

Saturday, February 19, 1859

**LEGISLATIVE COUNCIL  
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**P . L .**

"Provided that, in every case in which such acknowledgment could have been registered by virtue of any Law or Regulation in force at the time and place of the signing of the acknowledgment, it shall be registered within three months from the date thereof."

From a remark which had fallen from the Honorable Member for Bengal in the course of the discussion that had taken place on the motion for the introduction of this proviso, he (Mr. Harington) had been led to think that it went too far. He might instance the case of a tradesman in Calcutta applying by letter to an officer at a distant station for payment of a bill which had been some time due, and receiving a reply acknowledging the debt and containing a promise to pay. This acknowledgment and promise would not avail to exempt the claim from the operation of the law of limitation, or to give the tradesman the benefit of the rule contained in the former part of the Section, unless the reply was registered, but the officer could scarcely be expected to go through the form of registration, and the formalities required by law for registering deeds would prevent the tradesman from fulfilling the conditions of the Section as it now stood. Considering, therefore, that it would be better to omit the proviso, he begged to make a motion to that effect.

Agreed to.

Moved by the same that the word "also" after the word "provided" in the 14th line of the Section be left out.

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

MR. PEACOCK moved that the Preamble be left out, and the following new Preamble substituted for it, namely :—

"Whereas it is expedient to amend and consolidate the laws relating to the limitation of suits, it is enacted as follows."

Agreed to.

MR. PEACOCK moved that the words "for the acquirement and extinction of rights by prescription and" be left out of the Title.

The motion was carried, and the Title as amended then passed.

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

*Mr. Harington*

#### LEASES OF GHATWALEE LANDS (BEERBHOOM.)

MR. CURRIE moved that the Council resolve itself into a Committee on the Bill "to empower the holders of Ghatwalee lands in the District of Beerbhoom to grant leases extending beyond the period of their own possession;" and that the Committee be instructed to consider the Bill in the amended form in which the Select Committee had recommended it to be passed.

Agreed to.

The Bill passed through Committee without amendment, and, the Council having resumed its sitting, was reported.

#### CIVIL PROCEDURE.

On the Order of the Day being read for the re-committal of the Bill "for simplifying the Procedure of the Courts of Civil Judicature not established by Royal Charter," the consideration of the Bill was postponed.

MR. PEACOCK gave notice that he would, on Saturday next, move for the re-committal of the Bill.

The Council then adjourned.

*Saturday, February 19, 1859.*

PRESENT :

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

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

#### RECOVERY OF RENT (BENGAL).

THE CLERK presented a petition from the British Indian Association suggesting certain amendments in the Bill "to amend the law relating to the recovery of Rent in the Presidency of Fort William in Bengal."

MR. CURRIE moved that the petition be referred to the Select Committee on the Bill.

Agreed to.

PROTECTION OF ENDOWMENTS AND  
DISTRICT MOONSIFFS (MADRAS).

THE CLERK presented a petition from Venkata Chellem, District Moon-siff of Ellore, enclosing two Drafts of Laws, for the better protection of endowments of temples and of mosques from misappropriation by trustees, and to amend the law relating to District Moonsiffs in the Presidency of Fort St. George.

MR. FORBES moved that the petition be printed.

Agreed to.

MUNICIPAL ASSESSMENT (TENASSE-  
RIM AND MARTABAN PROVINCES).

THE CLERK reported to the Council that he had received from the Foreign Department a correspondence with the Commissioner of the Tenasserim and Martaban Provinces, relative to a Draft Act for the appointment of Municipal Commissioners, and for levying rates and taxes in the towns of Moulmein, Tavoy, and Mergui.

MR. PEACOCK moved that the papers be printed.

Agreed to.

LEASES OF GHATWALEE LANDS  
(BEERBHOOM).

MR. CURRIE moved that the Bill "to empower the holders of Ghatwalee lands in the District of Beerbhoom to grant leases extending beyond the period of their own possession" be read a third time and passed.

The Bill was read a third time.

CIVIL PROCEDURE.

Upon the Order of the Day being read for the re-committal of the Bill "for simplifying the Procedure of the Courts of Civil Judicature not established by Royal Charter"—

MR. PEACOCK said that, as the printed papers relating to this Bill had only reached him late last evening, he had not had time to consider them, and he believed that the Bombay papers had not yet been printed. It would be better to postpone the consideration of this Bill until Saturday next.

MR. LEGEYT said that, as the papers alluded to by the Honorable and learned Member would require a great deal of consideration, it would be better to postpone the Committee of the whole Council on the Bill for a fortnight.

He (Mr. LeGeYT) understood that there was a paper from the North-Western Provinces, and two sets from Bombay, which required to be printed.

The consideration of the Bill was then postponed for a fortnight.

AHMEDABAD MAGISTRACY.

MR. LEGEYT moved that the Council resolve itself into a Committee on the Bill "to empower the Governor in Council of Bombay to appoint a Magistrate for certain Districts within the Zillah Ahmedabad;" and that the Committee be instructed to consider the Bill in the amended form in which the Select Committee had recommended it to be passed.

Agreed to.

The Bill passed through Committee without amendment, and, the Council having resumed its sitting, was reported.

LIMITATION OF SUITS.

MR. HARRINGTON moved that the Bill "to provide for the Limitation of Suits" be re-committed to a Committee of the whole Council, for the purpose of considering an amendment which he wished to propose therein. He believed that the Honorable Member for Bengal had also some amendments to propose.

Agreed to.

MR. HARRINGTON said that Clause 5 of Section I of the amended Bill was hardly consistent with the preceding Clause in so far as it related to suits to alter or set aside summary awards by Revenue officers in disputes regarding arrears and exactions of rent. Disputes of that nature were amongst the matters mentioned in Regulation VII. 1822 as cognizable by Revenue officers; and in order therefore to remove any doubt that might arise, he would move that the words "not falling within the last preceding Clause brought" be inserted after the word "suits" in the first line of Clause 5.

Agreed to.

MR. HARRINGTON moved that the words "which shall have been" be inserted after the word "award" in the second line of the Clause.

Agreed to.

The Clause as amended was then read by the Chairman and passed.

MR. CURRIE moved that the following proviso be added to Section II, namely:—

"Provided that in the case of purchases from a depositary, pawnee, or mortgagee, no such suit shall be maintained unless brought within the time limited by Clause 14 Section I."

He thought that the Section was not quite correct as it stood, the maximum time in which suits could be brought against a depositary, pawnee, or mortgagee, by Clause 14 of Section I of the amended Bill, was thirty years for moveable and sixty years for immoveable property; so that, as it at present stood, if the immoveable property was sold after the expiration of fifty-five years, a new time of limitation would commence and run for twelve years more, making a total of sixty-seven years, which was never intended; but it was intended, if property was transferred by a *bonâ fide* purchase, that the period should be shortened, but not in any case lengthened.

After some discussion, the amendment was agreed to, and the Section as amended then passed.

MR. CURRIE moved that Section IV be omitted, and that the following new Section be substituted for it, namely:—

"In suits to avoid incumbrances or undertenures in an estate sold for arrears of Government revenue due from such estate, or in a putnee talook or other saleable tenure sold for arrears of rent, which, by virtue of such sale, becomes freed from incumbrances and undertenures, the cause of action shall be deemed to have arisen at the time when the sale of the estate, talook, or tenure became final and conclusive."

Agreed to.

MR. CURRIE moved that Sections II, III, and IV be transposed, so as to stand after Section VII.

Agreed to.

MR. PEACOCK said that Section IX provided, that in cases of fraud "the time limited for commencing the action

against the person guilty of the fraud, or accessary thereto, or against any person claiming through him otherwise than in good faith, or for a valuable consideration, shall be reckoned from the time when the fraud first became known." It had been suggested to him by his Honorable friend on the right (Mr. Harrington), that the words "by purchase" be inserted before the words "in good faith."

The motion was afterwards by leave withdrawn.

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

MR. HARRINGTON then moved that the Bill be republished for a period of two months.

Agreed to.

The Council adjourned.

Saturday, February 26, 1859.

PRESENT:

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

Hon. Lieut.-Gen. Sir	E. Currie, Esq.,
J. Outram,	H. B. Harrington, Esq.,
Hon. H. Ricketts,	H. Forbes, Esq.,
Hon. B. Peacock,	and
P. W. LeGeyt, Esq.,	Hon. Sir C. Jackson.

OATHS AND AFFIRMATIONS.

THE CLERK reported to the Council that he had received a communication from the British Indian Association, relating to the Bill "concerning Oaths and Affirmations."

MR. FORBES moved that the communication be printed.

Agreed to.

MADRAS POLICE.

MR. FORBES said, he rose to make the motion of which he had given notice under some embarrassment, because he was about to move the first reading of a Bill, of the principle of which he must, at the outset, tell the Council that he did not approve.

The measure of separating the executive from the judicial functions of the Magistrate was one which the Government of Madras had for some years had in contemplation, and had, on more than