Saturday, 16th June, 1855

PROCEEDINGS

OF THE

LEGISLATIVE COUNCIL OF INDIA

Vol. I

(1854 - 1855)

Saturday, June 16, 1855.

PRESENT :

The Honorable Sir Lawrence Peel, *Vice-President*, in the Chair,

Hon. J. A. Dorin, Hon. Major Genl. Low, Hon. J. P. Grant, Hon. B. Peacock, Hon. Sir James Colvile, D. Eliott, Esq., C. Allen, Esq., P. W. LeGeyt, Esq. and E. Currie, Esq.

LANDS FOR PUBLIC WORKS (BOMBAY).

MR. LEGEYT moved that the Bill "to facilitate the acquisition of land needed for public purposes in the Presidency of Bombay" be now read a second time.

Motion carried, and Bill read a second time accordingly.

DISTRICT MOONSIFFS (FORT ST. GEORGE).

MR. ELIOTT moved that the Bill "to amend the Law relating to District Moonsiffs in the Presidency of Fort St. George" be now read a third time and passed.

Motion carried, and Bill read a third time and passed accordingly.

BOUNDARY MARKS (FORT ST. GEORGE).

MR. ELIOTT moved that the Bill "for the establishment and maintenance of boundary marks in the Presidency of Fort St. George" be now read a third time and passed.

Motion carried, and Bill read a third time and passed accordingly.

PORTS AND PORT-DUES.

The Council resolved itself into a Committee for the further consideration of the Bill "for the regulation of Ports and Port-dues."

Sections XL and XLI were passed, after some slight amendments.

Sections XLII to XLV were passed as they stood.

Section XLVI, Clauses 1 and 2, were passed, after some slight amendments.

Sections XLVII and XLVIII were passed as they stood.

Section XLIX was passed, after a slight verbal amendment.

Section L was passed as it stood.

Section LI stood thus—

"Every Conservator, Harbour Master, and Assistant of a Conservator or Harbour Master, and every person aiding any such Officer, are hereby indemnified for all acts which in good faith they may do, or cause to be done, in pursuance of this Act; and all acts, orders, or directions by this Act authorized to be done or given by any Conservator, may, subject to his control, be done or given by any Harbour Master or any Assistant of such Conservator or Harbour Master. And any person hereby authorized to do any act, may call to his aid such assistance as may be necessary."

SIR LAWRENCE PEEL said, he had an amendment to propose in this Clause, which was to omit the first part of it, commencing with the word "every" and ending with the word "and" in the 6th line. The principle of the enactment, as it now stood, was the same which was contained in an Act which was lately passed in this country for the protection of judicial officers. It must be in the remembrance of all whom he was addressing, that many persons whose opinions were entitled to respect, disapproved of the policy of that enactment, and thought that it went too far. It, certainly, carried the protection of judicial officers here farther than protection had been afforded to the same class of officers in England. But the circumstances of the two countries were not alike; and it seemed to him that some extension of the protection was needed here. Whether it had been carried too far or not, depended on the construction which the Act would receive. According to his understanding of the somewhat ambiguous language of the Act, it gave protection in cases where the Judge acted without jurisdiction, but believed that he had it, with a reasonable foundation for that belief. The words "in good faith," which were introduced into that Act, were, he believed, merely the translation into English language of the ordinary term of the law *bonâ fide*. Now, in relation to a closely analogous subject, namely, the protection of public officers, constables, and other persons acting in pursuance of the provisions of various statutory enactments, it had always been held that the protection extended to acts done without authority, but which the person supposed not unreasonably that he had authority to do. If the protection were extended to belief merely, then the belief which any sluggish and indolent minded man chose to entertain, seeking no means whatever of informing his judgment and enlightening his understanding, would protect one who, in matters of the highest nature, deeply affecting the rights and interests of others, and which he knew that he had not studied, took not the slightest pains to seek for the information of which he stood

so much in need. How such a man could be said to act with fidelity to his engagements, whether express or implied, to the authority which appointed him and to the public, he was at a loss to conceive ; and therefore he could not honestly say that such an one acted in good faith. The higher the functionary, the more learned he was expected to be, and the less indulgence should be given to his errors. That error might be excusable in a poor constable, which would be utterly inexcusable in a Judge. Therefore, the measure of the reasonableness of the belief would vary with circumstances. But if the law were really meant to protect the deepest and most inexcusable ignorance, so that it were honest, such a law would be, in his eyes, utterly indefensible ; and, he believed, none such had been enacted.

But though he did not disapprove of the Act for the protection of judicial officers according to his interpretation of it, and as far as the authority of the Supreme Court here went, still he could see no justification for the extension of this protection to merely ministerial officers ; nor did he see why this class of officers, to which this Section applied, should enjoy it exclusively. If fit to be enacted for any, it was, he thought, fit to be enacted for all. The protection of judicial officers stood on peculiar and exceptive grounds. A Judge had no option. He could not decline to act. He could not consult others whether he should act or not, or claim an indemnity for acting. He must decide. Now, if the question of jurisdiction were always a simple one, on which any person of ordinary learning and intelligence could not go wrong, it might be wrong to give him the protection ; but it was often a question extremely disputable and doubtful on the facts, and often involving intricate and difficult questions of law. Was the consequence of having a fallible judgment justly a law-suit ? and was it fair or reasonable to expose the Judge to the actions of angry, and often vindictive litigants ? On the ground of public policy, he thought that the protection was rightly extended to them, nor could he see any reason why the lower Courts should enjoy a less protection than the higher : surely of the two, the errors of the latter were the less venial. It had been objected to the Act for the protection of judicial officers, that it would leave parties without the power of trying a right. But the sentence of a Court acting wholly without jurisdiction, was a judgment but in name, and bound and decided nothing. Therefore, in general, it would happen that the right would be still open to trial. But if this enactment should pass, it was difficult to understand how rights were to be tried which the officers under this Act, mistakenly but honestly, interfered with, and encroached upon. Our laws knew no such action as a merely declaratory action, which was known in the Scotch law, and which might, perhaps, be introduced with advantage into our own.

Now, the person who, on public or private grounds, questioned an act of power and denied its legality, might be just as honest as the man who committed it ; and why, practically, was his right to be bound by the honest blunder of another ? The protection of public officers from vindictive suits might be obtained by other means ; by provisions as to costs, and by enabling them to tender amends : in which case, if the suit were vindictive, and the tender adequate, the plaintiff would have to bear his own costs and those of his opponents.

MR. GRANT said, he entirely agreed to the amendment proposed. The only object of the insertion of the Section as it stood was, he believed, to protect judicial officers acting under the Act from heavy damages for unintentional irregularity not affecting the merits of the case. But he confessed that, for the reasons which had been so ably stated, he thought the words "which in good faith they may do" did go too far.

THE CHAIRMAN'S amendment was put, and agreed to ; and the Section, as amended, was then passed.

Section LII was passed, after a slight amendment.

Sections LIII to LVII were passed as they stood.

THE CHAIRMAN moved that a new Section, which he read, be inserted after Section LVII ; but, after some conversation, he, with the leave of the Council, withdrew his motion.

Section LVIII was passed as it stood.

Section LIX provided indemnity for the East India Company against any act or default of any Master Attendant, Harbour Master, or other Conservator, or their Deputy or Assistant, or of any Pilot.

MR. PEACOCK moved that the following proviso be added to the Section—

"Provided that nothing in this Section shall protect the East India Company from an action in respect of any act done by, or under the express order or sanction of, Government."

The Proviso was put, and agreed to ; and the Section, as amended, was passed.

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Sections LX, LXI, LXII, and LXIII were then passed as they stood.

THE CHAIRMAN then read the Schedule of Port-dues and fees chargeable under the proposed Act, which stood thus—

Upon all vessels, of whatsoever description, being vessels to which this Act applies, entering or being in any Port, River, or Channel subject to this Act, and either taking in or discharging any cargo or passengers therein, a consolidated tonnage duty, not exceeding eight annas a ton.

Upon all such vessels entering any such Port, River, or Channel, but not taking in or discharging any cargo or passenger therein, one-half the consolidated tonnage duty that would otherwise be chargeable under the preceding Rule.

Provided that no consolidated tonnage duty shall be chargeable at the same Port upon any vessel oftener than once between the 1st day of January and the 30th day of June, and once between the 1st day of July and the 31st day of December in any year; or oftener than once between the 1st day of January and the 31st day of December in any year, if such vessel is under 200 tons burthen, and is registered under any Act now or hereafter to be in force as a coasting vessel or harbour craft.

Upon any vessel within any such Port shall be chargeable fees for the following services, at the following rates respectively :—

	400 tons or below, a fee not exceeding	Above 400 tons, a fee not exceeding
	Rs.	Rs.
For moving from one part of the Port to another, including unmooring and re-mooring if necessary, ...	20	30
For mooring or re-mooring,	10	15
For hooking, ...	15	20
For measuring, ...	20	32

In calculating port-dues and charges according to this Schedule, boats and other vessels of less burthen than one ton shall be rated as being of the burthen of one ton : and fractions of a ton in vessels of greater burthen than one ton shall be disregarded.

Fishing boats, employed only in fishing, shall not be chargeable with port-dues.

MR. PEACOCK said, the dues imposed by this Schedule appeared to him to be much too high. With the exception of registered country vessels and harbour craft under 200 tons, which were to pay only once a year, the Act imposed consolidated tontage dues not exceeding 8 annas per ton, payable once every half-year, upon every vessel which should enter or lie in any port subject to the Act, and should either take in or discharge any cargo or passengers ;—and not exceeding 4 annas per ton, upon every such vessel which should not take in or discharge any cargo or passengers therein. These dues, as he understood the Schedule, would become payable immediately, at every port to which the Act should be extended, unless they should bo reduced by the local Government. If, therefore, the Government of Bengal, for instance, should extend the Act to Chittagong, or Akyab, or Moulmein, without reducing the rates, 8 annas per ton would be payable in each of those ports upon every vessel entering the port to take in or discharge cargo or passengers, and 4 annas per ton by every such vessel entering for any other purpose. These dues were so high that they might drive away vessels from many of our rising ports. At Akyab, for instance, the port-dues raised at present were 2½ annas per ton ; and there was nothing to show that they were not sufficient to defray all the expenses connected with the port. In Calcutta, the light dues were 2 annas per ton every time a vessel entered the river, and 1 anna per ton on vessels drawing eight feet of water or upwards passing Moyapore inwards—altogether, 3 annas per ton.

With regard to lights and buoys, he thought the fair and sound principle was to make vessels pay every time they used them. The duty, in that case, would be lighter, as it ought to be, on vessels that used them once than on those which used them twice or oftener. But by this Act, a vessel which passed the lights twice or three times in six months, would pay no more than a vessel which passed them once ; and whatever tonnage duty was payable by a vessel which entered a port for the purpose of taking in or discharging cargo or passengers, or both, half that duty must be paid by a vessel entering the port for the purpose of taking in water, or for any other purpose. If this Act should be extended to Singapore, he thought it would be very injurious to the interests of that place ; for if every ship that entered the port for any purpose were liable to half the amount which might be imposed as a port-due on vessels entering the port for the purpose of taking in or discharging cargo, many Masters of vessels which entered that port now, would abstain from doing so in future. By this Act, a vessel entering the port merely to take in water, might have to pay 4 annas per ton. There was no power given in the Bill to the local Government to exempt such vessels from the half tonnage dues, and it appeared to him that the imposition of such dues was likely to cause great injury to such ports as Singapore. When the proposal for levying the dues for the Pedra Branca Light House upon every vessel which should enter the harbour or roadstead of Singapore, was made, he believed that strong objections were urged

against the measure, upon the ground that many vessels which now touched at the port would pass by without doing so. He had not sufficient information upon the subject to enable him to prepare an amended Schedule; and he should, therefore, be very glad if the Council would agree to allow the further consideration of it to stand over until such information could be obtained. He thought that the port-dues authorized by the Act would be very detrimental to the trade now carried on by native coasting vessels at many of the ports in India.

At present, in the port of Calcutta, dhonies, or native coasting vessels, paid 6 annas 3 pie per ton: namely—

Harbour dues—4 annas, 3 pie.

Light dues—2 annas.

This was much higher than the duty payable by European or foreign vessels. He could not, however, ascertain from the papers before him whether these dues were payable on such vessels every time they entered the port, or only once in six months, or once a year. The Memorandum before him did not distinctly state how this was; but it seemed that they were payable every time the vessel entered the port. At Chittagong, the duty was 4½ annas per ton. If the Act were extended to that port, the dues would immediately be raised to 8 annas per ton on every vessel entering to receive or discharge cargo or passengers, and 4 annas per ton upon every vessel entering for any other purpose. At Balasore, the duty now payable was 8 rupees for vessels below 2,000 maunds; 10 rupees for vessels from 2,500 to 5,000 maunds; and 15 rupees for all vessels above 5,000 maunds. Those were payable only once a year. By the Schedule in question, the dues payable would be considerably higher, and payable once every half year.

At Moulmein, the duty was now payable according to the draught of vessels. All vessels drawing under 8 feet, paid 25 rupees; under 9 feet, 30 rupees; and under 10 feet, 35 rupees; and so on. All vessels drawing less than 7 feet, but measuring upwards of 35 tons, on clearing out of the port, paid 15 rupees; vessels measuring between 35 and 20 tons, paid 10 rupees; vessels measuring less than 20 tons, paid 5 rupees; and vessels measuring less than 300 baskets, paid one rupee. Half those dues, however, were paid for pilotage, as vessels not taking pilots paid only half the amount. By this Schedule, these tolls might be greatly increased.

At Mergui, vessels measuring less than 20 tons or 700 baskets, and above 300 baskets, paid only 1 rupee. By this Schedule, such vessels might be rendered liable to a duty of 10 rupees. In the port of London, he found that by the 4th and 5th Wm. IV, c. 32, the highest port-due levied was 3 farthings per ton, both in and out. For some classes of vessels, only ½ farthing per ton was payable, and coasting vessels under 45 tons, and some other vessels, were altogether exempt: whereas under the present Schedule, as much as 1 shilling per ton might be taken twice a year.

In the port of London, the port-dues were payable only for ships entering inwards or clearing outwards. But by this Act, half the amount of tolls was payable in respect of ships entering the port for the purpose of taking in water or for any other purpose, and though she might not break bulk, or take in cargo, or remain in the port more than a few hours.

The Mail Steamers of the Peninsular and Oriental Steam Navigation Company, and the steamers on the China line, generally made more than one voyage to and fro in six months. They had all the profits of each voyage; and they had the benefit of the lights and buoys every time they passed up and down the river. Yet, those vessels would pay port-dues, including light dues, only once in six months. The *Nile*, or any other large sailing vessel, did not, in general, make more than one voyage to and fro in 12 months: and yet, by this Schedule, the owners would have to pay the same amount of port-dues for one voyage as the Peninsular and Oriental Company would have to pay for their vessels which made two voyages in six months. The principle followed in England was to charge port-dues for every voyage in and out, if the ship entered inwards or cleared outwards. Light-dues and buoy-dues were levied in order that lights and buoys might be kept up; and it was reasonable that dues should be paid in respect of a vessel every time that the lights were used. The fair principle was, that the expense of keeping up lights and buoys, and of improving and regulating ports, should be borne by vessels using the port in proportion to the benefit which they derived, and that no higher dues should be levied than were necessary to cover the expenses. He objected to the principle of a consolidated duty payable once in six months, because it threw upon vessels which did not use the lights and buoys more than once in

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six months, higher dues in proportion than upon vessels which used them more frequently. By the Act recently passed by this Government relating to the Pedra Branca Light, the light-dues were made payable every time the vessel passed the Light; and the Honorable the Court of Directors, in sanctioning the Act, expressly approved of that principle.

According to this Schedule, a sea-going vessel must pay a consolidated tonnage duty not exceeding 8 annas at every port which it entered. Now, the Peninsular and Oriental Company's vessels were bound to touch at Madras. By this Schedule, each of those vessels would have to pay a consolidated tonnage duty at that port, in addition to the dues payable here; and thus, every such vessel might be rendered liable to a consolidated tonnage duty of 8 annas a ton, payable once in six months.

Then, again, there were certain native coasting vessels which traded from port to port. By this Schedule, dues would be payable for every coasting vessel at each port in 12 months, and at the same rate, in proportion to her tonnage, as any other vessel. He was not sure that there was any provision for collecting the dues at some of our ports. The Government of Bombay had proposed that the anchorage tolls levied in the ports of that Presidency should be payable at the port of Bombay only, as there would not be officers at several of the subordinate ports to collect the dues.

At Madras, the present rates of dues were much lower than those provided by this Schedule. At that port, a consolidated port duty of 3 annas per ton was payable twice a year for British, Native, and foreign vessels not exceeding 700 tons, and upon vessels exceeding that measurement, the same amount upon a vessel of 700 tons. At the subordinate ports of the Madras Presidency, a tonnage due of one anna per ton was payable twice a year upon British, Native, and foreign vessels not exceeding 700 tons, and above that measurement, at the rate for 700 tons. For dhonies, a reduced tonnage duty of 6 pice per ton only was payable twice in the year on the same vessel, in the same district. The following statement was made by the Secretary to the Madras Government:—

"The Government concur with the Marine Board that the above rates should not, for the present, be disturbed, as the total dues levied sufficiently provide for the cost of the marine works and establishments, and are partly appropriable to improvements to general navigation. But if it be necessary that higher rates of dues should be levied upon vessels entering the several ports or harbors for the regulation of which the Draft Act provides, the Government would suggest that, as proposed by the Marine Board, they should be fixed at 1 rupee per ton at Madras, and 4 annas at the out-ports."

Now, if the Government of Madras stated that port-dues of 3 annas per ton levied twice a year at Madras, and 1 anna per ton on British and foreign ships, and 6 pice per ton upon dhonies levied twice a year at the out-ports, was sufficient for the wants of the ports in that Presidency, he (Mr. Peacock) thought that the Legislature would not be justified in giving the Executive Government power to levy 8 annas a ton at every port and upon all classes of sea-going vessels once in six months. By this Bill, every vessel touching at any of the out-ports in Madras, at which the amount expended for their conservancy was small, and where probably no lights were maintained—unless the Executive Government should reduce the duty—instead of a duty of 3 annas, which was stated to be sufficient, every vessel would be subject to a duty of 8 annas per ton. He thought that these dues were much too high. They were higher than the dues now payable at any port in India, and higher than were necessary for the expenses of the ports. If it were intended to press this Schedule in the present state of their information, he should move, by way of amendment, that "4 annas be substituted for 8 annas," as the maximum rate of duty to be levied upon any vessel. He should think, however, that the more advisable course would be, instead of a consolidated tonnage duty, to make the light dues payable separately every time the lights were used, and only a small port-due for every vessel entering inwards or clearing outwards for every voyage in and out. This, he thought, was the proper principle upon which light-dues and port-dues should be levied, with certain exceptions, in favor of coasting vessels and certain Native vessels which, at present, paid lower dues than European or foreign ships.

MR. GRANT said, it appeared to him that the objection taken by the Honorable Member to the maximum rate of duty provided by the Schedule, arose from two misapprehensions;—one as to the manner in which the Act was to be introduced; the other as to the manner in which it was to be carried out.

The Honorable Member had argued as though the Act would come into force in all ports the moment it was passed. In reality,

however, it would come into force in no port to which the local Government, with the sanction of the Governor General of India in Council, does not specially declare that it shall apply. The other misapprehension, as it seemed to him, of the Honorable Member, was that, because the Act declared that the Executive Government should have power to fix a rate of duty not exceeding 8 annas a ton at any port, that rate of duty would be levied at every port. But on referring to the Bill, it would be seen that, until the local Government which introduces the Act into a particular port specifies what rate of duties shall be levied in that port, no duty whatever can be taken there. This, at least, was the intention of the Bill. The intention was to allow the local Governments to fix the rates within a certain reasonable limit ; and a local Government would not declare any port to be subject to the Act, without at the same time fixing the rates to be charged at that port. He must say he did think that the local Government, which knows all the circumstances of each particular port, is much more capable of judging what the precise duty chargeable at each port ought to be, than any Member of this Council.

The Honorable mover of the amendment had objected to 8 annas as excessive, and had proposed, apparently at hap-hazard, 4 annas as a sufficient maximum rate. But had the Honorable Member any reason for saying that 4 annas would be a sufficient maximum rate for all ports ? He (Mr. Grant) had good reason for believing that it would not be so. There was, for instance, a particular class of vessels in Calcutta which paid now a duty of much more than four annas per ton. Dhonies, or country coasting vessels, were at present liable to pay a duty of 6 annas and 3 pie per ton every time they entered the port. He did not know why dhonies were charged more than other vessels, but such was the fact. Large vessels paid at present in Calcutta 3 annas a ton. At Rangoon, all vessels now paid 4 annas ; and he remembered seeing a despatch in which the Commissioner of Pegu expressed an opinion that it would be a long time before the port-dues could be expected to pay the charges of the port of Rangoon. Now, it must be remembered that all these duties at present are paid every time a vessel enters a port ; whereas by this Bill, the duty, at whatever rate it is fixed, will be chargeable on no class of vessels more than once in six months, and on some classes of vessels only once a year. At Bombay, very heavy anchorage duties were now paid at all the outports every time a vessel casts anchor ; all which duties will be abolished by the present Bill. These were the reasons which made him believe that 4 annas would not be a sufficient maximum rate for every port.

The Honorable Member objected to giving the local Governments the power of raising the present rates. But he (Mr. Grant) had not the slightest hesitation in giving that power to the local Governments, because he was sure that no local Government could fix excessive dues in any port. For this very reason, provisions had been introduced into the Bill, which would serve as an effectual check upon excessive rates. Section XLI provides that the local Governments may, from time to time, vary the rate at which port-dues and fees shall be levied in any port brought within the Act, having regard to the receipts and charges on account of that port, provided that the rates shall not in any case exceed the amount authorized by the Act. Then, Section XLII directs that for every port at which port-dues shall be levied under this Act, a distinct account, to be called the account of the Port Fund of the port to which it relates, shall be kept ; that this account shall show in complete detail all the receipts and charges of the port ; and that an abstract statement of every such account shall be published annually, in which the balance at the close of the year at the credit or debit of the port shall be shown. Now, it did appear to him that this would impose a sufficient practical check upon all local Governments in fixing the rate of dues for each port. The object of the Act is, that vessels making use of a port should pay the whole charges of that port, and no more. If the duty levied upon them should be so high as to be more than necessary to pay the expenses, that would appear on the publication of the account of the Port Fund in the following year ; and when it appeared, he would ask if it was supposed that the local Government would continue to maintain, for no purpose, the same rates of duty ? For his own part, he felt convinced that no rates would, in any case, be imposed beyond such as would be necessary to defray the actual expenses of the port. The rate of 8 annas was proposed only as a *maximum*, and he did not think it likely that the expenses of any port would require a tonnage duty of 8 annas. But if, in any particular port, the expenses were so great as to require such a duty—if any particular river or channel were

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so difficult of access as to make extraordinarily expensive works necessary, and a duty of less than 8 annas per ton would not cover the charges incurred, he could not see why vessels which used the port should not pay that duty. In many cases, he had no doubt this Bill would cause a reduction of port-dues. The case of the vessels of the Peninsular and Oriental Company had been observed upon as though they would have to pay a tonnage duty of 8 annas at Madras, every time they touch there. He had no doubt that, under this Act, they would pay at Madras a much smaller duty than they pay now. They are now charged 3 annas a ton every time they touch. Under this Act, they will be charged only once in six months ; and he had no idea that the expenses of the port of Madras can be so great as to require a tonnage duty of 3 annas.

The complaint made by the merchants of Singapore against the former law regulating the Horsburgh (or Pedra Branca) Light Duty, which had been alluded to, did not bear upon the present question, That Light is *not* a Harbour Light. It is twenty or thirty miles from Singapore, with which port it has no connexion, and to which port it is of no use. It is of use to vessels going to China, whether they touch at Singapore or not. By the old law, all the cost of that Light was paid only by vessels that chose, on their way, to touch at Singapore. Of that law, the people of Singapore most reasonably complained ; and the law was consequently altered by charging for that Light all vessels trading between any port of India and China, without regard to where they touched, or where they did not touch on their voyage. But this is no argument against the Harbour-dues proposed in the present Bill which are leviable only for harbour lights and other harbour charges.

His Honorable Friend had objected to the principle of charging even half rates to vessels which came into the harbour for water, or other purposes, without breaking bulk. It seemed to him (Mr. Grant) that this was inconsistent with another objection his Honorable Friend had made, that vessels ought not to be charged once in six months, or once a year only, but ought to be charged every time they avail themselves of the lights and other things provided for their service. He (Mr Grant) had nothing to say against this last principle ; but it seemed to him that it was inconsistent with this principle to contend that vessels which come into a harbour for water, should pay nothing for the lights and buoys of the harbour. Lights and buoys are equally useful in preventing a vessel going ashore, whether the vessel is coming into port to refresh or to obtain cargo.

The Council were well aware that he did not himself approve of delegating what is really a power of legislation to local Governments. He had voted on a late occasion, with his Honorable Friend opposite (Mr. Peacock) against the delegation of such a power, upon principle. But he could not look upon the grant of the limited power here proposed as the grant of what is really a power of legislation. He could not see, when the Legislature allows a local Government to impose, upon certain fixed principles, for particular ports, a tonnage duty not above a certain rate, and on the whole not in excess of the actual expenses of the port ; and when it provides that a statement of all the receipts and disbursements of every such port shall be published every year ; he could not see, when the Legislature does this, that it gives a power of legislation to the local Government. It merely entrusts to the local Government a matter of local detail, which that Government can manage very well, but which this Council is necessarily quite incompetent to manage.

GENERAL LOW inquired if there was any Section in the Bill by which local Governments were required not to charge in each port more dues than were necessary for its own expenses.

SIR LAWRENCE PEEL said, the Honorable Member had anticipated him by his question.

He felt himself in a position of some difficulty in regard to this Schedule, and scarcely knew to what conclusion he ought to come. He was as much impressed as any one could be with the impropriety of this body delegating any of its legislative functions. The legislative and executive functions were distinct, and an Executive Government simply is appointed to put the laws in force, and not to make them. But still, there were many matters of detail which could not be embraced fully by one comprehensive enactment ; and it was not at all uncommon in the Parliament of England to delegate the settling of the amount of rates, tolls, &c., even to private companies or bodies ; and surely, the Executive Government of a country was entitled to equal confidence. In such cases, there was always a maximum of impost declared : and it was generally within narrow limits that the power of variation

existed. In this case, it would be difficult, if not impossible, to make a law which should be applicable to every place that might become subject to the provisions of this Act, so that every particular in fluctuating circumstances should be provided for. But at the same time, the difficulty which he felt was in voting that the maximum fixed by the Schedule was proper. He felt the force of the observations of the Honorable Gentleman who spoke first in this debate (Mr. Peacock) that the maximum appeared in excess of present rates, and that it should not be blindly fixed by the Legislature; and as he felt that he needed further information on the subject than he now possessed, he wished much that the consideration of the Schedule should be deferred.

He did not find in the Act any express provision appropriating strictly the revenue of each port to the purposes of that port. Such a provision would remove in great degree his difficulty; for as the accounts of the expenses and incomings of each port would be made public, if, at the same time, an appropriation clause were enacted, then the parties interested might urge on the Government, if there were any considerable surplus, the propriety of a reduction; and if a reasonable request of this kind were denied, which was not probable, it would be in the power of the Legislative Council to give legislative relief.

SIR JAMES COLVILE said, he certainly understood one essential principle of this Bill to be, that, whatever dues were raised at each port, should be applied to the purposes of that port; that the dues of the different ports in any Presidency or territory should in no case be carried to the general revenue, or even to the formation of a general Port Fund. That principle, he understood to be enunciated by the 42nd Section of the Bill, which said—

"For every port at which port-dues shall be levied under this Act, a distinct account, to be called the account of the Port Fund of the port to which it relates, shall be kept by such officer as the Local Government may appoint for that purpose. This account shall show in complete detail the receipts and charges of the port; and an abstract statement of every such account shall be published annually as soon after the 1st of May of each year as may be practicable, in which statement the balance at the close of the year at the credit or debit of the port shall be shown. If, for any of the purposes of this Act, an advance of money shall have been, or shall be made by Government on account of any port subject to this Act, simple interest upon that advance, or upon so much of it as remains or shall remain unrepaid, at such rate as the Governor General in Council may determine, shall be charged in the Port Fund account thereof; all expenses, including the pay and allowances of all persons upon the establishment of the port, the cost of buoys, beacons, lights, and all other works maintained chiefly for the benefit of vessels being in, or entering, or leaving the port, or passing through the rivers or channels leading thereto, but excluding receipts and expenses on account of pilotage incurred for the sake of every such port, shall be charged in the Port Fund account of that port. And all money, including salvage money, proceeds of waifs, and fines, received under this Act, at or on account of every such port, shall be credited in the Port Fund Account of that port."

The framers of the Bill had intended to provide, by this Section, that the income of each port should be applied to its own expenses exclusively; but it might be that the Section was not explicit enough, from the omission of words expressly prohibiting the application of the collections to the expenses of any other port. If such words were considered necessary, he should be very glad to have the Bill re-committed, in order that the omission might be supplied.

Another principle of the Bill was to pass one general Act applicable to all the ports which should hereafter be declared to be within its operation. The consequence of that principle was, that some delegation of power to local Governments became necessary; because, if this Council were to pass a Bill prescribing for each particular port fixed rates at which dues should be levied there, either the Schedule must extend to an enormous length, or the Council would have to pass a separate Act for each particular port. A further inconvenience of such a mode of legislation would be, that a local Government, if it saw occasion to diminish the dues levied at any port, would have no means of doing so without coming up to the Council for an alteration of the Act by which those dues were imposed—unless, indeed, it had been invested with the power of reducing the dues without the power of increasing them when necessary. The better course, therefore, seemed to him to be, to proceed by prescribing a maximum rate, provided only that it was a reasonable maximum, and giving to the local Governments the power of fixing, within that maximum, for each port brought under the operation of the Act, a scale of dues subject, however, to the sanction of the Supreme Government.

And that was what the Bill intended. He confessed he doubted whether in one particular this intention was expressed with sufficient certainty, but he could not agree

Sir Lawrence Peel

with the Honorable and learned Member opposite (Mr. Peacock) that the necessary consequence of passing this Act would be that a consolidated duty of 8 annas per ton would at once be leviable in every port which was brought under its operation. Section XLI gave local Governments the power of reducing or raising, from time to time, the rate at which the dues should be levied at each port, having regard to the receipts and charges on account of that port, and he certainly would much rather see the Clause of the Schedule under discussion amended by the insertion, after the words "a consolidated tonnage duty" in the last line but one, of the words "to be fixed from time to time by the local Government, with the sanction of the Governor-General of India in Council,—but":—so that it might clearly appear that, before a port was brought under the operation of the Act, the local Government must submit to the Supreme Government the scale of dues which it proposed to fix for the port, and obtain its sanction thereto. Further than this, he was not prepared to go; because he did think that it would be better to abandon this Bill altogether than to undertake such a task as that of framing one general enactment which should specify separately the rate of dues which should be levied in each one of the ports to which it was to be extended. In fact as the Bill left it to the local Governments to say what ports should be subject to its operations, the specification of the dues to be levied in those ports, if the work of the Legislative Council, must be the subject of distinct and subsequent acts.

With regard to the hardship upon coasting and other vessels which would have to pay dues at different ports, that seemed to him to be the necessary result of the principle that the dues of each port should be calculated with reference to the purposes of that port. The effect of allowing coasting vessels to pay at one port and not at another, would inevitably be the formation of a general Port Fund; and when such a Fund was once permitted, it would be very difficult to apply that check which would restrict the authorities levying the dues to the exclusive application of them to the wants of the port in which they were levied, and where the vessels that paid them should have the benefit of the payment.

The principle of allowing vessels to pay dues once in every six months, or once a year in the case of coasting vessels or harbour craft, had been adopted for the convenience of collecting the dues, and also for the convenience of the vessels themselves; and he was not aware that a single representation had been received from the shipping interest that any inconvenience was likely to result from it. Certainly, it would have the effect of making the visits of the tax gatherer few and far between.

He confessed that, as at present advised, he should wish the clause of the Schedule in question to be amended as he had proposed, retaining the maximum of 8 annas. If he were satisfied that a lower maximum than 8 annas could be fixed with safety, he should be very glad to adopt it; for he had no wish to give to the local Governments ampler powers than were necessary; but, having considered all the data that had come before him on the subject, he was not prepared to say that it would be safe to reduce the maximum proposed by the Schedule, though he hoped that it would not often be reached.

MR. PEACOCK said, the Honorable Member opposite (Mr. Grant) had stated that he (Mr. Peacock) had proposed 4 annas as a maximum rate of duty at hap-hazard. He must say that the observations with which he had introduced the proposition, showed that he had not done so. In proposing 4 annas, he had put the highest amount which, from the materials that he at present had before him, appeared to be the highest amount required for any port; and he did not think that he should be doing his duty as a Member of this Council if, by any act of his, he allowed the local Governments the power of levying a port-due of 4 annas per ton upon any vessel in any port unless he was satisfied that such an amount of duty was necessary in that port. Here, such a power was given as to every port; and he maintained that there was no necessity for it in any port. At many ports, there were no lights kept up at all. By this Schedule, the same rate of tonnage dues was fixed for ports without lights as for ports with lights. The Executive Governments had power to reduce the dues; but if they should not reduce them, the full amount mentioned in the Schedule would be payable at any port directly it was declared subject to the Act. As a Member of this Council, he had a duty to perform. If he assented to the Act being passed, he would leave it to the discretion of the Executive Governments to reduce the dues or not as they might think fit; and if they should not reduce them, he would be responsible for whatever evil might

arise from having fixed the dues at so high a rate. He, therefore, felt bound to fix the dues within the lowest limits necessary. It was not that he distrusted the Executive Governments. He believed that they would make a judicious use of any power that might be vested in them of reducing the tolls, and that they would reduce them if they found it necessary; but he thought that he should violate his duty if he imposed a due of 8 annas a ton when he did not see that the wants of any port required so high an amount. From the papers that were before him, he did not see sufficient facts to enable him to say that 8 annas would be a fair rate of charge in any one port; yet, he was asked to impose dues not exceeding 8 annas a ton at any port. He could not find what were the expenses of the different ports, or what was the tonnage of the vessels that entered them. The Honorable Member opposite (Mr. Grant) stated that this Act would not come into force in any port immediately after the passing of the Act; but that it would come into force only in such ports as the local Governments, with the sanction of the Governor General of India in Council, should declare to be subject to it. He admitted that such was the case. But immediately any port should be declared subject to the Act, this Schedule would apply to that port, and authorize the port-dues specified therein to be levied in such port. The Honorable Member stated that the local Governments would be bound to prepare a Schedule of the port-dues to be charged. He did not find that such was the case. They had the power to lower the dues; but they were not bound to do so. As soon as the Bill should have passed the Council, his (Mr. Peacock's) duty would be discharged, and he would have no power to lower the duties or to compel the Executive Governments to do so, except by fresh legislation. But if it were intended that, whenever the Executive Government declared that the Act should take effect in any particular port, they should frame a Schedule of the duties to be charged, there could be no great difficulty in sending up the Schedule to the Legislative Council, in order that every Member might exercise his judgment in regard to it, and see whether the tolls authorized by it were reasonable or not. He considered it to be the duty of every Member of the Council to take care that port-dues were not fixed at a rate so high as to drive away vessels from any of our rising ports. At Akyab, for instance, the duty at present was only $2\frac{1}{4}$ annas per ton; but this Schedule imposed a duty not exceeding 8 annas per ton if that port should be declared subject to the Act. If vessels were driven away from that port by so high a rate of duty, who would be responsible for the injury occasioned thereby? As he had said before, he did not believe that the Executive Governments would fail to discharge with sound judgment and discretion any powers that might be vested in them; but he could not justify it to his own conscience if he placed in their hands the power of subjecting any port to an oppressive duty by declaring it subject to this Act without lowering the duties mentioned in the Schedule. It could not be said that the British Parliament had not full confidence in the Crown and its Ministers because it did not put it in their power to levy higher port duties than were necessary. Independently of light dues, the highest amount of port-dues in the port of London was only 3 farthings per ton; yet, this Act fixed the maximum at 8 annas a ton. It was true that the local Governments might lower the duty in any particular port; but if 8 annas was too high a maximum for any port, why should this Council fix that amount for every port, and leave it to the Executive Governments to reduce it? He should like to ascertain what were the charges at present levied in each port, and what was the tonnage of the shipping that annually resorted to it, and then fix a tariff of the duties that should be levied therein. The Parliament of England did not make a sweeping Act saying that a certain rate of tonnage should be applicable to every port; but, no doubt, it inquired into the exigencies of each particular port, before it fixed the tonnage duty to be levied therein. When Parliament thought that a duty of 3 farthings or one halfpenny per ton was sufficient for the wants of the port of London, it did not fix the dues at 6d. or one shilling per ton, and authorize the Lords of the Treasury to reduce it. But it fixed the dues at the amount which appeared to be necessary. The Local Government might think it necessary to improve a particular port, and have the dues at the highest amount fixed by the Schedule. After the Act was passed, he would not be able to exercise his judgment upon the question, notwithstanding he might be satisfied that it would be better to leave the port in its present state than to improve it at the cost of keeping up the port-dues at so high an amount as 8 annas a ton. But he would be giving up his power of exercis-

ing any further judgment in the matter, and delegating his duty to the Executive Government, by consenting to pass the Act in its present form. The Madras Government said that a duty of 3 annas per ton at the port of Madras, and of one anna per ton on ships, and 6 pice per ton on dhonies at the out-ports, was more than sufficient to pay all the expenses of the ports. Would this Council be justified in saying to that Government—"We are much obliged to you for the information; but we have such entire confidence in you, that we have fixed the dues at a sum not exceeding 8 annas a ton at the out-ports, as well as at Madras, upon all vessels, whether dhonies or not; and have vested in you the power of reducing the amount if you think it advisable."

The Honorable Member opposite had said that, according to the principle advocated by him (Mr. Peacock), vessels touching at Singapore for any purpose other than that of taking in or discharging cargo or passengers, ought to be charged the full amount of tonnage dues instead of only one-half. But he would remind the Honorable Member that 8 annas was a consolidated due including Light House dues. Yet, a vessel which passed the Pedra Branca Light House would have to pay that due upon entering Singapore in addition to half the consolidated dues. Why should vessels which touched at Singapore for taking in water or provisions only, be subject to half the consolidated tonnage duty of 8 annas? If they should be subjected to such dues, he believed that it would be found that the trade, of the port would be very materially injured, and that many Masters of vessels who now touched at the port, would abstain from doing so for the future.

For the reasons he had stated, he thought that the local Governments ought not to be empowered to render vessels liable to a duty of 8 annas per ton at any particular port which they might think it expedient to bring under the provisions of the Act. He would rather that the Schedule should be struck out of the Bill altogether, and that the local Governments should be required, whenever they declared particular ports to be subject to the Act, to send up a Schedule of the duties which it proposed to levy therein, in order that it might be sanctioned by a legislative enactment. Every Member of the Council would then have an opportunity of ascertaining with accuracy the expenses of each port, and adjusting the dues to its necessities.

SIR JAMES COLVILE said, the Honorable and learned Member proposed to strike out the Schedule altogether, and to provide instead that, whenever a local Government extended the Act to any particular port, it must send up a Schedule of the dues which it proposed to levy there. This alteration would involve the necessity of passing a distinct Act for every port at which it should be deemed necessary to levy dues. The most convenient course, and one which would be consistent with what had frequently been done by the Parliament of England, (as, for instance, in the statute which first gave the power, within certain limits, of raising the tax on houses in Calcutta) was to agree upon a maximum now, and to let the local Governments, which had the advantage of local knowledge, propose a scale of dues within that limit.

He desired, too, to observe, without intending any disrespect, that this Bill had been framed on the basis of a Draft Act transferred by the former Council, which he certainly had understood to have been prepared, or to have passed through the hands of the Honorable and learned Member opposite. In that Draft Act, he found these two Sections:

"39. Dues not exceeding the rates mentioned in the Schedule annexed" (the Schedule no doubt was then in blank) "shall be paid by every vessel which shall enter such port or harbour."

"40. The Government may, from time to time, vary the dues, or any of them respectively, in such manner as it may deem expedient, by reducing or raising the same. Provided that the rates shall not in any case exceed the amount hereby authorized to be taken."

Now, the giving of power to the Government to fix dues within a maximum rate of 4 annas involved a departure from the constitutional principle which the Honorable and learned Member had enforced with so much eloquence, precisely as much as the giving of power to the Government to fix dues within a maximum rate of 8 annas. The principle of legislation was the same; the difference consisted only in the quantum of the sum fixed. He (Sir James Colvile) was inclined to fix a maximum of 8 annas; but if there was a strong feeling against that maximum, he had no objection to its being reduced; because if it was found to be too low, it would always be open to the Council, upon cause shown, to amend the Act by increasing the rate. He was bound to say, however, that, with the very highest respect for any opinion that emanated from the Honorable and learned Member opposite, he really could not see the force of the ob-

jections which he had advanced on this question.

MR. GRANT said, he wished the Committee to bear in mind that the information for the sake of which it was proposed to postpone the consideration of the Schedule, was all contained in the printed papers before them. If any Honorable Member had not consulted those papers, he hardly thought that this was a ground for postponing legislation. The Madras Government, for years past, had been constantly representing to the Government of India that, for want of a law of this nature, "the danger of their roadsteads was yearly increasing."

The charges now made at every port in India at which duty was levied, were shown in the printed papers; and Honorable Members might refer to them now, and satisfy their minds as to what ought to be the maximum rate of tonnage to be anywhere allowed. The practical question seemed to him to be reduced to a question of what should be the maximum rate; for he thought he might say that the general sense of the Council had shown itself to be against the objection of principle that had been advanced to the omission to fix permanently by law the precise rate to be levied at every port. The question was, should the Committee adopt the maximum rate of 8 annas, which the Select Committee had recommended, or should it adopt the maximum rate of 4 annas which the Honorable Member opposite had proposed as an amendment. He (Mr. Grant) was not prepared to say that a maximum rate of 8 annas per ton was absolutely the lowest safe amount that could be fixed, but he did believe that, with the restriction to the levy of any dues more than once in six, or once in twelve months, a materially lower rate would not be sufficient for every port. He believed also that, if the Bill were adopted as it stood, it would reduce, generally, the port-dues now payable in India.

If the Council thought that it had sufficient information before it to say that the maximum rate of 8 annas, payable once or twice a year, would be excessive in every port, it would do quite right in voting against such a rate; but as he, after having devoted a good deal of pains to the subject, had satisfied himself that a rate of 4 annas, levied upon this new principle, would not be sufficient to pay the charges in some ports, he was not prepared to vote for the amendment.

On the question of postponement, he observed that this law had already been more than twelve years before the Indian Legislature.

MR. PEACOCK said, he wished to say one word in his own justification, in reply to an observation that had fallen from the Honorable and learned Member opposite (Sir James Colvile). The Honorable and learned Member had said that the present Bill had been framed from a draft which he (Mr. Peacock) himself had prepared. He admitted the fact; but the Schedule which the Council were now considering, and to which he objected, formed no part of that draft. In the Minute which he had recorded upon that draft, he said—

> "There are matters of detail which must be left to the several local Governments"—(alluding to the matters provided for by the 6th Section of the Bill.) "I have introduced a Clause to legalize the port-dues; but I have not been able to fill up the schedule, as I do not know the amount chargeable at the several ports. As the Act must go to the several local Governments for this purpose, perhaps it will be better to send it to them for their remarks, previously to publishing it."

The Honorable Member opposite (Mr. Grant) had said that any one reading the papers printed in connection with this Bill, would gain sufficient information upon which to determine on the schedule now before the Council. He (Mr. Peacock) had endeavoured to gain that information from the printed papers, but had failed. For instance, he wished to know whether the duty on dhonies, or coasting vessels, was payable once in six months, or once a year, or every time they entered the port. He could not find that information in the printed papers. But the Schedule annexed to the Bill stated that a duty of 8 annas per ton would be payable every six months for any vessel which entered a port to take in or discharge cargo or passengers, and of 4 annas whenever she entered for any other purpose.

As the Honorable Member had stated that he had satisfied himself that 4 annas per ton would not be a sufficient rate of duty in many ports, he had convinced him (Mr. Peacock) that he ought to withdraw his amendment proposing to make that the maximum rate for all ports; and, therefore, he should ask the leave of the Council to withdraw it. But, on the other hand, as he was also convinced that 8 annas per ton would be too high a rate to levy in any port, he should vote against the Schedule altogether; and if he carried the Council with him in that, he would move to insert a provision re-

quiring every local Government, when it extended the Act to any port, to send up a Schedule of the duties which it proposed to levy therein, in order that it might be sanctioned by a legislative enactment. Every Member of the Council would then have an opportunity of ascertaining with accuracy the expenses of each port, and of adjusting the dues to its necessities.

The Honorable Member then, with the leave of the Council, withdrew the amendment which he had proposed.

MR. LEGEYT said, since his arrival at Calcutta, he had constantly received letters from the naval authorities at Bombay urging that this Bill should be carried through the Council, and passed into law; and it would cause very great disappointment in that important port if any further delay should take place in the introduction of the measure.

SIR JAMES COLVILE said, the Honorable and learned Member opposite (Mr. Peacock) having withdrawn his amendment, he (Sir James Colvile) would move that the words "to be, from time to time, fixed by the local Government with the sanction of the Governor General of India in Council, but" be inserted after the word "duty" in the 6th line of the Schedule.

MR. PEACOCK said, these words were just as objectionable as the schedule was in the present form. The rates being subject to the sanction and control of the Governor General of India in Council made no difference, in his opinion. He wished it to be understood that it was not from any want of confidence in the local Governments that he had objected to their being vested with the power proposed to be conferred by this Schedule. He objected to their being vested with such power, because he could not conscientiously give away powers which were entrusted to him as a Member of this Council, to bodies whose functions were executive; and upon that principle, he should object to the words now proposed, just as much as he objected to the Schedule as it now stood.

With regard to this Bill having been twelve years before the Legislature of India, it appeared to him that the longer it had been under consideration, the more it behoved the Council to take care to turn out a proper Act.

SIR JAMES COLVILE'S amendment was then put, and carried.

Some slight amendments were agreed to in the wording of the Schedule, and the question was put that the Schedule, as amended, form part of the Bill.

The Council divided:

Ayes 6.	*Noes* 4.
Mr. Currie.	Mr. Allen.
Mr. LeGeyt.	Mr. Peacock.
Mr. Eliott.	General Low.
Sir James Colvile.	The Chairman.
Mr. Grant.	
Mr. Dorin.	

Majority for—2. So the Schedule was passed.

The Preamble and Title were next passed, as they stood.

The Council then resumed its sitting.

MINORS (FORT ST. GEORGE).

MR. ELIOTT postponed the motion, of which he had given notice for this day, for a Committee of the whole Council on the Bill "for making better provision for the education of male minors and the marriags of male and female minors subject to the superintendence of the Court of Wards in the Presidency of Fort St. George."

MESSENGER.

MR. ELIOTT moved that Mr. Peacock be requested to carry the Bill "to amend the Law relating to district Moonsiffs in the Presidency of Fort St. George" to the President in Council, in order that it may be submitted to the Most Noble the Governor General for his assent.

Agreed to.

MR. ELIOTT moved that Mr. Peacock be requested to carry the Bill "for the establishment and maintenance of boundary marks in the Presidency of Fort St. George" to the President in Council, in order that it may be submitted to the Most Noble the Governor General for his assent.

Agreed to.

NOTICE OF MOTION.

MR. CURRIE gave notice that he would, on Saturday next, move the first reading of a Bill "to amend the Law respecting the employment of Ameens by the Civil Courts in the Presidency of Fort William."

LANDS FOR PUBLIC WORKS (BOMBAY).

MR. LEGEYT moved that the Bill "to facilitate the acquisition of land needed for public purposes in the Presidency of Bombay" be referred to a Select Committee consisting of Mr. Peacock, Mr. Eliott, and the Mover.

Agreed to.

NOTICE OF MOTION.

MR. ALLEN gave notice that he would, on Saturday next, move the second reading of the Bill "to empower officers of the Customs and Revenue Departments to search manufactories and houses for contraband Salt in the North-Western Provinces."

The Council adjourned.

Saturday, June 23, 1855.

PRESENT:

The Honorable Sir Lawrence Peel, *Vice-President*, in the Chair,

Hon. J. A. Dorin,	D. Eliott, Esq.,
Hon. Major Genl. Low,	C. Allen, Esq.,
Hon. J. P. Grant,	P. W. LeGeyt, Esq.,
Hon. B. Peacock,	and
Hon. Sir James Colvile,	E. Currie, Esq.

AMEENS (BENGAL).

MR. CURRIE moved the first reading of a Bill "to amend the Law respecting the employment of Ameens by the Civil Courts in the Presidency of Fort William."

He said, the object of this Bill was to provide a better agency for the performance of the duties now entrusted to the class of officers called Ameens. By Regulation IV of 1793, Section XVII, the Civil Courts were authorized to employ Ameens in cases of disputed property regarding lands, houses, or their limits or boundaries, in which the Courts might deem a local investigation proper. The Ameen was to make his report in writing, and to deliver it into Court on a certain day, which was to be specified in his commission. The report was to be received by the Court as evidence in the cause with regard to the matters which the Ameen might be commissioned to investigate, and no other. The Court might order such sum to be paid to the Ameen as might be thought reasonable for his trouble; and the amount was to be added to the costs, and paid by the person against whom the decree might be passed.

The persons usually employed for the performance of the duty here described, were hangers-on of the Courts, or of the Native Judges by whom the local investigations were directed. Much confidence could not be placed in the proceedings of persons so selected and so remunerated; and the report of the Ameen was sure to be impugned by one or other of the parties to the suit.

A second Ameen was frequently sent, and sometimes a third. It was not surprising that the conduct of these Ameens, their venality and partiality, was the theme of general complaint.

In the year 1837, the Sudder Court directed that an Ameen should be appointed to each Moonsiffship; and the Courts were desired to employ no other person for the conduct of local investigations, unless it should happen that there was no fixed Ameen available for the purpose. But no alteration was made in the mode of their remuneration, which still continued to be a small pittance at a certain daily rate, for the time during which they might be employed; and no prospect of official advancement was held out to them as an inducement to honesty and good faith. The orders of 1837, therefore, produced very little amelioration, and complaints continued as rife as ever.

Besides the particular service for which the deputation of Ameens was expressly authorized by Regulation IV of 1793, Ameens were also employed on all the duties enumerated in Sections L, LI, and LII of Regulation XXIII of 1814. These were inquiries into questions relating to the adjustment of accounts in revenue or mercantile transactions; or regarding the boundaries of land or houses; or regarding the right of ways or roads and path-ways; or regarding any rights in forests, commons, rivers, lakes, ponds, wells, reservoirs, or water-courses; or regarding the quantity or description of land and the rent to which it is liable; and generally all questions of local rights and usages which cannot be conveniently decided without an inquiry on the spot. Also the delivering over formal possession of lands, houses, or other real property, in conformity with decrees, regular or summary:—and the attachment of personal property, for the purpose of realizing the amount of fines, or of decrees, regular or summary. But the Regulation authorized the Courts to employ *Moonsiffs* only for the performance of these duties; and it was questionable whether they could be legally performed by Ameens. The Sudder Court, however, a great many years