

**LEGISLATIVE COUNCIL
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PROCEEDINGS

OF THE

LEGISLATIVE COUNCIL OF INDIA,

January to December 1858.

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fifty miles from the place where the Court is held."

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

On the motion of Mr. Currie, a verbal amendment was made in Section 70.

MR. CURRIE said that, although the discussion which had taken place in the Section relating to set-off, had resulted in the omission of that Section, it seemed to be the general opinion of the Council that the right of set-off, if limited to debts, might unobjectionably be allowed. He therefore moved that the following new Section be inserted before Section 96:—

"If in a suit for debt the defendant desire to set-off against the claim of the plaintiff the amount of any debt due to him from the plaintiff, he shall tender a written statement containing the particulars of his demand, and the Court shall thereupon enquire into the same. Provided that, if the sum claimed by the defendant exceed the amount cognizable by the Court, the defendant shall not be allowed to set-off the same unless he abandon the excess."

Agreed to.

Mr CURRIE then moved to restore the former Section 167, which prescribed what the decree should contain when a claim to set-off was allowed, with a few verbal alterations.

Agreed to.

MR. CURRIE also moved to transpose the new Section 32 of Chapter IV relating to cross-decrees, so that it might stand after Section 9 of the same Chapter.

Agreed to.

Verbal amendments were made in Sections 5 and 7 of Chapter V.

MR. PEACOCK said, when the Bill was before the Select Committee, it was thought that, if the Sections were numbered in order from Section 1 to the end of the final Chapter, it would be more convenient than the present mode of numbering the Sections under each Chapter separately. He therefore moved that the Sections be numbered consecutively.

Agreed to.

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

MR. PEACOCK moved that the Bill, as settled in Committee of the whole

Council, be published for general information, and that it be re-considered after two months.

Agreed to.

OATHS TO HINDOOS AND MAHOMEDANS.

MR. HARRINGTON moved that an application be made to the Supreme Government that copies of any correspondence in the Office of the Home Secretary which might have taken place relative to the administration of Oaths to Hindoos and Mahomedans, and which might have led to the passing of Act V of 1840, be laid before the Council.

Agreed to.

PILOT COURTS (BENGAL.)

MR. CURRIE gave notice that he would, on Saturday the 18th Instant, move the first reading of a Bill to amend the law for the trial of Officers of the Bengal Pilot Service accused of breach of duty.

DELHI AND MEERUT.

MR. PEACOCK gave notice that he would on the same day move for a Committee of the whole Council on the Bill "to remove from the operation of the General Laws and Regulations the Delhi Territory and Meerut Division, or such parts thereof as the Governor General in Council shall place under the administration of the Chief Commissioner of the Punjab."

The Council adjourned.

Saturday, November 13, 1858.

PRESENT :

The Honorable the Chief Justice, *Vice-President*, in the Chair.

Hon'ble Lieut.-Genl.	E. Currie, Esq.,
Sir J. Outram,	H. B. Harrington,
Hon'ble H. Ris-	Esq.,
ketts,	and
Hon'ble B. Peacock,	H. Forbes, Esq.

CIVIL PROCEDURE.

THE CLERK reported to the Council that he had received from the Home

Department, copies of two Despatches from the Court of Directors suggesting the enactment of a law to render compulsory the institution of Civil Suits in the Courts of lowest jurisdiction competent to take cognizance of them.

MR. PEACOCK said, he did not think it necessary to move that this communication be printed, inasmuch as a new Section to the effect proposed had been introduced into the Code of Civil Procedure.

ELECTRIC TELEGRAPHS.

THE CLERK also reported that he had received from the Home Department a copy of a correspondence with the Superintendent of Electric Telegraphs relative to certain amendments in Act XXXIV. of 1854, "for regulating the establishment and management of Electric Telegraphs in India."

MR. PEACOCK moved that the above communication be printed.

Agreed to.

PENSIONERS.

MR. PEACOCK postponed the presentation of 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. He said that the Report was not yet ready, as there was some difference of opinion among the Members of the Committee; besides which, one of them (the Honorable Member for Bombay) was absent.

PILOT COURTS (BENGAL).

MR. CURRIE postponed the motion (of which he had given notice for this day) for the first reading of a Bill to amend the law for the trial of Officers of the Bengal Pilot Service accused of breach of duty.

LEASES OF GHATWALEE LANDS (BEERBHOOM).

MR. CURRIE moved the second reading of the Bill "to empower the holders of Ghatwalee lands in the District of Beerbhoom to grant leases extending beyond the period of their own possession."

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

MEERUT AND DELHI.

MR. PEACOCK postponed the motion (of which he had given notice for this day) for a Committee of the whole Council on the Bill "to remove from the operation of the General Laws and Regulations the Delhi Territory and Meerut Division or such parts thereof as the Governor General in Council shall place under the administration of the Chief Commissioner of the Punjab." He said he understood that a communication on the subject of this Bill had recently been addressed by the Honorable Member for the North-Western Provinces to the Sudder Court at Agra, to which no reply had yet been received.

SMALL CAUSE COURTS (MOFUSSIL).

MR. HARRINGTON gave notice that he would next Saturday move the second reading of the Bill "for the establishment of Courts of Small Causes beyond the local limits of the jurisdiction of the Supreme Courts of Judicature established by Royal Charter".

OATHS AND AFFIRMATIONS.

MR. FORBES gave notice that he would, on the same day, move the second reading of the Bill "concerning Oaths and Affirmations".

TRIALS FOR RAPE.

MR. CURRIE moved that the Select Committee on the Bill "to enable Session Judges to pass sentence on trials for Rape" be discharged, and that the Bill be referred to the Select Committees on the Bills for extending

the jurisdiction of the Courts of Criminal Judicature of the East India Company, for simplifying the procedure thereof, and for investing other Courts with Criminal jurisdiction.

Agreed to.

PETTY OFFENDERS AND WITNESSES.

MR. CURRIE moved that the Select Committee on the Bill "for enforcing the attendance of petty offenders and witnesses" be discharged, and that the Bill be referred to the Select Committees on the same Bills.

Agreed to.

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

MR. CURRIE moved that the Select Committee on the Bill "for conferring Criminal jurisdiction upon Moonsiffs and Tuhseeldars in the North-Western Provinces" be discharged, and that the Bill be referred to the Select Committees on the same Bills.

Agreed to

The Council adjourned.

Saturday, November 20, 1858.

PRESENT:

The Honorable the Chief Justice, *Vice-President*, in the Chair.

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

NATIVE PASSENGER VESSELS (BAY OF BENGAL).

THE CLERK reported to the Council that he had received from the Home Department a copy of a further Extract from Proceedings in the Foreign Department respecting the evasion of the provisions of Act I of 1857 (to prevent the over-crowding of vessels carrying Native Passengers in the Bay of Bengal).

MR. FORBES moved that the above communication be referred to the Select Committee on the former communication.

Agreed to.

IMPROVEMENT OF COURTS (BOMBAY).

THE CLERK reported that he had received from the Home Department papers regarding certain suggestions made by Mr. H. B. E. Frere for improving the Courts in the Regulation Provinces of the Bombay Presidency.

MR. LEGEYT said, it was very much to be regretted that these papers had not been forwarded in time to receive the consideration of the Select Committee on the Code of Civil Procedure. They contained some very valuable suggestions which had been made so long ago as 1852. The opinions of Judicial and other Officers had been given on them, and he found that they were forwarded to the Government of India in September 1857. This still allowed sufficient time to lay them before the Select Committee.

He had looked over these papers, which appeared to embrace nine different topics.

1st. The want of Courts of Summary Jurisdiction and easy access for the disposal of Small Causes.

This would very properly be considered by the Select Committee to whom the Bill on the subject introduced by the Honorable Member for the North-Western Provinces would be referred, if it should pass a second reading.

2nd. The propriety of Judges making circuits and trying appeals from the decisions of Moonsiffs at the stations of the Moonsiffs.

3rd. The examination of Plaintiff and Defendant in a suit.

This had been provided for in the Code of Civil Procedure.

4th. The want of efficient Bankruptcy Laws.

5th. The amendment of the law relative to the raising of attachments imposed in execution of decrees.

This was a point which could hardly be said to be a closed question in connection with the Civil Procedure Bill. The present provisions in that Bill were as nearly as possible the same as those upon which this letter was a commentary, and he hoped that consideration would be given to those comments.