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PROCEEDINGS

OF THE

LEGISLATIVE COUNCIL OF INDIA,

January to December 1858.

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the word "persons" in the 1st paragraph of the letter:—

"European or Native, selected for their knowledge and experience, without reference to class or position, and whether Government employés or not."

Agreed to.

SIR JAMES OUTRAM moved that the following question be inserted in the letter, namely:—

"Is it desirable that false testimony by witnesses after simple affirmation or warning should be liable to the same penalties as now assigned to perjury under oath?"

After some conversation, the motion was by leave withdrawn.

MR. LEGEYT moved that the following question be inserted in the letter, namely:—

"Is it desirable that every Court before which a witness is judicially examined should have the power of inflicting summary punishment for wilful false testimony?

"Is it desirable, in the event of summary punishment being sanctioned for false testimony, that the present penalties for perjury should be restricted to fine for lesser, and to a moderate imprisonment and fine for more serious cases?

"Is it desirable that there should be a right of appeal against such convictions, or would it be preferable to provide that all sentences should be subject to the confirmation of the next Superior Court?"

MR. CURRIE said, these questions were not directly connected with the questions upon which the Council had determined to ask for information, and they had not been brought under the consideration of the Council. He felt some difficulty, without further consideration, in expressing any opinion on them, but his immediate impression was that it would be very unadvisable to give to every Court the power of punishing summarily any witness who, it might think, was giving false testimony. The subject, however, was altogether distinct from that before the Council, and he thought that it should not be mixed up with it.

THE VICE-PRESIDENT agreed, and said that the questions had reference more properly to the Code of Criminal Procedure.

The motion was by leave withdrawn, and the letter, as amended on Sir James Outram's motion, adopted.

The Council adjourned.

Saturday, December 4th, 1858.

PRESENT.

The Hon'ble the Chief Justice, *Vice-President*, in the Chair.

Hon. J. P. Grant.	E. Currie, Esq.
Hon. Lieut.-Genl. Sir J. Outram.	Hon. Sir A. W. Buller.
Hon. H. Ricketts.	H. B. Harington, Esq.
Hon. B. Peacock.	and
P. W. LeGeyt, Esq.	H. Forbes, Esq.

PILOT COURTS (BENGAL.)

MR. CURRIE moved the second reading of the Bill "to amend the law for the trial of Officers of the Bengal Pilot Service for breach of duty."

THE VICE-PRESIDENT said, he must for himself say that, although he had no desire to interfere with the second reading, he did not think the Bill provided the best tribunal for the trial of Pilots. The original constitution of the Court was based on the principle of composition of forces. Certain Merchants were to be Members of the Court, because, as Merchants, they were interested in shipping and in the safe navigation of the river and port. Certain Pilots were to be Members of the Court, because, as Pilots, they were interested in seeing that no member of the service suffered injustice. Certain Ship Captains, both because they were interested in seeing that no ships, through negligence, were run ashore, and also because they might be supposed to bring to the enquiry that professional knowledge which was so necessary. The Honorable Member for Bengal now proposed to leave out the Pilots, to which he (the Vice-President) had no great objection, if they were found to have too great a bias; and he proposed to retain two Merchants and one Captain. He thought there was no great use in retaining so much of the mercantile element. As far as his experience of

Calcutta went, the Merchants were not very fond of giving their time to this kind of enquiry, and he did not think that the interest which they might be supposed to have in shipping was any reason for calling on them to give their time and to assist in enquiries of this nature. The sort of assistance which the President required was that of persons skilled in navigation generally, conversant with the management of the ships, and having some knowledge of the difficulties of this river, and, therefore, capable of assisting the Judge or the other Judges in weighing that conflicting evidence as to tides, currents, shoals, and the manœuvres of the vessel, which a trial of this kind seldom failed to exhibit.

He should have thought that, at the Bankshall, men might be found with the necessary qualifications and free from the imputation of bias. But if it were deemed desirable to have men with less connection with the Pilot Service, he would rather have recourse to Ship Captains than to the Merchants. As the Bill stood, there would be one Member of the Court with the special knowledge that was requisite, and two who did not possess that knowledge, and he thought that the working of the new tribunal, if its constitution were not altered in Committee, would not be satisfactory.

MR. PEACOCK said, it was not his intention to oppose the second reading, but he agreed with the Honorable and learned Vice-President in thinking that the tribunal provided by the Bill was not the best that could be devised. In the first place it was objectionable that the Judge should select his own Jury. In the next place, only the number of Jurors actually required for the trial was to be summoned. If these persons should not attend, they could be fined. But suppose one of them should be ill or unable to attend, the Court must be adjourned. It appeared to him that that was a mistake which should be rectified.

He agreed with the Honorable and learned Vice-President, that two Merchants and one Master of a Merchant Ship would not constitute the best tribunal for trying a case of negligence or misconduct in piloting a vessel. In England the Admiralty Court was assisted by two elder brothers of the Trinity House. The Judge did not select them as Jurors; they were only Assessors to assist him. But in this Bill three Jurors were to be selected by the Judge. This, and probably other points, would require consideration in Select Committee.

He did not approve of Section XIV, which provided as follows:—

"If it shall appear to the Judge of the said Court that the verdict of the Jurors is manifestly contrary to the evidence, or that the trial is otherwise insufficient, the Judge, instead of passing sentence on the accused person, or declaring him acquitted, as the case may be, may certify the same to the Lieutenant-Governor of Bengal. If the verdict of the Jurors be a verdict of acquittal, the said Lieutenant-Governor may either direct that no further proceedings shall be taken in the case, or may order a new trial before another Jury, as he shall think fit. If the verdict be a verdict of conviction, the said Lieutenant-Governor shall order a new trial before another Jury."

Under this Section there seemed to be no option given to the Lieutenant-Governor, in the case of a conviction, as there was in the case of an acquittal, of ordering a new trial or not. In the case of a conviction, the Lieutenant-Governor would be compelled to order a new trial; whereas, if the conviction should be manifestly contrary to the evidence, and there was no new evidence to be adduced, he could not see the benefit of ordering a new trial.

Then, as to Section XII, which authorized the Lieutenant-Governor, with the sanction of the Governor-General in Council, to prepare a schedule of offences and punishments for the guidance of the Court, he was not sure whether the punishment had not better be left to the Judge instead of leaving it to the Lieutenant-Governor to frame a schedule of offences and punishments. The schedule referred to was not a Code of Criminal law, otherwise he should have doubted how far the Council had power to sanction such a provision; but it was merely a case of dealing with servants of Government by reducing their rank or pay, or suspending them from employment for a limited period.

SIR ARTHUR BULLER said, there should be some provision giving the party accused a right of challenging the Jurors. It was obviously extremely likely that there might not be a good feeling between all Merchants and all Pilots.

MR. CURRIE said, he was far from supposing that the proposed Jury was, in all respects, the best tribunal that could possibly be devised; but it appeared to be the one most in accordance with the opinions which had been given by those who had recommended a reform of the Courts. Objection had been taken by his learned friends to the mercantile element. At present the Courts consisted of two Ship Captains, two Pilots, and four Merchants: it had been said by the former and present Presidents of Marine Courts that the only independent Members were the Merchants; and in all the suggestions which had been made, the retention of Merchants had been proposed. It had, therefore, seemed to him that, in constituting a Jury whose verdict should be according to the opinion of a majority, it was desirable that the Merchants should have a preponderance. He believed that the employment of Merchants on this duty originated with a proposal of the Chamber of Commerce. He concurred generally in what had been said by the Honorable and learned Vice-President, and in introducing the Bill, he had stated that his individual opinion would have been in favor of a Judge and professional Assessors. That was the plan upon which he had originally prepared the Bill; but the Lieutenant-Governor, whose opinion, from his long experience of the business of the Marine Department, was deserving of all respect, was strongly opposed to the plan of Assessors, and he had altered the Bill accordingly.

With regard to the objection of his Honorable and learned friend (Mr. Peacock), that it was not right that the Judge should select the Jury—as the law now stood, the Superintendent of Marine, who was, in fact, the Prosecutor, and not the Judge, had the selection. Surely it was better, if it rested between them, that the selection should be with the Judge rather than with the Prosecutor. Objection was also taken because the Bill did not provide for summoning a larger number of persons than would be necessary to form a Jury, inasmuch as the trial would be delayed if the attendance of one of them was prevented by sickness. But it seemed to him that there were great objections to summoning more persons than were really necessary. The number of Jurors prescribed by the Bill was very small; notice being given to each person that his attendance would be required on a future day, the Judge would be able, in case of any one signifying his inability to attend, to substitute another person.

As to Section XIV, he was not sure that he rightly apprehended the objection taken by his learned friend. If the verdict was one of acquittal, and the Judge thought it erroneous, a discretion was reserved to the Lieutenant-Governor; and this, he thought, was right, because, notwithstanding the opinion of the Judge, the Government might think further proceedings against the accused unnecessary. But if the verdict was one of conviction, and the Judge thought it contrary to the evidence, the Section allowed no discretion to the Lieutenant-Governor, but required him to order a new trial. This, he thought, was no more than what justice to the accused demanded.

MR. PEACOCK explained his meaning to be that, when the Lieutenant-Governor agreed with the Judge in thinking a verdict of conviction erroneous, it would be sufficient to stop the proceedings. He did not think that the Lieutenant-Governor should be obliged to order a new trial.

MR. CURRIE proceeded. With regard to Section XII he would only remind the Council that the punishment of Pilots for breaches of duty had, from a long course of years, been regulated by a Code framed by the Executive Government. Many suggestions had been made for revising and improving the Code, but no one had proposed to dispense with it altogether. The Section did not make it imperative that there should be such a Code; it merely recognized any Code which the Executive Government might think proper to frame, the punishments being exclusively of a kind which a master may inflict on his servants. He could see no objection to continuing this power to the Executive Government.

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

DELHI TERRITORY.

MR. PEACOCK moved the third reading of the Bill "to repeal Regulation V. 1832 of the Bengal Code, and to make certain provisions rendered necessary by the transfer of the Delhi Territory to the administration of the Chief Commissioner of the Punjab."

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

RYOTWAR ARREARS (MADRAS PRESIDENCY).

MR. FORBES moved the third reading of the Bill "for the better recovery of arrears of Revenue under Ryotwar Settlements in the Madras Presidency."

MR. RICKETTS said, when this Bill was in Committee, he had endeavored to induce his Honorable friend, the Member for Madras, to introduce a proviso exempting standing crops and other articles from distraint or sale. But the Honorable Member was opposed to his amendment, and the Council rejected it. He felt quite sure, however, that he was beaten, not because the cause was a bad cause, but merely from the weakness of the advocacy. It was not—it could not be a bad cause. The subject had been considered by the Legislature of this country no less than five different times. First, in 1793, by Regulation XVII of the Bengal Code, ploughs and implements of husbandry, cattle actually trained to the plough, and the seed grain of under-farmers, ryots, and talookdars were exempted from distress. That exemption was adopted by the Madras Government in 1802, was again considered and adopted by the Government of the North-Western Provinces in 1803, and again reaffirmed in Bengal in 1813, and again in Bombay in 1827, which was the fifth time. Surely, Lord Cornwallis, Lord Wellesley, Lord Minto, and, above all, Mr. Elphinstone, were not all mistaken. He found in the Bombay Law (Regulation IV. 1827)—

"Such implements of manual labor, and such cattle and implements of agriculture as may, in the judgment of the Court from which the process issues, be indispensable for the defendant to earn a livelihood in his respective calling or cultivate any land that he may hold for the purpose, shall be exempt from attachment."

Those were words worthy of the great and good man who framed the law. They applied to process for the recovery of arrears of revenue, as well as to process in execution of decrees. Surely, after this indulgent and considerate policy had been approved by the Legislature five times in half a century, some reason should be assigned for reversing it. The matter might have been considered by the Select Committee, but there was no evidence that it had attracted their attention. It might seem a very little matter, but it was not a little matter to deprive a man of the means of earning a livelihood. The Honorable Member for Madras said that, as the defaulter was to be imprisoned and his lands sold, it could not much benefit him to exempt his cattle and implements of trade and agriculture. But they would be useful when he came out of Jail, and he could arrange for their safe custody meanwhile. He thought it probable that he should divide alone, but he could not attach his name to the third reading of this Bill without the insertion of the exemption in question. He hoped the Council would allow the Bill to be re-committed. He would not press for the exemption of standing crops; but the exemption introduced into previous laws should, he thought, be introduced into this Bill. He moved, by way of amendment, that the Bill be re-committed.

MR. FORBES said, he would at present offer no opinion on the Honorable Member's proposed amendment. The question now before the Council was—"Shall the Bill be re-committed or not?" As the youngest Member of the Council, it would ill become him to say what course should be followed with regard to the Honorable Member's amendment. But he thought it a very bad precedent now to establish that a question once decided by vote should, particularly without previous notice or intimation, be brought forward for re-consideration. It was not every Member that could attend all the meetings. Some had arduous duties elsewhere, which prevented

their regular attendance. Those Members, when they saw by the Orders that a particular question was to be brought forward, might make a point of attending, and might then presume that the question was settled and would not be brought forward without previous intimation. As a matter of convenience, it was not right that questions should thus be re-opened. If the motion were carried, he would have an opportunity of replying to the arguments of the Honorable Member of Council.

MR. RICKETTS said that he did not wish to move the re-committal, but only to oppose the third reading.

MR. CURRIE said, he just wished to observe that the intended motion was not quite the same as that proposed at the last meeting. His objection to that motion was, that the exemption included standing crops. It made an important difference, that the amendment now proposed did not extend to them. He therefore thought that the Honorable Member was quite regular in moving for a re-committal.

THE VICE-PRESIDENT thought that it would be very unwise for the Council to lay down a rule against reconsidering a matter on which a vote had once been taken. Their object was to make their Bills as perfect as possible; and upon many subjects of debate Honorable Members might be found to alter the opinion which they had previously expressed. The question, however, could not now be said to have arisen here, for the Honorable Member's proposed amendment was different from that upon which the Council had voted at the last meeting.

MR. PEACOCK said, he thought that the Honorable Member was quite regular, if he wished it, to move for re-committal. He thought it very desirable that the Honorable Member should adopt that course in the first instance, instead of opposing the third reading upon a point which might possibly be amended. The vote of the Council had not been taken upon the simple question, whether implements of trade should be liable to be distrained, and he thought it would be better that that question should be discussed separately, without being encumbered by the question as to standing crops, with which it was mixed up in one motion at the last Meeting.

The amendment being put, the Council divided :—

Ayes 8.	*Noes* 2.
Sir Arthur Buller.	Mr. Forbes.
Mr. Currie.	Mr. Harington.
Mr. LeGeyt.	
Mr. Peacock.	
Mr. Ricketts.	
Sir J. Outram.	
Mr. Grant.	
The Vice-President.	

So the amendment was carried.

The Vice-President then retired from the Council Chamber, and Mr. Grant took the Chair.

MR. RICKETTS moved that the following proviso be added to Section II :—

"Provided that bullocks necessary to the cultivation of a tenant's holding, ploughs, and implements of husbandry, and the tools of artisans, shall not be subject to distraint or sale."

MR. FORBES said that the Honorable Member, in bringing forward this motion, had said that it would not be right to pass a law in opposition to laws passed by such eminent statesmen as Lords Cornwallis, Wellesley, and Minto, and Mr. Elphinstone. He (Mr. Forbes) however thought that that was hardly a sound argument, for it would equally apply to the amendment of any law, since every law had been passed in the time of some great man. The Council would recollect that a similar motion had been brought forward by the Honorable Member for Bombay, when the Code of Civil Procedure was in Committee, and rejected. He did not see why the Government should be in a worse position in the collection of their Revenue than the ordinary creditor was in the realization of debts due to him. It was true that hitherto the Madras law had exempted cattle and implements of trade and agriculture from sale. But that law was passed, not for the realization of the Government dues, but for the collection of arrears of rent due to zemindars by their ryots, the same law having been applied to collections by Government under Ryotwar Settlements.

It was reasonable to say that a zemindar should not have the power, for he probably would not be guided by

the same liberal principles as the Government. This Section did not make it imperative, and the Officers of Government would still be left with a discretion which, he had no doubt, they would use safely. He would therefore vote against the amendment.

The motion being put, the Council divided:—

Ayes 7.	*Noes* 2.
Sir Arthur Buller.	Mr. Forbes.
Mr. Currie.	Mr. Harington.
Mr. LeGeyt.	
Mr. Peacock.	
Mr. Ricketts.	
Sir J. Outram.	
The Chairman.	

So the motion was carried, and the Section as amended then passed.

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

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

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

GUARDIANSHIP OF MINORS (BENGAL).

The Order of the Day for the third reading of the Bill "for making better provision for the care of the persons and property of Minors in the Presidency of Fort William in Bengal" being read—

MR. CURRIE moved that the Bill be re-committed to a Committee of the whole Council, for the purpose of considering proposed amendments therein.

Agreed to.

Section III provided as follows:—

"Every person who shall claim a right to have charge of property in trust for a Minor under a Will or other Deed, or by reason of nearness of kin, or otherwise, may apply to the Civil Court for a Certificate of administration; and no person shall be competent to institute or defend any suit connected with the estate of which he claims the charge, or to give any legal discharge to the debtors of such estate, until he shall have obtained such Certificate."

MR. CURRIE moved for the omission of the word "other" before the word "Deed."

Agreed to.

MR. CURRIE moved for the substitution of the following for all the words after the word "administration":—

"And no person shall be entitled to institute or defend any suit connected with the estate of which he claims the charge until he shall have obtained such Certificate. Provided that, when the property is of small value, or for any other sufficient reason, any Court having jurisdiction may allow any relative of a Minor to institute or defend a suit on his behalf, although a Certificate of administration has not been granted to such relative."

He said he might mention that, after the re-publication of the Bill, he had endeavored to obtain opinions from persons capable of judging as to how it might be expected to work in practice. One of the Judges of the Sudder Court had kindly favored him with some remarks. His opinion was very favorable: he said:—

"I reckon this one of the most useful Acts we have had for long."

With regard to this particular Section, he said:—

"Perhaps the latter part of Section III is too strictly prohibitory. Cases may arise in which it should suffice, without enforcing the general provisions of the Bill, to empower a near relation or friend to sue or to defend a suit on behalf of a Minor. I think power should be given to the Courts to appoint a manager for the purpose of carrying on a suit (and no more) on the Minor's behalf."

A native gentleman of experience had also taken the same objection to this Section as it stood, especially where the Minor's property was of small value, in which case the trouble and expense of obtaining a certificate might be quite out of proportion to the value of the property.

For these reasons, he begged to move the present amendment.

MR. PEACOCK said, he thought the proposed amendment a great improvement, especially as regarded defendants.

The motion was carried, and the Section as amended then passed.

Section VI provided for an enquiry being made by the Civil Court on application for the appointment of a fit person to take charge of the property and person of a Minor.

MR. CURRIE moved the addition of the following proviso:—

"Provided always that it shall be competent to the Civil Court to direct any Court subordinate to it to make such enquiry and report the result."

The motion was carried, and the Section as amended then passed.

Section XI provided for the appointment of a Guardian.

MR. CURRIE said, the two other amendments which he had to move had been suggested by some remarks of his learned friend opposite (Mr. Peacock), when the Bill was before in Committee. He seemed to think that the functions of the Guardian and the Administrator were not defined with sufficient precision. He now moved the addition of the following words to Section XI:—

"The Court may also fix such allowance, as it may think proper, for the maintenance of the Minor; and such allowance, and the allowance of the Guardian (if any), shall be paid to the Guardian by the public Curator or other person as aforesaid."

Agreed to.

MR. CURRIE then moved the insertion of the following new Section after Section XVII:—

"Every person to whom a Certificate shall have been granted under the provisions of this Act, may exercise the same powers in the management of the estate as might have been exercised by the Proprietor if not a Minor, and may collect and pay all just claims, debts, and liabilities due to, or by, the estate of the Minor. But no such person shall have power to sell or mortgage any immoveable property, or to grant a lease thereof for any period exceeding five years, without an order of the Civil Court previously obtained."

Agreed to.

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

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

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

MERCHANT SEAMEN.

MR CURRIE postponed the motion (of which he had given notice for this day) for a Committee of the whole Council on the Bill "for the amendment of the law relating to Merchant Seamen."

PENSIONS.

MR. PEACOCK moved that the Report of the Select Committee on the project of a law for applying the provisions of the Government Order of the 1st December 1857, which affect Military Pensioners, to Pensioners in the Civil Department, and to the holders of rent-free lands, be adopted.

Agreed to.

RYOTWAR ARREARS (MADRAS PRESIDENCY).

MR. FORBES moved that Mr. Ricketts be requested to take the Bill "for the better recovery of arrears of Revenue under Ryotwar Settlements in the Madras Presidency" to the President in Council, in order that it might be submitted to the Governor-General for his assent.

Agreed to.

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Agreed to.

DELHI TERRITORY.

MR. PEACOCK moved that Mr. Ricketts be requested to take the Bill "to repeal Regulation V. 1832 of the Bengal Code, and to make certain provisions rendered necessary by the transfer of the Delhi Territory to the administration of the Chief Commissioner of the Punjab" to the President in Council, in order that it might be submitted to the Governor-General for his assent.

Agreed to.

DRAINAGE OF CALCUTTA.

SIR ARTHUR BULLER said that, seeing his Honorable friend, the Member

for Bengal, in his place, he would take leave to put to him a question which he believed would not wholly take him by surprize. He wished to ask him what steps had been taken to carry out the promise of the Act XXVIII of 1856, to give them, "with the least possible delay," an efficient system of drainage. In so doing he was quite aware that his Honorable friend was not in any way responsible for what had or had not been done, or was at all bound to answer any question that he might take upon himself to put to him. But he asked him the question, because he knew of no one who was so able to give information on the subject, or who was so ready, on all occasions, to impart what information he possessed.

The Council would recollect the animated discussion which took place in the Committee on the Municipal Bill upon the subject of drainage, and the jealous determination with which many Members, but especially his Honorable and learned friend on his left (Mr. Peacock), insisted upon an adequate provision being made for that important purpose. This provision was embodied in the 25th Clause of the Act, whereby it was enacted as follows:—

"The Commissioners shall carry out, with as little delay as possible, such a complete system of sewerage and drainage within the said town, as shall be directed by the Lieutenant-Governor of Bengal, with the sanction of the Governor-General in Council, subject to such alterations as may, from time to time, be ordered by the said Lieutenant-Governor with such sanction; and until such system of sewerage and drainage has been completed, and all the expenses thereof defrayed, and all monies borrowed for the payment of such expenses, on the security of the rates and interest thereon, have been repaid, shall set apart for the purposes above mentioned an annual sum, not less than one hundred and fifty thousand Rupees, out of the proceeds of the rate provided by Section IX of this Act."

The Act was passed in December 1856, and certainly, at that time, there was every reasonable hope of the promise being speedily fulfilled, for it appeared that, so far back as that time in the preceding year, namely, in December 1855, a scheme of drainage had been submitted to the Lieutenant-Governor, and by him referred, in March 1856, to a Committee for their report; and on referring to their debates in June of that year, he found the Honorable Member for Bengal expressing his hope that that report would soon be ready.

But, nevertheless, by one of those fatalities, which seemed to be the too common lot of reports in this country, the report in question was not made till June 1857. He had not that document before him, but he believed there was no doubt that it substantially adopted the scheme of 1855, and he presumed that it was intended to act upon it at once; for in that same month an establishment was proposed and sanctioned for the purpose of carrying it out at a cost of upwards of two thousand Rupees a month. No blame would seem to attach to the Commissioners, for they at once set to work, getting out machinery and collecting raw material, and making other preliminary preparations, which would be indispensable to whatever scheme they were eventually ordered to carry out. Many months ago, he believed, they were in a condition to begin, but there was no scheme to begin upon; and now they had so thoroughly completed their preliminary arrangements, that there was nothing else that they could do but begin upon the scheme, and still there was no scheme to begin upon. The engines were compelled to be idle, and the establishment was compelled to be idle too, and he believed their own invention could suggest no better occupation than to sell the bricks which they had made, and which were not only useless now, but very much in the way.

But what all this time had become of the scheme? They left it in the hands of the Government of Bengal in June 1857, favorably reported upon by the Drainage Committee. From that time up to April 1858 it seemed to have remained unnoticed. At all events, he could not learn that anything was done towards its advancement. In April, however, it was referred to Mr. Rendel, an English Engineer of reputation, who happened to be in Calcutta, and Mr. Rendel took it to England to consult his brother, an Engineer he believed of still higher reputation, promising to send back a report by return of post. Post after post had returned, but no report, and he understood that the last

that had been heard on the subject was that Mr. Rendel was ill, and that all his Indian business was stopped. In the mean time, as he had before said, the engines were standing still, and the establishment at two thousand Rupees a month was standing still, and the cold weather months, in which the best work was always done, were fast slipping away. Could, then, the Honorable Member tell him what their prospects were likely to be? Could he answer him these few questions? He owned they were difficult ones. Suppose Mr. Rendel's report came out some fine day, was it to be referred again to the Commissioners, and then again to a Committee? And, then, could he tell him how long it was likely to remain with the Government of Bengal before it obtained the preliminary sanction of the Lieutenant-Governor? And, again, if it got through that stage, how long it was likely to remain with the Governor-General in Council before it received its final permission to come into existence? He apprehended that, however doubtfully the promises of the Act had been kept as to the "carrying out the complete system of drainage," they had been most scrupulously observed as to the levying of the tax; and that every fraction of the heavy impost which it sanctioned, had been unmercifully realized. He should be glad therefore to be informed, if the Honorable gentleman was able to inform him, whether the lakh and a half required by the Act to be annually set apart for the purposes of drainage had been so set apart; and if set apart, how set apart? Whether it had been spent, or more or less left to accumulate; and finally, if spent, how spent; and if left to accumulate, how much had accumulated, and how it was proposed that the accumulation should be applied?

As one who was a party to the Act of 1856, he was anxious to have these questions answered, for, when he found things, now in December 1858, much in the same state as they were in December 1855, it was impossible not to have some misgivings as to the wisdom of their legislation.

The public, moreover, he was sure, must desire to be enlightened on this subject, for all they at present knew was that nothing had been done, and that for that nothing they had been compelled to pay—he thought he was not using an inappropriate figure of speech—most handsomely *through the nose.*

MR. CURRIE regretted that it was not in his power to give any further information than the Honorable Member had already communicated to the Council. Having brought in a Bill for the Municipal taxation of Calcutta, and carried it through Council, he was *functus officio*—he had no official information of any thing that had transpired since. He was aware, from the same sources as the Honorable and learned Judge, that the report of the Drainage Committee had been submitted to Government about eighteen months ago. He knew also that the Municipal Commissioners had lost no time in setting to work, and in making preparations for an efficient commencement so soon as Mr. Clarke's scheme had been approved. But what was the present cause of delay, he was not informed. The Act required the scheme to receive the sanction of the Lieutenant-Governor and of the Governor-General in Council—whether the Bengal Government had submitted the scheme with the report, approving of it, to the Supreme Government, he was not aware; nor did he know how the reference to Mr. Rendel originated. He agreed with the Honorable and learned Judge that it could hardly have been necessary to call for Mr. Rendel's opinion. Mr. Clarke was a professional Civil Engineer of considerable experience in drainage matters; his report had been submitted to scientific men, and after long and careful examination had been approved by them. The better plan would, he thought, have been to have commenced operations at once.

As to what had been done with the money raised by the increased taxation, he knew only from the published reports. Considerable sums had been paid for machinery and other things, and the remainder had been set apart in the Bank of Bengal under a separate account for drainage. There had, he supposed, been some accumulation, but the current expenses had been considerable.

He was asked, if Mr. Rendel's report should recommend any material variations from the proposed scheme,

what course would be taken? He confessed he was unable to answer that question. He thought it was to be regretted that opportunity had been given for the occurrence of such a contingency.

MR. GRANT said, perhaps if the Honorable and learned Judge would put the same question to himself or to any Member of the Executive Government at the next meeting, he might have such information as could be obtained on the subject from the Government records.

The Council adjourned.

Saturday, December 11, 1858.

PRESENT:

The Hon'ble the Chief Justice, *Vice President*, in the Chair.

Hon'ble J. P. Grant,	P. W. LeGeyt, Esq.,
Hon'ble Lieut.-Genl. Sir J. Outram,	E. Currie, Esq.,
Hon'ble H. Ricketts,	H. B. Harington, Esq., and
Hon'ble B. Peacock,	H. Forbes, Esq.

PILOT COURTS (BENGAL).

THE CLERK brought under the consideration of the Council a Petition of Mr. John Higgins, Branch Pilot in the Bengal Pilot Service, against the Bill "to amend the law for the trial of Officers of the Bengal Pilot Service for breach of duty."

MR. CURRIE moved that the above Petition be referred to the Select Committee to be appointed on the Bill.

Agreed to.

CANTONMENT JOINT-MAGISTRATES.

MR. HARINGTON presented the Report of the Select Committee on the Bill "for conferring Civil Jurisdiction in certain cases upon Cantonment Joint-Magistrates, and for constituting those Officers Registers of Deeds within the limits of their respective jurisdictions."

NABOB OF SURAT.

MR. LEGEYT moved the first reading of a Bill "to amend Act XVIII of 1848 (for the administration of the Estate of the late Nabob of Surat, and to continue privileges to his family)." He said, the object of this Bill was to modify Act XVIII of 1848, so as to give a right of appeal to the Judicial Committee of the Privy Council from any order of the Governor of Bombay in Council made under that Act. The Act (XVIII of 1848) was passed, in order to settle the family disputes of the late Nabob of Surat, who died in 1842. During the late Nabob's lifetime a law existed, by which he and his family enjoyed an exemption from the jurisdiction of the Civil and Criminal Courts of the East India Company. The exemption ceased on his death, and his heirs and the other members of his family were very desirous that it should be continued to them. In 1848 an Act was passed, giving the Governor of Bombay in Council the power

"To act in the administration of the property, of whatever nature, left by the late Nabob of Surat, in regard to the settlement and payment of the debts and claims standing against the estate of the said late Nabob at the time of his death, and to make distribution of the remaining property among his family;"

the Act further declaring that

"No act of the said Governor of Bombay in Council, in respect to the administration to, and distribution of, such property, from the death of the said late Nabob, shall be liable to be questioned in any Court of Law or Equity."

In execution of the power thus conferred upon it, the Government of Bombay appointed the Agent to the Governor at Surat to investigate all claims on the Estate of the late Nabob, and to report thereon to the Government. He did so, and reported to Government the manner in which he proposed that the property should be distributed, which was confirmed by the Government of Bombay. Some of the immediate heirs, however, were discontented with his award, and appealed to the Governor in Council for a reconsideration of the Agent's decision. Their prayer was refused, and they thereupon presented a petition of appeal to Her Majesty in Council. The Judicial Committee of the Privy Council, after