INDIAN LEG. COUNCIL DEBATES

Vol. 7

1 June - 16 Nov.

1861

CIVIL COURTS.

MR. HARINGTON moved that a communication received by him from the Government of the North-Western Provinces, be laid upon the table and referred to the Select Committee on the Bill "to constitute Courts of Civil Judicature."

Agreed to.

CATTLE TRESPASS.

MR. HARINGTON moved that Sir Bartle Frere be requested to take the Bill "to amend Act III of 1857 (relating to trespasses by cattle)" to the Governor-General for his assent.

Agreed to.

The Council adjourned.

Saturday, August 24, 1861.

PRESENT:

The Hon'ble Sir Henry Bartle Edward Frere, *Senior Member of the Council of the Governor-General*, presiding.

Hon'ble Major-General Sir R. Napier,
H. B. Harington, Esq.,
H. Forbes, Esq.,
C. J. Erskine, Esq.,
Hon'ble Sir C. R. M. Jackson,
and
W. S. Seton-Karr, Esq.

CATTLE TRESPASS.

THE PRESIDENT read a message informing the Legislative Council that the Governor-General had assented to the Bill "to amend Act III of 1857 (relating to trespasses by cattle)."

REGISTRATION OF NIJ-JOTE AND KHAMAR LANDS, &c.

THE CLERK reported to the Council that he had received a communication from the Government of Bengal to the address of Mr. Seton-Karr regarding the proposed scheme for the registration of Nij-jote and other Ryotty tenures.

MR. SETON-KARR moved that the communication be printed.

Agreed to.

FINES FOR RIOTS.

THE CLERK also reported that he had received two communications from the Government of Bengal regarding the enactment of a law for fining communities for offences the perpetrators of which could not be discovered.

MR. SETON-KARR moved that the communication be printed.

Agreed to.

COURTS OF REQUESTS (STRAITS' SETTLEMENT).

MR. FORBES presented the Report of the Select Committee on the Bill "to enlarge the jurisdiction of the Courts of Requests in the Settlement of Prince of Wales' Island, Singapore, and Malacca."

MALACCA LANDS.

MR. HARINGTON presented the Report of the Select Committee on the Bill "to regulate the occupation of land in the Settlement of Malacca."

PORT BLAIR.

MR. HARINGTON presented the Report of the Select Committee on the Bill "to regulate the administration of affairs in Port Blair."

PUBLIC CONVEYANCES.

MR. HARINGTON presented the Report of the Select Committee on the Bill "for regulating public conveyances in the towns of Calcutta, Madras, and Bombay, and the several stations of the Settlement of Prince of Wales' Island, Singapore, and Malacca."

REPEAL OF REGULATIONS AND ACTS (CRIMINAL LAW AND PROCEDURE.)

MR. HARINGTON moved the first reading of a Bill "to repeal certain Regulations and Acts relating to Criminal Law and Procedure." He said that the object of this Bill was to repeal and to remove from the Statute Book all the Regulations and Acts of the three Presidencies which would be virtually superseded and rescinded from

the date on which the Indian Penal Code and the Code of Criminal Procedure would come into operation, that was, he hoped, from the 1st January, 1862. The Bill had been framed upon the model of the Bill which was brought in by him in the year 1859 for the repeal of the Regulations and Acts which were superseded by the Code of Civil Procedure contained in Act VIII of that year. The Bill consisted merely of a Preamble and an enacting Clause. The Regulations and Acts to be repealed had been entered in a Schedule with appropriate columns which was annexed to the Bill. The portion of the Schedule which related to Madras had been prepared by the Honorable Member for that Presidency, and the Honorable Member for Bombay had prepared the portion relating to the Presidency which he represented. The number of Regulations and Acts to be repealed wholly or in part, exceeded two hundred. This would show the Council the extent of the consolidation and codification of the Criminal laws of the three Presidencies which had been effected by the two Codes mentioned at the commencement of these remarks.

The Bill was read a first time.

ZEMINDARY DAWKS (BENGAL.)

MR. SETON-KARR moved the first reading of a Bill "to improve the system of zemindary dawks in the Provinces subject to the Government of Bengal." He said—Sir, I hope not to occupy the time of the Council very long in explaining the provisions of this Bill. The Council are, no doubt, aware that by an old law of 1793 the liability of maintaining these dawks was first imposed on the zemindars. The law was amended by Regulation XX of 1817, which provides, in the fullest and clearest manner, for the various duties which the zemindars are expected to perform in aid of the Police, and in the transport of the post between Police Stations and the offices of the Magistrates. But very frequent complaints have been made by the executive authorities, of the negligence with which these services are rendered. The system was as follows. The law required the zemindar to maintain and pay a certain number of dawk runners to carry the letters and wallets, but the law did not allow the Magistrate to interfere with the appointment, removal, or payment of the wages of these men. It merely exposed the zemindar, for neglect of duty, to a fine of 100 Rupees, or, in default of payment, to one month's imprisonment in the civil jail. Thus, when great delay and uncertainty were experienced in the delivery of letters, the course was, for the Magistrate to refer to the agent of the zemindar, who referred to his employer, who, in his turn, after a good deal of correspondence, paid up the wages of the peons, who at last consented to perform their duty with some regularity. Matters would then go on for some time on an improved footing, till the effect of the remonstrance wore off, and the delay was again felt quite as severely as before.

However, to obviate these difficulties, certain arrangements had been adopted by some energetic and judicious Magistrates, who had induced the zemindars to commute their liability of service, for a lump sum to be made over to the Magistrate, and the Magistrate then appointed the runners, paid their wages, and exercised a close supervision over them in the performance of their duties. These arrangements had been attended with great success in the district of Tirhoot, in that of Nuddea, and in that of Burdwan. In the last named district, Mr. H. B. Lawford, when Magistrate, had so ably managed matters, that he reduced the number of runners, paid or supposed to be paid at the rate of 3 Rupees a month, from one hundred and forty two, to fifty-four, paying them at the increased rate of 4 Rupees a month and conveying the dawk by their means with far greater certainty and speed. Now, there is no reason whatever why this plan, tried and found to answer in three districts, should not, by law, be extended to the whole of Bengal instead of being left dependent on chance or caprice, or on the greater

or less tact and good management of individual Magistrates.

The object, then, of the present Bill is to compel all zemindars to commute their liability of service for a money payment. The Magistrate of each district or other officer appointed by Government, will be empowered to fix a lump sum as the estimated expense for conveying all the thannah dawks to and fro in his district, and he will then apportion the amount to be paid, rateably, by each zemindar or farmer of land. To this end he will be enabled to appoint a Committee composed of experienced officials and of landholders, who shall determine the quotas to be contributed by each landholder in proportion to his Sudder Jumma.

Another principle of the new Bill is that the liability, which has been hitherto common to those zemindars only through whose estates the thannah dawk might run, should be extended to all zemindars paying revenue to Government, or to farmers of land. whether the line run through their estates or not. It is true that Regulation XX of 1817 does not, in words, confine the liability to the former class, but this has been the result in practice; and this it is now proposed to alter.

Before the Bill had been framed, the Lieutenant-Governor had consulted that well-known body, the British Indian Association, as one interested in the subject, and I am glad to say that its members recognize the expediency of the change and do not withhold their co-operation. The Association, however, seems haunted by some dread, lest the proposed law should, in any way, infringe the terms of the Perpetual Settlement, by providing for the realization of dues under the law in the same way as dues on account of revenue. I can assure you, Sir, that I should be the last person to introduce, or even to countenance, any proposal which would have the effect of endangering or vitiating the principles of that great and statesman-like measure, to which is owing so much of the agricultural resources, the commercial wealth, and the social prosperity, that distinguish this part of India from so many other parts. And I have accordingly taken care to provide that money due, or fines imposed, under this enactment, shall be realized by distraint and sale, or in default of assets, payment shall be commutable to one month's imprisonment in the civil jail.

I believe, too, that when the runners shall be appointed, paid, and removed by the Magistrates, the Government have it in contemplation to make applicable to these zemindary dawks, some of the stringent provisions of the Postal Act, XVII of 1854, Sections 50 to 56. As the supervision over the runners will become close and systematic, it will be necessary to vest the Magistrates with power to punish cases of gross negligence and misconduct, instances of which may be brought to their notice. But this will be a question for the consideration of the Executive Government in communication with the Governor-General in Council, who has the power to extend the Law of 1854 from the public dawks to any other class of dawks.

It is not intended that the new law shall apply to the province of Arracan, or to that of Assam, with the exception of the district of Gowalpara, which is settled in perpetuity, and which may, therefore, be treated like any other district in the Regulation Provinces. With these views, Sir, I have the honor to move the first reading of this Bill. I believe that it will diminish the expense of these dawks and increase their efficiency; that it will obviate the anomaly of Magistrates being unable to punish the dawk runners for negligence in a service which is intimately connected with the early communication of intelligence and with the detection of crime; that it will render light the incidence of taxation on all the zemindars of the districts, while it will save them from constant annoyance and vexation, and that it will at last place the whole postal system on a sound and satisfactory footing.

The Bill was read a first time.

LIMITATION OF SUITS.

SIR CHARLES JACKSON (in the absence of the Chief Justice) postponed the Motion which stood in the Orders of the Day for the second reading of the Bill "to amend Act XIV of 1859 (to provide for the limitation of suits)."

CRIMINAL PROCEDURE.

The Order of the Day being read for the third reading of the Bill "for simplifying the Procedure of the Courts of Criminal Judicature not established by Royal Charter"—

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

Agreed to.

MR. HARINGTON moved the introduction after Section 31 of the following Section taken from the existing law which was proposed to be included in the general Repeal Bill, but the provisions of which it was considered desirable to continue in force :—

"Whenever any person is charged with being a thug, or with murder as a thug, or with dacoity with or without murder, or with having belonged to a gang of dacoits, or with having belonged to any wandering or other gang of thieves associated for the purpose of habitually committing theft or robbery and not being a gang of thugs or dacoits, the offence may be enquired into in any district in which the accused person is, by any Magistrate competent to commit to a Court of Session, and the accused person may be committed to the Court of Session to which such Magistrate is subordinate."

Agreed to.

Section 41 provided as follows :—

"Nothing in this Chapter shall interfere with the jurisdiction given by 53 George III c. 155, s. 105."

MR. HARINGTON moved the addition of the following words to the above Section :—

"or Act VII of 1853 (to extend the jurisdiction of Magistrates under the 53 George III c. 155, s. 105, in cases of assault, forcible entries, and other injuries accompanied by force not being felonies)."

Agreed to.

SIR CHARLES JACKSON said that, to make the Section consistent with the decision already come to by the Council, he would move the addition of the following proviso after the above :—

"Provided that the jurisdiction given by the said Statute and the said Act shall be exercised only by a Justice of the Peace."

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

A verbal amendment was made in Section 43, on the Motion of Mr. Forbes.

MR. HARINGTON moved the introduction of the following new Section after Section 47 :—

"When any person shall be sentenced to imprisonment, it shall be lawful for the local Government to order the removal of such person during the period prescribed for his imprisonment from the jail or place in which he is confined to any other jail or place of imprisonment within the jurisdiction of the same local Government."

He said that this also was a provision of the existing law. It was a very proper provision and it was desirable that it should find a place in the present Bill. It was included in the list of laws proposed to be repealed by the Bill brought in by him to-day.

Agreed to.

Section 71 provided as follows :—

"A Magistrate may, (notwithstanding such summons,) either before the appearance of the accused person as required by such summons, or after default made by him so to appear, issue a warrant of arrest against such person *in all cases in which he might so have done had no such summons been issued.*"

MR. FORBES moved the omission of the words in italics at the end of the Section.

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

Section 100 provided as follows :—

"It shall be the duty of every Police Officer to prevent, and he may interpose for the pur-

pose of preventing the commission of any offence specified in Column 3 of the Schedule annexed to this Act as an offence *for which Police Officers may arrest without warrant*"

MR. FORBES said that, in looking over the Schedule, he found that, among the offences for which a Police Officer could not arrest without warrant, there were many of great public importance, as, for instance, the removal of a landmark, poisoning cattle, rescuing a prisoner of State, going intoxicated into any place of public resort, &c. Suppose the mail steamer were coming up the river, and a person tried to remove the buoy on the "James and Mary's Shoal" in the view of a policeman; the policeman could not prevent him from committing the offence, because, under this Section, it was one for which he could not arrest without warrant. The policeman must let the offence be committed, and then proceed to obtain a warrant for the apprehension of the offender. He (Mr. Forbes) thought that so great a public evil ought to be prevented, and not only punished when committed. He (Mr. Forbes) should therefore move the omission of the words in italics at the end of the Section.

MR. ERSKINE said, he did not think it would be safe to go to the full length proposed by the Honorable Member for Madras. One of the material objects which the Select Committee, in preparing this Chapter, proposed to itself, was to prevent Police Officers from interfering in petty cases. That was also a point strongly insisted upon by the Police Commissioners. He should be sorry, therefore, if the amendment of the Honorable Member for Madras were adopted. Indeed, in the Madras Police Bill there was a Section which prohibited the Police altogether from interfering in petty cases. It was that habit of constant interference which had been felt to be so vexatious and objectionable. Moreover, this Section merely laid on the Police a positive obligation to interfere in certain cases, but did not prohibit their interference in others—only if they did interfere in other cases on their own discretion, they would have specially to justify such interference. He might add that the Section of the General Police Bill lately passed, which prescribed the duties of the Police, expressly declared that among other things they were "to prevent the commission of offences and public nuisances."

MR. HARINGTON said, no doubt the alteration proposed was large, and it would greatly increase the powers of the Police, but it was difficult to make it of a more restrictive character without shutting out cases in which immediate interference on the part of the Police was obviously necessary. The Honorable Member for Madras had mentioned several cases in point. If the amendment of the Honorable Member for Madras were adopted, he (Mr. Harington) should propose an amendment in Section 102 which, he thought, would to some effect remove the objections taken to the amendment they were now considering.

MR. ERSKINE said, he thought it was an erroneous reading of this Section to suppose that it prevented all interposition by the Police.

MR. FORBES said, it was enacted in Section 103 that the Police might interfere to prevent any injury attempted to be committed in his view to any public building, work of art, road, bridge, tank, or water channel; and it was quite as essential that they should interfere in the protection of landmarks.

MR. ERSKINE said that he had noted the omission of all allusion to public landmarks and had intended to refer to it in connection with Section 103. But he did not think that the Police should be required to prevent the removal of private landmarks.

MR. FORBES said, he must say that, if he were challenged to answer that question, he should reply that in his opinion such private landmarks ought to receive the protection of the Police. Revenue surveys were carried out at a vast expense, and not only all villages but all fields were demarcated; and it was obvious that, if these demarcations were removed, the whole value of the survey was lost.

He had no doubt, therefore, that private landmarks ought to be protected.

MR. SETON-KARR said that, if the landmarks had been erected by, or even, on account of, Government, it would be very right for Police Officers to interfere to prevent their removal, because such landmarks might be considered public property; but Police Officers should not interfere in the case of private landmarks, erected solely by and for private individuals. Then to take a larger view of the question, the offences enumerated in Chapters X and XI were not such as Police Officers could interfere with, and the amendment proposed seemed to him too indistinct and wide. He should hope that the Honorable Member for Madras would specify more distinctly the kind of offences which he had in view.

MR. FORBES said that it was a great mistake to call the survey marks to which he had referred public property. They were erected at the expense of the Ryots.

SIR CHARLES JACKSON said, he thought this discussion had raised an important question; namely, whether a mere Police Officer should be allowed to decide in every case whether a person was going to commit an offence or not. It might be very difficult in many cases to decide whether a person had a criminal intention: would you confer the power of deciding all such cases to Police Officers? That would be the effect of the amendment of the Honorable Member for Madras, for, if it were carried, that power would be given to every Police Officer, however low his rank might be in the Police. He must object to giving any such large powers to such Police Officers as we had in this country. It might be true that Police Officers should have more power than the Act now gave them; but if the Honorable Member for Madras found in the Schedule any case in which he thought that a Police Officer ought to interfere without a warrant, he should propose an alteration to that effect in the Schedule instead of proposing such a general amendment as he had done.

SIR BARTLE FRERE said, he thought that the Honorable Member for Madras had rather mistaken the object of the Section. If a Police Officer saw an offence going to be committed in which he was allowed to arrest the offender without warrant, then it was clearly his duty to interfere to prevent the offence being committed, and he ought to be punished for not preventing it. This Section made any such neglect so punishable, but it did not limit his discretion in other cases. No doubt the removal of landmarks was a very serious matter, but there was a great difference between landmarks to guide vessels in a river or at sea and landmarks on land. Now, he went entirely with the Honorable Member as to the importance of these latter landmarks, but he must say that there was no more prolific source of extortion and oppression than the attempts of the Police to interfere in petty cases connected with the removal of landmarks. For one case which the policeman would prevent by interposing, he might inflict annoyance in a thousand; and therefore he (Sir Bartle Frere) thought that the Section should stand as it was.

MR. FORBES said that, as the sense of the Council was against it, he would not press his amendment, though he must say that his own opinion of its importance remained unaltered. He would, however, reserve to himself the right of moving any amendments to the same effect in the Schedule.

Section 103 was then amended as follows, on the Motion of Sir Charles Jackson (the amendments being printed in italics) :—

"A Police Officer may, of his own authority, interpose for the prevention of any injury attempted to be committed in his view to any public building, work of art, road, bridge, tank, *well*, or water channel, *or to prevent the removal or injury of any public landmark or buoy or other mark used for navigation.*"

A trifling amendment was made in Section 156, on the Motion of Mr. Harington.

Section 161 (relating to contempts) concluded as follows :

"If the case be forwarded to a Justice of the Peace, such Justice of the Peace shall enquire into the circumstances, and, *if necessary, commit the accused person for trial before a Supreme Court of Judicature.*"

MR. HARINGTON moved the substitution of the following words for the words in italics :—

"shall have the same powers of punishing the offender as are vested by the Statute 53 George III c. 155, s. 105, in a Justice of the Peace for the punishment of an assault, and may deal with the offender in the same manner as is provided in that behalf in the said Statute. If such Justice of the Peace shall consider the offence to require a more severe punishment than a Justice of the Peace is competent to award under the said Statute, he may commit the offender to a Supreme Court of Judicature."

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

Verbal amendments were made in Sections 225, 230, 291, and 303.

An amendment was made in Section 315, on the Motion of Mr. Harington, empowering the Magistrate to make a reduction in the allowance ordered to be paid by a person for the maintenance of his wife or child or both, on the application of such person, if the Magistrate should be satisfied of an alteration in the circumstances of the person, his wife, or child, justifying such reduction.

Section 278 was passed after an amendment, on the motion of Mr. Forbes.

MR. HARINGTON said, the next Section in which he wished to propose an amendment was Section 350. This Section was contained in the Chapter which related to juries and assessors, and as the Honorable and learned Vice-President had given much attention to that Chapter, and as some of the most important amendments which had been made in it, including the amendment made in Section 350, were made on his Motion, he (Mr. Harington) felt considerable hesitation in proposing any alteration in the Section in the absence of the Honorable and learned Vice-President. The part of the Section to which he objected, said :—

"In any case in which a Jury shall be prepared to deliver their finding, the Judge shall ask the Jury whether they are unanimous, and if the foreman or one of the Jury shall declare that they are not unanimous, the Judge may require such Jury to retire for further consideration. If after such a period as the Judge shall consider reasonable, the foreman or any one of the Jury shall declare that they are not unanimous, the Jury may deliver their verdict."

He (Mr. Harington) thought that if these words were retained, they would lead to frequent misunderstanding and that they might prove positively mischievous. If unanimity in a Jury were essential for the conviction or acquittal of an accused person the case would be different, but unanimity was not necessary. If a certain majority was for conviction, the Court must convict. If a certain majority was for acquittal, the Court must acquit. The prescribed majority then having been obtained either for conviction or acquittal, what was the use of directing the Jury to retire for further consideration, or what was to be gained by such a course ? The unanimous verdict would not do more than a verdict consisting of the prescribed majority. The Jury so ordered to retire, would be puzzled. They would often imagine that the Judge did not like the verdict and wanted a different verdict to be returned, and a different verdict might sometimes be the result merely to please, or meet what was supposed to be the view or wish of, the Judge. It was well known to all who had any practice in the Sessions Courts in this country, that during the trial the Jury were often engaged in endeavoring to discover what was the opinion of the Judge rather than in considering what should be the effect of the evidence. He had lately seen some papers from Bombay which fully bore out what he had just said. He begged to move the omission of the words which he had read.

SIR CHARLES JACKSON said, the words proposed to be omitted were introduced on the Motion of the Honorable and learned Vice-President who,

he knew, attached great importance to them, and he (Sir Charles Jackson) should oppose the Motion for their omission. If he recollected aright, the object of the Honorable and learned Vice-President was to secure proper consideration on the part of the Jury before they delivered their verdict and to prevent them from supposing that when they had got the bare majority which the law prescribed, they had done all that was required. He thought that a unanimous verdict, whether the verdict was for acquittal or conviction, would be more satisfactory to the public than the verdict of a mere majority, and the object of the amendment proposed by the Honorable and learned Vice-President being to secure such unanimous verdict, if possible, after full deliberation, he (Sir Charles Jackson) entirely approved of it.

MR. SETON-KARR said that what had been urged by the Honorable Member for the North-Western Provinces was deserving of a good deal of consideration ; but, on the other hand, when he remembered that the provision had not slipped into the Bill by accident, but had been introduced with a deliberate purpose, and that the Jury Sections had been the subject of much care and forethought, he considered that it was too late in the day to introduce such an amendment, and therefore he should be compelled to vote against it.

MR. ERSKINE agreed on the whole with the Honorable and learned Judge (Sir Charles Jackson). He thought the provision to which the Honorable Member, for the North-Western Provinces objected might have the effect of preventing unseemly haste in some cases ; and if in any case the Judge was of opinion that no good would result from acting on the discretion it allowed him, of course he would abstain from doing so.

MR. HARINGTON said, he would accept the ground upon which the Honorable Member for Bombay advocated the provision in question, but then the provision should not be restricted in the manner proposed. There might be as much haste on the part of the Jury in coming to a unanimous finding as when the finding was that of a majority only, and whenever the Judge had reason to believe that the Jury had been hasty in forming their decision or had not acted with due deliberation, he should have power to remand the case to the Jury for further consideration, even although the verdict might be unanimous. He did not think that a unanimous verdict, obtained by what he must call coercion, would be more satisfactory to the public at large than a verdict consisting of the prescribed majority. It certainly would not be so to the accused person whether the verdict was for acquittal or conviction. After what had fallen from the Honorable Members who had spoken, he would not press his amendment, particularly in the absence of the Honorable and learned Vice-President. Had the Honorable and learned Vice-President been present, he would have divided upon his Motion.

The amendment was accordingly withdrawn.

An amendment was made in Section 354, on the Motion of Mr. Forbes, which was followed by a new Section similar to Section 275.

Section 378 (relating to the form of verdict in trials by Jury) was omitted as unnecessary, with reference to Section 380 ; and a verbal amendment was made in the latter Section.

MR. FORBES moved the introduction of the following Section after Section 407, and said that the proposed Section was taken from Act IV of 1843, which it was proposed to repeal :—

"Any person convicted and sentenced by any Officer exercising jurisdiction under the Statute 53 George III c. 155, s. 105, or under Act VII of 1853 (to extend the jurisdiction of Magistrates under the 53 George III c. 155, s. 105, in cases of assault, forcible entries, and other injuries accompanied with force not being felonies), may appeal to the Court having jurisdiction at the place at which the appeal would have been heard had the sentence been passed by a Magistrate subordinate to such Court. Cases appealed under this Section shall not be afterwards liable to revision by means of a writ of certiorari. Provided that nothing in this Section shall be held to take away the power of quashing any conviction by means of a writ of certiorari in any other case than when there has been such an appeal as aforesaid."

SIR BARTLE FRERE doubted whether, after the changes which had been made in the Code and particularly after the proviso which had been added to-day to Section 41, as enlarged, on the Motion of the Honorable Member for the North-Western Provinces, the Section proposed by the Honorable Member for Madras was necessary. Under Section 41, as it now stood, only Justices of the Peace could exercise jurisdiction in the cases falling within the Statute and Act mentioned in the Section, and parties dissatisfied with the orders passed by a Justice of the Peace in such cases would have their remedy in a writ of certiorari. Up to the present time Magistrates not Justices of the Peace, had the same jurisdiction as Justices of the Peace in such cases, and the appeal therefore given to the Session Court from the Magistrate's order was quite necessary and proper, but with the change in the law introduced to-day, the necessity had, he thought, ceased, and there was a great risk of a conflict of jurisdiction. He thought it better therefore to confine the right of appeal to the remedy by writ of *certiorari*, which was the appropriate mode of revising decisions of Justices of the Peace.

MR. HARINGTON said if the Honorable Chairman would refer to Act IV of 1843, he would find that it applied as well to Justices of the Peace as to Zillah Magistrates who were not Justices of the Peace, and that precedence was given in the Act to the former Officers. The preamble of the Act said :—

"Whereas in all cases of conviction before Justices of the Peace in the Mofussil and before Magistrates exercising jurisdiction under the provisions of Statute 53, George III c. 155, the law as to appeals requires amendment."

And the enacting Section which followed, declared that an appeal should lie as well from Justices of the Peace as from Magistrates exercising such jurisdiction to the same authority as appeals from Magistrates in Mofussil Courts, that was, to the Court of Session. Before Act IV of 1843 was passed, a European British subject deeming himself aggrieved by an order of a Justice of the Peace or of a Magistrate, had no alternative but to apply to the Supreme Court for a writ of certiorari. The obtaining of such a writ entailed considerable expense upon the party applying for it, and it was thought only just and proper to the European residents in the Mofussil, in order to relieve them from this expense, to give them an appeal to the local authorities. If he recollected rightly, Act IV of 1843 originated in a case which occurred at Mirzapore and which showed the hardship and inconvenience to which European residents in the Mofussil were subjected from their having no other remedy than an application to the Supreme Court for a writ of certiorari. The Honorable Member for Madras proposed to retain the proviso contained in Act IV of 1843, which allowed parties sentenced under the 53 George III, or Act VII of 1853, either to appeal to the local authorities or to apply to the Supreme Court for a writ of certiorari. They could not have both. This seemed quite proper.

MR. FORBES said he wished merely to continue the existing law. Should the Committee not adopt the Section proposed by him as part of the Criminal Procedure Code, Act IV of 1843, which his Section was intended to take the place of, must remain in force.

SIR CHARLES JACKSON concurred with the Honorable Member for the North-Western Provinces and should support the Motion of the Honorable Member for Madras. He would not deprive the European community of any benefit which they now enjoyed. Act IV of 1843 took nothing away from Europeans in the Mofussil, but gave them an additional benefit. Under that Act they had the option of an appeal to the local Courts or of an application to the Supreme Court. They would have the same option under the Section proposed by the Honorable Member for Madras.

The question being put, the Council divided as follows :—

Ayes 6.	*Noes* 1.
Mr. Seton-Karr.	The Chairman.
Sir Charles Jackson.	
Mr. Erskine.	
Mr. Forbes.	
Mr. Harington.	
Sir Robert Napier.	

So the Motion was carried, and the Section was passed after a slight alteration.

Section 408 provided as follows :—

"In all criminal cases in which a Court of Session or the Magistrate of a District or other officer exercising the powers of a Magistrate shall pass a sentence of imprisonment not exceeding one month, or a fine not exceeding fifty rupees, no appeal shall be allowed."

MR. SETON-KARR moved that the word "criminal" be struck out of the first line in this Section. His friend, the Honorable Member for the North-Western Provinces, had truly remarked to him that this Code was a Code of *criminal* procedure, and that consequently the retention of the above word seemed superfluous. The Council might recollect that he (Mr. Seton-Karr) had had the honor of introducing this Section as an amendment. After its introduction, it had been enlarged beyond his original intention, but if he understood the sense of the Council aright, it was intended that *all* sentences within one month's imprisonment or 50 Rupees fine should not be appealable.

SIR BARTLE FRERE asked, to what cases it was contemplated the Section should be applicable.

Mr. SETON-KARR explained that there might be some cases tried by a Magistrate which were not purely *criminal* cases, like assaults and misdemeanors were. Such cases were known as "miscellaneous criminal cases" and might be cases of Act IV, cases of stopping up roads or paths, or of nuisances. For the sake of this distinction the word "criminal" might originally have been introduced. But as he gathered that the wish of the Council was to put an end to all appeals in all cases within that limit, or where not allowed by any Section of this law, or by any local or special law for the time being in force, he should wish to see the word "criminal" struck out altogether.

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

An amendment was made in Section 410, on the Motion of Mr. Erskine, by which the time within which petitions of appeal to the Sudder Court must be presented under that Section was altered from six weeks to sixty days, so as to conform to Section 412.

MR. HARINGTON moved the introduction of the following new Section after Section 416 :—

"The sentence or order of the Sudder Court modifying, amending, or reversing the sentence or order of a Lower Court on appeal or revision, shall be signed by at least two Judges of such Sudder Court."

Agreed to.

A verbal amendment was made in Section 438 on the Motion of Mr. Erskine.

Section 439 provided as follows :—

"The Sudder Court shall have power to make and issue general rules for regulating the practice and proceedings of that Court and of all Criminal Courts subordinate to it and also to frame forms (when not prescribed by this Act) for every proceeding in the said Courts for which it shall think necessary that a form should be provided, and for keeping all books, entries, and accounts to be kept in such Courts and from time to time to alter any such rule or form, provided that such rules and forms be not inconsistent with the provisions of this Act or of any other law in force."

MR. HARINGTON moved the omission of the word "and" after the word "provided" in line 10, and the insertion of the following words after the word "Courts" in line 11 :—

"and for the preparation and transmission of any calendars or statements to be prepared and submitted by such Courts."

Agreed to.

MR. SETON-KARR moved the insertion of the following words at the close of the above Section :—

"Any rules framed by the Court under this Section shall be published in the official Gazette."

The Council would recollect that a similar provision had been introduced into the Code of Civil Procedure, and as it was even more important that all subordinate officers should be made acquainted with the rules in the Criminal Department, he thought the provision a proper one.

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

An amendment was made in Section 441, on the Motion of Mr. Harington, providing for the commencement of the Act from the 1st January 1862.

Form A ran as follows:—

To A. B. of

Whereas your attendance is necessary to answer to a charge of (state shortly the offence charged). You are hereby required to appear in person before the [Magistrate] of on the day of therein

(Signature and Seal)

Dated the day of

MR. SETON-KARR moved the insertion of the words "or by authorised agent as the case may be" in brackets after the words "in person." The Council would recollect that a somewhat protracted discussion took place as to the propriety of allowing an appeal in cases where a Magistrate required the personal attendance of a zemindar or native of high position to answer for certain offences. That discussion terminated unfavorably to his (Mr. Seton-Karr's) Motion, and he had no intention of re-opening it. But he did not understand that Magistrates might not use their discretion in allowing such persons to appear by their authorized agent, if they thought fit, and in this view the words were necessary.

Agreed to.

MR. HARINGTON moved that the last part of the 4th note in the Schedule be transposed so as to stand as a separate note numbered 7.

Agreed to.

MR. ERSKINE moved that the Clerk of the Council be authorized to correct the 6th column of the Schedule so as to show the character of the imprisonment awardable in each case.

Agreed to.

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

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

After some discussion, the Motion was by leave withdrawn, and the third reading of the Bill postponed till Saturday next.

CIVIL PROCEDURE.

The Order of the Day being read for the third reading of the Bill "to amend Act VIII of 1859 (for simplifying the Procedure of the Courts of Civil Judicature not established by Royal Charter)"—

MR. HARINGTON moved that the Bill be recommitted to a Committee of the whole Council for the purpose of considering certain proposed amendments therein.

Agreed to.

MR. HARINGTON moved the introduction of the following new Section after Section 3:—

"If in any suit there are more defendants than one, and at the date of the institution of the suit all the defendants shall not reside within the jurisdiction of the Court in which the suit is brought, but one or more of the defendants shall reside within such jurisdiction, the suit shall not be rejected by reason of all the defendants not residing within the jurisdiction of the Court in which the suit is brought, but the District Court, if the suit is pending in any Court subordinate to such Court, or the Sudder Court, may order that the suit be heard in any Court subordinate to such Sudder or District Court, and competent in respect of the value of the suit to try the same."

After some discussion, the Section was agreed to.

Sections 5 and 6 were transposed after some necessary verbal amendments in the former Section.

MR. HARINGTON moved the omission of Sections 15 and 16 and the substitution of the following new Sections, the wording of which corresponded exactly with that of the provisions on the same subject in the new Code of Criminal Procedure:—

"15. When in any case pending before any Court any witness or other person shall

appear to the Court to have been guilty of an offence described in Section 193, 194, 195, 196, 199, 200, 205, 206, 207, 208, 209, or 210, of the Indian Penal Code, the Court may commit such person to take his trial for the offence before the Court of Session, or, after making such preliminary enquiry as may be necessary, may send the case for investigation to any Magistrate having jurisdiction to try or commit for trial the accused person for the offence charged, and such Magistrate shall thereupon proceed according to law.

15*a*. The Court may send the person accused in custody or take sufficient bail for his appearance before the Magistrate, and may bind over any person to appear and give evidence before the Magistrate.

15*b*. When the commitment is made by the Court, the Court shall frame a charge in the manner provided in Chapter XIII of the Code of Criminal Procedure and shall transmit the same with the order of commitment and the record of the case to the Magistrate, and such Magistrate shall bring the case, together with the witnesses for the prosecution and defence, before the Court of Session.

15c. When in any case pending before any Court there shall appear to the Court sufficient ground for sending for investigation to the Magistrate, a charge described in Section 463, 471, 475, or 476, of the Indian Penal Code, which may be preferred in respect to any deed or paper offered in evidence in the case, the Court may send the person accused in custody to the Magistrate, or take sufficient bail for his appearance before the Magistrate. The Court shall send to the Magistrate the evidence and documents relevant to the charge, and shall bind over any person to appear and give evidence before such Magistrate. The Magistrate shall receive such charge and proceed with it under the rules for the time being in force.

15*d*. If the person accused, or any one of the persons accused in any case falling under Section 15 or Section 15e of this Act, is a European British subject, the Court shall send such person in custody or take sufficient bail for his appearance before an Officer empowered to commit or hold to bail persons charged with offences for trial before a Supreme Court of Judicature, and such Officer shall proceed according to law.

15*e*. When any such offence as is described in Section 175, 178, 179, 180, or 228 of the Indian Penal Code, is committed in the view or presence of any Court, it shall be competent to such Court to cause the offender, whether he be a European British subject or not, to be detained in custody; and at any time before the rising of the Court on the same day to take cognizance of the offence; and to adjudge the offender to punishment by fine not exceeding 200 Rupees, or by imprisonment in the civil jail for a period not exceeding one month, unless such fine be sooner paid. In every such case the Court shall record the facts constituting the contempt, with any statement the offender may make, as well as the finding and sentence. If the Court, in any case, shall consider that a person accused of any offence above referred to should be imprisoned, or that a fine exceeding 200 Rupees should be imposed upon him, such Court, after recording the facts constituting the contempt, and the statement of the accused person as before provided, shall forward the case to a Magistrate, or, if the accused person be a European British subject, to a Justice of the Peace, and shall cause bail to be taken for the appearance of such accused person before such Magistrate or Justice of the Peace, or, if sufficient bail be not tendered, shall cause the accused person to be forwarded under custody to such Magistrate or Justice of the Peace. If the case be forwarded to a Magistrate, such Magistrate shall proceed to try the accused person in the manner provided by this Act for trials before a Magistrate, and it shall be competent to such Magistrate to adjudge such offender to punishment, as provided in the Section of the Indian Penal Code under which he is charged. If the case be forwarded to a Justice of the Peace, such Justice of the Peace shall enquire into the circumstances, and shall have the same powers of punishing the offender as are vested by the Statute 53 George III c. 155, s. 105, in a Justice of the Peace for the punishment of an assault, and may deal with the offender in the same manner as is provided in that behalf in the said Statute. If such Justice of the Peace shall consider the offence to require a more severe punishment than a Justice of the Peace is competent to award under the said Statute, he may commit the offender to a Supreme Court of Judicature.

15*f*. When any person has been sentenced to punishment under the last preceding Section, for refusing or omitting to do anything which he was lawfully required to do, it shall be competent to the Court to discharge the offender, or to remit the punishment, on the submission of the offender to the order or requisition of such Court."

Agreed to.

An amendment was made in Section 34, on the Motion of Mr. Harington, empowering the Sudder Court to prescribe forms for the preparation and submission of any Statements to be prepared and submitted by the Courts subordinate to it.

MR. HARINGTON moved the introduction of the following Sections before Section 35 :—

"Act VIII of 1859 shall be called the Code of Civil Procedure."

"Sections 15a, 15b, 15c, 15d, 15e, and 15f of this Act shall not take effect until the date on which the Indian Penal Code and the Code of Criminal Procedure shall come into operation."

Agreed to.

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

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

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

ARTICLES OF WAR (NATIVE ARMY).

SIR BARTLE FRERE moved that the Council resolve itself into a Committee on the Bill "to make certain amendments in the Articles of War for the government of the Native Officers and Soldiers in Her Majesty's Indian Army;" and that the Committee be instructed to consider the Bill in the amended form in which the Select Committee had recommended it to be passed.

Agreed to.

Section I (the repealing Clause) was passed after the insertion of the 1st January 1862 as the date of repeal of the existing laws, and after the inclusion of Act VIII of 1844 among the Acts to be repealed, besides a slight amendment at the end of the Section.

Section II was passed after a verbal amendment, and the addition of the following words (on the Motion of Mr. Harington) :—

"and every such trial shall proceed and be completed in the same manner as if this Act had not been passed."

Articles 1 and 2 were passed after verbal amendments.

The first two Clauses of Article 3 were passed after verbal amendments, and the proviso at the end of the Article was transposed so as to stand before the third Clause.

The third Clause of the Article provided as follows :—

"All Non-Commissioned Officers and Soldiers discharged the service, shall be furnished by the Commanding Officer of the Regiment with a discharge Certificate, made out in the Vernacular language of the individual discharged, with an English translation, expressing the authority for, and cause of, such discharge, and the period of his entire service in the Army."

MR. HARINGTON moved that the first part of the Clause be amended so as to run as follows :—

"Every Non-Commissioned Officer or Soldier discharged the service, shall be furnished by the Commanding Officer of the Regiment to which he belongs, with a discharge Certificate, &c."

MR. ERSKINE said, he thought the Council should come to a decision, as to the manner in which they were to deal with these Articles,—that is to say, whether the object was to assimilate even their diction and phraseology to the language used in ordinary laws?—or whether the Council would agree to confine their amendments to more material points, such as, removing obvious inconsistencies embodying in the Articles the substance of some short laws which were to be repealed, and providing for the few important amendments which had been recommended by the Military Authorities? He was as sensible as any one could be that the Rules they were asked in this way to enact, might be much improved, in respect to style and arrangement, and in other respects. But he felt also that those Regulations had been in use for sixteen or seventeen years, that they had been prepared by Officers of great experience, and that the different Chiefs of the Departments of Military Administration throughout India had recently reported their opinions that the Articles, as amended by the Government, might advantageously be re-enacted with but a few alterations. He would act upon those reports. He would give legal force to the Articles in the form in which they were familiar to, and approved by, the Military Authorities. If this should lead to the passing of an Act containing Military Regulations not worded as correctly, or framed with as much precision, as the ordinary Acts of the Council, and if it should thence appear evidently that the Articles themselves were but the step-children of the Council, he thought that would not be a great misfortune. He should therefore vote against mere verbal amendments.

SIR CHARLES JACKSON said that the question involved in the amendment of the Honorable Member for the North-Western Provinces was only one of grammar, and he should vote in support of it. If the amendment had altered the Bill in substance, he should

have hesitated, and should have been guided to a great degree by the opinion of the Honorable General opposite, for he must confess his ignorance of Military matters. But he thought the Council were bound to see that the language used was grammatical and intelligible. As the Bill was not intended to be passed before next Saturday, the Military Authorities would have an opportunity, before the Bill was read a third time, of considering whether the amendments which might be made in it to-day were proper or not.

SIR ROBERT NAPIER said that he should certainly not object to any verbal amendments, but that the substance of the Code should not be altered as it had been drawn up by the late Judge Advocate General whom the Honorable and learned Judge had recently pronounced the best Military lawyer he had ever known.

SIR BARTLE FRERE said, he agreed in opinion with the Honorable Member for Bombay. He admitted that there was much in the proposed Articles which was open to improvement, both as regarded style and arrangement. But if the Committee were once to begin to put the Bill in a proper legal and philosophical shape, they must recast the Bill entirely. He thought it was understood that no amendment should be made which was not absolutely necessary, or which involved an alteration in the sense and meaning of the Articles as they now stood. He must therefore vote against the proposed amendment.

MR. HARINGTON said, he really did not think that this Council should be called upon to pass this Bill as it now stood. It would be discreditable to the Council to pass the Bill in its present state. The singular and plural numbers were confounded in the most extraordinary manner and the wording of some of the Sections was open to other objections. They were told that the Articles in their present form had hitherto been found quite intelligible. That might be, and so were many other ungrammatical productions—such, for instance, as letters constantly received from Natives; but that was surely no reason why the Council, having been called upon to revise the Articles, should not put them into correct language.

MR. SETON-KARR said that he had no intention of making any attack on the parts of speech of any of the Military Authorities, and he entirely agreed in the remarks of the Honorable Chairman as to the necessity for not making any alterations not absolutely indispensable, and as to respecting the substance of the Sections. But, when he saw a grammatical construction really faulty, and when he considered that the singular number and not the plural was used in most other parts of the Bill, he thought that the proposed amendment would merely amend the form without touching the substance, and as such, he should support it.

The Motion was put and carried, and the Article as amended, then passed.

Article 4 provided as follows:—

"No Non-Commissioned Officer or Soldier shall enlist himself in any other Regiment without a regular discharge from his former Regiment, under the penalty of being reputed a deserter, and suffering accordingly."

MR. HARINGTON moved the omission of the above Article, and the substitution of the following:—

"No Non-Commissioned Officer or Soldier shall enlist himself in any other Regiment or Corps until he has been discharged from the Regiment or Corps to which he belongs; and any Non-Commissioned Officer or Soldier so enlisting, shall be reputed a deserter, and shall suffer punishment accordingly."

SIR BARTLE FRERE said, he would repeat that there were very few of the Articles which were not open to much verbal criticism, and he objected entirely to mere verbal amendments which were not necessary to make the sense clear, or to alter the sense. In the event of the present amendment being carried, he must withdraw the Bill in its present shape, or at least adjourn the Committee with a view to considering the further steps he should take with regard to it.

The question being put, the Council divided as follows :—

Ayes 3.	*Noes* 4.
Sir Charles Jackson,	Mr. Seton-Karr.
Mr. Forbes.	Mr. Erskine.
Mr. Harington.	Sir Robert Napier.
	The Chairman.

So the Motion was negatived.

MR. HARINGTON then moved the omission of the words "his former Regiment," and the substitution of the words " the Regiment to which he belongs."

The question being put, the Council divided :—

Ayes 5.	*Noes* 2.
Mr. Seton-Karr.	Mr. Erskine.
Sir Charles Jackson.	The Chairman.
Mr. Forbes.	
Mr. Harington.	
Sir Robert Napier.	

So the Motion was carried.

MR. HARINGTON moved the insertion of the word "punishment" after the word " suffering."

The question being put, the Council divided :—

Ayes 4.	*Noes* 3.
Mr. Seton-Karr.	Mr. Erskine.
Sir Charles Jackson.	Sir Robert Napier.
Mr. Forbes.	The Chairman.
Mr. Harington.	

So the Motion was carried, and the Article as amended, was then pssed.

SIR BARTLE FRERE said that, as the Honorable Member seemed determined not to let the Bill pass as it now stood, he proposed to adjourn the Committee. The Bill had been framed upon the old Articles of War (Act No. XIX of 1857), and followed the same phraseology. No complaints had hitherto been made of the inaccuracies of expression to which exception had now been taken. On the contrary, the Articles were well understood, and, in fact, were quite familiar to the Officers and men of the Army. He had already admitted that almost every Article in the Bill was open to verbal criticism, and he must say that, if the Council were determined not to let the Bill pass with those inaccuracies, the best course would be for the Bill to be wi hdrawn on its present shape with a view to its being recast. He should therefore move the adjournment of the Committee.

MR. HARINGTON said, he wished to say a few words in regard to the word *determined* as applied to him by the Honorable Chairman. His copy of the Bill, which he would be happy to show to the Honorable Chairman, would show that the amendments which he had still to propose were very few in number. The Committee were quite ready to proceed with the Bill, and were anxious to do their best to put it into such a shape as not to reflect discredit on the Council. As the majority of his amendments had been carried, he did not think he was open to the charge of proposing unnecessary alterations in the Bill. The Honorable Chairman could not reasonably expect the Council to pass a Bill so inaccurately worded. He (Mr. Harington) simply wished the Articles to be framed in proper and intelligible language, and not to make any change in the substance of the Articles.

SIR BARTLE FRERE said, the Committee by their first division had decided that they would not go into merely verbal questions. Yet the Honorable Member for the North-Western Provinces had gone on putting verbal amendments, and the Committee seemed inclined to agree with him. The Bill had been printed for a very long period now. It was reported upon by the Select Committee in May last ; and except some amendments which had been prepared by the Honorable Member for Bombay, and which he (Sir Bartle Frere) had caused to be printed and circulated, no notice of amendments had been given by any Honorable Member ; and if the Honorable Member for the North-Western Provinces would look back, he would find that they had passed a good deal which was quite as much open to verbal objection as the Article now under consideration. If the Council were determined to eliminate every inaccuracy, it would be necessary to recast the whole Bill.

MR. HARINGTON said that, as the amendments which he proposed to move were merely verbal, he had not considered it necessary to print and circulate notice of them.

SIR CHARLES JACKSON said, he was rather disappointed that the Bill should now be withdrawn after the little opposition it had received. With the exception of some grammatical errors, he did not think that there was any Honorable Member who intended to offer any opposition to it; and in making the amendments which had been adopted, the Committee had been simply applying their best attention and consideration to the Bill.

MR. SETON-KARR said, he would merely observe that he thought one expression which had fallen from the Chairman inapplicable, and that was, the expression "to recast the Bill." No change of substance in the Articles nor any violent change of form, seemed to him to be necessary, such as would warrant the term "recast." For his part he was quite prepared to offer no obstructions to the Government and to go on with the Bill without exercising any interference beyond a support of any amendments requisite to remove from the Bill grammatical errors or palpable errors of expression that seemed to start out from the very face of the Sections; and with this view he should be very sorry to see the Bill withdrawn by the Chairman under the notion that needless opposition was likely to be offered.

SIR ROBERT NAPIER said, he had accepted the Bill as containing the words which had for a long time been used in the Articles of War. But since objections had been made to the phraseology of the Bill, he thought that the course proposed by the Honorable Chairman, of withdrawing the Bill with a view to its being recast, the best that could under the circumstances be adopted.

SIR CHARLES JACKSON said that all he wished to observe was that, if the Bill were withdrawn, it should be perfectly understood that it was withdrawn at the instance of the Government, and that the Government were solely responsible for such a step. This Council had gone to work fairly, and were anxious to proceed with the Bill, and felt quite equal to dealing with it.

SIR BARTLE FRERE said, he was quite convinced of that fact. But there was no single Article which would not be open to the same objections as had already been taken; and as the Bill had now taken more than a year and a half in its preparation, he was not aware of any ill result likely to follow from its being delayed a little longer. He should therefore press his Motion.

The Motion was carried; and the Council resumed its sitting.

FLOGGING.

MR. HARINGTON moved that the Council resolve itself into a Committee on the Bill "to provide for the punishment of flogging in certain cases;" and that the Committee be instructed to consider the Bill in the amended form in which the Select Committee had recommended it to be passed.

After some conversation, the Motion was by leave postponed till Saturday next.

CIVIL PROCEDURE.

MR. HARINGTON moved that Sir Bartle Frere be requested to take the Bill "to amend Act VIII of 1859 (for simplifying the Procedure of the Courts of Civil Judicature not established by Royal Charter)" to the Governor-General for his assent.

Agreed to.

NOTICES OF MOTION.

MR. HARINGTON gave notice that he would on Saturday next move the first reading of a Bill to amend Act XXXVI of 1860 (to consolidate and amend the law relating to Stamp Duties); the second reading of the Bill "to repeal certain Regulations and Acts relating to Criminal Law and Procedure"; and the third reading of the Bill "for simplifying the Procedure of the Courts of Criminal Judicature not established by Royal Charter."

SIR BARTLE FRERE said, he proposed on Saturday next to bring in a short Bill to enable the Bank of Bengal to carry out any arrangements which might be necessary to give effect to the Paper Currency. The Bank's

Charter Act would require to be remodelled and revised ; but this would take time, and the arrangement now proposed could be made under the Bank's present Charter Act with some modifications. The Bill had been lately put into his hands, but he proposed to have it printed and circulated to the Members, and to furnish copies of it to the Directors of the Bank and others early next week ; and he hoped that there would be no objection to a suspension of the Standing Orders with a view to the Bill passing through all its stages on Saturday next.

MR. SETON-KARR gave notice that he would on Saturday next move the second reading of the Bill " for the registration of Nijjote and Khamar lands as well as of Ryotty tenures involving the immediate occupation of the soil for the purposes of cultivation or for other purposes."

ARTICLES OF WAR (NATIVE ARMY.)

SIR BARTLE FRERE moved that the Bill " to make certain amendments in the Articles of War for the Government of the Native Officers and Soldiers in Her Majesty's Indian Army" be referred back to a Select Committee consisting of Mr. Harington, Mr. Forbes, and Mr. Erskine, with an instruction to propose any amendments which they might consider necessary before the Bill was again brought before the Committee of the whole Council.

Agreed to.

The Council adjourned.

Saturday, August 31, 1861.

PRESENT :

The Hon'ble Sir Henry Bartle Edward Frere, *Senior Member of the Council of the Governor-General*, Presiding.

Hon'ble Major-General Sir R. Napier,
H. B. Harington, Esq.,
H. Forbes, Esq.,
C. J. Erskine, Esq.,
Hon'ble Sir C. R. M. Jackson,
and
W. S. Seton-Karr, Esq.

CIVIL PROCEDURE.

THE PRESIDENT read a Message, informing the Legislative Council that the Governor-General had assented to the Bill " to amend Act VIII of 1859 (for simplifying the Procedure of the Courts of Civil Judicature not established by Royal Charter)."

LIMITATION OF SUITS.

THE CLERK presented to the Council a Petition from Mr. Singer, attorney for Mahomed Kadir Ali of Lucknow, praying for a definition of the meaning of Section XV Act XIV of 1859, as regards gold mohurs and rupees.

CIVIL PROCEDURE.

THE CLERK also presented a Petition from Moung Tom of Akyab, praying that a course of procedure for causes for matrimonial rights and for divorce be introduced into the Bill to amend Act VIII of 1859 (the Code of Civil Procedure.)

MR. SETON-KARR moved that the above Petition be printed.

Agreed to.

ARTICLES OF WAR (NATIVE ARMY).

MR. HARINGTON presented the Report of the Select Committee on the Bill " to make certain amendments in the Articles of War for the Government of the native officers and soldiers in Her Majesty's Indian Army."

SALTPETRE.

MR. HARINGTON presented the Report of the Select Committee on the Bill " to regulate the manufacture of Saltpetre and of Salt educed therefrom."

BANKS.

SIR BARTLE FRERE moved the first reading of a Bill " to enable the Banks of Bengal, Madras, and Bombay, to enter into arrangements with the Government for managing the issue, payment, and exchange of Government Currency Notes, and certain business hitherto transacted by the Government Treasuries." In doing so,