

Saturday, June 5, 1858

**LEGISLATIVE COUNCIL
OF
INDIA**

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PROCEEDINGS

OF THE

LEGISLATIVE COUNCIL OF INDIA,

January to December 1858.

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A. SAVINLE, CALCUTTA PRINTING AND PUBLISHING COMPANY (LIMITED),
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1858.

mittee on the Bill "for the amendment of the Law relating to Merchant Seamen."

Agreed to.

LUNATIC ASYLUMS.

Mr. CURRIE moved that Mr. Forbes be added to the Select Committee on the Bill "relating to Lunatic Asylums."

Agreed to.

ESTATES OF LUNATICS (MOFUSSIL).

Mr. CURRIE moved that Mr. Forbes be added to the Select Committee on the Bill "to make better provision for the care of the Estates of Lunatics not subject to the jurisdiction of Her Majesty's Courts of Judicature."

Agreed to.

COTTON FRAUDS (BOMBAY).

Mr. LEGEYT moved that Mr. Forbes be added to the Select Committee on the Bill "for the better suppression of Frauds in the Cotton-trade in the Presidency of Bombay."

Agreed to.

The Council then adjourned, on the motion of Mr. Grant.

Saturday, June 5, 1858.

PRESENT :

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

Hon J. P. Grant,	P. W. LeGeyt, Esq.,
Hon. Major General	E. Currie, Esq.,
Sir James Outram,	H. B. Harrington, Esq.,
Hon. B. Peacock,	and
Hon. H. Ricketts,	H. Forbes, Esq.

CIVIL PROCEDURE.

THE CLERK presented to the Council a Petition from Inhabitants of Dacca offering suggestions for improving the Procedure of the Civil Courts.

Mr. CURRIE moved that the Petition be referred to the Select Committees on the Bills for simplifying the

Procedure of the Courts of Civil Judicature of the East India Company.

Agreed to.

RECOVERY OF RENTS (BENGAL).

THE CLERK also presented a Petition from land-holders and others residing in Dacca relative to the Bill "to amend the law relating to the recovery of Rent in the Presidency of Fort William in Bengal."

Mr. CURRIE moved that the Petition be referred to the Select Committee on the Bill.

Agreed to.

ESTATE OF THE LATE NABOB OF THE CARNATIC.

THE CLERK also presented a Petition from certain creditors of the late Nabob of the Carnatic, praying for an amendment of Section XV of the Bill "to provide for the administration of the Estate and for the payment of the debts of the late Nabob of the Carnatic."

Mr. PEACOCK moved that the Petition be referred to the Select Committee on the Bill.

Agreed to.

OFFENCES AGAINST THE STATE.

THE CLERK reported to the Council that he had received a communication from the Secretary to the Government of India in the Home Department, forwarding papers relative to the trial of the Zemindar of Pachete, with a view to the amendment of the law regarding preparations for levying war against the State.

RESTORATION OF POSSESSION OF LANDS—AND REGULATION OF NATIVE PASSENGER SHIPS.

THE VICE-PRESIDENT read Messages informing the Legislative Council that the Governor General had assented to the Bill "to facilitate the recovery of land and other real property of which possession may have been wrongfully taken during the recent disturbances in the North-Western Provinces of the Presidency of Bengal;" and the Bill "for the regulation of Native Passenger Ships and of Steam Vessels intended to convey passengers on coasting voyages."

OFFENCES AGAINST THE STATE.

Mr. PEACOCK moved the first reading of a Bill "to make further provision for the trial and punishment of offences against the State." He said, the papers relating to the trial of the Zemindar of Pachete had been laid on the table, with a recommendation from the Government of India that the law relating to offences against the State should be amended. It was not his intention to make any remarks on that trial; but it appeared to him that the result shewed that the existing law required amendment. According to the Commissioner before whom the trial was held, there was no doubt that the Zemindar of Pachete was in a state of disaffection. He had collected arms, ammunition, and men; he had sworn his followers to secrecy, and had sent improper and insulting letters to Officers of Government. It was not for him (Mr. Peacock) to consider what conclusion might have been drawn from these acts if the question had been with what intent the Zemindar had collected these arms, ammunition, and men. The question before the Commissioner was, had he levied war against the State, or had he conspired to do so? Levying war, and conspiring to levy war against the State, were the charges upon which he was indicted; and the Commissioner stated that, upon the evidence, he could not come to the conclusion that he was guilty of those charges. If compassing to levy war, like compassing the King's death, accompanied by an overt act, had been an offence, then there might have been another question for the Commissioner to determine. Although the prisoner had not been proved to have actually levied war, or to have entered into a conspiracy to levy war against the State, still his having collected arms, ammunition, and men—his having written and sent insulting and offensive letters to Government Officers—and his having administered an oath to his followers not to disclose anything that took place in their presence, would have been facts upon which the Commissioner could have determined the question of his intention. By the law of England as it stood under the Statute 25 of Edward III., compassing

or imagining the King's death was an act of treason: the act of levying war against the King was also treason; but a mere intention to levy war was not treason. The collecting of arms, ammunition, and men for the purpose of killing the King, was an overt act of compassing the death of the King, and was treason. But collecting arms, ammunition, and men with the intention of levying war, was not treason, unless war was actually levied. The mere intention, in short, to levy war, though accompanied by an overt act, was not an act of rebellion or treason. The law was amended by 11 and 12 Vic. c. 12, s. 3, which made it felony to compass the levying of war, and rendered the offence punishable with transportation for life, if the object was one of those mentioned in the Statute. The words of the Section were as follows:—

"And be it enacted that, if any person whatever, after the passing of this Act, shall, within the United Kingdom or without, compass, imagine, invent, devise, or intend to deprive or depose our most gracious Lady the Queen, her heirs, or successors, from the style, honor, or royal name of the Imperial Crown of the United Kingdom, or of any of Her Majesty's dominions and countries, or to levy war"—that was to say, or shall compass, imagine, or intend to levy war—"against Her Majesty, her heirs, or successors, within any part of the United Kingdom, in order by force or constraint to compel her or them to change her or their measures or counsels, or in order to put any force or constraint upon, or in order to intimidate or overawe both Houses or either House of Parliament, or to move any foreigner or stranger with force to invade the United Kingdom, or any other of Her Majesty's dominions or countries under the obedience of Her Majesty, her heirs, or successors, and such compassings, imaginations, inventions, devices, or intentions, or any of them, shall express, utter, or declare, by publishing any printing or writing, or by open and advised speaking, or by any overt act or deed, every person so offending shall be guilty of felony, and being convicted thereof, shall be liable, at the discretion of the Court, to be transported beyond the seas for the term of his or her natural life, or for any term not less than seven years, or to be imprisoned for any term not exceeding two years, with or without hard labor, as the Court shall direct."

Section VII declared as follows:—

"Provided also, and be it enacted that, if the facts or matters alleged in an Indictment for any felony under this Act shall amount in

Law to treason, such Indictment shall not by reason thereof be deemed void, erroneous, or defective; and if the facts or matters proved on the trial of any person indicted for any felony under this Act shall amount to treason, such person shall not, by reason thereof, be entitled to be acquitted of such felony: but no person tried for such felony, shall be afterwards prosecuted for treason upon the same facts."

What he proposed was to make it an offence to collect arms, ammunition, or men with the intention of levying war against the State, or of being prepared to levy such war, and to make the offence punishable in the same manner as the offence of actually levying war. Under this Bill, the collection of arms, ammunition, and men for the purpose of levying war would be punishable if it should be proved to be the intention of the offender either to levy war against the State, or to be in a state of preparation to levy such war if chances should turn up in his favor. Had that been the law at present, the Commissioner who tried the Zemindar of Pachete might probably have come to the conclusion that his object in collecting arms, ammunition, and men, was either to levy war against the State, or that he might be prepared to do so if a favorable opportunity should occur. The fact of his administering an oath of secrecy was strong evidence to shew that his intention was not merely to provide for his own defence, or to render assistance to the East India Company. The Bill enacted that, if any person, owing allegiance to the British Government, should collect arms, ammunition, and men, or otherwise prepare to levy war, with the intention either of levying war, or of being prepared to levy war against the Queen or the Government of the East India Company, he should be liable, upon conviction, to the punishment of death, or to the punishment of transportation for life, or of imprisonment with hard labor for any term not exceeding fourteen years; and should also forfeit his property and effects of whatever description. These were the punishments provided by Section I of Act XI of 1857 for rebellion, or waging war against the Government. The mere fact of an individual collecting arms, ammunition, and men, with the view, not of protecting himself, or of assisting the Government, but of levying war against the Government, or of being in

Mr. Peacock

a state of preparation to do so whenever an opportunity might offer, was an offence almost as dangerous to the State as the actual levying of war, and he thought that it was not going too far to render it liable to the same punishment.

Section II of the Bill was directed against the harboring or concealing of offenders, and provided the same punishment as Section II of the existing Act.

He also proposed to make misprision an offence. The Bill provided that, if any person, having knowledge of the commission by another of any of the offences mentioned in Section I of Act XI of 1857, or in Section I of this Act, should conceal the fact, or neglect to make it known to the Government or to the local judicial authorities, he should be liable to imprisonment for any term not exceeding seven years, and also to fine. This was a very important Section. Persons were not to conceal offences against the State. Such concealment was an offence punishable by the law of England; he believed it was also punishable by the laws of other countries: it was certainly punishable by the law of America, which provided the same punishment for it as that proposed in this Bill. There was a Clause in the Penal Code for punishing misprision of offences against the State. He had not exactly followed that Clause, because he was not certain that the Select Committee sitting on the Penal Code might not think it necessary to amend it before they reported upon the Code to the Council.

The Bill was read a first time.

INSTITUTION OF SUITS AND APPEALS (N. W. PROVINCES).

MR. HARRINGTON moved the second reading of the Bill "for the relief of persons who, in consequence of the recent disturbances, may have been prevented from instituting or prosecuting suits or appeals in the Courts of the North-Western Provinces within the period allowed by law."

MR. RICKEYTS said, if only for the sake of consistency, and lest it should be supposed that the Honorable Member for the North-Western Provinces had convinced him that the view he expressed the other day in this Council

was visionary and unsuited to the condition of the times, it behoved him to say that he disapproved of the little Bill now before the Council just as much as he disapproved of the little Bill introduced some weeks ago. He wished that the Honorable Member would at once say how many more of these little Bills he had in his portfolio. He must have others; for he (Mr. Ricketts) learnt that, so long ago as the 5th of March last, the Chief Commissioner of the Punjab issued a Circular Order stating that he had resolved that

"every community, section of community, or individual who may have plundered or destroyed property, real or personal, belonging to European British subjects, or European foreigners, or to Native Christians, or to the Natives of the country who threw in their lot with us, shall be made to pay the value of the same to the utmost of his or their means, and within the earliest reasonable period."

The Chief Commissioner had also resolved that it should "be the duty of the local authorities to ascertain *summarily* and estimate fairly the value of the property plundered or destroyed, under whatsoever circumstances." These rules had been issued upwards of three months ago for the Provinces of the North-West which were transferred to the administration of the Punjab. That which was good for the Provinces transferred, must also be good for the Provinces not transferred; and he (Mr. Ricketts) supposed that the Honorable Member must have a Bill somewhere for placing the latter on the same footing in this respect. It could not, he thought, be good that the Natives of the country should see a system such as that he had just read in force in the Provinces transferred, and nothing of the kind provided for the untransferred Districts. He must suppose, therefore, that the Honorable Member had another special Bill in store; and if this was to go on, we should, for many months to come, have the Honorable Member, like Oliver, constantly asking for more. He knew that the Honorable Member would not take his advice; but, nevertheless, feeling strongly on the subject as he did, he considered it his duty to tender it. His advice was that the Honorable Member should introduce a Bill of this nature:—

"A Bill to enlarge the powers of the Government of the North-Western Provinces.

"It shall be lawful for the Government of the North-Western Provinces, anything contained in any Regulation or Act notwithstanding, to remedy generally, by such means and in such manner as may be considered suitable, any losses or injuries suffered by individuals, or communities, or by the State, in the late disturbances in those Provinces: and it shall be lawful for the said Government to amend or suspend any part of the existing Code of Procedure in the Civil and Criminal Courts, and to alter the constitution, jurisdiction, and powers of any of the Civil, Criminal, and Revenue Courts of those Provinces, and to vest any European or Native Officers of Police with such powers as from time to time may appear needful."

Armed with such an Act as that, the Executive Government might forget altogether that the Legislative Council existed; and he thought it might be well that, for a time, its existence should be forgotten. He was aware that the Honorable Member and his friends at Allahabad were wedded to the system which now existed in the North-Western Provinces, and that they felt apprehensive lest any general measure of the kind he recommended, should be construed as implying that the system had broken down. He saw no reason for any sensitiveness or any anxiety on that point, though he perceived, from the papers received by the last Mail, that high authorities in England were already beginning to speak of the expediency of introducing into the North-Western Provinces the system which had been introduced with so much advantage into the Punjab. They said:—

"In our earlier administration of India, we were ignorant of the genius and character of its people. We gave to them an elaborate and complex system of Judicature which they did not understand, much less appreciate, and which has raised up a host of native attorneys, and encouraged perjury and corruption in the Courts. What the Natives of India desired and did understand, was a system like that which had been introduced into the Punjab, Pegue, and our newly-acquired territories. They did not understand that division of authority under which the Magistrate could go farther than the Collector, and the Judge go farther than the Magistrate; and, to use an old-fashioned maxim, they preferred speedy injustice to tardy justice."

He believed that they did; that speedy justice was quite as desirable in the North-Western Provinces as in the

Punjab; and he would enable the Executive Government of those Provinces to administer speedy justice, by enacting such an Act as he had read.

MR. PEACOCK asked if the Honorable Member made any motion on the subject.

MR. RICKETTS replied that he did not.

MR. PEACOCK said, he understood the Honorable Member to recommend the Honorable Member on his right (Mr. Harington) to bring in a Bill to authorize the Government of the North-Western Provinces to pass such laws as it should think necessary for the purpose of ensuring speedy justice to the inhabitants, and of rectifying defects in the present laws and administration. As the Honorable Member had only very lately become a Member of the Legislative Council, he might possibly be excused for not having thoroughly studied its constitution. Had he so studied it, he would have known that the Legislative Council had no power to pass any such Act as that which he recommended. No Executive Government in India had power to make Laws or Regulations; and it was not competent to this Council to give them such power. All Laws passed in India must be considered and passed by this assembly, and must receive the assent of the Governor General. The Charter Act 8 and 4 Wm. IV, c. 85, under which the Council sat, contained provisions to this effect; and he thought it right to call the attention of the Honorable Member to them, because, when the Honorable Member publicly expressed opinions of this nature, he thought it right that both he and the Public should understand the position in which the Council was placed. It was useless to tell the Council that the Lieutenant-Governor of the North-Western Provinces ought to be empowered to pass Laws for providing speedy justice in those Provinces, and for other matters, when the Council had no authority to give the Lieutenant-Governor any such power. The Sections of the Statute to which he alluded, were Sections XLIII and LXX. Section XLIII enacted as follows:—

“And be it enacted that the said Governor General in Council shall have power to make Laws and Regulations for repealing, amending,

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or altering any Laws or Regulations whatever now in force or hereafter to be in force in the said territories or any part thereof, and to make Laws and Regulations for all persons, whether British or Native, foreigners or others, and for all Courts of justice whether established by His Majesty's Charters or otherwise, and the jurisdiction thereof, and for all places and things whatsoever within and throughout the whole and every part of the said territories and for all servants of the said Company within the dominions of Princes and States in alliance with the said Company; save and except that the said Governor General in Council shall not have the power of making any Laws or Regulations which shall in any way repeal, vary, suspend, or affect any of the provisions of this Act.”

Now, the provisions here referred to, were provisions which gave to the Governor-General in Council the power of making Laws, but the same Statute withheld that power from the local Governments. So far, indeed, had Parliament gone in this particular that it had provided that, when the Governor General left the Presidency unaccompanied by any Member of the Council of India, the Legislative Council might authorize him to exercise all the powers which might be exercised by the Governor General in Council, *except the power of making Laws or Regulations*. Consequently, this Council could not vest even the Governor General himself with power to make Laws. If the Governor General wished to make any Law, he must sit in this assembly. While absent at Allahabad or elsewhere, he could give his assent to Bills passed by this Council; but he could not pass any Law whatever. The Section in the Charter Act which provided this, was Section LXX. It said:—

“Whenever the Governor General in Council shall declare it is expedient that the Governor General should visit any part of India unaccompanied by any Member or Members of the Council of India, it shall be lawful for the Governor General in Council, previous to the departure of the Governor General, to nominate some Member of the Council to be its President, in whom, during the Governor General's absence from the Presidency of Fort William, the powers of the Governor General in assemblies of the Council, shall be reposed: and it shall be lawful in every such case for the Governor General in Council, by a Law or Regulation for that purpose to be made, to authorize the Governor General alone to exercise all or any of the powers which might be exercised by the Governor General in Council, *except the power of making Laws or Regulations.*”

Therefore, it was not competent to this Council to give the Governor General himself the power of making Laws and Regulations. The Governor General was at present administering the Executive Government of the North-Western Provinces. If the Council could not give the power of making Laws and Regulations to the Governor General as Governor General, surely it could not give it to him as Lieutenant-Governor or Governor of the North-Western Provinces; and if it could not give it to him in either of those capacities, could it give it to any inferior Officer who might be appointed Lieutenant-Governor of the North-Western Provinces? He (Mr. Peacock) apprehended that the intention of the Charter Act was that no one, whether Governor General, or Governor of a Presidency, or Lieutenant-Governor, or Chief Commissioner, should have the power of making Laws. This Council had no power to pass any Law altering the provisions of the Charter Act, and it could not authorize either the Governor General himself or any other person to make Laws. Consequently, to advise the Honorable Member for the North-Western Provinces to propose a Bill which should authorize the Executive Government of the North-Western Provinces to pass such Laws as it should consider expedient, was to advise him to propose a measure which the Council must instantaneously reject as opposed to one of the fundamental principles of its constitution. If the Honorable Member opposite (Mr. Ricketts) thought that the Charter Act did not restrict the power of making Laws to the Legislative Council, he (Mr. Peacock) would recommend him to read the Despatch which was received by the Government of India from the Honorable Court of Directors in 1834, shortly after the passing of the Charter Act. That Despatch pointed out the powers and duties of the Governor General in Council in regard to making Laws, and expressly stated that the whole responsibility for every Law that might be passed, rested upon the Governor General in Council. Was this Council to authorize the Lieutenant-Governor of the North-Western Provinces, or the Governor of any Presidency, or the Chief Commissioner

or Commissioner of any Province, to make any Laws he pleased, and leave the Governor General in Council responsible for them? For his own part, he could not for a moment seriously think of attempting to vest legislative functions in any person, however high his rank, or however competent he might be for the duty, in violation of the express provisions of the Charter Act, and of the constitution of this Council. If it was desirable that powers of legislation should be given to the Executive Governments, they would, doubtless, be given by Parliament; but let not any Honorable Member be constantly talking in this Council of things that ought to be done by the Council when the Council had no power to do them. If the Honorable Member opposite (Mr. Ricketts) really thought that the Executive Government of the North-Western Provinces should be authorized to legislate and to alter at its own discretion the Civil and Criminal judicature in those Provinces, why, instead of advising another Member to bring in a Bill for the purpose, did he not bring one in himself? It was perfectly open to him to introduce a Bill suspending the operation of all the Regulations now in force, and declaring the whole of the North-Western Provinces to be non-Regulation Provinces. It was quite competent to the Honorable Member to propose it; and then he would have an opportunity of taking the opinion of the Council upon his project, and seeing how far the Council went along with him in his views. But before the Honorable Member proposed to authorize the person administering the Executive Government of the North-Western Provinces to legislate for those Provinces, he would earnestly recommend him to study the Clauses of the Charter Act to which he had referred him, and the Despatch of the Honorable Court of Directors to which he had directed his attention. The Despatch was a most excellent one, well worthy of being studied; and it laid down clearly and definitively the rules and principles by which the Governor General in Council should be guided in acting upon the powers of legislation vested in him by the Charter Act.

MR. HARRINGTON said, the op-

position offered by the Honorable Member of Council opposite (Mr. Ricketts) to the Bill which he had asked the Council to read this day a second time, had not taken him by surprise. Indeed, he might say that, from what had fallen from the Honorable Member on the occasion of his addressing the Council for the first time after taking his seat, he had fully anticipated that the Honorable Member would make the same objection to the Bill now proposed to be passed as was made by him to the measure then under discussion, and which, having received the assent of the Right Honorable the Governor General, as intimated to the Council at the commencement of this day's proceedings, had become Law—namely, that it was piecemeal legislation. But although the opposition which the Bill now before the Council had met with from the Honorable Member was not altogether unexpected, he must be permitted to express some degree of astonishment at the silence which had been maintained by the Honorable Member up to this time since the delivery of the speech to which he had referred. In that speech, the Honorable Member had told the Council that the condition of the North-Western Provinces was such that it did not appear to him possible that any Act which might apply to one or two Districts, would be applicable to all, and that he should much prefer either that the powers of the Governor of the North-Western Provinces should be enlarged, or that the operation of the Regulations in those Provinces should be suspended for a term. Entertaining these views, he certainly thought that, as suggested by the Honorable and learned Member of Council on his left (Mr. Peacock), the Honorable Member, instead of confining himself to an abstract declaration of his opinion as to the course which it might be proper to pursue, should himself, in this interval of upwards of a month, have brought in a Bill embodying his views, in order that he might take the sense of the Council upon them, and ascertain how far they were prepared to go along with him. He could not perceive that any advantage could arise from a mere confession of faith, if he might so speak, such as was made by the Honorable Member on the occasion of his first addressing the Council; while, if the Ho-

Mr. Harington

norable Member's views were correct, and if he had hit upon a suitable remedy for the existing state of things in the North-Western Provinces, there could be no doubt that much practical good would result from their being made the subject of legislation, and from proper measures being taken for their enforcement. Of what use, he would ask, were the Honorable Member's views if they were to appear only on the printed record of the Council's Proceedings, or in the columns of the public prints? It was from their application, if just, and not from the expression of them merely, that the people at large would benefit.

His Honorable and learned friend on his left had so fully and conclusively answered that part of the Honorable Member's speech in which he had recommended him to bring in a Bill to do that which his Honorable and learned friend had pointed out could not legally be done, that he considered it quite unnecessary to trouble the Council with any further remarks on the subject.

The Honorable Member wished to know whether he had any more small Bills of the same character as that before the Council in his portfolio, and if so, how many? The Honorable Member would be glad to learn that he had no more Bills arising out of the present state of the country in hand, and that, moreover, he did not anticipate that, in so far as the Civil Courts in the North-Western Provinces were concerned, it would be necessary to have recourse to any further legislation until the Council were called upon to pass the Code of Civil Procedure, which was now rapidly going through Committee, and would, he hoped, soon become Law.

The Honorable Member charged him and his friends at Allahabad with being so wedded to the present system that they would consent to no change. On what authority, or on what grounds he had brought forward this charge, or who were the friends to whom the Honorable Member alluded, he had no idea; but if the Honorable Member would refer to the proceedings of Government for the year 1854, he would find that he was called down to Calcutta in that year to take part with Mr. Mills, who, for some time, had a seat in this Council, in drawing up a Code of Civil Pro-

cedure, and that they had proposed a large and sweeping measure of reform which appeared to them well calculated to secure the object so earnestly advocated by the Honorable Member of Council—namely, the speedy and efficient administration of justice in our Civil Courts. They had also drawn up a Bill empowering the Government to establish Courts of Small Causes throughout India. It was no fault of his that the measures proposed by Mr. Mills and himself had not been adopted. To himself, it had, for some time, been a subject of regret that the Bill for establishing Courts of Small Causes, which had been carefully considered and amended by a Committee of the Council, had not been passed into Law long ago. It was still before the Council, and he should cordially support any motion for passing it.

The Honorable Member seemed to suppose that the Bill under discussion had originated with him; but such was not the case. As noticed in his remarks when he moved the first reading of the Bill, he had received a communication from the Government of the North-Western Provinces, accompanied by a Report from the Sudder Court at Agra, in which he was requested to adopt the necessary measures for bringing in a Bill to meet the objects specified in the Sudder Court's letter. The present Bill was framed in consequence of those directions; and as the Honorable Member of Council opposite, though he objected to the Bill, had brought forward no specific motion, it only remained for him (Mr. Harington) to express a hope that the Council would allow it to be read a second time.

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

CONTINUANCE OF CERTAIN PRIVILEGES TO THE FAMILY, &c. OF THE LATE NABOB OF THE CARNATIC.

MR. FORBES moved the second reading of the Bill "to continue certain privileges and immunities to the family and retainers of the late Nabob of the Carnatic."

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

VOL. IV.—PART VI.

KURNOOL.

MR. FORBES moved that the Bill "for bringing the District of Kurnool under the Laws of the Presidency of Fort St. George" be now read a third time and passed.

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

MUNICIPAL ASSESSMENT (BOMBAY).

MR. LEGEYNT moved that the Bill "for appointing Municipal Commissioners and for raising a Fund for Municipal purposes in the Town of Bombay" be referred back to a Select Committee consisting of Mr. Currie, Mr. Forbes, and the Mover, and that the Committee be instructed to take into consideration a communication on the subject recently received by him from the Government of Bombay, and to propose such further amendments in the Bill as may appear to them to be necessary.

He said he would briefly explain his object in wishing to adopt this course. On the 27th of February last, the Bombay Municipal Bill was ordered to be republished, and to be brought up for re-consideration after five weeks.

He had not been able to bring the matter forward again at the expiration of five weeks. On the 14th of March, he received a communication from the Government of Bombay requesting that further proceedings might be suspended, in order that the Government might consider the amendments made in the Bill by the Select Committee and adopted by the Council, but which, in some respects, did not seem to meet the views of the Government or the Bench of Justices. The communication from the Government of Bombay referred to in his motion, he received only yesterday. He found that the Government and the Bench of Justices did not agree to several of the alterations made in the Bill, particularly to those which related to the constitution of the Municipal Body; moreover, great annoyance was felt by the Justices at the proposal to take the control of the public works out of their hands. It was the wish of the Government of Bombay to go as much as possible hand in hand with the Bench of Justices, in this matter. The recovery of large sums advanced by the Govern-

ment for the Veihar Works depended much on a good understanding being maintained between the Justices and the Government. Under these circumstances, he thought that the Bill should undergo some reconsideration, and probably it would be better that such reconsideration should be had in Select Committee, than in a Committee of the whole Council.

After some discussion as to whether the course proposed was regular, this Bill having been settled in a Committee of the whole Council, MR. LE GEYT, with the leave of the Council, withdrew his motion, stating that he would consider the several suggestions just made, and move or give notice of motion next Saturday.

INSTITUTION OF SUITS AND APPEALS (N. W. PROVINCES).

MR. HARINGTON moved that the Bill "for the relief of persons who, in consequence of the recent disturbances, may have been prevented from instituting or prosecuting suits or appeals in the Courts of the North-Western Provinces within the period allowed by law" be referred to a Select Committee consisting of Mr. LeGeyt, Mr. Currie, and the Mover.

Agreed to.

MR. HARINGTON moved that the Standing Orders be suspended to enable the Select Committee to present their Report within one month.

MR. FORBES seconded the Motion, which was then agreed to.

CONTINUANCE OF CERTAIN PRIVILEGES TO THE FAMILY, &c. OF THE LATE NABOB OF THE CARNATIC.

MR. FORBES moved that the Bill "to continue certain privileges and immunities to the family and retainers of the late Nabob of the Carnatic" be referred to a Select Committee consisting of Mr. Peacock, Mr. Harington, and the Mover.

Agreed to.

KURNOOL.

MR. FORBES moved that Mr. Ricketts be requested to take the Bill "for bringing the District of Kurnool under the Laws of the Presidency of Fort St. George" to the President in Council, in

Mr. LeGeyt

order that it might be submitted to the Governor General for his assent.

Agreed to.

INSTITUTION OF SUITS AND APPEALS (N. W. PROVINCES).

MR. HARINGTON moved that the Select Committee on the Bill "for the relief of persons who, in consequence of the recent disturbances, may have been prevented from instituting or prosecuting suits or appeals in the Courts of the North-Western Provinces within the period allowed by law" be instructed to present their Report within one month.

Agreed to.

SUSPENSION OF SUITS AGAINST THE FAMILY, &c. OF THE LATE NABOB OF THE CARNATIC.

MR. PEACOCK moved that the Standing Orders be suspended to enable him to bring in and proceed with a Bill "to continue for six months the privileges granted by Act I of 1844 to certain members of the family, household, and retinue of his late Highness the Nabob of the Carnatic." In doing so, he said the Council had already, by its vote on the Motion for the second reading of the Bill introduced by the Honorable Member for Madras on Saturday last, adopted the principle that the privileges and immunities conferred by Act I of 1844 on the family and retainers of the late Nabob of the Carnatic should be continued to them. It had not been thought right to suspend the Standing Orders for the passing of that Bill, because, as it affected the private interests of the creditors of the Nabob, and was not a mere temporary Act, it was but fair that the creditors should have an opportunity of pointing out any objections which they might have to offer against the measure. Last year, this Council passed an Act—XVIII of 1857—allowing one year to the family and retainers of the late Nabob of the Carnatic for the purpose of appealing against the decision of the Supreme Court of Madras, which declared Act I of 1844 to have ceased to have effect in consequence of the death of the Nabob. That Act would expire on the 4th of next month; and from that date, the family and retainers of the late Nabob,

if no other measure were adopted, would be liable to be sued and imprisoned. It did not appear to him expedient that, after having affirmed the principle that the exemption given by Act I of 1844 should be continued to certain members of the family of the late Nabob for life, the Council should leave them to be sued and arrested between the 4th of July and the time when it would have an opportunity of fully discussing the Bill which had just been read a second time. No appeal could now be brought under Act XVIII of 1857 against the decision of the Supreme Court. But if it was right, as the Council had determined it to be, that the family and retainers of the late Nabob should have the privilege conferred upon them by Act I of 1844 continued, he thought it was also right that they should have the same protection during the progress of the Bill introduced by the Honorable Member for Madras through its several stages. He, therefore, proposed to read for a first and second time to-day a Bill to continue for six months the privileges granted by Act I of 1844 to certain member of the family, household, and retinue of his late Highness the Nabob of the Carnatic. He had fixed six months, lest any objections might come in from creditors of the Nabob which might delay the final settlement of the Bill introduced by the Honorable Member for Madras; but if Honorable Members considered six months too long, he had no objection to limit the operation of the Bill to four months.

He moved this Bill necessarily without any previous notice. He could not have given notice that he would move it, because he could not be sure that the Council would adopt the principle of the Bill which had been brought in by the Honorable Member for Madras.

MR. GRANT seconded the Motion, which was then carried.

MR. PEACOCK moved that the Bill be now read a first time.

The Bill was read a first time.

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

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

MR. PEACOCK then moved that the Bill be referred to a Select Committee consisting of Mr. Harrington, Mr. Forbes, and the Mover, with an instruction to

report upon it at the next Meeting of the Council.

Agreed to.

The Council adjourned.

Saturday, June 12, 1858.

PRESENT :

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

Hon. J. P. Grant,	E. Currie, Esq.
Hon. H. Ricketts,	H. B. Harrington, Esq.
Hon. B. Peacock,	and
P. W. LeGeyt, Esq.	H. Forbes, Esq.

ARMY AND STATE OFFENCES; HEINOUS OFFENCES; MUTINY AND DESERTION.

THE VICE-PRESIDENT read a Message informing the Legislative Council that the Governor General had assented to the Bill "to continue in force for a further period Acts XIV of 1857, XVI of 1857, and XVII of 1857, and to authorize in certain cases the transportation of offenders sentenced to imprisonment."

ESTATE OF THE LATE NABOB OF THE CARNATIC.

THE CLERK brought to the notice of the Council a Petition purporting to be "The Humble Petition of His Highness Azeem Jah Bahadour, Nabob of the Carnatic and Subahdar of Arcot," and signed "Azeem Jah," against the Bill "to provide for the administration of the Estate and for the payment of the debts of the late Nabob of the Carnatic."

MR. GRANT said, he apprehended that the Council could not receive the Petition. There was no such title recognized as the Nabob of the Carnatic and Subahdar of Arcot. The title had lapsed in 1855.

The Petition was not received.

MR. PEACOCK said, to give the Petitioner an opportunity of presenting his Petition in a correct form, he should move that the Clerk of the Council do inform him of the grounds upon which the present Petition had been rejected.

THE VICE-PRESIDENT said, he should take this opportunity of mentioning that he had reason to believe