

Saturday, 25th July, 1857

PROCEEDINGS
OF THE
LEGISLATIVE COUNCIL OF INDIA,

FROM

January to December 1857.

VOL. III.

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1857.

Saturday, July 25, 1857.

PRESENT:

The Hon. 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. J. P. Grant,	and
Hon. B. Peacock,	Hon. Sir A. W. Buller.

CRIMINAL PROCEDURE (BENGAL.)

THE CLERK presented a Petition of the Armenians of Dacca and Calcutta praying that whatever Criminal Law may be passed for British-born subjects, the same Law may be extended to the Armenians domiciled and inhabiting within the Territories of British India.

MR. PEACOCK moved that the above Petition be referred to the Select Committee on the Bill "for extending the jurisdiction of the Courts of Criminal Judicature of the East India Company in Bengal, for simplifying the procedure thereof, and for investing other Courts with Criminal jurisdiction."

Agreed to.

FORFEITURE OF PROPERTY FOR MUTINY.

MR. PEACOCK presented the Report of the Select Committee on the Bill "to render Officers and Soldiers in the Native Army liable to forfeiture of property for Mutiny, and to provide for the adjudication of forfeitures of property in cases in which offenders cannot be brought to trial."

PORT-DUES AND FEES.

MR. CURRIE presented the Report of the Select Committee on the Bill "to authorize the levy of Port-dues and Fees at the present rates for a further period of twelve months."

MUNICIPAL ASSESSMENT (BOMBAY.)

MR. LEGEYT moved the first reading of a Bill "for appointing Municipal Commissioners and for raising a fund for Municipal purposes in the Town of Bombay." He said, the object of the Bill was to provide Municipal funds for the Presidency Town of Bombay, and to constitute a Body for the management

of Municipal affairs generally. The Bill had been framed in conformity with the provisions of Act XXV of 1856 which was known as the general Municipal incorporated Act, and was the special Act for Bombay indicated in the first Section of that measure. In its provisions it followed generally Acts XXVI and XXVIII of 1856, for appointing Municipal Commissioners, and for levying rates and taxes, in the towns of Madras and Calcutta respectively; but as the state of Municipal matters in Bombay differed materially from that of Municipal matters in Calcutta and Madras, he had not been able to preserve strict uniformity in respect to details.

There had been for several years a more regularly constituted Municipal Body in Bombay than had existed in the other Presidencies, in the shape of a Bench of Justices of the Peace. This Body had had under its control all the Municipal affairs of the Town for many years. It had been formed under Section CLVIII of 33 Geo. III, c. 52, and the number of its Members was now about seventy, of whom one-third consisted of Native gentlemen of large property and local influence. It had been fully recognized by the Government of Bombay as a Municipal Body; and its numbers had been increased considerably within the last three years, with a view to its usefulness.

There had been a lengthened discussion between the Government and the Bench of Justices as to the most advisable form to be adopted for the future constitution of the Municipal Body; and, after the consideration of several schemes, it had now been agreed between the Government and the Bench that it would not be advisable materially to alter its present shape. Accordingly, this Bill (although it repealed Section CLVIII of 33 George III c. 52, and Act XI of 1845, under which the Bench of Justices, with an executive Body named the Board of Conservancy, managed Municipal matters in Bombay) vested the control of those matters in the Bench of Justices, and reconstituted the Board of Conservancy, under the designation of Municipal Commissioners, with a slight alteration in the mode of appointing the Members, and providing remuneration for their services.

The Government of Bombay, in a letter to the Bench of Justices on this subject dated the 19th of March last, and which would form one of the annexures to the Bill, stated that the entire Municipal disbursements in Bombay amounted to 5,80,000 Rs. a year—and this exclusive of 1,20,000 Rs. a year which they proposed to devote, for five years, to a system of general and efficient drainage. The present income of Bombay, they stated, in the same letter, to be only 4,80,000 Rs. a year. It was, therefore, necessary to look elsewhere than to the house and ground tax, the horse and carriage tax, and some other small sources of income, for providing an adequate sum for the Municipal wants of the Town. The Government of Bombay had propounded a scheme which had been fully agreed to by the Bench of Justices, and which, if brought into operation, would provide the required income, and secure many and important advantages to the Town of Bombay. In the 30th and subsequent paragraphs of their letter, the Government of Bombay said :—

“30. In order to meet this excess of charges to provide for improving old and opening new roads, and for a large sum being devoted annually to the drainage works, a very considerable addition will be necessary to the revenue which may be expected from existing sources of taxation; and, after careful consideration, the Right Honorable the Governor in Council is of opinion that the plan which I am now instructed to propose, and for which Government are in a great measure indebted to Mr. Hutchinson, the Collector of Bombay, would be the most unobjectionable mode of raising the requisite funds. In explaining this plan, I shall do so principally in the words of a memorandum drawn up by Mr. Hutchinson, which, with some modifications as to the rate of taxation, has been adopted by Government, with respect to the four principal articles proposed for taxation; namely, grain, butcher's meat, ghee, and fire-wood.

“31. Estimating the population of Bombay at 5,00,000, and the consumption of grain (at the rate of one seer and a half for each person per diem) at one candy per annum, it may be assumed that about 5,00,000 candies of grain are brought into Bombay, exclusive of the grains consumed by horses and cattle. The prices range from sixteen to forty Rupees per candy. Taking the average price at twenty Rupees per candy, a duty of four annas per candy will be equivalent to 4½ per cent., and fall on the whole population at the average rate of only (4) four annas a head per annum. A duty of four annas per candy will yield 1,25,000 Rupees.”

The letter then adverted to the ob-

jections usually raised to such a tax on grain, and suggested answers to them. He would not take up the time of the Council by reading these. But in paragraph 35, the Government said :—

“35. Sheep and oxen brought into Bombay, fall within the category of articles of local consumption which may fairly be taxed for Municipal purposes. There were brought to the public slaughter-houses in 1855 :—

Cows and Bullocks,	15,700
Buffaloes,	1,200
Calves,	1,000
Sheep and Goats,	2,20,000
Kids and Lambs,	5,600

“36. Besides the above, there were slaughtered, at Mahim, Colaba, and elsewhere, for public sale, about 30,000 sheep and goats, and more than this number in private houses, for family use, at the *Buckree Eed* and other Mahomedan festivals.

“37. A Tax on sheep, oxen, &c. at the following rates, would yield a large revenue, without making any perceptible increase in the retail price of butcher's meat.

Cows and oxen, including Calves	
18,000, at four annas each, .. Rs.	4,500
Sheep and Goats 3,00,000, at two annas each,	37,500
Kids and Lambs 6,000, at two annas each,	750

Rupees, 42,750

“38. The quantity of ghee imported last year was 67,000 cwt. or about 2,68,000 mds. A duty of six annas per maund would be a light duty, and yet produce about 1,00,000 Rupees. Not very long since, the price was 7 or 8 Rs. : it is now 5½ Rs. or 6 Rs. a maund.

“39. Fire-wood might also be taxed, the import being estimated at 5,00,000 candies. There might be raised from this source, at two annas per candy, about 62,500 Rs. per annum.

“40. In addition to the above, the Right Honorable the Governor in Council considers that a tax should also be levied on all building materials, as timber, chunam, and quarried stone. The revenue from this source might be estimated at perhaps little under 1,00,000 Rs.”

The letter proceeded to suggest the levy of a small toll, as a toll, on causeways; but that project had, after some discussion, been abandoned; and the local Town-Duties now stood under the head of grain, butcher's meat, ghee, fire-wood, and building materials. It was calculated that these duties would yield a sum of 4,60,000 Rs. which, added to 4,80,000 Rs. derived from existing sources, would make the aggregate annual income of the Municipal Fund 9,40,000 Rs. This sum would cover the estimate of annual disbursements—

namely 5,80,000 Rs.—and leave a surplus income of 3,60,000 Rs. Out of this sum, the Government of Bombay proposed to reserve 1,00,000 Rs. for the widening of streets, the construction of new roads, the introduction of a better system of lighting, and other improvements; and that would leave a surplus of 2,60,000 Rs. Then, the scheme of the Government was this:—

“The Right Honorable the Governor in Council would propose that Her Majesty’s Justices should devote such surplus, or at least 2,50,000 Rs. per annum, to the reformation of the drainage; and, in the event of this proposal meeting with the approval of the Bench, His Lordship in Council will be ready to recommend to the Government of India that the proceeds of the additional duties upon liquor, estimated to amount to 2,50,000 Rs. per annum, should be contributed temporarily towards this important object.”

He had not before him the official papers on the subject; but from information which he had received, he had reason to believe that it was proposed to realize this sum of 2,50,000 Rs. from additional duties upon liquor by introducing into Bombay the same Abkaree system as that which was in force in Calcutta, but which had not hitherto prevailed there.

The letter then proceeded as follows:—

“When the improvement of the drainage and sewerage of the Island shall be completed, on account of which the sum of 2,50,000 Rs. is to be contributed from the Municipal Fund, it is proposed that the payment to Government of that sum should be continued, as an addition to the ordinary instalment from the Municipal Fund, for the repayment of the cost of the Vehar Water Works; and it is calculated that, if the proposed arrangement be assented to, the whole cost of the water-supply of Bombay, together with interest on the outlay, will be paid off in about sixteen years. At the end of this period, the Municipal income would apparently be much in excess of the requirements of the Municipality; and it would then, consequently, be desirable to reduce the Municipal taxes.”

The letter went on to propose that, as a provision against possible errors in the estimate of receipts and disbursements, and a frequent recourse to the Legislature, Her Majesty’s Justices should be vested with the discretionary power, within certain limits, of increasing the rates at which the proposed taxes should be levied. But as that proposition involved the principle of delegating to an Executive Government

a power which belonged properly and exclusively to the Legislative Council, he had not given effect to it in his Bill.

The Scheme of the Government of Bombay had been submitted to Her Majesty’s Justices, who, with suggestions of some very slight modifications, which would be found among the annexures to the Bill, had accepted it. In his own mind, he believed that no other such acceptable scheme of taxation to make up the deficiency in the Municipal Fund could possibly be proposed as these Town-Duties. A more extended scheme of Town-Duties had been put forward:—a scheme in which it was proposed that import and export duties should be levied upon certain articles, in addition to the existing Customs duty, and a Town-Duty upon every vessel of more than fifty candies entering the harbour in addition to the existing Port-dues and fees. That proposition had been made by a majority of the Justices, but opposed by the Bombay Chamber of Commerce. The Government of Bombay were at first disposed to support it; but, upon careful re-consideration, they determined to reject it, and to confine the proposed new taxation to those articles of local consumption which he had enumerated.

He might mention that, in many of the large towns of Bombay which had adopted the Act XXVI of 1850 (the Mofussil Municipal Act), the taxes proposed by the present Bill were already levied with the consent of the people, and were readily and cheerfully paid. There was no community, he supposed, which had an instinctive predilection for taxes of any kind; but it was an admitted fact that the levy of Town-dues was a scheme of taxation which found less disfavor than any other which could be resorted to among the people of India; and if the Council would pass this Bill, which included that scheme of taxation, they would introduce a system which, while it would confer most important benefits upon the Town of Bombay, in the shape of efficient drainage and an ample supply of drinking water, would, he was convinced, be received by the inhabitants without a murmur; whereas he had the strongest reasons for believing that, if the house and ground-rates were raised to a higher figure than that at which they now

stood—that was to say, to ten per cent.—and an occupation-rate, and perhaps a lighting-rate were imposed, the greatest objection would be felt by the rate-payers, amongst whom would be those who were the most influential inhabitants of the Island.

He had been enjoined by the Government of Bombay to recommend to the Council in the strongest manner the adoption of the measure which he had now the honor to introduce, and to express their earnest hope that the provisions which it contained would receive their gravest consideration.

The Bill consisted of thirty-one Sections.

Section I repealed existing Laws.

Section II provided that the present assessment should remain in force until revised.

Section III incorporated with the Act the general Act XXV of 1856.

Sections IV to XI constituted the Municipal Commissioners.

Sections XII to XVI provided for a house and ground rate at 5 per cent., but with a proviso that the Government might raise the rate to $7\frac{1}{2}$ per cent., if the Justices in Sessions should recommend such increase.

Sections XVII to XXIII provided for a horse and carriage tax. The Schedule according to which it was proposed that this tax should be levied was considerably higher than the Schedule given in the special Acts for Calcutta and Madras. But it was a Schedule framed by the Justices in Sessions, who had been able to ascertain the views and wishes of the people on the subject, and no objection had been raised to the rate proposed. For his own part, he felt bound to say that the excellent state of repair in which the roads of Bombay were kept, and the extensive watering they received, would quite reconcile rate-payers to the proposed enhanced taxation.

Sections XXIV to XXVII related to the levy and collection of Town-Duties.

Sections XXVIII to XXXI related to the constitution of the Municipal Fund.

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

The Bill was read a first time.

PORT-DUES AND FEES.

MR. CURRIE said, he had present-

ed to-day the Report of the Select Committee on the Bill “to authorize the levy of Port-dues and fees at the present rates for a further period of twelve months.” The only alteration which the Select Committee proposed to make in the Bill was to reduce the period during which Port-dues and fees might continue to be collected at the existing rates, from “twelve” months to “six” months, in accordance with the suggestion thrown out last Saturday by the Honorable Member opposite (Mr. Grant.) Before the Council went into Committee on the Bill, he should move that the Report of the Select Committee be read at the table.

Agreed to.

The Report was read accordingly, as follows:—

“TO THE HONORABLE THE LEGISLATIVE COUNCIL.

“We, the Select Committee appointed to consider the Bill ‘to authorize the levy of Port-dues and fees at the present rates for a further period of twelve months,’ have the honor to make the following Report:—

“We have thought it advisable to restrict the further period during which dues and fees may be levied at existing rates, to six months.

“We observe that, when this Bill comes into operation, two years will have elapsed since the passing of the Harbour Act; and we think that that period was much more than sufficient for supplying the requisite information, and preparing and passing the supplemental Acts, which, under the provisions of the Harbour Act, are necessary for each Port at which dues are levied.

“We are strongly of opinion that no further extension of the period, beyond the time which we propose to fix by this Bill, should be allowed.

(Sd.) E. CURRIE.

” J. P. GRANT.

” P. W. LEGETT.

The 25th July 1857.”

MR. CURRIE moved that the Council resolve itself into a Committee on the Bill; 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.

Agreed to.

The Bill passed through Committee without amendment.

The Council having resumed its sitting, the Bill was reported.

MR. CURRIE moved the third reading of the Bill. It was necessary that the Bill should be passed as soon as possible, because the period allowed by the last Act for the levy of Port-dues

and fees at the existing rates, would expire on the 13th of the next month, and it was desirable that this Act should reach Madras and Bombay before that date.

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.

PORT-DUES (KYOUK-PHYOO.)

MR. CURRIE moved that a communication received by him from the Principal Assistant to the Commissioner of Arracan, relative to the receipts and charges of the Port of Kyouk-Phyoo, be laid upon the table and referred to the Select Committee on the Bill "for the levy of Port-dues in the Ports of Moulmein, Rangoon, Dalhousie, Akyab, and Chittagong."

Agreed to.

FORFEITURE OF PROPERTY FOR MUTINY.

MR. PEACOCK moved that the Bill "to render Officers and Soldiers in the Native Army liable to forfeiture of property for Mutiny, and to provide for the adjudication of forfeitures of property in cases in which offenders cannot be brought to trial," as amended by the Select Committee, be published in the *Gazette* for general information.

Agreed to.

MR. PEACOCK gave notice that he would, on Saturday the 1st of August, move for a Committee of the whole Council on the above Bill.

The Council adjourned.

Saturday, August 1, 1857.

PRESENT :

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

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

Mr. Currie.

PORT-DUES AND FEES.

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

MESSAGE No. 112.

The Governor-General informs the Legislative Council that he has given his assent to the Bill which was passed by them on the 25th July 1857, entitled "A Bill to authorize the levy of Port-dues and Fees at the present rates for a further period of six months."

By order of the Right Honorable the Governor-General.

CECIL BEADON,

Secy. to the Govt. of India.

FORT WILLIAM, }
The 31st July 1857. }

FORFEITURE OF PROPERTY FOR MUTINY.

MR. PEACOCK moved that the Council do resolve itself into a Committee on the Bill "to render Officers and Soldiers in the Native Army liable to forfeiture of property for Mutiny, and to provide for the adjudication of forfeitures of property in cases in which offenders cannot be brought to trial;" and that the Committee be instructed to consider the Bill in the amended form in which it had been recommended by the Select Committee to be passed.

Agreed to.

Section I was passed as it stood.

Section II provided for adjudication of forfeiture in the case of any offender "who shall have been killed, or shall have died, or shall have escaped out of the territories of the East India Company before he shall have been convicted of the offence, or shall keep out of the way for the purpose of avoiding trial."

SIR ARTHUR BULLER said, it might be difficult for the prosecution to prove that an offender was keeping out of the way for the purpose of avoiding trial. It would be sufficient to prove that he could not be found after diligent search; and he therefore moved that the words "cannot after diligent search be found" be substituted for the words "shall keep out of the way for the purpose of avoiding trial." Words to the same effect occurred in Section VIII, which related to the restoration of forfeited property.