INDIAN LEG. COUNCIL DEBATES

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1861

P. L.

Committee on the Bill "to regulate the occupation of land in the Settlement of Malacca."

Agreed to.

REGISTRATION OF ASSURANCES.

MR. FORBES moved that Mr. Seton-Karr be added to the Select Committee on the Bill "to provide for the Registration of Assurances."

Agreed to.

BREACH OF CONTRACTS; AND REGISTRATION OF CONTRACTS.

SIR BARTLE FRERE moved that Mr. Seton-Karr be added to the Select Committee on the Bill "to provide for the punishment of breach of contract for the cultivation, production, gathering, provision, manufacture, carriage, and delivery of agricultural produce," and the Bill "to provide for the registration and for the better enforcement of engagements for the cultivation and delivery of agricultural produce."

Agreed to.

COURTS OF REQUESTS (STRAITS SETTLEMENT).

MR. FORBES moved that the Bill "to enlarge the jurisdiction of the Courts of Requests in the Settlement of Prince of Wales' Island, Singapore, and Malacca" be referred to a Select Committee consisting of Sir Charles Jackson, Mr. Seton-Karr, and the mover.

Agreed to.

SALTPETRE.

MR. HARINGTON gave notice that he would on Saturday next, move the second reading of the Bill "to regulate the manufacture of Saltpetre and of Salt educed in the manufacture thereof."

STAGE CARRIAGES.

MR. HARINGTON moved that the Bill "for licensing and regulating Stage Carriages" be proceeded with in Committee of whole Council next Saturday before the Bill "for simplifying the Procedure of the Courts of Criminal Judicature not established by Royal Charter."

THE VICE-PRESIDENT said, he thought it very possible that the Stage Carriages Bill might give rise to some discussion. As to the Criminal Procedure Bill, although it was proposed that it should not take effect before the 1st of January next, yet it was very desirable that it should be passed into law as early as possible, so as to admit of its being translated and published in sufficient time before it came into operation.

MR. HARINGTON said that, after what had fallen from the Honorable and learned Vice-President, he would not press his Motion.

The Council adjourned.

Saturday, May 25, 1861.

PRESENT:

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

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

SMALL CAUSE COURTS AND POLICE.

THE VICE-PRESIDENT read Messages, informing the Legislative Council that the Governor-General had assented to the Bill "to amend Act XLII of 1860," and the Bill "to regulate temporarily the procedure of the Police enrolled under Act V of 1861 (for the regulation of Police.)"

LIMITATION OF SUITS.

THE CLERK reported to the Council that he had received by transfer from the Home Department, a communication from Mr. G. Norton, forwarding a Memorial from Shah Koondun Lall and Shah Phoondun Lall, praying for an amendment of Act XIV of 1859 (to provide for the limitation of suits.)

THE VICE-PRESIDENT moved that the above communication be printed.

Agreed to.

GATTLE TRESPASS.

THE CLERK reported to the Council that he had received a further communication from the Bengal Government relative to an amendment of Act III of 1857 (relating to trespasses by Cattle.)

MR. HARINGTON moved that the communication be printed and referred to the Select Committee on the Bill to amend that Act.

Agreed to.

EXECUTION OF MOFUSSIL PROCESS (STRAITS SETTLEMENT.)

MR. FORBES presented the Report of the Select Committee on the Bill "to extend to the Straits Settlement Act XXIII of 1840 (for executing within the local limits of the jurisdiction of Her Majesty's Courts legal process issued by authorities in the Mofussil)."

SALTPETRE.

MR. HARINGTON moved the second reading of the Bill "to regulate the manufacture of Saltpetre and of Salt educed in the manufacture thereof."

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

ROHILCUND.

MR. HARINGTON moved that the Bill "to remove certain tracts of country in the Rohilcund Division from the jurisdiction of the Tribunals established under the general Regulations and Acts" be read a third time and passed.

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

PORT-DUES (CONCAN.)

MR. ERSKINE moved that the Bill "for the levy of Port-dues in the Ports of the Concan" be read a third time and passed.

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

CRIMINAL PROCEDURE.

The Order of the Day being read for the adjourned Committee of the whole Council on the Bill "for simplifying the Procedure of the Courts of Criminal Judicature not established by Royal Charter," the Council resolved itself into a Committee for the further consideration of the Bill.

MR. HARINGTON moved the introduction of the following new Section after Section 162 :—

"It shall be competent to the local Government to direct that in any district or part of a district to which this Act shall extend, or shall hereafter be extended under the provisions of Section 360, the evidence of witnesses shall be taken down by the Magistrate with his own hand, in the Vernacular language of the Magistrate, unless the Magistrate be prevented by any sufficient reason from taking down the evidence of any witness, in which case he shall record the reason of his inability to do so, and shall cause the evidence to be taken down in writing from his dictation in open Court. The evidence shall be taken down, not ordinarily in the form of question and answer, but in the form of a narrative, and when completed, shall be explained to the witness, and shall, if necessary, be corrected. It shall be in the discretion of the Magistrate to take down any particular question and answer, if there shall appear any special reason for so doing, or any person, who is a prosecutor, or a person accused, shall require it. The Magistrate shall record such remarks as he may think material respecting the demeanor of any witness while under examination. The evidence so taken down shall be signed by the Magistrate, and shall form part of the record. If the Vernacular language of the Magistrate be not English, and the Magistrate be able to take down the evidence as required by this Section in a clear and intelligible manner in the English language, he may take down the evidence in that language."

He said, the Committee would observe that this Section, which he was anxious to see introduced at the part of the Code at which they had now arrived, differed very materially from the Section originally proposed by him for insertion in that place. The alteration which he had made in the Section was suggested by some remarks which fell from Honorable Members on Saturday last, and he might say

indeed that he had been led to remodel the Section and to give it the form in which it now appeared, very much in deference to the opinion expressed by those Honorable Members. He should be very glad if the alteration thus made in the Section had the effect of removing the objections which some Honorable Members appeared to entertain to the Section as it originally stood. As he first drew the Section, it required that the Magistrate should take down only the substance of the evidence given by each witness. Under the Section as at present worded, it would be the duty of the Magistrate to reduce the entire deposition of the witness into writing. As he had already said the difference was very material.

There could be no doubt that the question raised by the proposed new Section was a very difficult one, and that it had a very important bearing on the interests of justice. He had no wish that the Section should be adopted by the Committee without full consideration and discussion. But he must ask Honorable Members to bear in mind, that in the Courts in which Native Magistrates presided—and the number of such Courts was large—all that the proposed new Section, when extended to Courts so presided over, would do, would be to compel the Magistrate or presiding Officer to take down the evidence of each witness, as the examination proceeded, with his own hand, thus following the practice observed by Her Majesty's Judges in the Supreme Courts of Judicature, instead of leaving this duty to be performed by an ill-paid underling or Mohurrir. The Native Magistrate might already do this under the last Section settled by the Committee; but what that Section left optional, the proposed Section made imperative. Of the ability of the Native Magistrates to take down with their own hands evidence which would generally be given in their own Vernacular, there could be no doubt, and the substitution of a trustworthy judicial officer for a badly paid ministerial officer for the performance of this important duty, must, he thought, be regarded as a very great improvement on the present practice. The case of the European Magistrate remained to be considered. No doubt the practical effect of the rule contained in the proposed new Section must be to impose some additional labor upon that functionary, and knowing how extremely arduous were the duties of the European Magistrates who were also Collectors, and how severely the time and strength of those officers were already taxed, he certainly felt some hesitation in proposing a measure which would add to their burthens; but high public considerations were involved in the question which must outweigh all considerations of mere convenience, using that word in the sense of ease or freedom from labor, and if, under the operation of the proposed rule, it was found impossible for the Magistrates, whether European or Native, to get through the same quantity of work which they did at present—and the impossibility of their doing so was the principal objection he had heard out-of-doors against the rule—he apprehended that it would be the duty of the Government, in order to prevent the accumulation of arrears, to appoint additional Officers. It had also been suggested that some of the European Magistrates were not sufficiently familiar with the native languages to be able correctly to take down the evidence of native witnesses, and it was said that, under the proposed rule, there would be a risk, when such was the case, of the meaning of the witness being perverted or not rendered correctly, and that the consequence might be a failure of justice caused either by a wrong conviction or by a wrong acquittal. But he submitted that any Magistrate to whom these remarks were applicable, would be altogether disqualified for giving judgment on native evidence taken down by another person. It must be quite obvious that he could exercise no check upon the writer of the deposition, and whether the writer from carelessness or some improper motive recorded the evidence wrongly, or whether the

Magistrate, from his ignorance of the language of the witness, misrepresented what he said in his notes of the evidence, the result would be pretty much the same. He did not think there was much force in the objection which he had just noticed, and he could only hope that the instances would be very rare indeed, in which an officer, who was not sufficiently conversant with the native languages to be able himself to cross-examine the witnesses, and correctly to render what they said in his own Vernacular, would be found exercising the important functions of a Magistrate, however limited his powers might be.

Although it was not intended that the Procedure Code, the details of which they were now settling, should take effect in any Non-Regulation district until it was extended thereto by an order of the local Government, he thought Honorable Members would agree with him that when the Indian Penal Code, which was of general application, came into operation, it was very desirable that there should be one uniform Code of Criminal Procedure throughout the country for carrying out the provisions of that Code. This might not be absolutely necessary, but it was certainly highly expedient. He had mentioned on a former occasion, that the rule contained in the Section now proposed was already acted upon, either wholly, or in part, in some of the Non-Regulation districts, and if the Code of Criminal Procedure was to be extended to those districts, some rule of the nature of that proposed seemed necessary to enable the local Governments to authorise the continuance of the practice; otherwise simultaneously with the introduction of the new Code of Criminal Procedure, however long the rule might have been in force, and however well and satisfactorily it might have worked, it must be discontinued. He feared that when the local Governments found that this would be the result of their introducing the Code, as at present framed, they would prefer that the advantages which might be expected to follow the introduction of the Code should be foregone, rather than that the practice referred to should be abolished. He considered that this would be a subject for regret. It had been suggested that the Code should be settled at present with reference to the Regulation districts only, and that if hereafter the local Governments should desire to extend the Code to any of the Non-Regulation districts under their authority, and they should consider any of the provisions of the Code unsuited to those districts, they should apply to the Council for some modification of the particular provisions objected to. But with all deference to those who made the suggestion, he must say that he could not concur with them in considering the course proposed a right or proper one. They had all the materials and all the information that they required before them, and it seemed to him that they should endeavor now so to frame the Code that it should issue in a complete form, and be susceptible of being introduced at once, as well into the Non-Regulation as into the Regulation districts. He did not mean to say that every Section of the Code must be made applicable alike to both Regulation and Non-Regulation districts. This was not his meaning. What he intended was that, looking to the different circumstances of different parts of the country, the Code should be so framed as to admit of its general introduction. Frequent alterations of the Code or constant applications to the Legislature to modify its provisions in order to suit the Code to this place or that place, would, he thought, be highly objectionable. This might easily be avoided, by giving some discretionary power to the local Governments, such as was now proposed, where a uniform rule might operate inconveniently. The Select Committee had proposed that this should be done in respect to trials by jury or with the aid of assessors. Furthermore, it seemed to him that, the question having been raised as to whether a Magistrate should or should not be allowed or required to record the evidence of witnesses with his own hand and in his own Vernacular,

Mr. Harington

though that might not be the Vernacular of the witness, and the fact that such was already the practice to some extent in many of the Non-Regulation districts having been brought prominently to the notice of the Council, they could not pass over the question in silence, or without considering it and coming to some decision in respect to it. It appeared to him that they were bound to enquire whether the practice was right in itself, and if so, whether they ought not to provide for its more general observance, or, on the other hand, if they thought the practice was wrong, whether they were not required to take steps to put a stop to it where it obtained. He apprehended that they had full power to do this by passing a prohibitory law. There could not be that great difference between the Regulation and Non-Regulation districts, as, in a matter of this nature, to render that quite wrong in the one, which was quite right and proper in the other, or *vice versâ*. If the rule was good for the Non-Regulation districts, he did not see why it should not be equally good for the Regulation districts also, and why it should not be extended to them. With the permission of the Council he would read an extract from the last Annual Administration Report of the Judicial Commissioner of Oude, to show the extent to which the practice had been carried in that Province, and the success which had attended its introduction.

The Judicial Commissioner said—

"Our system is now something totally different from what it was in former days. Every witness is examined as a real witness face to face with the Judge in open Court, instead of making an affidavit to a Mohurrir to be afterwards gabbled over before the Judge, and there is no longer any Vernacular record of the evidence (except, of course, when the Judge is himself a native) in any case great or small, saving those tried by unpassed Assistants, whose want of knowledge of the language renders it necessary that some one else should for security record it. In all other trials, Criminal and Civil, before all other Officers of every description, the record simply consists of the notes taken by the Judge in his own hand.

No doubt, this is a bold, and to most Indian Officers, it will seem a startling innovation. In a country where a Judge is supervised and criticised by a public and a press, and the Judge is of the same race and language as the witness, there can be no doubt about it. But in this country there seemed at first some ground for hesitation. Although I have, for several years, always enforced within my jurisdiction the proper examination of the witnesses, and the filing of the notes taken by the Judge as the primary and most authentic record, I for long clung to the plan of keeping up an official reporter, a man in no way analogous to the old Izhar Nuvees, but a skilled reporter, sitting obscure in a corner, and saying not a word, but making a note in the language of the witness more full and exact than an English note could be. That plan we have gradually abandoned, as we advanced in experience, not without some regrets, and I may, therefore, be regarded as an impartial witness, when I say that, so far as we have yet gone, all our experience and the feeling of most of the local Officers, is in favor of the great success of the present unqualified system.

It is remarkable how much opinion has turned in favor of the scheme. There was much doubt and difficulty at first, but gradually almost every one has come round to like and praise it in its essential features; there is only difference of opinion about some of the details. I consider it, then, to be established that the system is a most decided success.

In practice we have found the present record sufficient for our purposes. The great doubt might have been whether it would suffice for revision, review, and appeal. It has, I think, quite sufficed for such purposes. The record now gives us a rapid insight into the main facts and proceedings, conduct, and train of induction in the mind of the Judge, and provided he is honest, does his duty, and writes an English character (not unintelligible hieroglyphics) nothing is usually wanting. It may be objected that if the Judge be dishonest, prejudiced, spiteful, or partial, if he slurs over the duty, or if he writes an illegible hand, the object will be defeated.

I reply that we presume that only men possessing the most ordinary and necessary qualifications will be judicially employed. Honesty, industry, and education, to the point of reading and writing, may fairly be required, and without difficulty exacted from all Officers so employed. I consider, then, that so far there is really no difficulty. If any man does not take proper and legible notes, I shall submit a recommendation for his being dealt with by the Chief Commissioner.

The abolition of the system of trying upon the record has ridded us of one of the chief difficulties in the way of the system. The only cases, in respect to which I have sometimes doubts, are the important Criminal ones referred by Commissioners for my confirmation. I confess that if I were to decide very difficult and delicate questions of fact upon the somewhat summary notes of the evidence, which I have sometimes received, I should be

embarrassed, but I consider first, that I do not try upon the record, that the Commissioner tries the case, and passes sentence, and that I merely endorse, confirm, or modify his sentence with reference to the information before me, the Commissioner being responsible in a primary, I in but a secondary degree, and next I think that we may fairly require that the minuteness and fullness of the notes should be proportioned to the importance and difficulty of the case, and that Commissioners must make a full and careful record of heavy cases.

Of the advantage and necessity of following our mode of fairly examining each witness in open Court, instead of allowing a subordinate Mohurrir to do so, I cannot conceive that (prejudice and habit apart) there can be any difference of opinion. True, the process occupies time; true, a witness may be stolid or obdurate, to get him to the point may be a work involving some labor and patience; but we may as well shut up our Courts altogether as, say, that we have not time and patience to take evidence. If we profess to administer justice, we must supply sufficient judicial power for the purpose, and in my opinion to counterbalance the time and toil of examining witnesses, much may be gained by the avoidance of irrelevant matter, a good procedure, and judicial habits of business. As yet we have found no difficulty in getting through the work, and I hope that as the work increases, the judicial aptitude and skill of our Officers will also so increase, that they will more than keep pace with it. If the examination of the witnesses before the Judge be accepted, I am quite confident that his taking proper English notes causes very little or no additional delay. The notes involve a certain labor but no time, and I think that once the habit and knack of taking good notes (sufficient, and not too much, all the essential, and none of the irrelevant parts of the evidence) is acquired, the labor will be more than repaid to the Judge himself by the facility and confidence given to his proceedings as the case goes on. It is rather the labor of pumping the witnesses which, combined with the note taking, may sometimes make the labor heavy, the same man being at the same time Counsel for both sides, Judge and Reporter; but this is in fact an evil inevitable to our system of dealing direct without the intervention of professional agents, and it is counterbalanced by many advantages in our practice. As things advance, it may be that some day when the memory of the old Izhar Nuvesses is gone, and their traditions lost, a real reporter may be allowed in some heavy cases, and prosecutors appointed to aid the Judge in conflicts with Counsel for prisoners.

I very much feel that nothing can be so prejudicial to the interests of justice as to work our Officers so hard, that their duties become irksome, and that they acquire a tendency to shirk thorough investigation. Meantime I confidently recommend our reform in the system of taking evidence."

He need not tell the Committee that Mr. George Campbell, the author of the report, from which the extracts which he had just read were taken, was no mere theorist, but an able, intelligent, and experienced Judge, whose deliberate opinion, after a fair trial of the system described by him, was entitled to much weight. The same system had also been introduced into the Punjab. He had not been able to ascertain to what extent it was in force there; but he was assured by a very able Punjab Officer now in Calcutta, that it was working admirably and giving very general satisfaction. Under these circumstances, he should be very sorry to see any law passed, which should put a stop to the system in the Punjab and in Oude and in other parts of India, where it was in force; he would far rather make provision in the present Code for the gradual introduction of the system throughout the country. The Section now proposed aimed at this, and after carefully considering all the arguments for and against the introduction of the Section, he hoped that the Committee would agree with him and allow the Section to be introduced. The Honorable the Lieutenant-Governor of Bengal had lately addressed the Council, advocating some relaxation of the rule contained in Section 162, and he believed that the proposed new Section would fully meet His Honor's views. He feared that he had detained the Committee much longer than he ought to have done, for which he begged to apologise, but there was one other remark which he wished to make before he resumed his seat. The Honorable and learned Judge opposite (Sir Charles Jackson) told them at the last meeting of the Committee, that notwithstanding all that had been done to put a stop to the practice, he understood it was still the custom in some Courts to allow the evidence of more witnesses than one to be recorded at the same time. The Honorable and learned Judge had mentioned no particular Courts, and had not stated on what authority he had asserted the fact, but he (Mr. Harington) felt assured that the Honorable and learned Judge would not have

made such a statement until he had satisfied himself that there were grounds for it. He (Mr. Harington) was certainly not in a position to deny the statement. Taking it for granted then that what had been mentioned by the Honorable and learned Judge, was the case, he (Mr. Harington) believed that the rule, proposed by him, would prove much more effectual in putting a stop to the highly objectionable and positively illegal practice complained of than any amount of checks and safeguards such as that introduced into Section 162 at the lasting Meeting of the Committee, and he confidently calculated on the vote of the Honorable and learned Judge in favor of his present Motion. He begged to move that the Section be added to the Bill.

MR. ERSKINE said, it appeared to him that the Section now proposed would in fact create a power of dispensing at will with one-half of the precautions devised at their last meeting to prevent slovenly habits of taking evidence; and which, after a very long discussion, had been embodied in the preceding Section. This proposal he thought would undo the greater part of the work accomplished on Saturday last. Especially it re-opened the whole question as to the propriety of requiring the depositions of witnesses to be invariably written down in their own words and signed with their own hands before attestation by the Magistrate; as well as the question of retaining a well kept Vernacular record when the Magistrate's own notes were in another language. He would not again enter into any discussion on those points; for all the arguments had been so fully stated and re-stated at their last meeting that they must be fresh in the recollection of every one. He was obliged to confess, however, that nothing he had heard at all altered his opinion that, if the record of each witness' statement in his own words were to be dispensed with, very great inconvenience might arise; especially in dealing with cases of perjury and in revisions of proceedings on appeals. One other minor difficulty occurred to him at once. In the Bombay Presidency it had often been the case that a subordinate Magistrate, whose Vernacular language was Mahrattee, was employed in a district wherein the common language was Guzerattee. In such cases, under the Section now proposed, the record would have to be kept in Mahrattee—although that would not be the language of the accused or of the public or of the appellate authority. Surely, such a procedure could not be defended. He quite concurred with the Honorable Member who had last spoken in feeling that much weight was due to the opinions of able men like Mr. Campbell, and he hoped that one part of his plan might hereafter become practicable. But after all, in deciding on a question of this kind, those who had long experience of the working of any system must generally be guided in the main by the results of that experience. And, fearing as he did, that the alterations now proposed were calculated to affect injuriously the practice with which he was familiar, and which worked well in Bombay, he could not but object to them decidedly.

MR. HARINGTON said that it might have the effect of shortening the present discussion, if he mentioned at once that, in the cases to which the Section proposed by him would be applicable, there could be no appeal. The Chapter, on which they were now engaged, and into which it was proposed to introduce the new Section, related only to the preliminary enquiry by the Magistrate in cases triable by the Court of Sessions.

MR. ERSKINE said, he was much obliged to the Honorable Member for alluding to this point, as he believed there must be some misapprehension regarding it. In many cases it would not be in the power of the Magistrate who made the preliminary enquiry to satisfy himself, until his inquiry was nearly completed, whether he should commit an accused person for trial or punish him himself. If the Magistrate in such a case should decide to punish the accused person, there might be an

appeal from his decision, but there would be no Vernacular record.

MR. FORBES said, the Honorable Member for Bombay had given two grounds on which he was opposed to the Section which it was not now proposed to introduce; one was, that the deponent would not be able to sign the Judge's note of his evidence, and another that a Magistrate, whose own language was, for instance, Guzerattee, might be employed in a Province where the people ordinarily spoke Mahrattah. As regarded the first objection, he (Mr. Forbes) did not see why a deponent's signature should not be taken to the evidence as taken down by the presiding Judge. In the Supreme Court, he (Mr. Forbes) believed that all evidence was taken down in English by the Registrar, and that the signature of each witness was then taken to the Registrar's copy of the evidence, on its being translated to him; and if it be necessary that the deponent's signature should be taken, it might be taken in the manner now in force in the Supreme Court. As regarded the objection that the language of the Judge might be Guzerattee, and the language of the district Mahrattah, it must be remembered that the Section was so worded, as to leave it discretional with the local Government to introduce its provisions into any district or part of a district that they pleased, and it must be presumed that the Government would not introduce it in places where there existed any sufficient ground against it.

SIR BARTLE FRERE said, he would beg to ask the Honorable Member for the North-Western Provinces the difference which, in his opinion, existed between the practice legalized in the Section adopted last Saturday, and the system to which Mr. George Campbell referred in his report, from which an extract had just been read, as the ultimate step in the reform recommended by him, namely, the appointment of an official reporter to each Court. It seemed to him (Sir Bartle Frere) that the Section which was passed on Saturday last, legalized the exact system which Mr. Campbell wished to see ultimately introduced. Each witness would be heard separately, and the substance of his evidence would be taken down at the time by the Magistrate in his own vernacular and in his own hand-writing. But there would be, besides, a man, the official reporter, who would be engaged at the same time in taking down the evidence as nearly as possible in the very words of the witness himself, and who would probably take the signature of the witness to the deposition, a point which was justly considered by the Honorable Member for Bombay an essential safeguard in any serious case.

MR. HARINGTON said, he did not understand Mr. Campbell to look to the restoration, at any future period, of the mode of taking evidence which was formerly followed in the Oude Criminal Courts when an officer of the Court, sitting apart from the presiding Judge, took notes of the evidence as it was being reduced into writing by the Court. Mr. Campbell seemed to be fully sensible of the great advantage of a well conducted public press in watching, and by means of its own reporter, reporting the proceedings of the Criminal Courts, and he went entirely with Mr. Campbell on that point. There could be no doubt that an honest and well conducted press exercised a powerful influence for good in respect to the proceedings of Courts of Justice. It gave publicity to their proceedings and threw a light upon them, which in its effect must be highly beneficial and was most desirable. He was led to think that Mr. Campbell would be glad to see a newspaper reporter in attendance upon every Court in Oude, but that of course was out of the question. What, as a substitute, Mr. Campbell seemed to desire, was, that an official reporter should be attached to every Court, whose duty it would be to do very much what was now done by the newspaper reporters. In the Supreme Courts of Judicature and in the Courts at home, Counsel, learned in the law, were usually employed for the prosecution and the defence, who, equally with the presiding Judge, made notes of the evidence as the examination of each witness proceeded, and

when any doubt or difference of opinion arose as to what a particular witness had said, either when the Judge was delivering his charge or at any other time, he believed these notes were referred to, and compared one with another, and any objection taken, was overruled or admitted in reference to what appeared therein. In the Oude Criminal Courts, as already noticed, they formerly adopted the plan which certainly was a very clumsy one, of employing a native Mohurrir to watch their proceedings, and to act as some kind of check upon them, but, as he had mentioned, this officer did not sit with or near the presiding Judge, but in the language of Mr. Campbell's report, in an obscure corner of the Court house, where he carried on his work by himself. He did not understand Mr. Campbell in what he said about a reporter, to have any wish to return to that state of things, or to alter the present practice according to which the notes taken by the Judge or Magistrate of what each witness deposed, constituted the record of the evidence.

MR. SETON-KARR said that, as he understood this question, he thought it necessary to add his testimony to what had fallen from the Honorable Member for the North-Western Provinces. Wherever the system had been tried in the Non-Regulation Provinces under the Government of Bengal, it had given satisfaction and had been found to work with success. As he read the Section, it was not compulsory but permissive, and it only vested the local Government with the discretion to introduce the new plan wherever it thought fit; and as it appeared to him that the arguments preponderated in favor of the Section, he should willingly vote with the Honorable Member in support of it.

There were, however, one or two points which had been urged, in regard to which he desired to say a few words. It had been urged that a witness ought not to be asked to sign a deposition, unless it were taken down in a language which he could understand. But practically, hitherto, witnesses in many cases had really affixed their names or their mark to depositions taken in a language which was equally foreign to them, namely, the language of the native Mohurir, which was one peculiar to the Courts. It was not the language of the educated, nor was it the language of the uneducated, but it was a strange and stereotyped language in use only within the walls of Courts. If it were thought necessary that the witness should be required to sign depositions taken down in a language other than his own, this would in reality not be much of a deviation from the existing practice. But it might not be necessary to compel or ask witnesses so to sign at all, under the amended Section. Still further it had been noticed that, if the Section were not amended so as to regulate the practice of Non-Regulation districts, it might imperil the very introduction of the Code into such districts, or cause a retrogression instead of an advance, and it was most important that no omission of the kind to be supplied by the amendment should hinder the extension of the Code everywhere.

There was only one other remark which he would make, and that was with reference to the provision requiring the Magistrate to record such remarks as he thought material respecting the demeanor of any witness while under examination. The intention of the provision was, no doubt, good, but it would be very liable to abuse, and would leave a large opening for bias and prejudice on the part of hasty young officers, so that he would recommend its omission; but with that exception, he should vote in favor of the proposed amendment.

SIR BARTLE FRERE said, after having read Mr. Campbell's remarks about an official reporter, he had come to the conclusion that the official reporter he proposed to retain was the Vernacular reporter to take down evidence in the language in which it was given, and to take it down in a more full manner than would be done by the Magistrate. He (Sir Bartle Frere) thought that this system would be a very great improvement on what

was stated to be the practice in many parts of this side of India. But he must protest against its being considered necessary or an improvement on the practice in other parts of India. He would appeal to his Honorable friend opposite, the Member for Bombay, who had had great experience as a Magistrate and a Judge in the Bombay Presidency, as to the common practice in that Presidency, and he believed it was the same in Madras. The evidence was always given orally without the aid of an interpreter, one witness only being heard at a time, and a note of the evidence taken down in the vernacular by a native reporter at the time, as spoken. In any serious case the Judge almost invariably also took his own note of the evidence in his own language and handwriting, and had no occasion to refer to any other record. Whatever might have been the practice in former days—and he (Sir Bartle Frere) could recollect great laxity in that respect—he felt sure his Honorable friend could recollect no other system than that he had described, which was very nearly the one they had embodied in the Clause passed on Saturday last.

The Section now proposed was merely permissive, and agreeing in much which had fallen from the Honorable Member for Bengal, he thought that the power might be very properly entrusted to the local Governments or other Executive Officers vested with the administration of Non-Regulation Provinces to which the Code might be extended. He (Sir Bartle Frere) differed, however, from the Honorable Member for Bengal with regard to the provision allowing the Magistrate to record any remarks he thought necessary respecting the demeanor of a witness whilst under examination. Whatever the prejudices of the Magistrate might be, he (Sir Bartle Frere) thought it better that the Magistrate should be allowed to record whatever he had to say on the subject.

For these reasons he should support the insertion of the Clause, as drawn by his Honorable friend.

MR. HARINGTON said, one of the objections made by the Honorable Member for Bombay to the proposed new Section was that it contained no provision for the evidence, taken down in the manner prescribed by the Section, being signed by the witness who gave it; but, as remarked by the Honorable Members for Madras and Bengal, there would be no difficulty in introducing such a provision into the Section to meet this objection if necessary. Considering however that it would often happen that the witness would not understand the language in which the evidence was taken down, and that in most cases he would not be able to read the written record of the evidence, he (Mr. Harington) did not see how the witness could be required to sign the evidence, or what advantage or additional security it would be to him to sign it. Still, if the majority of the Committee thought it right that the evidence should be signed by the witness as well as by the Magistrate, he should not oppose the insertion of a provision to that effect. With regard to what had fallen from the Honorable Member for Bengal in the concluding part of his remarks, relative to the provision requiring the Magistrate to record any remarks which he might think material respecting the demeanor of any witness while under examination, he deemed it sufficient to observe that the provision was taken from the present law of evidence as contained in Act XIX of 1853, and he saw no reason for altering the law in that respect. He might add that a similar provision was contained in the corresponding Section of the Civil Procedure Code passed the year before last.

THE CHAIRMAN said, there was considerable difficulty in the question in any view of it, but it was a difficulty which, on account of the numerous languages spoken in the country, could not be avoided. As the Section, however, related only to preliminary investigations before the Magistrate, and proposed to leave it to the discretion of the local Government to extend it to particular places, he was disposed to vote in support

of it with certain amendments. He thought that an English Judge should be allowed to take notes in English, provided the evidence was properly explained to the accused if he did not understand the language of the Court. That was the practice in the Supreme Court. He (the Chairman) was not quite sure, however, that we did right last Saturday in requiring a witness on all occasions to sign his deposition. He thought there could be no advantage in obliging him to do so if he could not read the language in which it was recorded. Section 162, as it now stood, provided that, if the evidence was taken down in a different language from that in which it had been given, or if the witness did not understand the language in which it was taken down, he might require the deposition to be interpreted to him in the language in which it was given, and, when that was done, he would have to put his signature to it. Probably he would be fined for contempt of Court if he refused to sign the deposition, although he might refuse on the ground that he could not read the language in which his deposition was recorded. The same observations applied to a man who, if he could not read and write, which was a very common case in this country, was required to put his mark or cross to his deposition. He therefore thought that it would be necessary and useful to require a witness to sign a deposition only when he understood or could read the language in which it was recorded.

With regard to the case put by the Honorable Member for Bombay, of the language of a witness being Guzerattee, while the language of the Judge was Mahrattee, he (the Chairman) thought that, in such a case, the local Government would not direct the evidence to be taken down in Mahrattee. He would propose, therefore, that the evidence should be taken down in the language of the witness or in the language of the Court, and that in the latter case, instead of having the evidence *explained* to the witness, which was too general an expression, he would require it to be read over and interpreted to him, but he did not think that in such a case the witness ought to be required to sign the deposition. For his own part, he (the Chairman) would not object if his deposition were taken in Bengallee, provided an interpreter interpreted to him what was taken down, but he should not like to sign the deposition, although it had been interpreted to him. He might say he did not know what was written, although he knew what had been interpreted to him.

The only other remark which he had to make was with reference to the objection urged by the Honorable Member for Bengal relative to the provision requiring the Magistrate to record any remarks he thought necessary respecting the demeanor of a witness whilst under examination. Considering that this was a Clause applicable only to preliminary investigations, he entertained the same view as the Honorable Member for Bengal. But the same objection would not apply to evidence taken before a Session Court or before the Magistrate in cases where the Magistrate could pass sentence.

The proposed Section was ultimately passed as follows :—

"It shall be competent to the local Government to direct that in any District or part of a District to which this Act shall extend, or shall hereafter be extended under the provisions of Section 360, the evidence of witnesses shall be taken down by the Magistrate with his own hand, in the Vernacular language of the Magistrate, unless the Magistrate be prevented by any sufficient reason from taking down the evidence of any witness, in which case he shall record the reason of his inability to do so, and shall cause the evidence to be taken down in writing from his dictation in open Court. The evidence shall be taken down not ordinarily in the form of question and answer, but in the form of a narrative, and when completed shall be read over to the witness, and shall, if necessary, be corrected. If the evidence be taken down in a different language from that in which it has been given, and the witness does not understand the language in which it is taken down, the witness may require his deposition as taken down in writing to be interpreted to him in the language in which it was given. It shall be in the discretion of the Magistrate to take down any particular question and answer, if there shall appear any special reason for so doing, or any person, who is a prosecutor, or a person accused, shall require

it. The evidence so taken down shall be signed by the Magistrate, and shall form part of the record. Provided that if the Vernacular language of the Magistrate be not English, or the language in ordinary use in proceedings before the Court, he may be directed by the local Government to take down the evidence in the English language or in the language in ordinary use in proceedings before the Court instead of his own Vernacular."

THE CHAIRMAN then proposed to go back to Section 162, and moved the omission of the words,

"The Magistrate shall record such remarks as he may think material respecting the demeanor of any witness while under examination."

After some discussion, the Council divided—

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

So the Motion was carried.

THE CHAIRMAN then moved the omission from the same Section of the words "and shall be signed by the witness," and said, he proposed to introduce a separate Clause requiring a witness to sign his deposition only when he understood the language in which it was recorded and could read it himself.

MR. ERSKINE said, he did not wish to divide the Council, but he must say he had not felt the full force of the remarks of the Honorable and learned Chairman. The witness would by no means be compromising himself if he signed a deposition although he could not himself read it ; because, whether he signed the deposition or not, it was to be evidence on which to convict him of perjury. The question as to signing, therefore, was rather one of procedure ; and he believed that a witness who had to sign a deposition, would be more careful to satisfy himself that it was correctly recorded, than one who was not asked to set his hand to it. The Clause, as it stood, provided for a more formal procedure. But although he could not concur in the amendment, he should not detain the Council by calling for a division.

SIR BARTLE FRERE said, whether the deponent could read or not, the mere fact of his being obliged to put even a mark or cross to his deposition had had a most material effect on witnesses. Among the Mahrattas especially, his Honorable friend opposite would remember that, before a witness signed his deposition, he almost invariably asked, "What have you written down?" On the deposition being read over, it was not uncommon for a witness to say, "No, you have mistaken what I said." The mere fact of a witness being required to affix his signature, had the effect of ensuring more perfect accuracy. If the witness could not read and write, he had two witnesses to certify that the evidence had been properly read over to him. He considered the provision which it was proposed should be omitted a very proper safeguard, and should therefore divide the Council on the proposition.

MR. HARINGTON said, he was disposed to agree in the remarks of the Honorable and learned Chairman, as to the inexpediency and indeed impropriety of requiring a witness to sign a deposition not written in a language which he could read and write, or in a language which he understood.

THE CHAIRMAN said, he saw no object in requiring a witness to put a mark or cross to a deposition. It was merely substituting shadows for substance, and he thought that in these days the more shadows were done away with, the better. What was the use of a witness coming and swearing that another witness put a particular mark or cross on a document. A cross or mark would not strengthen the evidence. Suppose a person were brought up for perjury, and he said, "I did put my cross, because the law compelled me to do so, or the Magistrate would have sent me to prison, if I refused ;" the case would be decided, not by the cross, but by the evidence of the interpreter.

After some further discussion, the Council divided as follows:—

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

So the Motion was carried.

THE CHAIRMAN said, there ought to be some provision as to contradictory statements. He should therefore propose the addition of the following words to the amendment carried on Saturday last:—

"and that the deposition was read over to the witness in a language which he understood (naming the language,) and, if the fact was so, that the witness acknowledged such deposition to be correct. If the witness shall deny the correctness of any deposition when the same is read over to him, the Magistrate may, instead of correcting the deposition, make a Memorandum thereon of the objection made to it by the witness, and shall add such remarks as he may think necessary."

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

After some discussion, the consideration of the new Section, which Mr. Harington undertook to frame, was postponed till Saturday next, it being understood that the Section should be a general one, and applicable alike to Section 162 and the Section to follow Section 162, which was passed to-day.

Section 163 was passed as it stood.

Section 164 related to the examination of the accused person.

SIR CHARLES JACKSON said, he wished the consideration of this and the three following Sections which related to the same subject to be postponed till Saturday next. They raised a very important principle, namely, whether the Magistrate should have power to examine, by way of question and answer, an accused person. When the Bill was before the Council in 1859, he proposed the omission of this Clause, but was defeated on that occasion by a majority of one. As the Council was now differently constituted, he was desirous of again bringing the question before the Council. But as it had only this morning been brought to his notice, that four or five years ago Lord Brougham had introduced a Bill into the House of Lords, with a similar object, which Bill was thrown out, he wished to refer to the debates which took place on that occasion. It was obviously a question on which the Council would gladly avail themselves of all the light that could be brought to bear upon it, and he should therefore move that the consideration of this and the three following Sections be postponed till Saturday next.

Agreed to.

Sections 168 to 170 were passed as they stood.

Section 171 was passed after amendments.

Section 172 was passed as it stood.

Section 173 provided as follows:—

"If it shall appear to a Court of Session at the time of trial, or to the Sudder Court as a Court of reference, that any person who shall have accepted an offer of pardon, has not conformed to the conditions under which the pardon was tendered, either by wilfully concealing anything essential, or by giving false evidence or information, it shall be competent to such Court to direct the commitment of such person for trial for the offence in respect of which the pardon was tendered, *and any statement made by such party after the conditional pardon is tendered either before the Magistrate or the Court of Session, may be used as evidence against such person.*"

MR. FORBES moved the omission of all the words in italics at the end of the Section. He said that in the two Sections which immediately preceded the Section now before the Committee, provision was made for tendering a pardon to a person, whose evidence was wanted for the prosecution, but who was himself one of the accused parties, and then this Section provided, that if in the opinion of the Judge of Session, the person had not given all the information he was in possession of, not only might the tender of pardon be withdrawn, and he be put upon his trial, but also that all he had said under the offer of pardon might be used against him at his trial. Now he (Mr. Forbes) was quite ready to

admit that a contract, the terms of which were not kept by one of the parties to it, was not binding on the other party, and that therefore if a pardon were tendered on certain conditions, and those conditions were not adhered to by the party to whom it was tendered, the offer might be withdrawn, but he was of opinion that if that were done, both parties should revert to their original position. But under this Section, both parties would not revert to their original position, for the Magistrate, by having obtained an admission of guilt from the accused, and being able to use it against him, would have obtained a great advantage from the prisoner, while the prisoner would have obtained no advantage from the Magistrate, and as it appeared to him that the words to which he objected were on this account very objectionable, he should move that they be omitted.

SIR CHARLES JACKSON said, he objected to the whole Section.

SIR BARNES PEACOCK thought that, if one of the accused persons accepted an offer of pardon on condition that he would make a full, true, and fair disclosure of all the circumstances within his knowledge relative to the crime committed, and if he then wilfully concealed any material fact which might throw a different light on the whole case, as he himself violated the conditions under which the pardon was tendered to him, it was but fair that he should be put upon his trial, and that the statements he had made should be used in evidence against him. The person to whom the pardon was offered, might, for instance, be the principal party in the commission of the crime, and by concealing the circumstances relative to the part he had taken, he might cause the other parties to be convicted as principals, though they were only accessories. For these reasons, he (the Chairman) thought that, if the conditions under which the pardon was offered were broken, the person ought to be put upon his trial, and have his own statements used against him in evidence.

Mr. Forbes

After some further discussion, the Council divided as follows :—

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

So the Motion was carried.

SIR CHARLES JACKSON then proposed the substitution of the words "either by concealing any fact material to the trial, or by giving false evidence or information respecting any person on his trial," for the words "either by wilfully concealing any thing essential or by giving false evidence or information."

The question being put, the Council divided—

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

So the Motion was negatived, and the Section, as amended on the Motion of Mr. Forbes, then passed.

Sections 184 to 187 were passed as they stood.

Section 188 provided as follows :—

"When evidence has been given before a Magistrate which appears to be sufficient for the conviction of the accused person of an offence which is triable exclusively by the Court of Session, or which, in the opinion of the Magistrate, is one that ought to be tried by the Court of Session, the accused person shall be sent for trial by the Magistrate before the Court of Session. *If the accused person is a European British subject, he shall be sent for trial before the Supreme Court of Judicature.*"

MR. FORBES said, he thought an important amendment was required in this Section, with reference to the words in italics. In Madras the Tehseeldar had the power to commit for trial before the Criminal Court, but had not power to commit to the Supreme Court, and it occurred to

him that, under the Section as at present worded, some doubt might arise whether it did not give them this latter power, which certainly was not intended.

After some coversation, an amendment was carried, which made the latter part of the Section run as follows :—

"If the Magistrate is a Justice of the Peace, and the accused person is a European British subject, &c."

Section 189 provided as follows :—

"As soon as the charge on which the accused person is to be tried has been prepared, as directed hereinafter, it shall be read to him, and a copy or translation of it shall be furnished to him if he require it. *The accused person shall be at liberty, at any time within forty-eight hours after the reading of the charge, to give in, orally or in writing, a list of witnesses whom he may wish to be summoned to give evidence on his trial before the Court of Session or Supreme Court.* The Magistrate shall receive the list, and summon the witnesses to appear before the Court before which the accused person is to be tried. The provisions of Sections 154, 155, 156, 157, 158, and 159, so far as they relate to the attendance of witnesses, shall be applicable to witnesses named by the accused in the list above mentioned."

MR. SETON-KARR said, he thought there was a part in this Section which required amendment. He referred to the part printed above in italics. It appeared to him that, if that provision were allowed to continue as it now stood, the practical effect of it would be that it would defeat the ends of justice by allowing time for tutoring witnesses in cases of affray, dacoity, &c. Instead of those words he would propose that the accused person should be *required* at once to give in a list of his witnesses, but that it should be competent to the Magistrate at his discretion to allow the accused person to give in any further names at any time within twenty-four or forty-eight hours.

MR. HARINGTON said, he did not think the Section was open to the objection which had been taken to it by the Honorable Member for Bengal. It might very well happen that a party, on being committed to take his trial before the Court of Session, could not at once name the witnesses whom he wished to be summoned to give evidence in his behalf before that Court; he might be far from his home and from the friends whom he might wish to consult. No such restriction as that proposed existed in the law as it now stood, and justice required that they should be careful not to throw unnecessary impediments in the way of a person committed to take his trial before the Court of Session, which was a very serious proceeding, defending himself against the charge on which he was to be tried. The question they had to consider was, whether forty-eight hours from the time when the accused was informed of the charge was too long a time to allow him for the purpose of ascertaining and naming the witnesses whom he wished to be summoned by the Magistrate. He (Mr. Harington) did not think it was too long, and he should be sorry to see any change made in the Section as it now stood. If the accused wished to tutor his witnesses, he could do so just as easily after as before they were summoned, or indeed at any time before the trial came on.

THE CHAIRMAN said, he rather agreed with the Honorable Member for Bengal in his suggestion about requiring the accused to give in at once a list of his witnesses, and giving the Magistrate the discretion to allow the accused to give in any additional names afterwards. He thought, however, that there might be cases in which the Magistrate should be allowed to exercise this discretion without reference to time. He did not think that, in some cases, even forty-eight hours would be sufficient, and he would allow a longer period at the discretion of the Magistrate. As a general rule, he thought that the accused should be required at once to give in a list of his witnesses, leaving it discretionary with the Magistrate to allow the accused to give in any further names at any subsequent time.

After some further discussion, an amendment to the above effect was carried, and the Section as amended passed.

THE CHAIRMAN then said, there ought to be some provision to prevent parties from requiring an unnecessarily large number of witnesses to be summoned for the purpose of vexation or delay or of defeating the ends of justice. He should propose the addition of the following new Section after Section 189 :—

"If the Magistrate shall be of opinion that any witness is included in the list for the purpose of vexation or delay or of defeating the ends of justice, he may require the accused person to satisfy him that there are reasonable grounds for believing that such witness is material, and if the Magistrate be not so satisfied he shall not be bound to summon the witness unless such a sum shall be deposited with the Magistrate as he shall consider necessary to defray the expense of obtaining the attendance of the witness."

Agreed to.

Sections 190 to 204 were passed as they stood.

Section 205 was passed after amendments.

Sections 206 to 208 were passed as they stood.

Section 209 was passed after a verbal amendment.

Sections 210 to 218 were passed as they stood.

Section 219 was struck out as superfluous, on the motion of Mr. Harington.

Sections 220 to 222 were passed as they stood.

Section 223 empowered the Magistrate to dispense with the personal attendance of the accused.

MR. SETON-KARR said, he was anxious that this Section should be carefully considered. The present practice had been to allow the Magistrate on application to grant permission to accused persons to appear, vicariously, through their agents, and if the application were refused, an appeal would be preferred to the Sessions Judge, and then again, if necessary, from him to the Sudder Court. He believed that the practice had led to great irregularities and to much discussion on the subject. He thought that this system of appeal was very objectionable, as it tended to weaken the hands of the Executive Officers. His own opinion was that there should be but one appeal. He would not allow every Magistrate to summon every body without appeal, as some Magistrates might be hasty or inexperienced. But he thought that a Sessions Judge was quite competent to decide in the matter, and if he thought that the attendance of such and such a person was essential, he (Mr. Seton-Karr) would have it clearly laid down that there should be no appeal to the Sudder Court.

SIR CHARLES JACKSON suggested that the discussion now raised had better take place on Section 337, which related to the general question of appeals from orders in proceedings other than trials.

MR. HARINGTON said, when this Section was before the Select Committee, they had considered whether there should be an appeal, and the conclusion to which they had come was that an appeal should not be allowed. If an appeal were allowed, he (Mr. Harington) was rather disposed to think that it should be to the Commissioner of the Division and not to the Sessions Judge.

The Section was then passed subject to re-consideration when the Committee came to Section 337.

Section 224 was passed as it stood.

Section 225 provided as follows :—

"It shall be lawful for the Magistrate to direct that, before any summons is issued for the attendance of a witness under the last preceding Section, the person preferring the complaint shall deposit in the hands of the proper officer a sufficient sum for the maintenance of the witness who may be summoned on his application, during his attendance at the Court of such Magistrate, and the Magistrate shall regulate the amount of diet money so required, with reference to the probable period such witness may have to be in attendance, and in the event of the prolonged detention of the witness, shall direct the deposit of any further sum which to the Magistrate may seem requisite. If the required deposit be not made within a reasonable time the Magistrate may dismiss the complaint."

SIR CHARLES JACKSON said, he objected to this Section altogether, and would propose its omission.

MR. FORBES said that the Section would, if passed, introduce an entirely

new provision of law in the Madras Presidency, where all process was issued without cost to the parties. He had not himself moved in opposition to the Section, because it was, after all, only permissive, and it would be at the option of the Government of each Presidency to introduce it or not as they pleased. If, however, the Committee divided, he should vote for the omission of the Section.

MR. ERSKINE said, he did not much like the principle of the Section which might be made to press severely on poor complainants. He should vote against it.

THE CHAIRMAN said, it was intended to be a check on frivolous complaints. He thought, however, that it would be putting too much power in the hands of the Magistrate.

The Section was then put and negatived.

Sections 226 to 229 were passed as they stood.

Sections 230 and 231 were postponed till Saturday next on the motion of Mr. Harington who engaged to prepare amendments to correspond with what had been done to-day.

Section 232 was passed as it stood.

Section 233 was passed after amendments; after which the Committee went back to, and made an amendment in Section 26.

Sections 234 and 235 were passed as they stood.

The consideration of the Bill was then postponed, and the Council resumed its sitting.

POSTPONED ORDERS OF THE DAY.

The following Orders of the Day were postponed:—

Committee of the whole Council on the Bill "for licensing and regulating Stage Carriages."

Committee of the whole Council on the Bill "to amend Act VIII of 1859 (for simplifying the Procedure of the Courts of Civil Judicature not established by Royal Charter)."

Committee of the whole Council on the Bill "to amend Act XIV of 1843 (for regulating the Customs Duties in the North-Western Provinces."

Committee of the whole Council 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."

PORT-DUES (CONCAN).

MR. ERSKINE moved that Sir Bartle Frere be requested to take the Bill "for the levy of Port-dues in the Ports of the Concan" to the Governor-General for his assent.

Agreed to.

ROHILCUND.

MR. HARINGTON moved that Sir Bartle Frere be requested to take the Bill "to remove certain tracts of country in the Rohilcund Division from the jurisdiction of the Tribunals established under the general Regulations and Acts" to the Governor General for his assent

Agreed to.

PUBLIC CONVEYANCES.

MR. FORBES moved that Mr. Harington and Mr. Seton-Karr be added to 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."

Agreed to.

MARKETS.

MR. HARINGTON moved that Mr. Seton-Karr be added to the Select Committee on the Bill "for regulating the establishment of Markets."

Agreed to.

SALTPETRE.

MR. HARINGTON moved that the Bill "to regulate the manufacture of Saltpetre and of Salt educed in the manufacture thereof" be referred to a Select Committee consisting of Mr. Laing, Mr. Forbes, Mr. Erskine, Mr. Seton-Karr, and the Mover.

Agreed to.

The Council adjourned.