LEGISLATIVE COUNCIL

OF

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JAMSETJEE JEEJEEBHOY'S ESTATE.

MR. LEGEYT moved that the Bill "for settling a sum of money, and a Mansion-house, and hereditaments called Mazagon Castle, in the Island of Bombay, the property of Sir Jamsetjee Jeejeebhoy, Baronet, so as to accompany and support the title and dignity of a Baronet lately conferred on him by Her present Majesty Queen Victoria, and for other purposes connected therewith" be referred to a Select Committee consisting of Mr. Peacock, Sir C. Jackson and the Mover, with instructions to report on what alteration may be necessary to give due effect to the substitution as trustees of the trust property of certain public Officers of the Bombay Government for the Governor in Council at that Presidency, and to report to the Council on Saturday next.

Agreed to.

ADJUDICATION OF FORFEITURES.

MR. HARINGTON gave notice that he would, on Saturday the 16th Instant, move the first reading of a Bill "relating to Forfeitures of Property."

POLICE (PRESIDENCY TOWNS AND STRAITS SETTLEMENT).

MR. CURRIE moved that the Bill "to amend Act XIII of 1856 (for regulating the Police of the Towns of Calcutta, Madras, and Bombay, and the several stations of the Settlement of Prince of Wales' Island, Singapore, and Malacca") be referred to a Select Committee consisting of Mr. LeGeyt, Mr. Forbes, and the Mover.

Agreed to.

IMPRISONMENT OF EUROPEANS AND AMERICANS.

SIR CHARLES JACKSON gave notice that he would, on Saturday the 16th Instant, ask the following question.

Whether the Government have taken any, and if any, what steps for the erection of a Jail in a suitable climate for the reception of European or American convicts sentenced to terms of Penal servitude under Act XXIV of 1855?

The Council adjourned.

Saturday, April 16, 1859.

PRESENT:

The Hon'ble J. P. Grant, Senior Member of the Council of the Gov.-Genl., Presiding.

Hon. Lieut.-Genl. Sir J. Outram,
Hon. H. Ricketts,
Hon. B. Peacock,
P. W. LeGeyt, Esq.,
E. Currie, Esq.,
H. B. Harington, Esq.,
H. Forbes, Esq.,
and
Hon. Sir C. R. M. Jackson.

SIR JAMSETJEE JEEJEEBHOY'S ESTATE.

MR. LEGEYT postponed the presentation of the Report of the Select Committee on the Bill "for settling a sum of money, and a Mansion-house, and hereditaments called Mazagon Castle, in the Island of Bombay, the property of Sir Jamsetjee Jeejeebhoy, Baronet, so as to accompany and support the title and dignity of a Baronet lately conferred on him by Her present Majesty Queen Victoria, and for other purposes connected therewith."

SALE OF LANDS FOR ARREARS OF REVENUE (BENGAL).

MR. GRANT presented the Report of the Select Committee on the Bill "to improve the law relating to sales of land for arrears of Revenue in the Bengal Presidency."

BREACHES OF CONTRACT BY ARTIFICERS, &c.

MR. CURRIE presented the Report of the Select Committee on the Bill "to provide for the punishment of breaches of contract by Artificers, Workmen, and Laborers in certain cases."

WARRANTS OF ATTORNEY AND COGNOVITS.

SIR CHARLES JACKSON moved the first reading of a Bill "to provide for the due execution of Warrants of Attorney to confess judgment and cognovits." He said that, in consequence of some irregularities which had lately occurred in the execution of these documents, it had appeared to the late Chief Justice and other Members of

the Supreme Court that the English Act on the subject should be introduced into this country. That Act had operated most beneficially in England, and he hoped it would be equally useful here. If it was necessary to protect persons executing such documents in a civilized country like England, it was more especially necessary here where the persons executing them were often natives ignorant of the English language, and sometimes native women who were generally utterly ignorant of business and their own rights. The present Act adopted the phraseology of the English Statute.

Section I provided that no warrant of Attorney or cognovit should be of any force unless executed by a person in the presence of an Attorney expressly named by him, and attending at his request to inform him of the nature and effect of such warrant or cognovit before the same was executed. And then Section II provided that warrants or cognovits not so executed should not be rendered valid by proof, that the persons executing them did in fact understand the nature and effect of them, or was fully informed of the same,—it being the object of the Act to render an attestation by an Attorney necessary in all cases.

The Bill was read a first time.

ADJUDICATION OF FORFEITURES.

MR. HARINGTON moved the first reading of a Bill to provide for the adjudication of claims to property seized as forfeited. He said, shortly after the breaking out of the recent mutiny in the native army of Bengal, the Council, as Honorable Members would recollect, was called upon to pass several special laws for the trial and punishment of heinous offences in certain Districts. These laws were of a very rigorous and stringent character, though he believed that they were not more severe or more stringent than the circumstances of the country demanded at the time they were passed. To quote the words of the Honorable and learned member of Council on his left (Mr. Peacock), "extraordinary times required extraordinary measures." When these laws were proposed no difference of opinion arose, either in the Council or elsewhere, as to the absolute necessity which existed for arming the executive with the very large powers described in them, and with one exception the Bills which were brought in by the Honorable and learned Member of Council passed through their several stages and became law at a single sitting of the Council without a dissentient voice. At the same time it was felt that the character of some of these laws was such that they ought not to be allowed to remain in force a day longer than the necessity which had called them into existence lasted, and it was accordingly provided that they should cease to have effect after the expiration of twelve months from the date of their passing. It was afterwards found necessary to extend this period to the end of the current year, when all or most of the Acts to which he was referring would expire. In many Districts, indeed, the restoration of order and the general tranquillity which prevailed had already enabled the Executive Government, in the exercise of the discretionary power vested in it, to suspend the operation of some of these laws, and where this had been done, crime when it occurred was enquired into, and the accused were tried with all the usual formalities by the established local Courts, and, on conviction, punishment was awarded under the general Regulations which were placed in abeyance by the temporary Acts of the year before last in those places to which their provisions extended. During the time that those Acts had been in operation, a large number of convictions had taken place under them which, for the most part, had entailed on the parties convicted and sentenced the loss of their entire property, real and personal. It might be that in some cases the sentences were passed on evidence which in quieter times would have failed to satisfy the presiding Judges of the ordinary Courts of the country, but he (Mr. Harington) could not doubt for a moment that in every instance the Court or Judge who passed the sentence felt fully convinced of the guilt of the accused, however summary might have been the

trial held, however brief the record of conviction. In fact, in a large number of cases it was very possible that no record was forthcoming. This could be no matter of surprise, for it must frequently have happened that the guilty parties were taken red-handed, and immediately tried and punished when the troops were on the line of march, probably in hot pursuit of rebels, and that the trials were held at places where materials for recording the investigation and conviction were not procurable. No appeal could, of course, be permitted from these sentences, and there was no Court competent to call in question the legality of the conviction or order passed. It must be unnecessary for him to say that to give such a power to any Court, particularly at the present time, would be highly impolitic and injudicious, and that if given, in the great majority of cases it would be of little or no use. With the restoration of order and the return of tranquillity a large number of persons had come forward to claim property forfeited or seized as liable to be forfeited to Government. In some cases the owners of the property were the claimants, in others their heirs or representatives, and in others the property was claimed by third parties, on the ground either that it had been mortgaged or leased to them before it was seized, or that they were themselves the proprietors. With the decision, on the merits, of the claims of parties belonging to the class last mentioned the Bill, of which he was about to move the first reading, did not propose to interfere further than to subject them to be tried by Special Courts, wherever such Courts might be established, and to require that in order to their being heard, they should be instituted within the period of one year from the date of the seizure of the property. This was, indeed, already the law, and the Bill would not therefore introduce any alteration in this respect. At present all these claims were heard and determined by the Judges of the Zillah Courts, according to the rules of procedure applicable to those Courts, and a regular appeal lay from their decision to the Suddur Court. But it must be obvious that if appeals were preferred in any large number of the cases now pending, or which might hereafter be instituted in the Zillah Courts, as would very probably be the case, they would add very seriously to the work of the Sudder Court, which was already so heavy that the Court found it almost impossible to keep pace with it. Under these circumstances it seemed desirable to invest the Government with power to constitute Special Courts for the trial and determination of claims arising out of the forfeiture or seizure of property, under any of the Acts already alluded to, of sufficient strength, and of such a character as would justify this Council in giving a finality to their decisions, and in declaring that they should not be open to revision or appeal. The Bill made provision for the constitution of such Courts. It had occurred to him that Courts of the nature contemplated might be established at the Sudder Station of every Division, and might consist of the Commissioner of the Division, the Judge of the District, and the Principal Sudder Ameen. This would be a very strong Court, and he thought that no exception could be taken to its composition. He was aware that it might be objected that the officers named by him, having other important duties to perform, would be unable to devote the requisite quantity of time to the disposal of the cases which would come before them under the Bill, but if the preparation of the cases were left to the Judge or Principal Sudder Ameen, for which the Bill contained a provision, he did not think that the mere disposal of the cases would occupy much time, and he was not disposed therefore to attach any weight to the objection. From a return which he had received of the number of cases now pending, he was led to believe that, although their decision would press heavily upon a single Court, if distributed amongst several Courts, they would admit of being disposed of within a reasonable period without much difficulty. According to the scheme contemplated by him, there would be five Divisional or Special Courts, one at Benares, one at Allahabad, one at Agra, one in Rohilkund, and one at Meerut. Another advantage of the establishment of Courts such as he had

proposed, would be that they would cost the Government nothing. What he had mentioned on the subject of the composition of the Courts, which if the Bill should become law, the Government would have power to establish, was of course thrown out only by way of suggestion. In existing circumstances he did not consider that it would be expedient to prescribe by law in what manner the proposed Courts should be composed. This he thought had better be left entirely to the discretion of the local Government. The Bill contained rules of procedure for the trial and determination of the cases which would fall within its provisions. It was intended that the procedure should be very summary, but he hoped that the rules which had been laid down would admit of a sufficiently full enquiry being made into the circumstances of each case to enable the Court to come to a just decision. The only other remark which he would make as respected the part of the Bill which related to the establishment of Special Courts, and to the procedure to be followed by them, was that he was informed that the Sudder Court at Agra were now engaged in disposing of appeals which had been instituted so far back as the years 1855 and 1856. For political reasons, as well as on account of Government, of the parties who laid claim to property seized or forfeited, and of those who were now in possession of such property, it was obviously of the utmost importance that all claims having reference thereto should be heard, and finally determined without any unnecessary delay.

He would now pass on to the remaining two classes of claimants of property seized as forfeited to Government, namely those who claimed to be the owners of the property, or their heirs or representatives. The two classes might be considered together. The grounds on which these persons claimed restitution of the property were that the sentences of conviction passed in the cases in which the property had been seized, contained no order of forfeiture, or that there had been no formal adjudication of forfeiture, or that there was no record of conviction. Restitution was also claimed on the ground of some irregularity of procedure, or of some defect or informality in recording the conviction. He was given to understand that a good deal of property, seized as forfeited to Government, had already been released on one or other of these grounds, and that in some instances the orders had been passed, not only summarily and without any trial, but by Judges or Special Commissioners whose jurisdiction in the particular cases in which the orders were given had ceased. He would not occupy the time of the Council by entering into a detail of the circumstances of the cases which had been brought to his notice. Honorable Members would probably be satisfied with his assurance that such cases had occurred, and he thought that they would agree with him that the claims of the law should not be defeated, and that the Government should not be defrauded of its just rights simply because of some irregularity of proceeding not in any way affecting the real merits of the cases in which it had taken place. When great crimes had been committed, he thought that the perpetrators of those crimes should not escape the just punishment awarded to them by law, on some merely technical ground; that when a penalty had been incurred its enforcement should not be stayed, to quote the words of the Honorable Member for Madras in the speech with which he introduced his Bill relating to Oaths and Affirmations, because some *i* had not been dotted or some *t* not crossed. The last five Sections of the Bill contained provisions to meet cases of this description. One of these Sections also declared that any order or decision which had already been passed contrary to those provisions should be treated as a nullity. He thought there could be no doubt as to the propriety or justice of thus dealing with such orders and decisions. He would only further observe that since he gave notice of the Bill he had seen reason to change its title. He considered that the title now given to the Bill would be found more appropriate than that originally proposed.

With these remarks he begged to move the first reading of the Bill.

The Bill was read a first time.

CATTLE TRESPASS.

MR. CURRIE moved the first reading of a Bill "to amend Act III of 1857 (relating to trespasses by Cattle)." In doing so, he said that he had but a few words to say in explanation of the Bill.

The Council were probably aware that, under the provisions of Act III of 1857, fines might be levied from the owners of cattle found trespassing and doing damage, or staying in any public place. The Act also provided that stray cattle, if not claimed within seven days from the date of their being impounded, might be sold after sufficient notice; and Section XII provided that "the sums received on account of fines and the unclaimed proceeds of the sale of unclaimed cattle shall form a fund which shall be available for the payment of any salaries which may be allowed to pound-keepers under the orders of the local Government, or expenses incurred for the construction and maintenance of pounds, or for any other purpose connected with the execution of this Act."

At the time of passing that Act, it was not supposed that the receipts of the fund would much exceed what would be required to cover the disbursements, if indeed they were sufficient for them; but the case had turned out differently. He had received an account of the receipts and disbursements of the fund for the 2nd and 3rd quarters of 1858, showing a surplus in every district, and in some districts a very large one. As the receipts of the fund could under Section XII be applied only to the purposes of the Act, it had become necessary to give legal sanction to the appropriation of the surplus to other purposes. This Bill accordingly provides, in accordance with the recommendation of the Lieutenant-Governor of Bengal, that it should be applied, in the same manner as the surplus Ferry Fund, to the construction and repair of roads and other local improvements generally.

The Bill was read a first time.

ESTABLISHMENT OF MARKETS.

MR. CURRIE moved the second reading of the Bill "for regulating the establishment of Markets."

MR. PEACOCK said, he could not give his assent to the principle of the Bill. He saw no sufficient reason for passing it. The effect would be to create a monopoly. He did not quite understand what was the law here on this subject. The Bill left the law undefined after providing that no one should set up a market without previously obtaining the Magistrate's permission. In England a market was a franchise. Frequently Lords of Manors possessed such franchises, but they could not be created without a grant from the Crown. As in other cases, after a certain length of time, such a grant would be presumed. Before the Crown granted a market, a writ of *ad quod damnum* issued, under which the sheriff enquired whether the new market would be injurious to existing markets. If he found that it would not, still his finding might be traversed, and the question in this way submitted to a jury for trial. Whether this prerogative of the Crown extended to India had not been decided. Considerable discussion had taken place on this subject with reference to the Patent law. When the Council passed the law for granting exclusive privileges to inventors, the law officers of the Crown were of opinion that the royal prerogative was infringed, and the Act was disallowed. If the Crown's prerogative existed here, the Bill would require to be sent home for the royal sanction.

The Bill provided that Magistrates should hold an enquiry and settle the matter. No one could establish a market without his consent. Suppose the Magistrate should grant a license, it created a monopoly in the owner of the land; and, if not interfered with, he could charge what toll he pleased; no one could interfere or compete with him. He thought free-trade in such matters was the best system.

It was said that affrays took place in consequence of the establishment of rival markets, but affrays likewise arose from disputes about the use of water and many like matters. Was the Magistrate called upon to grant any license in such cases? The Magistrate could interfere effectually to suppress affrays, from whatever cause they might arise Because the exercise of the right of

permitting others to come upon his land to buy and to sell caused affrays, was the landholder to be told by the law that he should not allow persons to resort to his land for such purposes, unless he obtained a Magistrate's license?

MR. CURRIE said, this opposition had taken him entirely by surprise. He thought that he had shown ample grounds for the passing of such a Bill. Unfortunately there had been an omission to print one of the most important papers, which he had read to the Council when he moved the first reading of the Bill, and he had it not at hand to refer to—it was a letter from Mr. Seton Karr, the Sessions Judge of Jessore, containing a report of a case in which an indigo factory was attacked, and the planter severely wounded. In that letter it was stated how constantly the opening of new markets led to serious breaches of the peace. Mr. Seton Karr said, and he believed truly, that it scarcely ever happened that a new bazar was opened to meet the wants of the community; it was almost always for the purpose of annoying an antagonist, and the consequence was quarrels and disturbances.

Similar was the testimony of the Joint Magistrate of Bograh. He said—

> "The ultimate result is in every case either that one haut destroys the other entirely, or that both are deserted for some more peaceable place of trade. So far is trade from being facilitated, that it comes completely to a stand-still whenever these quarrels arise."

It was very well to say that it was the duty of the Magistrate to prevent affrays and breaches of the peace. It was not possible to do this effectually while a perpetually recurring cause of dispute remained. The only efficient remedy was to strike at the root of the evil in the manner proposed in this Bill.

He had been asked what was the law on the subject of markets in this country. The law as laid down by the Sudder Court seemed to be that the zemindar might do pretty much as he pleased. The practice, however, had been for the Magistrate to interfere in cases of disputes concerning new hauts, and to fix the days on which rival markets were to be held. This had been the practice from the commencement of our rule in this country up to the year 1830, when the Sudder Court, by a Circular Order, directed that Magistrates had no power to interfere in such matters.

As to the Bill being an interference with the prerogative of the Crown, he would only observe that at present owners of land under an order of the Sudder Court were allowed to exercise the power which it was suggested might belong to the prerogative; he did not think there would be much risk in giving the same power to Magistrates by an Act of the Legislature.

He had also been asked what rights the establishment of a Market conferred. The levy of dues by owners of Markets was strictly prohibited by law, but they had apparently a right to consideration in the nature of ground rent from the stall-holders and vendors who were allowed to sell on their ground.

Notwithstanding what had been said, he confessed that he could see no objection to the principle of the Bill, and it appeared to him that some measure of this kind was esssentially neccssary for the maintenance of peace and order.

The Council divided:—

Ayes 7.	*Noes* 2.
Mr. Forbes.	Sir Charles Jackson.
Mr. Harington.	Mr. Peacock.
Mr. Currie.	
Mr. LeGeyt.	
Mr. Ricketts.	
Sir James Outram.	
The President.	

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

RECOVERY OF RENTS (BENGAL).

On the Order of the Day being read for the third reading of 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 Bill be re-committed to a Committee of the whole Council for the purpose of considering proposed amendments therein.

Agreed to.

Section XXIII related to the cognizance of suits.

MR. CURRIE said, he would endeavor to be as brief as possible in explaining his reasons for proposing to change the alteration which was made in this Section at the last meeting. Honorable Members would recollect that, in a long debate which had transpired on that occasion, objections were taken to the exclusive jurisdiction in suits under this Bill being assigned to Revenue Officers. The principal objection was that a large proportion of the officers who were to exercise that jurisdiction were disqualified for the duty by their being invested with Police powers. The Honorable and learned Member (Mr. Peacock) had said that his objection was not to giving jurisdiction to those officers as Deputy Collectors, but as Deputy Magistrates having executive Police functions.

After a full discussion, divisions were had on the several Clauses of the Section, and it was decided by large majorities that judicial powers should be given to the Revenue Authorities in each class of cases to which the several Clauses referred. Subsequently, however, an amendment was made at the end of the Section on the motion of the Honorable and learned Member opposite (Mr. Peacock), the consequence of which was that the regular Courts would also have jurisdiction in these cases. He (Mr. Currie) felt that this alteration would seriously endamage the Bill; but he considered that at any rate the decision which had been arrived at was final as regards jurisdiction. He was very much surprised to find therefore, when they came to the end of the Bill, that a Section was introduced on the motion of the Honorable and learned Member, or rather on an amendment of that motion by the learned Judge on his left (Sir C. Jackson), restricting Deputy Collectors entrusted with Police functions from exercising any judicial powers or other jurisdiction under the Act.

Now if these amendments were to stand, the effect of them taken together would be, under existing arrangements, to give the whole jurisdiction to the Civil Courts, unless suitors chose to take their suits to the Sudder Stations. But he could not think that Honorable Members, who voted in the majorities on Section XXIII, intended so to nullify their votes. He could not suppose that the Honorable Chairman, whose second vote carried the new Section, intended thereby to take away the jurisdiction which by his votes on Section XXIII he had given to the Deputy Collectors. He (Mr. Currie) assumed that it was in the Honorable Chairman's intention, as it would shortly be in his power, to qualify these officers when in charge of Sub-divisions for acting under the Bill by divesting them of their Police functions. He was the more persuaded that this would be the case, as he saw an evident determination in a large majority of the Members of this Council to separate the charge of the Police from all other duties, and to vest it in separate officers. Then assuming that we would have local Revenue Courts qualified to try these cases, he could see no occasion for the coordinate jurisdiction of the Civil Courts. His objections to such jurisdiction he had stated last Saturday. He had said that the Courts of the Moonsiffs were not fit Courts for the trial of these particular cases. He had stated that it appeared to him that the class of persons from which the Moonsiffs were for the most part taken was not of such a social status that it could be reasonably expected that the young men who, after passing a technical examination, were appointed Moonsiffs, would be able to resist the influence of wealth and power to which they would find themselves exposed. It was to be remembered that in cases under this Bill the contest was almost always between the rich and powerful on the one hand, and the poor and weak on the other. The special object of the Bill was to secure justice to the ryot. If therefore they could establish a more independent Court than the Moonsiff's Court, they ought to provide, according to the original terms of the Bill, that all these cases should be tried in that Court; and that it should not be in the power of a zemindar to take a ryot to another Court, where he would not have the same chance of getting a proper hearing. Another reason for objecting to giving jurisdiction to the Civil Courts was that, according to measures in contemplation for the reconstitution of the Civil Courts, the number of Moonsiffs,

under the operation of the proposed Small Cause Courts, might be considerably reduced, but then it would be necessary to provide for the determination of rent suits; and one of the recommendations of the new class of Courts was that it would enable them in time perhaps to dispense altogether with the Moonsiffs' Courts.

What he had said referred chiefly to the Lower Provinces of Bengal, and he would remark that throughout these debates the state of things in Bengal had been too exclusively considered. It seemed to be forgotten that at least one half of the territories to which this Bill would apply was under the Government of the North-Western Provinces; and no one who had any knowledge of the circumstances of those Provinces doubted the desirability of removing rent cases from the cognizance of the Civil Courts. In the year 1850 two Judges of the Agra Sudder urged the local Government to obtain a law for the purpose. This was not done, but large strides were made in the same direction. The whole of the Collectors had been invested with full powers under Section XX Regulation VII. 1822, in all cases relating to disputes between landlord and tenant, and whenever such cases were taken into the regular Courts, they were required by a rule of practice to be referred to the Collector for adjustment and report. So that in effect these cases were very much in the hands of the Revenue Officers, and he had no doubt of the expediency of placing them so entirely. With reference, therefore, to the circumstances of the North-Western Provinces, and to what he had stated regarding the Moonsiffs in the Lower Provinces, he urged the adoption of the amendment which he was about to move.

Mr. Currie referred to several parts of the Bill as it now stood, which laid down rules of procedure for the Collectors, observing that they would not apply to the Civil Courts, and that the difference of procedure in different Courts in the same classes of cases would cause doubt and embarrassment. He did not consider this as in itself a sufficient reason for urging an alteration of the Section in question. In adducing it, he only intended that it should be taken into consideration in connection with the other reasons urged by him.

With these remarks he begged to move the substitution of the word "shall" for the word "may" in the 37th line of the Section.

MR. PEACOCK said, it was very inconvenient after full discussion that the Bill should be re-committed. It was not certainly contrary to the Standing Orders, but the primary object of the Standing Order relating to re-committal was to enable errors to be corrected. He recollected that the Committee by whom the Standing Orders were prepared considered whether it should be forbidden to re-open a matter which had been discussed and determined. It was thought that no express order on such a subject was requisite.

Why were they called upon to take away the jurisdiction conferred last Saturday? What was intended to be done under the law as it had been now amended? Were the officers who, as had been proposed, were to be appointed Deputy-Magistrates, to have their Police functions taken away because they were now required to act as Deputy Collectors; or were distinct Deputy Collectors to be appointed? In the latter case, would the finances support the double set of officers?

SIR JAMES OUTRAM said that, being one of those who voted last Saturday for the amendment which it was now proposed to alter, he begged to be allowed to explain that, in voting for the present motion, he had not the slightest intention of nullifying his original vote. His impression at the time was that by allowing litigants the option of going into the old Courts, if they preferred it, the defendant must be a consenting party, without which the new Courts provided by this Bill must be resorted to. Had he known that the power of choosing the Court would rest with the plaintiff alone, he should have voted against and not for the amendment in question.

MR. HARINGTON said, referring to what had fallen from the Honorable and learned Member of Council on his left (Mr. Peacock) in respect to the course pursued by the Honorable Member for Bengal on the present occasion,

he was willing to admit that there was an inconvenience in re-opening questions which had been settled after full discussion, but there was one consideration which must, he thought, out-weigh and over-ride all other considerations, and that was the duty which rested upon them of making every Bill, at any and every stage, as perfect as was in their power before it passed into law. He found this principle to have been clearly enunciated by their late highly respected Vice-President not very long before he left them ; he said, " he thought that it would be very unwise for the Council to lay down a rule against re-considering a matter on which a vote had once been taken. Their object was to make their Bills as perfect as possible, and upon many subjects of debate Honorable Members might be found to alter the opinion which they had previously expressed." This had actually happened as regarded the question now under discussion. The Honorable and gallant General (Sir James Outram) had frankly told them, that his opinion had undergone a change upon that question since it was last debated, and it appeared to him (Mr. Harington) that the Honorable and gallant Member had stated a very good and sufficient reason for the alteration which had taken place in his views. Other Honorable Members who had voted with the Honorable and learned Member on his left, on Saturday last, might also see cause to change their opinions particularly in consequence of the introduction into the Bill, after the Section under discussion was settled, of the new Section proposed by the Honorable and learned Judge opposite (Sir C. Jackson). If he had understood the Honorable and learned Member of Council rightly, his principal objection to the transfer to the Deputy Collectors lately appointed in Bengal, of the jurisdiction which might now be exercised by the Civil Courts in the different classes of cases mentioned in the Bill, was that they were also Police Officers, and that their Police duties would often interfere with the proper discharge of the duties which would devolve upon them in the trial of those cases. He pointed out that as Civil Judges they might appoint a day for the hearing and decision of a suit instituted before them and direct the parties to be in attendance on that day with their witnesses and documentary proofs, but on the morning of the day which had been fixed for the trial and determination of the case, they might be summoned away to some other part of their jurisdiction to enquire into a case of murder or of dacoity, and that, when this happened, the suit pending before them in their capacity of Civil Judges must be postponed, to the serious loss and inconvenience of the parties and their witnesses ; he also seemed to think that in the discharge of their duties as Police Officers ill-feeling would often spring up between these Deputy Collectors and the parties resorting to their Courts in their judicial capacity, which would prejudice their minds and might exercise an improper influence upon their decisions. He (Mr. Harington) was not prepared to say that there was no force in these objections; but he thought that they had been entirely removed by the new Section introduced on the Motion of the Honorable and learned Judge opposite, which declared that none of the Officers referred to should be invested with jurisdiction under the Bill who exercised any Police functions. There was, therefore, the less reason for retaining the permissive in lieu of the imperative character given to the Section under consideration at the previous Meeting of the Council. At the time that the Section was settled, as it now stood, he (Mr. Harington) believed that every Honorable Member who voted upon it considered the question as to what Officers were to hear and determine cases coming within the provisions of the Bill to have been finally determined, and that the Deputy Collectors who would be competent to try such cases would be also Deputy Magistrates, and as such invested with Police functions. This was certainly his own belief, and the Motion therefore of the Honorable and learned Judge, of which no previous notice or intimation had been given, took him quite by surprise.

When the Section was last under consideration, he had endeavored to point out what appeared to him to be the objection to Courts exercising co-ordinate

jurisdiction. Where such Courts existed, the plaintiff, who could elect in which Court he would bring his suit, enjoyed a privilege which, from the circumstances of the case, could not extend to the defendant, and which was not unfrequently exercised at his expense; but if it was right in principle that a plaintiff should have the power of choosing in which of two or more Courts he would sue, equal justice would seem to require that the defendant should have a similar power of determining in which Court he would make his defence. It must be obvious, however, that, if such a power were given to the defendant, it would cause great delay and confusion. This showed that a system of co-ordinate Courts operated unequally. If a plaintiff felt that it was more for his interest to go into this Court than into that, he must also know that it was less for the interest of the defendant to defend himself in the Court selected as that to try the action. The reason which had induced the plaintiff to give the preference to one Court over another would generally operate contrariwise in so far as the defendant was concerned, and lead him to wish that the suit had been brought in some other Court competent to hear it. When the Government had established sufficiently good Courts for the trial of a particular class of cases, he (Mr. Harington) thought that all persons concerned in cases of that description, whether as plaintiff or defendant, should be compelled to resort to those Courts and should not be permitted to go elsewhere.

Another objection which he had to the Section as now framed was that it would oblige the Government to keep up Courts which would not otherwise be required, or defendants might be dragged to a considerable distance to make their defence. This would often be just what the plaintiff desired. The plaintiff being generally the richer and more powerful man of the two, distance to him would be of far less consequence than to the defendant. For these reasons he should give his hearty assent to the amendment proposed by the Honorable Member for Bengal.

MR. LEGEYT said, on Saturday last he voted in favor of the substitution of "may" for "shall." He did so, because he felt a great objection to entrusting Executive Police Officers with the decision of civil suits. As the matter stood in respect to this Bill, he was glad to compromise by making it permissive to the suitors to go to the Civil Courts if they preferred. But the Section introduced by the Honorable and learned Judge at the end of the Bill so completely met his objections, that as by it Deputy Collectors having any Police charge would not have jurisdiction over the civil suits mentioned in this Bill, he should support the amendment now moved by the Honorable Member for Bengal. He thought that these descriptions of suits would be better decided by the Revenue than by the Civil Courts, and, therefore, he did not see why plaintiffs should have the power of forcing defendants into an Adawlut. He also hoped that, by relieving the Adawluts of these suits, the re-construction of those Courts might be facilitated; and this he considered an object of great importance.

But there was still one point on which he felt some doubt. It was this, whether the words Deputy Collector in the new Section went far enough. He (Mr. LeGeyt) would exclude every Revenue Officer exercising a Police charge from trying Revenue suits, and he thought that it was objectionable that this power should be left even with a Collector who was also the Magistrate of a District and in charge of the Police. He did hope to see Collectors and Magistrates relieved from Executive Police duties, and was anxious to carry that principle as far it it could be carried.

MR. GRANT said, he did not quite know after that explanation what vote the Honorable Member for Bombay would give. He would not hesitate for a moment himself in changing his vote, if convinced that the Bill was rendered worse by the amendment which it was now proposed to cancel. He had listened to all the arguments advanced with a mind open to conviction, but he remained of opinion that the amendment, which left the Civil Courts with concurrent jurisdiction, was an important improvement. He took very much

the view taken by the Honorable and learned Judge (Sir C. Jackson) at the last Meeting. The natural course was that these suits should be tried by the Civil Courts. They were civil suits, and the Civil Courts were established for the trial of civil suits. This was not only the natural course, but it was also the law now, as the Civil Courts now had jurisdiction in these suits. Therefore everything appeared to be in favor of the existing state of things; and this being so, he certainly thought with the Honorable and learned Judge that it was the duty of those who wished to change the law, to show something objectional in it, not fancifully but practically objectionable. He thought it the business of a Legislature of practical men to require those who proposed such a change, to show that the existing law had in fact bad effects. But not one such instance had been mentioned either by the Honorable Member for Bengal or by the Honorable Member for the North Western Provinces, although, doubtless, the great experience of both the Honorable Members, if such cases existed, would have enabled them to mention them. A theoretical objection had been taken to co-ordinate jurisdictions, and urged with great ability, but such jurisdictions existed now, and no one had shown that in practice any harm had been done by them. Such a system existed in all the Presidency Towns where the Supreme and Small Cause Courts had concurrent jurisdictions. Had any one heard of any practical mischief in consequence? In England such jurisdictions were common and worked well. For these reasons—not because he persisted in voting, as he had voted before, but because he still believed that the amendment was a real improvement—he would oppose the Motion.

MR. HARINGTON said, the Honorable Chairman had observed that neither the Honorable Member for Bengal, nor himself, had mentioned any cases to show that practical inconvenience had resulted from the present state of the law. He (Mr. Harington) had just recollected a case in which an influential zemindar brought a summary suit for rent in the Collector's office against a large body of cultivators, who were no otherwise connected than that they cultivated land in the same estate, and obtained a judgment. The defendants, being dissatisfied with the decision, proposed to contest it in the Civil Court; but, although the plaintiff was allowed, under the practice of the Revenue Courts, to institute a single action against them all on one sheet of stamp paper, they were each obliged to bring separate actions to set aside the award of the Revenue Officer upon full stamp paper proportioned to the amount of their several liabilities. Had the plaintiff brought his suit in the Civil Court in the first instance, he must have sued each cultivator separately, and have valued his claim accordingly, which did not suit his purpose. The Honorable Chairman had also noticed that in the Presidency Towns co-ordinate Courts existed; that in certain classes of cases the plaintiffs might bring their suits either in the Supreme Court or in the Court of Small Causes; and that he had never heard that this power had been abused. What the Honorable Chairman had stated was, no doubt, quite correct; but he (Mr. Harington) believed that the heavy expenses of the Supreme Court deterred parties from resorting to that Court, who could take their cases into the Small Cause Court, while in the Act constituting the latter Court he thought there was a Section, though he could not just then put his hand upon it, which enabled the Judges of the Supreme Court, whenever they considered that a suit had been unnecessarily instituted in that Court instead of in the Court of Small Causes, to refuse to allow the plaintiff his costs, though he might succeed in his action.

The Council divided—

Ayes 6.	*Noes* 3.
Mr. Forbes.	Sir Charles Jackson.
Mr. Harington.	Mr. Peacock.
Mr. Currie.	The Chairman.
Mr. LeGeyt.	
Mr. Ricketts.	
Sir James Outram.	

So the Motion was carried.

MR. CURRIE then moved the restoration of the following words at the end of the Section :—

"And except in the way of appeal as provided in this Act, shall not be cognizable in

Mr. Grant

any other Court, or by any other Officer, or in any other manner."

The Motion was carried, and the Section then passed.

The new Section after Section CXLVIII was omitted, on the Motion of Mr. Currie.

Sections CLX and CLXI were passed after amendments.

MR. CURRIE moved that the new Section at the end of the Bill stand after Section CLXIII.

Agreed to.

Mr. RICKETTS said, he desired to move an alteration in the above new Section. There were some Collectors who, because they were placed in charge of comparatively small districts, were called Deputy Collectors, although they exercised the same powers as Collectors. He therefore proposed after the words "Deputy Collector" to insert the words "appointed under Regulation IX. 1833 of the Bengal Code."

After some conversation, MR. LEGEYT moved that the words "No Revenue Officer not being a Collector" be substituted for the words "No Deputy Collector."

MR. HARINGTON said, the amendment proposed by the Honorable Member for Bombay would, if carried, seriously embarrass the Government of the North-Western Provinces, and he could not see that any practical advantage would result from its adoption, but the contrary. At present it frequently happened in the North-Western Provinces that a Joint Magistrate and Deputy Collector was placed in Police, Revenue, and Judicial charge of one or two Pergunnahs, of which he had the entire management, subject of course to the supervision and control of his immediate official superior. This was found to be a very good way of training up young men for the higher offices of Magistrate and Collector, in which the same functions, Police, Judicial, and Revenue, would have to be discharged under a much less degree of supervision and control in respect to an entire district. If the amendment of the Honorable Member for Bombay were carried, either the Police functions of the Joint Magistrates and Deputy Collectors must be taken away, or they would not be competent in their capacity of Revenue Officers to decide cases under the Bill. He should oppose the Motion.

MR. LEGEYT said, his object in proposing his amendment was to carry out the principle enunciated in the Section under discussion. It appeared to him that, if an Assistant or Deputy Collector, who was also a Deputy Magistrate, and as such exercising a control over the Executive Police, no matter what his standing might be, were empowered to exercise these Civil Judicial powers, it would certainly be an infringement of the principle they hoped to adopt. If the Executive Government chose to step in, and as a special case invest a Deputy Magistrate with the powers of a Collector, in fact make him a Collector for the purposes of this Bill, as it now stood, they could do so, but it was to be hoped such an exercise of power would not be frequent.

MR. LEGEYT'S Motion being put, the Council divided—

Ayes 4.	*Noes* 5.
Sir Charles Jackson.	Mr. Forbes.
Mr. LeGeyt.	Mr. Harington.
Mr. Peacock.	Mr. Currie.
The Chairman.	Mr. Ricketts.
	Sir James Outram.

So the Motion was negatived.

MR. RICKETTS' Motion was put and agreed to, and the Section as amended then passed.

MR. CURRIE said, by Regulation IV. 1821 the Collectors of Revenue were authorized, "with the sanction of the Board of Revenue, to delegate to their Assistants any part of their prescribed duties to which, from the extent of their general business or other cause, they might be unable to give due attention themselves." As it was not intended that Collectors should delegate to their Assistants the duties prescribed by this Bill, he proposed to insert the following new Section before Section CLXIV :—

"Assistants to Collectors shall not exercise any powers under this Act unless invested by Government with the powers of Deputy Collectors, in which case they may exercise the powers hereby assigned to Deputy Collectors."

After some conversation, the Section was agreed to.

A trifling amendment was made in Section CL.

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

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

MR. PEACOCK said, he was sorry to vote against the Bill, but he was not prepared to support it. The jurisdiction of the Civil Courts was taken away, and he did not know what was to be substituted for it. He proposed to ask the Bengal Government, either directly or through the Government of India, how many Deputy Collectors there were. They might place the people in great difficulties if every man should be driven to the Cutcherry of the Collector or of the Assistant vested with full powers. He begged to ask the Honorable Member to postpone the third reading for a week, that the desired information might be obtained. If the Motion for the third reading were put, he would vote against it.

MR. CURRIE said, he did not think that the information proposed to be called for would at all help them. He admitted that, at present, nearly all the local officers were invested with Police powers, but he apprehended that this arrangement was not intended to stand. At any rate the Collectors and Deputy Collectors who for years past had tried these cases to the number of 56,000 in the year, as had been stated, would be available for the duty as heretofore. There might be some temporary embarrassment from the introduction of the Section, under which no Deputy Collector entrusted with Police functions could exercise jurisdiction under the Bill. But he saw no sufficient reason for delaying the third reading, and he would therefore press his Motion.

MR. RICKETTS said, he could not suppose that it was necessary to postpone the third reading. They might safely trust the Executive Government to provide Courts to carry out the provisions of the Bill.

He could not give his vote in favor of the third reading without offering one word of congratulation to his Honorable friend at the prospect of this Bill passing into law. The Bill was equally creditable to the Honorable Members' great ability and to his untiring devoted industry. Few, very few, knew the trouble that the preparation of this Bill had occasioned. Setting aside those Sections which had led to a difference of opinion (for a moment let them be forgotten), they would all agree that the work upon the whole was a right good work. The Bill, if passed, would benefit all those who in this country were connected with the land, that is, it would benefit about thirty millions of people. That was a pleasant thought for the Honorable Member to put under his pillow and go to sleep upon in a snug little room in the old country. He had seen many instances of old servants who, when the time for retirement drew nigh, and when their thoughts were turned to the Westward, had gradually lost almost all their interest in the country where they had passed their days, and were content to do little more than just what was necessary to carry on the work of their office without occasioning unpleasant remarks. A very different case was that of the Honorable Member. They had all seen his Honorable friend working on to the last as he had worked at first, and in his mid career doing all he could for the good of the people. No brass—nothing of that sort—would commemorate his career here,—but should this Bill pass, he believed that Currie's Act would for long years to come, as long as we collected land revenue, till Bengal was sold, be a lasting memorial that as in earlier days so to the very last he worked on with success, and with that right honest spirit which had characterized his whole career as a servant of this Government.

MR. CURRIE did not know whether he ought to say anything. He could not however refrain from saying that he felt most thankful to the Honorable Member, but at the same time deeply humbled by the terms in which his poor exertions had been spoken of. Such praise was altogether undeserved by him. The Bill of which his Honorable friend had spoken so highly was very little more than a compilation of the labors of others. Many had worked in the same field. His Honorable friend himself had many years ago pre-

pared a summary suit law in supersession of the existing laws, and there were similar works by other hands. He had had the advantage of the labors of others, and had done little more than work out and put together the materials which they had prepared. He could not therefore take the credit which the Honorable Member had so kindly assigned to him.

MR. PEACOCK said, he fully concurred in what had been said by the Honorable Member of Council opposite (Mr. Ricketts). They were deeply indebted to the Honorable Member for Bengal. At the same time when they were called upon to remove jurisdiction from the ordinary Courts, they ought to see that Courts were provided and in sufficient numbers. Were the Deputy Magistrates appointed especially for Police Duties to be deprived of those duties that they might act under that Bill? He would rather improve the existing Courts than make these alterations. Were the present Deputy Collectors sufficiently numerous, without the appointment of others, to conduct trials under the new law? If they were called upon to vote blindly, he could not do it.

The Council divided—

Ayes 7.	*Noes* 2.
Mr. Forbes.	Sir Charles Jackson.
Mr. Harington.	Mr. Peacock.
Mr. Currie.	
Mr. LeGeyt.	
Mr. Ricketts.	
Sir James Outram.	
The President.	

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

The Bill having passed—

MR. PEACOCK gave notice of his intention to record his dissent.

PILOT COURTS (BENGAL).

Mr. CURRIE postponed the Motion (which stood in the Orders of the Day) for a Committee of the whole Council on the Bill "to make better provision for the trial of Pilots at the Presidency of Fort William in Bengal for breach of duty."

IMPRISONMENT OF EUROPEANS AND AMERICANS.

SIR CHARLES JACKSON said that, in pursuance of the notice of Motion which he had given last Saturday, he now proposed to enquire of the Executive Government, whether any and what steps had been taken for the erection of a jail in a suitable climate for the reception of European or American convicts sentenced to terms of penal servitude under Act XXIV of 1855. In doing so, he would observe that the policy of the law relating to this subject, previously to the passing of that Act, was to prevent Europeans from being sentenced to confinement for long terms in this country, and in fact the Courts never sentenced them to imprisonment for a longer term than two years with hard labor, and when the sentences were of a grave character requiring a more severe sentence, they were sentenced to transportation to the Australian Colonies. But in consequence of the Australian Colonies having objected to receive European or American convicts, there was no place to which such convicts could be transported from India, and Act XXIV of 1855 was accordingly passed, substituting penal servitude for transportation according to a graduated scale.

Since the passing of that Act a great number of European convicts had been sentenced to terms of penal servitude, and were now undergoing their sentence by suffering imprisonment in the Presidency towns. In his opinion the penal servitude of Europeans for lengthened periods in a jail, in the plains of India, was a cruel punishment, and would inevitably be attended with this consequence, that the prisoner would either die a lingering death, or he would be released by order of Government before the expiration of his sentence, and nothing was so detrimental to the due administration of justice as these interferences by the executive with the sentences of the ordinary Courts.

He understood that at the time of the passing of that Act it was the intention of Government to erect a jail in a healthy locality for European convicts. He had looked through the debates, but could find no express provision on the

part of Government to that effect ; but the Honorable and learned Member opposite (Mr. Peacock) in introducing that Act adverted to the probability of only one jail being erected for all India, instead of providing a separate jail for each of the three Presidencies. He presumed then that there was such an intention, whether expressed or not, on the part of the Executive Government.

Since then four years had passed, and nothing had been done. He had no desire to impute any blame to the Government. He was fully aware of the very great difficulties which the Government had lately experienced, and from which it was only now recovering. Still he considered it quite time that something should be done, and he therefore begged to ask whether any steps had been taken in the matter or not.

MR. PEACOCK said, the Honorable and learned Judge was quite right in supposing that it was the intention of Government to erect a jail for the reception of European convicts in some suitable spot in a healthy climate. Shortly after the passing of Act XXIV of 1855 (on the 17th December 1855), the Government of India submitted to the late Honorable Court of Directors a proposal to erect a Central Jail on the Neilgherry Hills for European convicts, with accommodation sufficient for a hundred prisoners. The average number of Europeans annually sentenced to penal servitude, by all the Courts established by Royal Charter, did not exceed three. In 1856 (May 27th) the Honorable Court objected to sanction the expenditure, on the ground that it would be very inconvenient to send to such a distance one or two convicts at a time. After some intermediate correspondence, the Honorable Court, in a Despatch of 1857 (January 2nd) sanctioned the erection of a jail on the Neilgherry Hills, and informed the Government of India that they had transmitted a copy of that Despatch to the Madras Government. On the 12th March 1857 the Government of India wrote to the Madras Government, stating that the Government of India awaited the submission of a plan and estimate for the building. In the Madras Budget for 1858-59 there was entered an item of "a new jail chiefly for native prisoners at Ootacamund," at an estimated expense of thirty thousand Rupees. The Government of India at first demurred to this ; but on the Madras Government explaining that the building was "designed partly as a prison for Europeans sentenced to penal servitude, until a larger prison could be constructed solely for their use," the Government of India, on the 28th September last, sanctioned the work expressly for Europeans. Lastly, it appeared, that on this sanction reaching Madras, doubts had been raised by the Officiating Chief Engineer there as to whether the design submitted was fitted for the reception of Europeans, and a specific report was called for from the Inspector of Jails. Since then no further communication had been received on the subject.

It appeared, therefore, that the erection of a jail had been sanctioned. He believed that the matter at present rested with the Inspector of Prisons and the Madras Government. He was glad, however, that the Honorable and learned Judge had asked the question, for he hoped it would expedite the business.

POLICE (PRESIDENCY TOWNS AND STRAITS SETTLEMENT).

MR. CURRIE wished to say a few words with regard to a remark which fell from the Honorable Member for Bombay at the last Meeting, on the occasion of the second reading of the Presidency Towns Police Act Amendment Bill, that it would be a good suggestion to the Select Committee to take into consideration the expediency of introducing into the Bill some provision for the regulation of Hackery Coaches and Palankeens. At the moment he did not remember that he had received a communication on the subject from the Secretary to the Trades' Association, after he had prepared and introduced this Bill. He did not himself feel very confident as to the necessity or expediency of legislating on the subject. But still as it was one which had excited public attention, he would move that the communication received by him from the Calcutta Trades' Association, soliciting the enactment of a law for the regulation of Hackery Car-

Sir Charles Jackson

riages and Palankeens, be laid upon the table, and referred to the Select Committee on the Bill "to amend Act XIII of 1856 (for regulating the Police of the Towns of Calcutta, Madras, and Bombay, and the several Stations of the Settlement of Prince of Wales' Island, Singapore, and Malacca)," with instructions to consider the question, and if they thought legislation desirable, either to insert the necessary provisions in that Bill, or prepare a separate Bill.

He was inclined to think that, if anything on the subject were necessary, it would be better provided for by a separate Bill than by an addition to the Police Act Amendment Bill.

Agreed to.

NOTICES OF MOTION.

MR. HARINGTON gave notice that he would, on Saturday, the 23rd Instant, move the second reading of the Bill "to provide for the adjudication of claims to property seized as forfeited."

Also that he would, on the same day, move the third reading of the Bill "to provide for the Limitation of Suits."

MR. LEGEYT gave notice that he would, on the same day, move the second reading of the Bill "to empower Magistrates to decide certain disputes between contractors and workmen engaged in railway and other works."

MR. GRANT gave notice that he would, on the same day, move for a Committee of the whole Council on the Bill "to improve the law relating to sales of land for arrears of revenue in the Bengal Presidency."

LAND CUSTOMS (MADRAS & BOMBAY).

MR. PEACOCK moved to suspend the Standing Orders, in order to bring in a Bill "to alter the rates of Duty on goods imported or exported by land from certain Foreign Territories into or from the Presidencies of Madras and Bombay respectively." He referred to Act VI of 1844, Sections VI and VII, and Act XXIX of 1857, being the laws now in force for the levy of Land Customs in the Madras and Bombay Presidencies.

Inasmuch as the duties of Sea Customs had been altered, it became necessary that the Land Customs duties, which were imposed to prevent an import by land at a different rate, should be altered. He proposed to repeal the Sections above quoted, and to re-enact others, authorizing Government to levy Land Customs at the rate given by Act VII of 1859.

MR. HARINGTON seconded the Motion, which was carried.

The Bill was then read a first and second time on the Motion of MR. PEACOCK, and referred to a Select Committee, consisting of Mr. LeGeyt, Mr. Forbes, and the Mover, with an instruction to submit their Report at the next ordinary Meeting of the Council.

CRIMINAL PROCEDURE.

MR. CURRIE moved that a communication received by him from the Bengal Government on the subject of Special Appeals in criminal cases be referred to the Select Committees on the Bills for extending the jurisdiction of the Courts of Criminal Judicature of the East India Company.

Agreed to.

LAND CUSTOMS (MADRAS AND BOMBAY).

SIR CHARLES JACKSON said, he did not know if he was in order, but he desired to know when the Honorable and learned Mover of the Bill "to alter the rates of duty on goods imported or exported by land into or from the Presidencies of Madras and Bombay respectively" intended to proceed with the Bill, as he would like to have an opportunity of considering the Clause relating to contracts and agreements already made.

MR. PEACOCK said, the Clause was the same as that in the Act lately passed by the Council (VII of 1859). He would move, however, that the Honorable and learned Judge be added to the Select Committee on the Bill.

Agreed to.

LITERARY, SCIENTIFIC, AND CHARITABLE SOCIETIES.

MR. CURRIE moved, that Sir Charles Jackson be added to the Select Com-

mittee on the Bill "for the registration of Literary, Scientific, and Charitable Societies."

Agreed to.

NOTICES OF MOTION.

MR CURRIE gave notice that he would, on Saturday, the 23rd Instant, move that the following Select Committees be discharged :—Select Committee on the Bill "for the punishment of Chowkeydars for neglect of duty," Select Committee on the Bill "to extend the provisions of Regulation VI. 1810 of the Bengal Code."

The Council adjourned.

Saturday, April 23, 1859.

PRESENT:

The Hon'ble J. P. Grant, Senior Member of the Council of the Govr.-Genl., Presiding.

Hon. Lieut.-Genl. Sir J. Outram,
Hon. H. Ricketts,
Hon. B. Peacock,
P. W. LeGeyt, Esq.,
E. Currie, Esq.,
H. B. Harington, Esq.,
H. Forbes, Esq.,
and
Hon. Sir C. R. M. Jackson.

LIMITATION OF SUITS.

THE CLERK presented a Petition from Zemindars of Jessore against some of the provisions of the Bill "to provide for the Limitation of Suits."

MR. HARINGTON moved that the above Petition be printed.

Agreed to.

WILFUL INJURY TO PROPERTY.

THE CLERK presented a Petition from the Indigo Planters' Association, praying for an amendment of the law relating to wilful injury to property.

MR. CURRIE said, the question was considered by the Select Committee on the Cattle Trespass Act. The Petitioners stated that that Act had repealed Section IV Regulation V. 1830, which related not only to Cattle Trespass, but to wilful damages to crop of any kind, and that consequently, except against Cattle Trespass, Indigo crop had less protection than under the Section of the Regulation which had been repealed. This was quite true, but the Select Committee had not considered it necessary to make any provision in consequence of the repeal of that Section, because by the Penal Code the offence of wilful damage to property would be punishable as "mischief." So whenever the Penal Code should be passed, the object of the Petitioners would be fully met. He should therefore now move that the Petition be referred to the Select Committee on "The Indian Penal Code."

Agreed to.

LAND CUSTOMS (MADRAS AND BOMBAY).

MR. PEACOCK postponed the presentation of the Report of the Select Committee on the Bill "to alter the rates of Duty on goods imported or exported by land from certain Foreign Territories into or from the Presidencies of Madras and Bombay respectively."

SMALL CAUSE COURTS.

MR. HARINGTON presented the Report of the Select Committee on 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."

ADJUDICATION OF FORFEITURES.

MR. HARINGTON moved the second reading of the Bill "to provide for the adjudication of claims to property seized as forfeited."

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

CATTLE TRESPASS.

MR. CURRIE moved the second reading of the Bill "to amend Act III of 1857 (relating to Trespasses by Cattle)."

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

RAILWAY CONTRACTORS AND WORKMEN.

MR. LEGEYT moved the second reading of the Bill "to empower Ma-