

**LEGISLATIVE COUNCIL
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PROCEEDINGS

OF THE

LEGISLATIVE COUNCIL OF INDIA,

January to December 1858

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1858.

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

MR. PEACOCK moved that the Bill be referred to a Select Committee consisting of Mr. Elliott, Mr. Harington, and the Mover, with instructions to report upon it within a week.

Agreed to.

COTTON-FRAUDS (BOMBAY).

MR. LEGEYT moved that the Bill "for the better suppression of frauds in the Cotton-trade in the Presidency of Bombay" be referred to a Select Committee consisting of Mr. Currie, Sir Arthur Buller, and the Mover.

Agreed to.

The Council adjourned.

Saturday, January 23, 1858.

PRESENT:

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

Hon. the Chief Justice,	P. W. LeGeyt, Esq.,
Hon'ble Major General	E. Currie, Esq.,
J. Low,	Hon. Sir A. W. Buller,
Hon'ble B. Peacock,	and
D. Elliott, Esq.,	H. B. Harington, Esq.

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

COMPULSORY LABOR (MADRAS).

MESSAGE No. 123.

The Governor-General informs the Legislative Council that he has given his assent to the Bill which was passed by them on the 2nd January 1858, entitled "A Bill to make lawful compulsory labor for the prevention of mischief by inundation, and to provide for the enforcement of customary labor on certain works of irrigation in the Presidency of Fort St. George."

By order of the Right Honorable the Governor-General.

CECIL BEADON,

Secy. to the Govt. of India.

FORT WILLIAM, }
The 20th Jan., 1858.

PORT-DUES (CUTTACK).

MESSAGE No. 124.

The Governor-General informs the Legislative Council that he has given his assent to the Bill which was passed by them on the 2nd January 1858, entitled "A Bill for the levy of Port-dues in certain Ports in the Province of Cuttack."

By order of the Right Honorable the Governor-General.

CECIL BEADON,

Secy. to the Govt. of India.

FORT WILLIAM, }
The 20th Jan., 1858.

ESCAPED OFFENDERS.

MR. PEACOCK presented the Report of the Select Committee on the Bill "for the punishment of certain offenders who have escaped from Jail, and of persons who shall knowingly harbour such offenders."

IMPRESSMENT OF LABORERS, &c.

MR. PEACOCK presented the Report of the Select Committee on the Bill "to authorize the impressment of artisans and laborers for the erection of Buildings for the European Troops in India, and for works urgently required for Military purposes."

STATE PRISONERS.

MR. LEGEYT moved the first reading of a Bill "to amend the Law relating to the arrest and detention of State Prisoners." He said, he had prepared this Bill in consequence of a communication which he had received from the Government of Bombay relative to some difficulty which had arisen in that Presidency with regard to the confinement in a neighbouring Mofussil jail of certain persons who had been arrested in the Presidency Town. The legality of such confinement had been brought into question, and it had been held by the Chief Justice of the Supreme Court of Bombay that there were great doubts respecting it. The persons in question had been arrested under Regulation XXV. 1827 of the Bombay Code, which was in effect the same as Regulation III. 1818 of the Bengal

Code. In 1850, some difficulty was experienced in Bengal in respect of prisoners arrested under Regulation III. 1818, and Act XXIV of 1850 was passed, which gave the Governor General in Council the power of directing the detention of persons arrested under that Regulation in any place or jail within the local jurisdiction of the Supreme Court. Before that Act, the Regulation had effect only in the Mofussil districts of Bengal, and the operation of Regulation XXV. 1827 was likewise limited to the Mofussil of Bombay. Doubts having now been thrown out as to the legality of the arrest of persons under these Regulations in the Presidency towns, and, therefore, of their subsequent detention in any place of confinement, it had become necessary to rectify these defects; and for that purpose he had prepared the present Bill, which he proposed, with the permission of the Council, to pass through all its stages at once by moving the suspension of the Standing Orders.

The Bill was a very short one.

The Preamble set forth that—

"Whereas doubts have been entertained whether State Prisoners confined under Regulation II. 1819, of the Madras Code, or Regulation XXV. 1827, of the Bombay Code, can be lawfully detained in any fortress, jail, or other place within the local limits of the jurisdiction of the Supreme Courts of Judicature at Madras and Bombay respectively; and it is expedient that such doubts be removed, and that the powers of the said Regulations and of Regulation III. 1818 of the Bengal Code be extended: It is enacted as follows."

He should have mentioned before that Section I of Regulation XXV. 1827 of the Bombay Code, while it authorized the apprehension and confinement of persons as State Prisoners, contained the following proviso:—"Provided that, with reference to the individual, such apprehension and confinement shall not be in breach of British Law." It was necessary that this should be rectified; because with such a proviso, the Bill, though extended to the jurisdiction of the Supreme Court, would probably give no power to arrest any inhabitant of the town of Bombay. He, therefore, proposed, by the first Section of his Bill, that the words "provided

that, with reference to the individual, the apprehension and confinement shall not be in breach of British Law"—in Section I of Regulation XXV. 1827 of the Bombay Code—be repealed. They did not occur in Regulation III. 1818 of the Bengal Code, or in Regulation II. 1819 of the Madras Code.

Section II extended to the Presidency towns the provisions of the Regulations of the three Codes relating to the arrest and confinement of persons as State Prisoners.

Section III extended to the Governors of Madras and Bombay respectively all the powers for the better custody of State Prisoners vested in the Governor-General in Council by Act XXXIV of 1850.

Section IV declared all arrests or detentions of State Prisoners made prior to the passing of the Act to be lawful.

Section V empowered the Governor-General in Council to order the removal of State Prisoners in Madras and Bombay from one place of confinement to another.

He believed that the objects and reasons of the Act were sufficiently indicated in these provisions of the Bill, and it was not necessary that he should detain the Council with any further explanation at the present stage.

The Bill was read a first time.

CONFISCATION OF VILLAGES, &c.

MR. PEACOCK moved the first reading of a Bill "to authorize the confiscation of, or the imposition of fines on, Villages and other places for offences committed by the Inhabitants."

He said it appeared to him that, as soon as order should be restored, and the districts now held by rebels and mutineers should be re-occupied by Government, there ought to be some means provided for the punishment of offenders proved to have been committed by the inhabitants of any village or district in cases in which the individual offenders could not be identified and brought to justice. He had, therefore, prepared for the consideration of the Council a Bill which provided that, in any case in which it should appear to a Magistrate that the inhabitants of any village or other place within his jurisdiction, or

that any large number of the inhabitants of such village or place, had been guilty of rebellion, or of waging war against the State, or of any offence punishable under Act XVI of 1857, and that the offenders could not be identified and apprehended, the Magistrate might impose a fine on the inhabitants of the village, the amount of such fine to be fixed with reference to the means of the inhabitants, the nature of the offence, and the culpability of the offenders; and that if the owner of the village should not prove to the satisfaction of the Magistrate that he had used all the means in his power to restrain the inhabitants from the commission of outrages, the Magistrate might order that the village should be confiscated. The Council had already adopted, in the Act for the prevention of outrages in Malabar, the principle of fining villages for offences committed by Moplahs. By that Act, Magistrates were authorized to impose a fine upon an Umshum or village for the perpetration of an outrage by any person or persons belonging to it, and to assess the proportion in which the same should be payable by the inhabitants. But it would be found almost impossible, in the cases contemplated by this Bill, for Magistrates to assess the portion of the fine which should be paid by each particular inhabitant. The Bill, therefore, provided that the Magistrate might impose a fine upon a village; and that, if it were not paid within three months, the village might be confiscated and sold, or the fine be levied on the inhabitants by sale of their property.

He had also adopted a suggestion of the Honorable Court of Directors, and had provided by the Bill that, in case it should appear to the satisfaction of a Magistrate that any rebel, mutineer, or deserter, or any person who had been proclaimed by Government as a rebel, or for whose apprehension a reward had been offered by Government, or any person who had escaped from jail or other lawful custody, had been concealed or harboured within any village or place, or that any arms or other property belonging to Government had been concealed therein, the inhabitants should in like manner be liable to a fine. It was almost impossible that offenders of the class he had mentioned, or property belonging to Government to a great ex-

tent, could be concealed for a length of time in any village without the fact coming to the knowledge of the head man or officers of the village, and through them to the knowledge of the villagers. Provision had already been made by another Act for the punishment of individuals who concealed or harboured offenders. But that would not touch the inhabitants of a village in which offenders might be concealed or harboured. The object of the present Bill was to make it the interest of every inhabitant of a village to give information of the fact to a Magistrate; and with that view, the Magistrate was authorized to exempt from liability any person whom he might consider entitled to such exemption in consequence of his having given such information as had led, or was calculated to lead, to the apprehension and conviction of mutineers or any other heinous offenders, or to the recovery of arms or other property belonging to Government. He proposed to bring in, next week, a Bill to make persons liable to more severe and summary punishment than was at present provided by Law for knowingly receiving or concealing arms or other property belonging to the East India Company.

He had inserted another Clause in the Bill, which had also been suggested by the Honorable Court of Directors, to the effect that, wherever it should appear to a Magistrate that the Members of any particular tribe had committed a heinous offence or depredation, it should be lawful for him to impose a fine on any members of the tribe who might be residing in the neighbourhood of the place where the offence or depredation had been committed. The Honorable Court said in their Despatch:—

"With reference to the provisions of Section I Act XVI of 1857, we would further suggest the expediency of enacting that, when it shall be proved that any members of a tribe have been guilty of committing acts of violence or depredations, it shall be competent to the executive Authorities to inflict a heavy fine upon the whole tribe residing in the neighbourhood of the localities where such acts or depredations have been committed. We believe that, in the difficulty which will be experienced of procuring evidence for the conviction of individuals, a measure of the above kind will be the only means of reaching many who have taken part in the atrocities reported to have been committed by Goojurs and others in some of the North-Western Provinces."

Mr. Peacock

It appeared to him that a provision of this kind would be necessary, because there were many cases in which outrages had been committed by members of particular tribes, but in which the individual perpetrators could not be identified or brought to justice.

He would mention here that the general principle of the Bill had been submitted to, and approved of, by the Governor General in Council. He (Mr. Peacock) was responsible for the details.

In drawing the Bill, he had thought it right to provide for the case of heinous offences committed within a village, whether by the inhabitants of the village or not. Where any European was murdered or subjected to great personal violence in any village or district, and it was not proved that the inhabitants of the village or district had used all the means in their power for the prevention of the offence, or for the apprehension of the offender, the Bill provided that the whole village or district should be subject to a fine. It appeared to him that it ought to be made known throughout the length and breadth of this land, that the murder of a European was an offence which never could be forgiven or forgotten; and that if any European was murdered, or subjected to great personal violence, the inhabitants of the place where the outrage was committed should be held responsible, if the offenders were not apprehended and delivered up.

These were the main provisions of the Bill. It was unnecessary for him to detail the various Sections which he had inserted for the purpose of levying the fines which should be imposed. The Bill would be submitted to a Select Committee, and he had no doubt would receive much improvement from the experience of the Members whom he proposed to put on that Committee. As the Bill was of great importance, and required the consideration of those who were well acquainted with the practical working of measures of this description, he intended to refer it to a Select Committee of five Members, a Member for each Presidency being of the number.

The Bill was read a first time.

CONCEALMENT OF GOVERNMENT PROPERTY.

MR. PEACOCK postponed until

Saturday next the Motion (which stood in the Orders of the Day) for the first reading of a Bill "for the punishment of persons who knowingly receive or conceal arms or other property belonging to the East India Company."

ESCAPED OFFENDERS.

MR. PEACOCK moved that the Council resolve itself into a Committee on the Bill "for the punishment of certain offenders who have escaped from Jail, and of persons who shall knowingly harbour such offenders;" 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.

MR. PEACOCK moved that the Report of the Select Committee on the Bill be read.

The Motion was carried, and the Report read at the table.

Sections I to IV of the Bill were passed as they stood.

MR. CURRIE said, after Section IV, it would be as well to provide expressly for making Zemindars and other holders of land responsible for intelligence of the resort of escaped prisoners to places within the limits of their tenures. By Regulation III. 1812 such obligation was imposed on Zemindars when lists of prisoners who had escaped were furnished to them, but it would not apply necessarily to cases under this Bill. He should, therefore, propose that the following, the wording of which he had taken partly from Regulation VI. 1810, be inserted as a new Section after Section IV:—

"All proprietors of lands, and all farmers, agents, and other persons having the charge or management of lands, are hereby declared accountable for the early communication to the Magistrates and Police Officers, of intelligence of the resort to any place within the limits of the lands held or managed by them, of any person in respect of whom there shall be reasonable suspicion of his being such convict or prisoner who has escaped as aforesaid; and every proprietor or other person as aforesaid who shall neglect to give such intelligence, shall be liable, on conviction before a Magistrate, to imprisonment for a term not exceeding six months, and to fine not exceeding two hundred Rupees commutable, if not paid, to imprisonment for a further term not exceeding six months."

A similar provision had been introduced into the Act passed by the Council a few months ago respecting the arrest of mutineers and deserters; and he thought it advisable to insert the provision in this Bill.

The Section was put and agreed to.

THE CHIEF JUSTICE said, before the Council proceeded to the next Section, he should, as the Standing Orders had been suspended, like to go back to Section II. That Section provided that persons within its purview should, on conviction of the crimes for which they had been committed for trial, be liable to be transported. The crimes referred to were "rebellion, mutiny, desertion, murder, attempts to murder, thuggee,"—all of which were capital crimes; "dacoity, robbery, belonging or having belonged to a gang of thugs, or to a gang of dacoits, or to a wandering gang associated for the purposes of theft or robbery"—all of which already by law involved the punishment of transportation for life; and "all crimes against person or property attended with great personal violence." As the Section stood, therefore, he thought that its effect might be misunderstood by persons executing the law. It would make the meaning rather clearer if the Section ran thus:—"shall, upon conviction &c., if not liable to any higher punishment, be liable to be transported for life."

Then, again, the Section as it stood, made the punishment of an escaped offender entirely dependent on his conviction of the crime for which he had been committed for trial, or in respect of which he had been charged. The consequence of this would be that a person might be guilty of having escaped from Jail, of having concealed himself from the Officers of Justice, and of having refused to make true answer to questions touching his identity, and that yet if, from want of evidence, he happened to escape conviction of the crime with which he was originally charged, he would be wholly free from punishment for having done that which it was the object of this Bill to repress. It had occurred to him, therefore, and to his Honorable and learned friend to the right (Sir Arthur Buller) that, in the event of the party not being convicted of the crime originally charged against him, he

should be liable to some punishment for having committed the offences against which this Bill was directed.

MR. PEACOCK said, with respect to the first point, he thought it very desirable that some words should be added to the Section, to prevent any mistake. The point had been considered by the Select Committee, and they had thought that the Section as worded did not exempt persons convicted of capital crimes from the extreme penalty provided by the law, but only made them liable to transportation for life in case they should not be sentenced to the punishment of death. But, as the Honorable and learned Chief Justice had suggested, the meaning might possibly be misconstrued; and he should, therefore, insert an amendment in the Section which would make it clear.

With respect to the other point, the Section provided that where a person offended against the Act while only under committal for trial for any of the crimes mentioned in Section III, or while only under a charge of being guilty of any of them, he should, upon conviction of such crime, be liable to be transported for life. The person might not be convicted of the crime; and in that case, he would be liable to punishment under the existing law for having broken jail—that was to say, to imprisonment for three years; but if he was convicted of the original crime and the additional offence of breaking jail, he would, under this Section, if liable to no higher punishment, be liable to be transported for life.

The Honorable Member concluded by moving that the words "if not sentenced to the punishment of death" be inserted before the word "charged" and after the word "be" in the last line of the Section.

The amendment was agreed to, and the Section then passed.

Section V was passed as it stood.

Section VI was passed after a verbal amendment.

The Preamble and Title were passed as they stood.

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

MR. PEACOCK moved that the Bill be now read a third time and passed.

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

Mr. Currie

IMPRESSMENT OF LABORERS, &c.

MR. PEACOCK moved that the Council resolve itself into a Committee on the Bill "to authorize the impressment of artisans and laborers for the erection of Buildings for the European Troops in India, and for works urgently required for Military purposes;" 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.

Mr. PEACOCK moved that the Report of the Select Committee on the Bill be read.

The Motion was carried, and the Report read at the table.

Section I of the Bill was passed as it stood.

Section II provided that no action or other proceeding should lie against Government, &c., for ordering impressment, nor against "any person who shall be impressed, or whose property shall be impressed under the provisions of this Act, or any other person."

THE CHIEF JUSTICE said, he had some doubt regarding the words "or any other person" which he perceived the Select Committee had introduced into the Section. He would illustrate the grounds of his doubt by supposing a case which was not very likely, perhaps, to arise in any of the districts to which this Act might be extended, but which one could still conceive to be of possible occurrence. A might be under a contract to B to deliver an article, or finish a house, on a particular day. He might be prevented from completing his contract by the impressment under this Act of the laborers on whose services he depended. B might be considerably damnified by A's failure to fulfil his contract. The Bill involved the principle of compensation; but, as it stood, compensation would not reach B, because Section II would prevent him from maintaining an action against A, his contractor, for breach of contract, since A had been prevented from completing that contract by reason of the impressment by Government; and Section IV limited the right of claiming compensation from Government to persons who had entered into contracts for the personal labor of any individual

impressed under the Act, or for the hire of any boat, cart, bullock, or other animal so impressed. Therefore, although A might have recovered compensation from Government, B would be without any remedy for the damage he had sustained. It seemed to him (the Chief Justice) that it would be more just that B should be left to his action against A. If A should be cast in that action, and had really been prevented from performing his contract by the impressment of his laborers by the Government, the very payment of damages by him to B would be his ground for coming to Government for compensation under Section IV, and the amount of the damages would be the measure of the compensation he was entitled to recover. It might be considered that the probability of cases like that which he had put was rather too remote, and that the Section in its original form might lead to too many and frivolous claims for compensation. But on the other hand, the Section as amended by the Select Committee might open a door to a great number of frivolous defences. Whenever a contractor failed to perform his contract, and was sued, he might set up the case of having been prevented from performing it by the impressment of his laborers by Government. On the whole, therefore, it appeared to him that the words "or any other person" should be omitted from the Section.

MR. PEACOCK said, the amendment by the Select Committee was intended to provide for the case of persons who had entered into contracts to supply laborers. If a man contracted, as a Sirdar, to supply a certain number of laborers, and all his laborers were impressed by Government, he would be unable to perform his contract. Such a person ought not to be sued, but the Government ought to make good the loss sustained by reason of the non-performance of his contract. Probably, it would be better to limit the amendment by making it run thus:—"or any other person who may have contracted to supply laborers."

After some conversation, the Chief Justice said, there would be so much difficulty in carrying out the view of compensation which he had taken, and the Act was to have effect for so limited

a period, that it would be better to leave the Section as it was.

The Section was put as it stood, and passed.

Section III provided that full market-value of labor or hire should be paid in respect of the person or property impressed.

MR. PEACOCK said, since the last Meeting of the Council, he had received a letter from Mr. Piddington, who took a great interest in coolie laborers, and had much experience in their management, respecting the mode in which persons impressed under the Act should be paid. Although the letter had been addressed to himself individually, he should bring it before the Council, because he thought that suggestions on such a subject from a gentleman of Mr. Piddington's knowledge and experience were worthy of consideration. Mr. Piddington said:—

"I make no apology for intruding this upon you in reference to the Impressment Bill, for we have all so deep an interest in its ultimate objects of providing good shelter for our brave fellows, that, trifling as any suggestion may be, it may always be worth listening to. And without some enactment as to the mode of payment, we may get coolies and workmen together, but we shall not keep them. And if we do keep them, it will be as unwilling workmen who require the rattan or the lash to obtain even a poor day's work from them!

"The Sircars and lower order of overseers, European, Eurasian, or Native, can, even now, double or treble their pay! And some can make a little fortune in three or five years. When they know that laborers can be impressed, they will treble or quintuple their extortions,* while the coolies and workmen will disguise and hide themselves every where to avoid the slavery and starvation to which impressment and the present system of payments by written papers will condemn them.

"I say nothing of the economy to Government of doing with 5 or 600 days' work what will now cost it a thousand; but I am sure, upon humane grounds alone, that every right-thinking man would be glad to strike a blow at the present plundering system of pen-and-ink registry of labor, which is bad enough now with voluntary labor, but will be intolerable with any system of impressment.

"I suggest then that two Sections, enacting as follows, may not only avert a vast amount of wrong, and its corresponding product of discontent, but may also be a source of great economy to Government.

A

"Every artisan, carter, workman, or other laborer who shall be impressed for employment

* The check of the fear of wanting victims from whom to extort being removed.

on any Government work shall be paid, daily, for the day's work he may have earned by a metal token, of which token the number which may represent a rupee shall be on given days, three times in every month, exchanged for money, in the presence of the principal Officer superintending the work.

B

"And if any subordinate Officer in charge of any public work or duty whatsoever which is in execution by impressed artisans or laborers, shall fail, without a reasonable excuse therefor to issue daily to all such persons the tokens representing their day's work, such subordinate Officer shall be liable to a fine of one month's pay for the first offence, and to instant dismissal with the forfeiture of all pay due to him for the second offence; and such dismissed subordinate Officer shall be declared incapable of ever serving the Government again in the Department of Public Works."

This letter he had already submitted to the Select Committee, and the Select Committee, after due consideration, had come to the conclusion that it would be better to leave to the Executive Government the framing of rules for securing just and punctual payment to persons impressed under the Act; and, accordingly, they had inserted words to that effect in this Section. Daily payment had been found by experience to have worked very well. It had, during the last few months, ensured a full supply of carts for the transport of troops; and he had no doubt in his own mind that, if a proper system of payment were adopted, there would be less difficulty in obtaining laborers than was now experienced. At the same time, the Council might be throwing difficulties in the way of the Government if they definitively laid it down in the Act that laborers impressed under it should be paid daily; for there might be many circumstances to make daily payment inexpedient or impracticable.

As the Bill had been before the Public only one week, and there had not been time for suggestions from other quarters, he had thought it right not to pass by this Section without bringing Mr. Piddington's letter to the notice of the Council, and explaining why the Select Committee had not introduced the Sections suggested by that gentleman.

MR. ELIOTT said, the method by which payment to the laborers in public roads in the Madras Presidency was secured, as described in the Second Report of the Commissioners on Public Works, was well worthy of attention.

He begged to read some extracts from that Report:—

"The plan of paying laborers by means of tickets, is not new. It has been adopted by many Officers in charge of the construction of ghauts or other works where large bodies of laborers were collected, as a means of preventing the men from being cheated. But it has never, so far as we are aware, been worked so carefully, or so much reduced to a system, as in the Road Department. There are four sorts of tickets in common use, namely, the man's ticket, the woman's ticket, the cart ticket, and the quarry ticket. Bricklayers, carpenters, and stone-cutters, are also paid by tickets on large works, but not always on small ones, as workmen of these classes do not stay away, or change from one work to another, like the common laborers, and, being few in number, a nominal roll is easily kept.

"The tickets are of Card board, the several kinds differs in shape, so as to be readily distinguished, and with various particulars noted on them. The first three of the four sorts of tickets above named, do not vary in value throughout a division of road. They represent a day's hire respectively for a man, a woman, and a cart; but the quantity of any given kind of work necessary to earn a ticket, varies from place to place according to circumstances. Quarry tickets represent a certain quantity of material excavated or prepared. They vary in amount at the several quarries according to the ease or difficulty of working.

"But the nature of the material, the quantity, and the value are all noted upon the ticket. As respects the cart tickets, there is another particular to be noticed. The work done by the carts is bringing the material from the quarry to the road; but the distances to be travelled being unequal, the number of trips constituting a day's work varies at different places. Each quarry supplies a certain portion of the road; and for each quarter mile of this space, according to the distance from the quarry, there is a fixed rate of 1½ trip, 2 trips, &c. to earn a ticket. A cart-man is entitled to a ticket when he has made that number of trips; but some guarantee to him is necessary in the meanwhile that all his trips shall be counted. This want is met by subordinate tickets, styled Register Tickets, one of which is given to the cart-man on each trip; when he has made the proper number, he receives a cart ticket, and returns the register ticket. We will only add on the subject of the tickets, that all the several kinds contain such particulars noted on them respectively in initials and abbreviations as to enable the Overseer of the division not only to determine their value at a glance when presented for payment, but also to debit the proper *Fygust* or *Conacapillay*" (subordinate officers) with the amount, and to know what amount of work done or material prepared or carted to the road he ought to find as a return for the tickets cashed at every quarry, or in every mile of his division.

"The tickets are cashed immediately on being presented to the Overseer of the divi-

sion, no matter by whom they are presented. If any mistake has occurred, though such seem to be extremely rare, the issuer of the tickets, and not the holder, is responsible. This instant and unfailing payment has given the tickets the value of money. They are readily taken, and they pass from hand to hand as a medium of exchange.

"Tickets are used to secure prompt and full payment to the laborers. They do secure it, and the readiness with which the men enter into the system, and the cheapness of the rate at which they willingly work—for no *tahsildar* or *peon* is ever asked to supply laborers to the Road Department, all is voluntary—fully prove the success of the plan. But it is obvious that the tickets cannot be cashed as soon as issued; for if any fit person were at hand to cash them, he might pay the laborers at once in cash, and tickets would be unnecessary"—

which, the Honorable Member said, it might be remarked in passing, would be the case in works such as were now contemplated—building at Stations, &c.

"The Overseer of each division visits every Station where work is in progress, periodically, as already said, and cashes all the tickets presented; but the holders need not wait for those visits, for the tickets are cashed whenever or wherever presented. In point of fact, however, the workmen find it more for their interest neither to retain the tickets till the Overseer's visit, nor to lose their time in going after him to get them cashed. They pay them away to the Bazaar men for the articles of their daily consumption, and they are readily taken, at a small discount, to cover the delay and trouble of getting them cashed. The greater part of the tickets are thus cashed to Bazaar men, and some of that class appear even to make a business of cashing them for the sake of the discount they gain, quite apart from the sale of goods. This arrangement is profitable to all parties, but care is required that the visits of the Overseers to cash the tickets should be more frequent than in practice they have sometimes been. To prevent misconception, it may be well to add that there does not appear to be any connection or common interest between these Bazaar men and the agents of the Department. Care should be taken, however, to watch against any such secret understanding."

This system, or something very similar, had been followed by the Railway Engineer with remarkable success. The effect was stated with a just pride by the Chief Engineer of the Railway in a Report dated 4th April 1856, an extract from which he begged to read:—

"We came as strangers, and were looked upon as strangers; but we have secured completely the confidence of the people. The difficulty which presented itself at first from our not giving advances, has completely disappeared; and we can generally command all

the available labor in the district. I have known an Engineer accidentally short both of money and tickets, recall all the tickets which were out amongst any particular gang for re-issue, by merely giving in return for them an 'I. O. U. — Rupees.' They knew the money was quite safe, all the payments being made by Europeans."

MR. CURRIE said, undoubtedly, it was very desirable that there should be a good system and proper rules for the payment of laborers; but it was to be observed that the scope of this Bill was very limited; and he apprehended that there was not the slightest intention of introducing it except in districts where a necessity for it had already been really felt—such as those of the North-Western Provinces, where the laboring classes had been dispersed, and where a large quantity of building had to be done on private account as well as on account of Government.

THE CHIEF JUSTICE said, the suggestions made were no doubt extremely valuable, and deserved to receive attention when made in the proper quarter. But the only question which the Council had to decide was, whether it should incorporate in this Act certain regulations respecting the payment of laborers, or whether it should leave it to the executive Government to lay down such regulations. He was very clear that, considering the variety of the circumstances of the districts to which this Act would be applied, it would be far more expedient to take the latter course, as the Select Committee, by the amendment they had inserted in the Section, proposed to do, than to prescribe rules of that rigidity which must attach to every rule embodied in an Act of the Council, which nothing short of an Act of the same Council would have the power to alter.

The Section was then put, and passed as it stood.

Section IV was passed after a verbal amendment.

Sections V and VI were passed as they stood.

Section VII provided that disputes as to amount of compensation should be determined by Arbitration, and laid down rules for the appointment and revocation of the Arbitrator.

MR. CURRIE said, it seemed to him that it was hardly necessary to introduce

into this Bill all the procedure for Arbitration provided by this and the ten following Sections. The cases which would arise, would be very few; and he doubted whether an Arbitration conducted in the manner provided by the Bill would be a very effectual mode of disposing of them. It was generally found very difficult to obtain awards, unless there was some Authority empowered to superintend the proceedings of the Arbitrators. The Act for the acquisition of land for public purposes, from which the Clauses in this Bill had been taken, subjected Arbitrators appointed under its provisions to the control of the Collector, and gave that Officer power to enforce the delivery of an award. It occurred to him (Mr. Currie,) that the more efficient way would be to leave all disputes as to the amount of compensation under this Bill to be determined by the Zillah Judge. At the same time, however, as the matter had no doubt been considered by the Select Committee, he should move no amendment if they were clearly of opinion that Arbitration was the proper mode of procedure for these cases.

MR. PEACOCK said, in these Clauses, he had followed as nearly as possible the provisions on the same subject in the Act for acquiring land for public purposes. Certainly, that Act empowered the Collector to compel an award; but he had not thought it necessary to insert a Clause for the same purpose in this Bill. He had thought that, if there was a dispute as to the amount of compensation, it would be satisfactory to both parties that each should appoint an Arbitrator, and that the two Arbitrators so appointed should elect a third to act in conjunction with themselves. But if the Honorable Member for Bengal, who had greater experience of the Mo-fussil, thought that there would be difficulty in obtaining an award, of which he (Mr. Peacock) had not been aware, he had no objection to the disputes being settled by the Zillah Judge, provided that this were done upon summary petition, and that the decision of the Judge should be final.

MR. CURRIE moved that all the words after the word "determined" in the 4th line, be omitted from the Section, in order that the following might be substituted for them:—

Mr. Elliott

"in a summary way by the Zillah Judge, or other Officer exercising the powers of a Judge, on the petition of the claimant, or of the Officer under whose authority the imprisonment was made; and the decision of the Judge or other Officer shall be final."

The amendment was agreed to, and the Section then passed.

MR. CURRIE moved that the whole of the subsequent Sections, down to Section XVII inclusive, be omitted.

Agreed to.

The remaining Sections, and the Preamble and Title, were severally put and passed.

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

MR. PEACOCK moved that the Bill be now read a third time and passed.

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

STATE PRISONERS.

MR. LEGEYT moved that the Standing Orders be suspended, to enable him to proceed with the Bill "to amend the Law relating to the arrest and detention of State Prisoners."

SIR ARTHUR BULLER seconded the Motion.

Agreed to.

MR. LEGEYT moved that the Bill be now read a second time.

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

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

Agreed to.

Section I provided as follows:—

"So much of Section I, Clause 1, of Regulation XXV. 1827, of the Bombay Code, as provides that, with reference to the individual, the apprehension and confinement therein referred to shall not be in breach of British Law, is repealed."

THE CHIEF JUSTICE said, the repeal proposed by this Section of the words in the Bombay Regulation was unquestionably necessary. These words would—even if there were not the further objection which arose upon the wording of the Act of 1850, which was in terms limited to the Bengal Regulation III. 1818—afford sufficient ground for insisting that the Bombay Regulation as it stood could not take effect within

the limits of the jurisdiction of the Supreme Court of that place; because they constituted an exception which, from its terms, would embrace all the inhabitants of the Island of Bombay: all of whom, in what regarded their personal liberty, were governed by the Law of England. In the Mofussil of Bombay, in which alone the Regulation as it stood was operative, the exception would cover only British subjects. Now, it could not be intended to apply the powers in question to that class of persons; but considering their extreme susceptibility, and the possibility that the intention of the Act might be misconstrued, and that observations of that kind might find an echo in a higher legislative assembly than that which he was addressing—he thought it would be expedient to remove all possibility of misconstruction, and to qualify the repeal proposed, by adding the words "except as regards European British subjects."

MR. LEGEYT moved that the words "except so far as the said provision applies to European British subjects" be added to the Section.

The Motion was carried, and the Section then passed.

Section II was passed after a verbal amendment.

Sections III and IV were passed as they stood.

Section V was passed after an amendment.

The Preamble and Title were severally put and passed.

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

MR. LEGEYT moved that the Bill be now read a third time and passed.

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

MR. LEGEYT moved that General Low be requested to take the Bill to the Governor General for his assent.

Agreed to.

ESCAPED OFFENDERS.

MR. PEACOCK moved that General Low be requested to take the Bill "for the punishment of certain offenders who have escaped from Jail, and of persons who shall knowingly harbour such offenders" to the Governor General for his assent.

Agreed to.

IMPRESSMENT OF LABORERS, &c.

MR. PEACOCK moved that General Low be requested to take the Bill "to authorize the impressment of artisans and laborers for the erection of Buildings for the European Troops in India, and for works urgently required for Military purposes" to the Governor General for his assent.

Agreed to.

NOTICE OF MOTION.

MR. CURRIE gave notice that he would, on Saturday next, move for a Committee of the whole Council on the Bill "for raising Funds for making and repairing roads in the Suburbs of Calcutta and the Station of Howrah."

ADJOURNMENT.

MR. LEGEYNT moved that the Council do adjourn for ten minutes.

Agreed to.

The Council adjourned accordingly.

The Council afterwards met pursuant to adjournment.

STATE PRISONERS.

General Low returned to the Council Chamber with the Bill "to amend the Law relating to the arrest and detention of State Prisoners," and delivered it to the Vice-President, who thereupon announced that the Governor General had signified his assent to the same.

The Council adjourned.

Thursday, January 28, 1858.

An Extra-ordinary Meeting of the Legislative Council, called by order of the Governor General, was held this day.

PRESENT:

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

Hon. the Chief Justice,	P. W. LeGeyt, Esq.,
Hon'ble Major General	E. Currie, Esq.,
J. Low,	Hon. Sir A. W. Buller,
Hon'ble S. Peacock,	and
D. Elliott, Esq.,	H. B. Harrington, Esq.

ABSENCE OF GOVERNOR GENERAL.

THE VICE-PRESIDENT said, he had been entrusted with the following Message from the Governor General to the Legislative Council.

MESSAGE No. 125.

The Governor General in Council forwards to the Legislative Council extract of a Resolution passed this day, relative to the absence of the Governor General from the Council, and to the necessity for vesting the Governor General with certain powers during such absence.

By order of the Governor General in Council.

CECIL BEADON,

Secretary to the Govt. of India.

FORT WILLIAM,

The 27th January 1858.

The extract from the Resolution referred to was as follows:—

Extract of a Resolution of the Government of India in the Home Department, dated the 27th January 1858.

Resolved.—That it is expedient that the Governor General should visit the North-Western Provinces of the Presidency of Fort William in Bengal, and other parts of India, unaccompanied by any Member of the Council of India.

That the Honorable Mr. Dorin be requested to take charge of and bring into the Legislative Council, with a view to its being passed into Law, a Bill to authorize the Governor General alone, during his absence, to exercise all the powers which might be exercised by the Governor General in Council in every case in which the Governor General may think it expedient to exercise those powers.

True Extract.

CECIL BEADON,

Secretary to the Govt. of India.

In accordance with this Resolution, which notified, agreeably to the requirement of the Act of Parliament, the decision of the Council of India that it was expedient that the Governor General should proceed to the North-Western Provinces unaccompanied by any Member of the Supreme Council, he had the honor to lay before the Council such a Bill as would enable his Lordship to