

Saturday, 21 February, 1857

PROCEEDINGS  
OF THE  
LEGISLATIVE COUNCIL OF INDIA,

FROM

January to December 1857.

VOL. III.

Published by the Authority of the Council.

CALCUTTA :  
PRINTED BY J. THOMAS, BAPTIST MISSION PRESS.  
1857.

ought not, and then say that the prosecution of the offences specified in such and such particular Sections should be commenced within three months, and not otherwise.

MR. CURRIE said, he thought it would be better to pass the Section now, and leave to the Select Committee the consideration of the further amendment suggested.

MR. GRANT moved that the words "not of a criminal nature" after the word "offence" in the 26th line of the Section, be left out, in order that the words "punishable under this Act" be substituted for them.

Agreed to.

MR. CURRIE moved that the following Proviso be added to the Section:—

"Provided further that no appeal shall lie from any order of a Magistrate passed with the sanction of the Lieutenant-Governor of Bengal."

The Motion was agreed to, and the Section then passed

Sections LV to LVIII were passed as they stood.

The Schedule was passed after an amendment.

The Preamble and Title were passed as they stood.

The Bill was reported.

#### EXPOSURE OF INFANT CHILDREN.

MR. CURRIE moved that a communication received by him from the Government of Bengal on the subject of the exposure of infant-children for the cure of certain diseases, be laid upon the table and referred to the Select Committee on "The Indian Penal Code."

Agreed to.

#### BOMBAY CENSUS.

MR. LEGEYT moved for leave to withdraw the Bill "for taking account of the population of the Town of Bombay."

Agreed to.

The Council adjourned.

Saturday, February 21, 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.

#### MESSAGE FROM THE GOVERNOR GENERAL.

The following Message from the Governor-General was brought by Mr. Grant and read:—

#### MESSAGE No. 98.

The Governor General informs the Legislative Council that he has given his assent to the Bill which was passed by them on the 7th February 1857, entitled "A Bill to confer certain powers on the Oriental Gas Company, Limited."

By order of the Right Honorable the Governor-General.

CECIL BEADON,

*Secy. to the Govt. of India.*

FORT WILLIAM, }  
The 13th Feb. 1857. }

#### HINDOO POLYGAMY.

THE CLERK presented a Petition from Rajah Ojoodheram Khan and other Hindoo Inhabitants of Bengal, praying for the abolition of Hindoo Polygamy.

MR. GRANT moved that the Petition be printed.

Agreed to.

#### SONTAL DISTRICTS.

THE CLERK presented a Petition from Native Inhabitants of Furruckabad and Sumsergunge, praying for the passing of an Act to place them under the jurisdiction of the Moonsiff's Court at Junghypore, and the Fouzday Court at Aurungabad, and to bring their districts under the operation of the general Laws and Regulations from which they were removed by Act XXXVII of 1855.

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

Agreed to.

## LANDHOLDERS' LIABILITY IN RESPECT OF CERTAIN OFFENCES.

THE CLERK presented a Petition from the British Indian Association concerning the Bill "to extend the provisions of Regulation VI. 1810 of the Bengal Code."

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

Agreed to.

## IMPRESSMENT OF CARRIAGE AND SUPPLIES FOR TROOPS AND TRAVELLERS (BENGAL).

MR. GRANT moved the second reading of the Bill "to amend the Law regarding the provision of carriage and supplies for Troops and Travellers, and to punish unlawful impressment."

MR. ELIOTT said, as reference had been made, on the motion for the first reading of the Bill, to the Law and practice which exist in Madras with regard to impressment of carriage and supplies for troops and travellers, he wished to say a few words on this occasion. He was prepared to vote for the second reading, for he quite approved of the principle of the Bill. There was formerly a Regulation in the Madras Code—namely, Regulation III of 1810—corresponding exactly with, in fact copied from, Regulation XI of 1806 which was to be amended by this Bill. That Regulation had been repealed so long ago as 1821, under Sir Thomas Munro's Government, for reasons similar to those adduced in support of this Bill—that was to say, because its working was found to be intolerably oppressive. Sir Thomas Munro had recorded a Minute in which he expressed a very strong sense of the acts of oppression which sprung up under the operation of the Regulation of 1810. His Minute was very well worthy of consideration; and he (Mr. Elliott) had made some extracts from it which shewed the grounds on which Sir Thomas Munro considered that the Regulation should be repealed, and which he (Mr. Elliott) begged leave to read as pertinent to the measure now proposed. The evil, Sir Thomas Munro said, which the Regulation was meant to alleviate, had been greatly augmented by it, because, by making it the duty of the Magistrates to furnish troops

on the march with provisions and conveyance, it had led officers to neglect the precautions which were formerly in use for supplying themselves before the march commenced, and to trust almost entirely to the villages on their route for every thing. All the evils which the country suffered occasionally from bad seasons and other natural causes, Sir Thomas Munro affirmed, were light in comparison with the evil of impressment which was sanctioned by Law. It was so extensive that we did not hear of one-fiftieth part of the oppression which sprung from it. No body of troops, no detachment on guard, ever stirred without some compulsory requisition of provisions, coolies, or cattle, too frequently attended with some outrage upon the persons of the village people. A great road, which is in most countries an advantage to the villages near which it passes, is, in this country, the reverse; and instances were known in which the inhabitants had abandoned their villages to avoid the harassment to which they were liable under the Regulation. When the Magistrate is called upon to collect supplies at different places at which troops encamp on their march, he is obliged to order the Tehsildars to send grain and other articles from villages within ten or twelve miles of the camp. As the owners are unwilling to quit their homes, the sending them is always a matter of compulsion. They are placed under a guard, like criminals, to prevent their escape. If the troops do not arrive at the time expected the owners are kept under restraint till their arrival. The full price is seldom paid; no compensation is made for their detention, or for the distance from their homes: and of the price that is paid, a considerable part usually remains in the hands of the minor Commissariat servants, or of private servants who have received the money from their masters in order to adjust the account. If the means of conveyance for the detachment are deficient, coolies are pressed, or the bullocks of the villagers who brought grain to Camp, are seized and sent on with the troops, and frequently never returned. Travellers are, in proportion to their numbers, more oppressive than bodies of troops. The evil never could be remedied as long as

Government authorized its Officers to undertake the supplying of all the wants of Troops and Travellers at every stage of their progress through the country. But it could easily be remedied by a prohibition against affording any such aid. Let all Officers, European and Native, understand that they are to have no aid from any public authority in passing through the country, and we should soon see that, when the inhabitants perceived that nothing could be taken from them by compulsion, they would be more ready in bringing forward what they had for sale, and Travellers would be more readily supplied than now with what the villages afford. Sir Thomas Munro had trusted to the Regimental Bazaars recently established to secure the troops from want in marching. It would be the duty of Commanding Officers, before they began their march, to see that the Bazaar had a sufficient stock, and that it was kept up by occasional purchases on the road. The experiment was not a new one. Many corps had had such Bazaars, and had passed through the country without requiring assistance from the local authorities. The system of requisition, as far as regards the pressing of coolies, Sir Thomas Munro observed, was so discreditable to our administration, and so oppressive to the people, that no obstacle ought to prevent us from putting an end to it. No measure short of a total prohibition by Law could have this effect.

The idle complaint that the inhabitants will not sell provisions or forage without an order, Sir Thomas Munro thought, deserved no attention. "How," he asked, "do the native traders who pass through the country with thousands of bullocks laden with cotton and betel-nut, find no difficulty in procuring supplies for themselves and their cattle?" Half the inhabitants of a village were frequently seen going out to their tents carrying bundles of straw, while a traveller at the same village could hardly procure a single bundle for his horse. The difference arose entirely from the mode of fixing the price—from its being done in the one case by the seller, and in the other by the buyer. The numerous body of bullock-men employed by shop-keepers in transporting supplies from Madras to the distant sta-

tions, got whatever they wanted at the village, and found no difficulty in replacing such of their bullocks as died on the road. It was only Europeans and their servants who met with difficulties, and it was only when the servant travelled with his master that he met them. The cause was evident enough. He endeavored, under the authority of his master's name, either to evade payment altogether, or to pay as little as possible for what he got in the village, and the village people were naturally enough averse to any dealing on such terms.

In accordance with the suggestions made by Sir Thomas Munro, so much of Regulation III of 1810 of the Madras Code as authorizes Public Officers to impress supplies of provisions and means of carriage for Troops and Travellers was repealed; and since the passing of Regulation VI of 1821, it had not been lawful to secure supplies and carriage by any compulsory means. It would naturally be asked, what had been the effect of Regulation VI of 1821? Had it been successful? He was afraid he must say that it had not been. The Government of Madras had been forced to recognize the necessity of impressment. They had been forced to recognize the necessity of allowing their Civil Officers to interfere in the providing of supplies for Troops on the march in cases of emergency. He found that, in February 1840, the Board of Revenue passed the following rule:—

"On occasions of emergency, it will always be necessary that the Civil Authority should provide a certain quantity of bullocks and carts from the inhabitants of the District. It is, however, to be carefully kept in view that, in such cases only, the public good requires that individuals should not be put to inconvenience and loss, and the authority of the Magistrate is not to be exerted to press carriage for Troops, except upon the requisition of the Officer Commanding certifying the absolute necessity of the case; and in his report to superior authority, this voucher is to be supported by the declaration of the Commissariat Officer of his inability to meet the requirements of the Public Service from the means at his disposal.

"Equally will it be the duty of the Collector, in cases of emergency, to endeavor to meet similar requisitions for supplies which the Commissariat may be unable to furnish; but it is to be observed that, except in the instance of a sudden and unexpected movement of Troops, the necessity for his interference may always be avoided by the exercise of due vigil-

ance and activity on the part of the Commissariat Officer."

Various orders had been issued, from time to time, in a manner recognizing the impossibility of moving troops without such assistance. He had before him one issued in 1841, in which the Government said—"if it is impracticable to move Troops in this country without pressing carriage, everything should be done to make it bear as lightly as possible upon the cart-owners." The last order which he found upon the subject, was dated in September 1846. It embodied a letter from the Court of Directors in reference to certain instructions given to the Acting Magistrate of North Arcot to defend two suits for the recovery of damages for pressing carts, &c. for the use of the 30th Regiment Native Infantry:—

"The following representation of the facts of the case, is given in the Magistrate's letter.

"In August and September last, the 7th Cavalry, and the 14th and 30th Regiments Native Infantry, quartered at Ranepoot and Vellore, were severally under orders to march to very distant Stations, namely, Kamptee, the French Rocks, and Samulcottah. As soon as the orders appeared in the Gazette, the people in the district got notice of it, and began to drive their Bullocks into the Jungle, and hide the wheels of their Carts. I was in consequence not able fully to comply with the requisitions made on me for Carriage by the Military Authorities; but I managed, with very great difficulty, to procure 436 Carts with Bullocks in addition to the Carriage supplied by the Commissariat. The whole of these Carts were pressed, and in many instances the owners preferred entirely abandoning their property, to accompanying the Regiments to the distant stations to which they were proceeding. The plaintiffs in the suits under reference acted in this manner. Their Carts and Bullocks accompanied the 30th Regiment, and the Plaintiffs now sue to recover the value of them.

3. "If the practice of pressing Carriage on occasions of the ordinary march of Troops within our Territories were justifiable, the measures adopted in this instance would seem to have been regular and free from blame. But the Magistrate has forcibly set forth the hardship of such a practice, and we are not aware, when due notice of the march of troops is given, and proper arrangements are made by the several Authorities concerned, what should hinder those Authorities from procuring, by Contract, the whole supply of Carriage required, as part of it seems actually to have been procured. We desire that no precaution or exertion may be omitted for relieving the people from such compulsion, and that it may not be resorted to except in cases of absolute necessity especially brought to your

notice; and then only for distances as short as practicable."

It was only on occasions of emergency, therefore, that the Revenue Authorities were to interfere, and that impressment of carriage was to be resorted to. The Commissariat, however, it seemed, generally made out every movement of Troops to be a case of emergency. The orders referred to made it the duty of local Officers to do what there was no legal authority for, and practically the necessity of impressment seemed to have been recognized.

He would now refer to certain points of detail embraced by the Bill.

The Bill provided that Officers of Government might resort to impressment in only two specified cases—cases, namely, of emergency, when troops are marching; and cases where troops are suddenly ordered to take the field, and there is no time for applying for an order from Government. Except as regarded these two cases, Section II prohibited all impressment. It appeared to him that, besides those two cases of emergency, there was another which it would be proper to provide for. He had received a strong representation from the Madras Government on this point. It had formerly been the custom, in that Presidency, to use forced labor for public works. Latterly, that custom had been very much discountenanced by the local Government, and almost entirely put an end to. In the great works on the Godavery, for example, for which thousands of laborers were required, it was necessary, at first, to use compulsion in collecting them and keeping them at work; but as the works proceeded, the Officers of Government were able to come to such arrangements as placed voluntary labor at their disposal; and for the last three or four years he might say that forced labor had been there done away with, and laborers had generally come in of their own free-will from different parts of the country, and gone back to their homes after working out their contracts. And he could say that Government had forbidden the use of compulsion in procuring laborers for the public roads. The rule now as to Public Works in Madras was not to impress labor. Whenever labor was impressed formerly, it was always paid for, and handsomely paid for. The case to which

he referred as one of such emergency as to warrant its being made an exception from the general prohibition in Section II was that of sudden and serious damage occurring to tanks, rivers, channels, or other works, where, for the general good, immediate repair was of urgent necessity. The Madras Government strongly represented the necessity of a power being vested in the Executive to press labor for this purpose. Any breach in the embankment of a river, for example, must be instantly stopped, or the whole country would be liable to devastation. In such cases, it had always been found necessary to press a vast quantity of labor on the instant, in order that public mischief might be averted. In the face of Section II of this Bill, however, and the still more penal provision in the Penal Code on the subject of compelling labor, this could not be done unless a special provision were introduced legalizing compulsory requisition for labor in such cases, as well as in those provided for in Sections IV and V. The Madras Government called for it as highly necessary; and it would be well if the Select Committee, to whom this Bill might be referred, would take it into consideration.

MR. LEGEYNT said he desired to say a few words in reference to the remarks which the Honorable Mover of the Bill had made on the motion for the first reading, as to the measure being made applicable to Bombay. He was not altogether prepared to say that the Bill could be extended to Bombay with advantage; but it would be published, and if the Authorities at Bombay should express a desire that that Presidency should be included in it, the necessary amendment might be made at a future stage. As at present advised, however, he did not think that the evils which were felt here existed in Bombay in any thing like an equal degree.

The Honorable Member, when he moved the first reading, had said that "the existing Law for Bombay was very much better than the existing Law for Bengal; for it authorized the Civil Power there to interfere only in emergent cases." That was very true; but that Law was about to be abrogated. It was comprised in Regulation XII of 1827 of the Bombay Code, which would most probably be repealed when the

proposed Code on Criminal Procedure came into operation.

There was one Section of the Bill to which he was rather afraid to give an unreserved assent. It was the Section which provided that a double and even a treble rate of hire should be given when carriage or supplies were impressed. It appeared to him that this would have the effect of inducing owners of carts to refuse any and every rate of hire below a double rate on every occasion of the movement of troops, and thus to compel impressment in order that they might obtain impressment rates. In respect to supplies, in Bombay every Regiment on the march carried its own organized Bazaar with it; and the Chowdry was generally able, without any act of oppression, to provide it with all supplies required; and this he believed to be the principal reason why the evils complained of here did not exist in the Western Presidency.

MR. ALLEN said, he did not like to allow the Bill to be read a second time without saying how cordially he approved of its principle, and that he considered the measure as safe and practical as it was theoretically just. He was fully sensible that he could add little to the force of the arguments already advanced, and that he might well refrain from speaking in favor of the Bill. But he desired to say a few words, having had some personal experience of the matter; inasmuch as, during the years 1843 and 1844, he was the Magistrate and Collector of Cawnpore, and was called upon, in several instances, to provide both land and water carriage for troops, and for other Government purposes; and, from his experience, he could say that he found the present practice to be most oppressive; and he was quite sure that it might be safely abandoned.

He was particularly glad that Section III of the Bill not only repealed those Regulations which authorized impressment, but also made it penal to impress contrary to the Act; and he was so because Magistrates had frequently been called upon, and expected to provide artizans and others, for the impressment of whom there never had been any authority of Law. For instance, in the latter part of 1843 the Commander-in-Chief's Camp was formed at Cawnpore.

The Commissariat officer attached thereto, who was no tyro, and who afterwards received the honors of the Bath and a Lieutenant Colonelcy for his Commissariat services with the Commander-in-Chief, called on him, as Magistrate of Cawnpore, to provide about 100 artizans, of 34 different trades, to accompany the Commander-in-Chief's Camp throughout the Upper Provinces. These men were to receive no regular pay, but to depend upon chance employment for their remuneration. He held in his hand a list of the artizans required to go with the Camp all over the Upper Provinces; and he would read the designations of some of them. There were *attah* and *dhol*-sellers, tobacco-sellers and *paun*-sellers, oil-sellers, sweetmeat-sellers, butchers, baker-men, workers in leather, and workers in iron, carpenters, tent-menders, under the name of "*Khama Dozes*" and "*Para Dozes*," fowl-sellers, goldsmiths, (a laugh,) hookah snake-makers (renewed laughter), a class for whom there could be little employment with the present practice of not smoking hookahs (renewed laughter)—*hoondee-wallahs*, or writers of Bills of Exchange (renewed laughter,) and fishermen, who were to march by land with the Camp, and to fish in such unknown rivers as they might meet with on the road. He naturally demurred complying with this indent; on which, he was handed up to the Commissioner. (A laugh.) The Commissioner was no inexperienced man. He had been appointed to the Service before he (Mr. Allen) was born; and he wrote back to say that the indent must instantly be complied with in accordance with the practice which had been many years in force. He (Mr. Allen) then referred to the Head Police Officer, the Kotwal of Cawnpore, to find out how formerly the requisitions had been attended to. The Kotwal said that the practice had been to comply with such indents, and that, if he received the necessary order, he would get the men, and that he (Mr. Allen) would never hear any more about it. When further particulars were asked for, he said—"I shall tell the Chowdries or Heads of each trade in the Bazaar that so many men of his trade are wanted." The Chowdry of each guild would collect a purse from the

men of the trade, which purse would be taken to a Native Official in the Commissariat, who, in some cases, would take it, and report that the men were in Camp; and in others, he would refuse it, and say the men must be produced, when the purse would be presented to one as remuneration for his going with the Camp.

He (Mr. Allen) represented to the Commissariat Officer, as respectfully as he could, the illegality of the demand, and the impossibility of acceding to it. On this, he was handed up to the Government; and the Commissariat Officer informed him that the Military Authorities in Camp were satisfied that they were justified in making the indent. Now, the authority on whom the Commissariat Officer chiefly relied, was the Head Staff Officer of the Camp, and he was then Deputy Adjutant General of the Army. He was now the Commander-in-Chief of the Forces in Madras. The then Lieutenant-Governor of the North-Western Provinces, Mr. Thomason, took the matter up, and the result was the issue of the order mentioned by Mr. Secretary Grant in his Note, prohibiting compliance with similar indents; and he had never heard that, since that order, Commanders-in-Chief, or Governors-General, on the march, had gone without fish, or butcher's meat, or other supplies. (A laugh.) The publication of this order in 1844 caused the Superintendent of Canals in the North-Western Provinces to fear that he should not be able to carry out his wishes without forced labor; and he remonstrated. To that remonstrance, Mr. Thomason replied—

"The difficulties experienced by you will always be felt when extensive works are carried on, in a thinly populated country. They are difficulties arising out of the nature of things, which arbitrary orders or illegal compulsion will not remedy. The true and effectual way of remedying them is by the constant extension of kindness, consideration, and thoughtfulness in all dealings with laborers on the spot, and in the devising of means for inviting laborers from a distance, and encouraging voluntary resort to the works.

"The Lieutenant-Governor would be loath, by especially authorizing harsher measures, to diminish the necessity for these latter and far more effectual expedients.

"They have often been successfully tried before, and have, no doubt, already recommended themselves to the adoption of your

good judgment. You will find patient perseverance in them to be crowned with success."

Since that time, the Canal works in the North Western Provinces had increased very considerably. In 1844, there were only the Jumna Canals. Since then, there had been constructed the Ganges Canal; and no difficulty had been found in obtaining voluntary labor for that great work. It had been said that it would be impossible to do away with impressment when there was a deficiency of carts; but he believed that what he had read against providing for a deficiency of laborers applied also to a deficiency of carts. Certain he was that impressment would not increase the number of carts. It would not make more if there were few. Nay, it would unmake the few; for, as the Honorable Member opposite (Mr. Elliott) had observed, carters would throw the wheels down the wells, and the bodies in the jungle. It would not attract carts from other districts. On the contrary, it would send them away.

The only circumstances under which a deficiency could be remedied by pressing were when most of the carts were already under contract or hire to other persons; and in such a case, it would be better to enact that a carter might break a contract when he hired out his carts to Government. In this case the carter would not suffer, but the Contractor; whereas the practice of impressment injured both carter and Contractor. In all cases, as there were carts to be hired, the Commissariat was not in a worse position than a private person. Mr. Thomason had well observed, as regarded boats, and it was equally true as to carts—

"The Commissariat Officers are the best customers in the market. If they offer a fair price, they ought to command all the tonnage they want at prices rather below than above the market rate, in consideration of the largeness of their dealings. When they have occasion to apply to the Magistrate, except on great military emergencies, it argues some defect in their arrangements; and the Magistrate must be very careful lest, by too ready a compliance, he abets injustice."

What the Honorable Member for Madras had said as to the necessity of sometimes pressing laborers for the repairs of embankments, put him in mind of an anecdote he had heard at Agra of the Rajah of the neighboring State of

Bhurlpore. A breach having occurred in the embankment of a river, which the public safety required should be repaired at once, the Rajah of the Province, who had absolute authority in it, and could do with the people what he pleased, did not seize unwilling laborers to repair the breach, but went out himself with a basket of earth on his head. His example was followed by the whole population, and the breach was repaired without one act of impressment.

There was one little point of detail in the 3rd Section of the Bill, which he thought rather objectionable. The Section made it penal only for Revenue and Judicial Officers to impress means of transport or workmen, except as provided by subsequent Clauses. He did not see why the Section should not be amended so as to provide that whoever impressed means of transport contrary to the Act should be liable to punishment. It might be said that Revenue and Judicial Officers were the only Officers who were likely to impress; but the Commissariat would employ Contractors or Chowdries who would have badged Peons, and these Peons might resort to oppressive acts. The very first Despatch of Mr. Thomason, in the printed copy of his Despatches, referred to oppression caused by the Native Officials of the Commissariat taking forage for Government cattle by force, and injuring trees in providing fodder for Government elephants.

He would, therefore, leave out those words of the 3rd Section which confined the penalty to Officers of Police and Revenue, and make the Section general.

MR. CURRIE said, he had one remark to make as to the form of the Bill. Section 1 said—

"Sections II and VIII and Clause 7 Section IX of Regulation XI of 1806 of the Bengal Code are repealed. Sections III, IV, VI, and VII of the said Regulation and Regulation VI of 1825 of the same Code are modified, and their operation restricted, in the manner following."

It appeared to him that it would be very much better if all the first Sections of Regulation XI. 1806 were repealed, and such of them as were considered to be necessary were re-enacted in this Bill in the modified form which its prin-



ciple required. With regard to the provisions of the Bill, he would only remark, with reference to the Section which provided that double and treble rates should be given in cases of impressment, that he concurred in the doubt expressed by the Honorable Member for Bombay as to the expediency of requiring such rates to be given when it had been ascertained that a real and true emergency did actually exist.

MR. GRANT observed that, after what had been said, and so well said, on the general principle of the Bill, he should only weaken his case if he advanced another word in support of it.

But he must say a few words on one important point of detail, to which the Honorable Member for Madras and the Honorable Member for Bombay objected. This was the provision which required that double rates should be given on the rare occasions to which impressment would be restricted by the Bill. These Members of the Legislature showed a very great, and a very proper, concern for the financial interests of the Government in making this objection. Certainly, it was an objection which would not come from the people to whom the Act was to apply. He would explain why he proposed the adoption of this part of his plan. His opinion was that, when the rare emergencies contemplated by the Bill do occur, and it is necessary for the safety of the State generally, and for the good of the 150 millions in our Empire, to coerce individuals in a manner not warranted by the general Law, the evil ought to be made to fall as lightly as possible on the individual, and ought to be spread as widely as possible over the whole Empire. What is it to this Empire that, once or twice in a course of some years, when the general safety absolutely requires an extraordinary exertion, it may have to pay an extra sum for carriage? The revenues would not be swallowed up by that piece of extravagance! On the other hand, it mattered much to a poor cart-man to be forced away from his ordinary employment, and compelled to work at another place where his business does not call him? The very facts of the case showed that the ordinary rates must be insufficient remuneration; because, if the man felt them to be sufficient, it would be unnecessary to

impress him. It is only because he feels them to be insufficient that impressment is required. That being so, would it not be only bare justice to give him more? He (Mr. Grant) did not stickle for any particular extra rate; but he was quite sure that the ordinary rate would not be sufficient, and he thought a double rate would probably be fair. He would illustrate his position by a case from one of the higher walks of life. If a professional man—for example, a Lawyer who is following his business in Calcutta—were sent up to Lucknow to work there for a month or more, should we think double fees an extravagant remuneration? If that is the case in our own sphere of life, there is no reason to suppose that it is not equally the case in humbler grades of labor. Additional remuneration for work done at a distance, and out of the ordinary course is as much the right of a man who follows the humblest trade as of a member of a liberal profession. It was unjust to a man who lives by letting out his cart and pair of bullocks, in a particular district, to a particular class of persons, to carry him away to a different district, paying him nothing for the inconvenience and the loss of his trade-connexion.

This was one reason for the double rate. But he (Mr. Grant) had another reason for pressing this point upon the Council. He felt fully convinced that it was to this provision that we must look to make the Bill self-working. It was on the red ink of the Military Auditor General that he relied for preventing the Act becoming a mere sham. The Honorable Member for Madras had read from a Minute of Sir Thomas Munro, which he (Mr. Grant) wished he had seen before he moved the first reading of this Bill. That Minute shewed that Sir Thomas Munro, one of the greatest of Indian statesmen—a statesman who was familiar with every petty business in his district, and who was as great in minute details as he was great in great matters—considered that the impressment of carriage and supplies was wholly unnecessary. The Madras Regulation authorizing such impressment was accordingly repealed. Nevertheless, the Government of Madras had allowed in practice the impress-

ment of carriage to go on ever since. The papers annexed to the Bill showed that, in 1855, three Regiments were marched through the Marwar Territory, from Deesa to Agra, without one act of impressment—without one act of interference on the part of the Civil Power; the reason being that proper and timely arrangement had been made by the Contractors at Deesa. If this could be done in the case of three Regiments, it could be done in the case of every Regiment. Yet, although in Madras there is no Law to warrant the practice, and though we have authority and proof that it is unnecessary, carts are impressed to this day, under the futile and groundless pretence of necessity. Now, it was the Government, and not the sepoy, who would have to pay the difference between the ordinary and the emergent rates, when impressment is resorted to; and it was certain that, whenever the Government should be called upon to pay the impressment rate, the Military Auditor General would know the reason why. If the necessity arose from want of proper and timely arrangements, he thought it would not be the Government who would bear the loss.

He was quite willing to consider the suggestions which had been made by the Honorable Member for Madras as to the impressment of labor for public works on occasions of sudden emergency. He did not mean to say that he was prepared to agree with the Honorable Member in all his observations on that point; but he felt that they deserved serious attention; and if the Honorable Member would allow himself to be named on the Select Committee on the Bill, his suggestions upon this, as upon every other point embraced by the Bill, would receive the fullest consideration.

MR. LEGEYT said, he wished to explain that he had not objected to the enhanced rates so much from a tenderness for the finances of the State as from a fear that the exceptional Clauses in the present Bill would, for the reason he had stated, become the rule and not the exception, and thereby the rates of hire of all description of carriage when troops moved would be doubled, which would be a grievous burden on individuals; for he did not suppose that the State would bear any part of the expense incurred

by individuals for the carriage of their families and property beyond the regulated quantity.

THE CHIEF JUSTICE said, he ought perhaps to apologize for not having spoken before the Honorable Member on his right had replied to the objections made to his Bill; but he rose only to make one or two observations in addition to the excellent reasons which had been advanced in support of the provision to which objection had been taken by the Honorable Members for Bombay and Bengal. It seemed to him that the provision in question was rather in favor of Government than prejudicial to it—because the cases of emergency in which it was proposed to legalize impressment were assumed in both the 4th and 5th Sections to be cases in which the persons impressed were unwilling to give their carts even for double rates. There was no reason for preventing, or show of justice in preventing owners of carts from making what they could by the exigencies of the market. To compare small things with great, the Council must recollect what enormous freights had been earned by transports in the late Crimean war; and there was no reason why a hackery-man should not, as the owner of a first class merchant vessel did, make a profit of the necessity of the State, and take the benefit of the enhanced rate of hackery-hire consequent on an extraordinary demand for carriage. So far from being unjust, the provision appeared to him to be for the benefit of the State, inasmuch as it fixed a maximum.

On another Clause, he had at first felt some doubt. It was that part of the 7th Section which provided that, where impressed land carriage was retained beyond the next halting-place, a treble instead of a double rate of hire should be paid. When he first read the Clause, it appeared to him that it would be a sufficient check to enforce payment of back hire at double the rate current at the time and place of impressment. But the allusion which the Honorable Member in charge of the Bill had made to the Military Auditor General satisfied him that there was a good reason for this provision. Officers would always be tempted to force impressed carts to go on rather than themselves undergo the trouble of obtaining fresh carriage;

and nothing would tend more to check this practice than the knowledge that an extraordinary charge would call for an explanation of the circumstances in which it was incurred. The interesting speech of the Honorable Member for the North Western Provinces had shown that it was sometimes for the benefit of the Public that ill-defined powers should be pressed beyond their intended limits; since this brought the question prominently to the notice of higher Authorities and might occasion its reform. It would seem that, whatever the fishermen impressed at Cawnpore in 1843 might have caught, the Commissariat had caught a Tartar in his Honorable friend, whose resistance had occasioned a practice, which had long existed without legal foundation, to be brought to the attention of Government, and so put an end to.

MR. GRANT'S motion for the second reading of the Bill was then put and carried, and the Bill read a second time.

#### POLICE AND CONSERVANCY (SUBURBS OF CALCUTTA AND HOWRAH.)

The Order of the Day for the third reading of the Bill "to make better provision for the order and good government of the Suburbs of Calcutta, and of the Station of Howrah" being read—

MR. CURRIE moved that the Bill be recommitted.

Agreed to.

Sections III and X were passed after a few verbal amendments.

MR. CURRIE moved that the following new Clause be added to Section XXIII:—

"Whoever beats a drum or tom-tom, or blows a horn or trumpet, or beats or sounds any metal instrument or utensil, between the hours of ten at night and four in the morning, so as to disturb the repose of the inhabitants, except when permitted by the Magistrate on occasions of festivals and ceremonies."

The clause was agreed to.

Section XL provided for the filling up of unwholesome tanks, &c. on private premises, or of low marshy grounds.

MR. CURRIE said, the Select Committee had taken into consideration the remarks which the Honorable Member opposite (Mr. Grant) had made on this Section at the last Meeting, and agreed in thinking that it would be hardly fair

to require proprietors to fill up grounds which had been made offensive by no act of theirs, but were in their natural state. They had accordingly amended the Section as follows:—

"When any tank or other excavation containing waste or stagnant water, the same being within any private enclosure, appears to the Magistrate to be injurious to health, or to be offensive to the neighbourhood, it shall be lawful for the Magistrate to require, by notice in writing, the owner of the premises to cleanse or fill up such tank or excavation; and if he do not begin to cleanse or fill up the same within one week after such notice, and do not complete such work with due diligence, the Magistrate, his officers, and workmen, may enter into the said premises, and do all necessary acts for the purpose aforesaid as he shall think fit; and the expense incurred thereby shall be paid by the owner of such premises, and shall be recoverable as hereinafter provided."

He begged to move that the Section be passed as amended.

Agreed to.

Sections LIII and LV were passed after amendments.

MR. CURRIE moved that the following new Section be inserted after Section LVI:—

"With respect to all matters expressly provided for by this Act, and within the limits subject to the same, the provisions of this Act shall be held to supersede the provisions of Act XXI of 1841."

Agreed to.

The Bill having been reported—

MR. CURRIE moved that it be read a third time and passed.

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

MR. CURRIE moved that Mr. Grant be requested to take the Bill to the Governor-General for his assent.

Agreed to.

#### IMPRESSMENT OF CARRIAGE AND SUPPLIES FOR TROOPS (BENGAL).

MR. GRANT moved that the Bill "to amend the law regarding the provision of carriage and supplies for Troops and Travellers, and to punish unlawful Impressment" be referred to a Select Committee consisting of Mr. Elliott, Mr. Allen, Mr. Currie, and the Mover.

Agreed to.

The Council then adjourned, on the motion of the Chief Justice.