the amended form in which the Select Committee had recommended it to be passed.

The Bill passed through Committee with some verbal amendments, and, on the Council resuming its sitting, was reported.

NOTICE OF MOTION.

THE CHIEF JUSTICE gave notice that, on Saturday next, he would move the second reading of the Bill to "establish and incorporate an University at Calcutta." In doing so, he said it was a great object to carry the Bill through the Council as speedily as possible; but he would not yet give notice of a motion for the suspension of the Standing Orders in respect of it. He would consider the expediency of taking that course before the next Meeting of the Council, and it was probable that he would that day give notice of a motion for the suspension of the Standing Orders. This did not appear to him to be a Bill which required to be published for any length of time. The principles upon which the University was to be founded, had been determined by the Government, and the details did not seem to call for any expression of public opinion. At all events, the Bill would be for some time before the public prior to being passed.

LANDS FOR PUBLIC WORKS.

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

Agreed to.

SONTHAL DISTRICTS.

MR. CURRIE moved that the Bill "to amend Act XXXVII of 1855" be

referred to a Select Committee consisting of Mr. Peacock, Mr. Elliott, and the Mover.

Agreed to.

NOTICE OF MOTION.

MR. ELLIOTT gave notice that, on Saturday next, he would move the third reading of the Bill "to prevent the over-crowding of vessels carrying Native Passengers in the Bay of Bengal."

The Council adjourned.

Saturday, January 10, 1857.

PRESENT:

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

Hon. the Chief Justice,	C. Allen, Esq.
Hon. Mj. Genl. J. Low,	P. W. LeGeyt, Esq.
Hon. J. P. Grant,	E. Currie, Esq.
Hon. B. Peacock,	and
D. Elliott, Esq.	Hon. Sir A. W. Buller.

JOINT-STOCK COMPANIES.

THE CLERK presented a Petition from the Central Committee of the Indigo Planters' Association, relative to the Bill "for the incorporation and regulation of Joint-Stock Companies and other Associations, either with or without limited liability of the members thereof." The Petitioners prayed that it might be enacted by the Bill that the winding-up of insolvent Joint-Stock Companies should be, as under the present Law, by Her Majesty's Supreme Courts exclusively.

MR. PEACOCK moved that the Petition be printed and referred to the Select Committee on the Bill.

Agreed to.

SONTHAL DISTRICTS.

THE CLERK presented a Petition of certain Zemindars of Bhaugulpore (received by transfer from the Officiating Under Secy. to the Govt. of India in the Home Dept.) complaining of inconveniences and hardships to which they were exposed in consequence of their zemindaries having been included in the Act XXXVII of 1855, relating to the Sonthal districts.

MR. CURRIE moved that the Petition be referred to the Select Committee on the Bill "to amend Act XXXVII of 1855."

Agreed to.

HINDOO POLYGAMY.

THE CLERK presented a Petition from Hindoo Inhabitants of Bengal, praying for the abolition of Hindoo Polygamy.

MR. GRANT moved that the Petition be printed.

Agreed to.

CALCUTTA UNIVERSITY.

THE CHIEF JUSTICE moved the second reading of the Bill to "establish and incorporate an University at Calcutta."

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

NATIVE PASSENGER VESSELS (BAY OF BENGAL.)

MR. ELLIOT moved that the Bill "to prevent the overcrowding of Vessels carrying Native Passengers in the Bay of Bengal" be read a third time and passed.

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

CALCUTTA UNIVERSITY.

THE CHIEF JUSTICE moved that the Standing Orders be suspended in regard to the Bill "to establish and incorporate an University at Calcutta," in order that he might appoint a Select Committee with instructions to report upon it on Saturday next, on which occasion he proposed to move that it be carried through its remaining stages. Under the Standing Orders, the Report of the Committee could not be presented before two months from the date of their appointment; and the regular course, therefore, was to move that they be suspended.

The motion was seconded by Mr. Grant, and carried.

THE CHIEF JUSTICE then moved that the Bill be referred to a Select committee, consisting of Mr. Grant, Mr. Peacock, Mr. Elliott, Mr. LeGeyt, and the Mover.

Agreed to.