

Saturday, 23rd August 1856

PROCEEDINGS



OF THE

LEGISLATIVE COUNCIL OF INDIA,

FROM

January to December 1856.

VOL. II.

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## REVENUE OF CALCUTTA.

MR. CURRIE moved the third reading of the Bill "relating to the administration of the Public Revenues in the Town of Calcutta."

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

## PORT-DUES AND FEES.

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

## MESSAGE No. 80.

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

By order of the Right Honorable the Governor General.

CECIL BEADON,  
*Secy. to the Govt. of India.*

FORT WILLIAM, }  
The 9th Aug. 1856. }

## MESSENGER.

MR. CURRIE moved that Mr. Grant be requested to carry the Bill "relating to the administration of the Public Revenues in the Town of Calcutta" to the Right Honorable the Governor General for His Lordship's assent.

Also the Bill "to provide for the execution of Criminal process in places out of the jurisdiction of the authority issuing the same."

## MUNICIPAL ASSESSMENT (STRAITS SETTLEMENT).

MR. ALLEN moved that two communications which he had received from the Government of the Straits Settlement regarding the Municipal Assessment Bills, be laid on the table and referred to the Select Committees on the Bills.

Agreed to.

## OPIUM (BENGAL PRESIDENCY).

MR. CURRIE moved that the Bill "to consolidate and amend the law relating to the cultivation of the poppy and the manufacture of opium in the Presidency of Fort William in Bengal" be referred to a Select Committee consisting of Mr. Grant, Mr. Allen, and the Mover.

Agreed to.

## [AUGUST 23, 1856.] Polygamy.

## CATTLE TRESPASS.

MR. LEGEYT moved that a communication which he had received from the Government of Bombay on the Bill "relating to trespasses by Cattle" be laid upon the table and referred to the Select Committee on the Bill.

Agreed to

## NOTICE OF MOTION.

MR. ALLEN gave notice that, on Saturday next, he would move the second reading of the Bill "for conferring Criminal jurisdiction on Moonsiffs and Tubskeeldars in the North Western Provinces."

## STANDING ORDERS.

MR. LEGEYT moved to refer to the Standing Orders Committee the question as to the time allowed for presentation of Reports on Bills by Select Committees, with a view to the alteration of the Standing Order regarding publication of Bills.

Agreed to.

## NOTICE OF MOTION.

MR. LEGEYT gave notice that, on Saturday next, he would move the second reading of 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."

The Council adjourned.

Saturday, August 23, 1856.

## PRESENT:

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

Hon. Sir J. W. Colville, His Excellency the Com- mander-in-Chief,	D. Elliott, Esq., C. Allen, Esq., P. W. LeGeyt, Esq., and Hon. H. Peacock,
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## HINDOO POLYGAMY.

THE CLERK presented the following Petitions praying for the abolition of Hindoo Polygamy:—

A Petition of Rajah Goluck Indronarain Roy and other Inhabitants of Midnapore, bearing 15 signatures.

A Petition of Pundits of Bhatpara and other inhabitants of Baraset, bearing 346 signatures.

Two Petitions of Baboo Rajcoomar Roy Chowdry and other Inhabitants of Barripore and its neighbourhood.

A Petition of Baboo Dhurm Doss Laha and other Inhabitants of Kamarpoker in the District of Hooghly.

A Petition of Baboo Rajublocben Roy and other Inhabitants of Moorshedabad.

SIR JAMES COLVILE moved that the above Petitions be printed.

Agreed to.

#### ABKAREE REVENUE (BENGAL PRESIDENCY).

MR. CURRIE presented the Report of the Select Committee on the Bill "to consolidate and amend the Law relating to the Abkaree Revenue in the Presidency of Fort William in Bengal."

#### NATIVE PASSENGER SHIPS.

MR. ELIOTT postponed, until Saturday next, his motion (which stood in the Orders of the Day) for the first reading of a Bill "for the regulation of Native Passenger Ships."

#### CRIMINAL JURISDICTION OF MOONSIFFS AND TUHSEELDARS (N. W. PROVINCES).

*In the 2nd Inst. 3/2  
No. 51* MR. ALLEN moved the second reading of the Bill "for conferring Criminal jurisdiction on Moonsiffs and Tuhseeldars in the North-Western Provinces."

MR. ELIOTT said, though he entirely approved of the Bill so far as it proposed to vest Moonsiffs with Criminal jurisdiction, he did not think that this was a fit time for the adoption of a partial measure, when we knew that Her Majesty's Commissioners had propounded a general Scheme for the reform of judicial procedure throughout the British territories in India. That Scheme would confer a larger jurisdiction on Moonsiffs than was proposed by this Bill. Her Majesty's Commissioners proposed to make Moonsiffs Judges of the subordinate Criminal Courts of the second class, and to vest them with power to pass sentence of imprisonment for three months. This Bill was confined to giving them the ordinary powers of Assistant Magistrates, which did not go beyond imprisonment for one month.

The Bill also proposed to grant a like Criminal jurisdiction to Tuhseeldars. In this, he did not agree with it; and he observed that the Scheme of Her Majesty's Commis-

sioners gave no Criminal jurisdiction to Tuhseeldars. He thought it was pretty generally admitted now-a-days that it was inexpedient to combine judicial powers with those which were given for searching out and bringing criminals to justice by means of the Police. Properly, Tuhseeldars were the heads of Police in their talooks; and to the duties of that office, they should be confined.

It appeared to him improper to entertain a Bill providing a partial measure of this kind, which, where it contemplated the same object as the Scheme of Her Majesty's Commissioners, did not go to the same length with it, and, in regard to the very important point of conferring Criminal jurisdiction upon Tuhseeldars, was quite contrary to it.

No inconvenience could result from the postponement of the measure, because, as it was, the Lieutenant-Governor of the North-Western Provinces had authority to grant to Moonsiffs the powers which the Bill proposed to confer upon them, by appointing them Deputy Magistrates. In fact, all Moonsiffs of the first grade were already appointed Deputy Magistrates for the purposes contemplated by this Bill; and if there was any exigency for further appointments of this nature, the Lieutenant-Governor might meet it by making Moonsiffs of the second class Deputy Magistrates for those purposes.

He should, therefore, move that the second reading of this Bill be deferred for six months; by which time, the Legislative Council would have had the Scheme of Her Majesty's Commissioners before it. At any rate, it was his intention to vote against the second reading to-day.

MR. CURRIE said, he agreed with the Honorable Member opposite (Mr. Eliott), that, if it were probable that the Code of Procedure prepared by Her Majesty's Commissioners would be passed in any moderate time, it would not be advisable to enact a partial measure of this nature. But it did not appear to him that that was a sufficient reason for objecting to the second reading of the Bill. He thought that the Bill might be read a second time now, and that the Council might afterwards consider whether it was advisable to proceed with it, when it should have better means of judging than it had at present what measures were likely to be taken with regard to the Code of Criminal Procedure. He did not himself agree in the objections of the Honorable Member for Madras against conferring Criminal jurisdiction on Tuhseeldars; but that was a question which, whether this Bill were proceeded

with or not, would come to be considered when the new Criminal Procedure was brought forward for discussion.

For his own part, he saw no objection to this Bill being read a second time to-day.

MR. ALLEN said, one of the objections which the Honorable Member for Madras had advanced against the Bill, was, that Tuhseeldars, being heads of Police, were not persons who should be vested with Criminal jurisdiction. In the North-Western Provinces, to which alone this Bill applied, Tuhseeldars were heads of Police to a very limited extent. They were nominally heads of Police, but they never interfered in matters of Police until they were ordered by the Magistrate to do so. A Tuhseeldar was kept to act as the superior Officer over the Darogah only when any necessity for his interposition should arise. The Darogah and his Thannah Police were always separate from the Tuhseeldar and his establishment ; and it was only when a particular investigation had to be made, that the Magistrate ordered the Tuhseeldar to go with the Darogah as his superior Officer and make it. These Tuhseeldars were frequently located at places on the high roads : they were a superior set of Officers : and, therefore, the Lieutenant-Governor of the North-Western Provinces was anxious to give them the limited Criminal jurisdiction proposed by this Bill.

With respect to the objection that this Bill, in conferring Criminal jurisdiction upon Moonsiffs, gave powers more limited than those proposed by the Scheme of Her Majesty's Commissioners, it appeared to him that it would be better to reserve it until the third reading. If the Bill were read a second time to-day, and referred to a Select Committee, two or three months must elapse before the Report of that Committee could be presented. By that time, Honorable Members would know more about this Code of Procedure, which he had seen, but which certainly had not been placed as yet in an official form before the Legislative Council, and about which, therefore, as a body, the Legislative Council knew nothing.

With these observations, he begged to press the second reading of the Bill.

MR. ELIOTT asked if, in the North-Western Provinces, Tuhseeldars had not the power of controlling the Police ?

MR. ALLEN said, they had that power by Law, but they did not exercise it. Practically, it was the Darogahs who controlled the Police.

SIR JAMES COLVILE referred to Act XVI of 1854, which enacted that—

“Wherever any Tuhseeldar shall have Police jurisdiction under the provisions of Section II Regulation XI of 1831, every Darogah of Police hereafter appointed within the local limits of the Police jurisdiction of such Tuhseeldar, shall be subordinate to, and subject to the control of, such Tuhseeldar in his capacity of Chief Police Thaanadar.”

MR. ALLEN said, the Darogah was placed under the Tuhseeldar by the Act in that way ; but, as he had said before, generally all Police investigations went up to the Magistrate through the Darogah, and it was only in special cases that the Tuhseeldar was required to exercise his controlling power.

SIR JAMES COLVILE said, he agreed with the Honorable Member for Bengal, and should vote for the second reading. He might object to piece-meal legislation ; but we all knew that, in carrying out great schemes of reform in this country, such as that of Her Majesty's Commissioners, great delays did occur : and the Government of the North-Western Provinces seemed to think that the measure proposed by this Bill was required now. At all events, the Bill could not be passed until three months hence ; and by that time, the Council would have better means of knowing what the larger scheme was that was to come into operation. By voting for the second reading now, the Council would not pledge itself to confer Criminal jurisdiction upon Tuhseeldars if it should see that it was inexpedient to confer it.

THE VICE PRESIDENT said—with reference to the remark of the Honorable Mover of the Bill that the Scheme of Her Majesty's Commissioners was not yet officially before the Council—that the Clerk informed him that copies of the Scheme had been received by him from Government expressly for the information of the Council, and that Honorable Members might have them at the Office of the Council.

MR. ALLEN'S motion was then carried, and the Bill read a second time.

#### DUTIES ON TOBACCO (BOMBAY).

MR. LEGEYTT moved the second reading of 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.”

MR. CURRIE said, he did not intend to oppose the second reading of this Bill ; but there was one point connected with the

Bill which, as it involved a general question, he might take this opportunity of noticing. The Bill provided a double penalty for the infraction of the rules which were laid down in it. By Section XIX, Tobacco illegally imported, removed, &c., was to be liable to confiscation : by Section XX, the person who committed the offence was to be subject to a fine. By Section XXI, the confiscation was to be adjudicated by a Revenue Officer. And by Section XXII, the fine was to be adjudged by a Magistrate of Police. Now, the offence was one, and it was inexpedient that there should be two trials by different authorities for the same offence, since they might be attended by discrepant results. The Revenue Officer, for example, might be of opinion that the Law had been infringed, and might adjudge the Tobacco to be confiscated ; whereas the Magistrate of Police might be of opinion that the Law had not been infringed, and might refuse to impose any fine. The Calcutta Excise Acts (XI and XIII of 1849) provided that both confiscation and fine should be adjudicated by a Magistrate. In the Mofussil, the Law was that both should be adjudicated by Revenue Officers. Whether the adjudication were left to the one or the other class of officers, it appeared to him that the whole penalty should be awarded by the same authority.

MR. LEGEYT said, the objection felt by the Honorable Member hardly affected the principle of the Bill, and it would probably be better if it were considered in Select Committee. He would take a note of it, and submit it to the Select Committee to whom the Bill might be referred.

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

#### CRIMINAL JURISDICTION OF MOON-SIFFS AND TUHSEELDARS (N. W. PROVINCES).

MR. ALLEN moved that the Bill "for conferring Criminal jurisdiction on Moonsiffs and Tuhseeldars in the North-Western Provinces" be referred to a Select Committee consisting of Mr. Elliott, Mr. Currie, and the Mover.

Agreed to.

#### DUTIES ON TOBACCO (BOMBAY).

MR. LEGEYT moved that the Bill "to amend the law relating to the duties payable on Tobacco, and the retail sale and warehousing thereof in the Town of Bom-

bay" be referred to a Select Committee consisting of Mr. Elliott, Mr. Currie, and the Mover.

Agreed to.

#### NOTICES OF MOTION.

MR. LEGEYT gave notice that he would, on Saturday next, move the second reading of the Bill "to make better provision for the collection of Land Customs on certain Foreign Frontiers of the Presidency of Bombay."

Also that he would, on the same day, move the first reading of a Bill "for taking account of the population of the Town of Bombay.

And of a Bill "to provide for the taking of Evidence by the Legislative Council of India."

The Council adjourned.

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Saturday, August 30, 1856.

#### PRESENT :

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

Hon. Sir J. W. Colville,	D. Elliott, Esq.,
His Excellency the Com- mander-in-Chief,	C. Allen, Esq.,
Hon. J. P. Grant,	P. W. LeGeyt, Esq.,
Hon. B. Peacock,	and E. Currie, Esq.

The following Messages from the Governor General were brought by Mr. Grant and read :—

#### MESSAGE No. 81.

The Governor General informs the Legislative Council that he has given his assent to the Bill which was passed by them on the 9th August 1856, entitled "A Bill to provide for the execution of Criminal process in places out of the jurisdiction of the authority issuing the same."

By Order of the Right Honorable the Governor General.

CECIL BEADON,

Secretary to the Govt. of India.

FORT WILLIAM, }  
The 23rd August, 1856. }

#### MESSAGE No. 82.

The Governor General informs the Legislative Council that he has given his assent to the Bill which was passed by them on

Mr. Currie