PROCEEDINGS

OF THE

LEGISLATIVE COUNCIL OF INDIA,

FROM

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seized. In reply, a copy of the Judgment of the Court of Judicature of the Settlement was sent; and from that it appeared clear that the spirit had been manufactured, not for consumption within the station, but for export to Moulmein. The boat in which it was seized had been attended down the river by the boats of the foreign Chief (to whose subjects the free navigation of the Prye was reserved by treaty) for the express purpose of preventing the cargo from being smuggled into the Settlement; and when seized, the boat was fastened alongside a junk which was then about to sail with the spirit for Moulmein. It had, therefore, appeared clear to the Select Committee that the spirit was intended for exportation, and that it had not been manufactured contrary to the intention of the Straits' Act, which was passed for the protection of the Excise Revenue; and that, although the Act prohibited the manufacture of country spirits within the Settlement, the prohibition was intended solely as an auxiliary means of preventing the consumption, without payment of revenue, of spirits within the Settlement. They had accordingly reported that they did not think it right to adopt the suggestion of the Government of the Straits; and he now proposed that their Report on the subject should be adopted, and that a copy of the Resolution be communicated by the Clerk of the Council to the Governor of the Straits' Settlement.

Agreed to.

AMEENS (BENGAL).

MR. CURRIE moved that Mr. Grant be appointed to take the Bill "to amend the Law respecting the employment of Ameens by the Civil Courts in the Presidency of Fort William" to the Governor General for his assent.

Agreed to.

NOTICE OF MOTION.

MR. CURRIE gave notice that, on Saturday next, he would move that the adjourned Committees of the whole Council on the Bill "for the conservancy and improvement of the Towns of Calcutta, Madras, and Bombay, and the several stations of the Settlement of Prince of Wales' Island, Singapore, and Malacca," and on the Bill "for regulating the Police of Calcutta, Madras, and Bombay, and the Settlement of Prince of Wales' Island, Singapore, and Malacca," be resumed.

The Council adjourned.

Saturday, May 3, 1856.

PRESENT:

The Honorable J. A. Dorin, *Vice-President*, in the Chair.

His Excellency the Commander-in-Chief,	C. Allen, Esq.,
Hon. J. P. Grant,	E. Currie, Esq.,
Hon. B. Peacock,	and
	Hon. Sir A. W. Buller.

MARRIAGE OF HINDOO WIDOWS.

THE CLERK presented a Petition from Inhabitants of Bengal against the Bill "to remove all legal obstacles to the Marriage of Hindoo Widows."

PATENTS FOR INVENTIONS.

Also a Petition from Mr. Edward Myers, of London, stating that he had obtained in England Letters Patent for certain improvements in the springs of Railway carriages, and that similar privileges for his invention had been granted to him in other countries; and praying that the Council would protect his invention throughout the British territories in India. He further prayed that, if there was no Act to enable the Council to do this, a Law might be passed granting him an exclusive privilege in his invention for the term of 20 years.

MR. PEACOCK said, he thought this Petition was quite regular, because it prayed for the passing of an Act granting to the Petitioner an exclusive privilege in his invention; but as a general Act had recently been passed for allowing inventors to obtain exclusive privileges in India, he believed the Council would not think it right to pass a private Act granting an exclusive privilege to this Petitioner for 20 years. By the recent Act, an inventor should present his Petition to the Governor General in Council upon stamped paper, together with a description of the nature of his invention, and the manner in which it is to be used. The Governor General in Council might then give him an exclusive privilege for 14 years, and if, at the end of that period, he should think fit to enlarge the grant, he might do so for a further term of 7 years. The Petitioner in this case seemed not to be aware of the Act, and had presented his Petition to this Council. As far as obtaining an exclusive privilege under the Act went, that was a wrong course. He should have presented a Petition to the Governor General in Council, with a description of his invention. But as it was very

undesirable that his Petition should remain where it now was without any thing being done in respect of it, he (Mr. Peacock) thought that the Council should desire the Clerk to inform the petitioner how he ought to proceed. The Council might do this under Standing Order No. 30, which said—"Ordinarily, no reply will be sent to a Petitioner. But the Clerk of the Council may be ordered to make such special communication to a Petitioner as the Council may direct." He, therefore, moved that the Clerk of the Council be requested to inform Mr. Myers that his Petition should be presented to the Governor General in Council, accompanied with a declaration, &c., as is required by Act VI of 1856.

Agreed to.

REPORTERS FOR THE PUBLIC PRESS.

MR. PEACOCK presented a Report from the Standing Orders Committee respecting the admission of Reporters for the Newspapers; and gave notice that, on Saturday next, he would move that the Report be adopted.

An application had been made to the Clerk of the Council that a Reporter might be allowed to attend on behalf of one of the Newspapers published in Calcutta, and report the proceedings of the Council. At present, there was no Standing Order under which Reporters for the Newspapers could be admitted. Standing Order CI said—"Accommodation shall be provided for an Official Reporter, who shall be appointed by the Council, and shall furnish a copy of his Report to any of the daily papers published in Calcutta that may require it;" and there was another Order which allowed eight orders to the President, and one to each Member of the Council, for the admission of strangers: but there was no Order under which the Clerk of the Council could issue orders for the admission of Reporters. The Standing Order which the Committee had prepared on this subject, was in these words:—

"Accommodation shall be provided for Reporters for the Public Press. Application for the admission of a Reporter on behalf of any Newspaper may be made by the Proprietor or Editor of such paper to the Clerk of the Council. The application shall be reported to the Standing Orders Committee, who may direct the Clerk of the Council to issue an order for the admission of the Reporter named, which order shall continue in force until revoked."

There was a discussion in this Council on the question of admitting Reporters for the Public Press when the Standing Orders were settled. The majority of the Council at that time were against the introduction of a Standing Order to that effect. But now that the Legislative Council had been established, and an application had been made by the Editor of one of the Newspapers for the admission of a Reporter, he thought it fair that the question should be re-considered. He, therefore, gave notice that, on Saturday next, he would move that the above Standing Order be adopted by the Council.

PETTY OFFENDERS AND WITNESSES.

MR. ALLEN moved the second reading of the Bill "for enforcing the attendance of petty offenders and witnesses."

SIR ARTHUR BULLER said, he did not propose to offer any opposition to the second reading of this Bill; but he was anxious to ask for information on one or two points as to the precise object of the Bill, and he took the present opportunity of asking for such information, as the Honorable Mover would either be able to give it conclusively at once, or, if the questions he wished to ask should happen to be suggestive of any new consideration, he would be prepared to deal with them when the Bill was before the Select Committee.

In the first place, he wished to know whether it was purposely intended to extend the operation of the Bill to the Presidency Towns. The Act (X of 1845) which this Bill proposed to repeal, expressly excepted the local jurisdiction of the Supreme Courts; but, in this Bill, that exception was omitted; and, as the office of Magistrate was now known to the Presidency Towns, the provisions of the Bill would apparently extend also to them. On the other hand, the words of the Bill, "Magistrate, or other Officer subordinate to a Magistrate competent to summon parties or witnesses," induced him to doubt whether the extension really was deliberately intended.

He wished to offer no opinion now as to whether such an extension was advisable or not; but he merely would be quite sure as to what was intended.

In the next place, the before-mentioned Act, X of 1845, applied to *all* Criminal Courts; and this Bill, while repealing that Act, made provision only in respect of Magistrates and Officers subordinate to Magistrates.

Now, he (Sir Arthur Buller) wished to know, first whether there were, in point of fact, any Criminal Courts which came within the provisions of the former Act, and were left unprovided for by the present Bill; and secondly, whether, if such were the case, it was intended that it should be so.

MR. ALLEN said, as there was no opposition to the second reading of the Bill, and only two questions had been asked, his remarks in reply would be very brief.

The first question was, whether it was intended that the Act should apply within the local limits of the jurisdiction of the Supreme Courts. His own opinion was, that all Acts that were passed ought to apply as well within as beyond the local limits of the Supreme Courts' jurisdiction, unless there appeared to be special reason for excepting such limits from their operation; and, therefore, when he brought in a Bill, he, as a general rule, made it applicable to all the territories under the Government. It was easy, at a later stage of the Bill, to exclude any Presidency, or any portion of one, when it was desirable to do so; while, if the Bill at first was made applicable to a portion of the territories only, it was scarcely regular or proper, at a later stage, to include excluded parts, which had never been called upon to express an opinion upon the Bill.

With respect to the second question, the practice in the Criminal Courts to which he had been used, was for the Judges to issue any summons for the attendance of any one they required through the Magistrates. When a case was sent up to the Sessions, the Magistrate placed the parties and their witnesses before the Court, whenever their attendance was required. This was the rule in the Bengal Presidency at least; and if it should hereafter be thought advisable, with reference to the practice in the other Presidencies, to make the Act applicable to the higher Criminal Courts, it would be easy to do so. It was not intended to take away from any Courts the power of summoning witnesses which they now exercised.

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

POLICE (PRESIDENCY TOWNS, &c.)

The Council then resolved itself into a Committee for the consideration of the postponed Sections of the Bill "for regulating the Police of Calcutta, Madras, and Bombay, and the Settlement of Prince of Wales' Island, Singapore, and Malacca."

MR. CURRIE said, the first reserved Section in this Bill was Section XXXI. That had been postponed merely as being connected with Section XXXII, against which, when it first came before the Council, certain objections were taken, the consideration of which, it was thought advisable, should be postponed. The Select Committee, having since considered those objections, and believing that there would be difficulty in meeting them, were of opinion that possibly it might be better to drop the Section altogether. The real remedy for the evil which it was intended to provide against, seemed to be in the more frequent holding of Sessions; and the Committee were of opinion that some measure should be adopted with a view to that object. So far as this Section was concerned, he, speaking on the part of the Select Committee, two of whose Members were absent, was prepared to consent to its withdrawal, if the Council were of opinion that the objections urged on a former occasion should be maintained.

MR. PEACOCK said, he had objected to Section XXXII on the ground that it would admit of an offender escaping with a much smaller degree of punishment than be deserved. It would admit of his escaping with imprisonment with or without hard labor for twelve months for a theft or embezzlement for which, if tried by the Supreme Court, he might have been sentenced to transportation for fourteen years.

Since this Bill was last considered by the Council, he (Mr. Peacock) had received a communication from the Chief Magistrate of Calcutta containing some remarks upon it, and the Chief Magistrate had certainly satisfied him that it would be injurious not to have some provision to this effect in the Bill. He had shown him that, where ships were concerned, binding over the witnesses to appear at the next Sessions was not always sufficient to secure the ends of justice, because Seamen and Captains of ships often forfeited their recognizances rather than subject themselves to the loss of wages or payment of demurrage by remaining in port beyond the time appointed for the departure of their vessels. It appeared to him (Mr. Peacock) that a much better remedy for avoiding this evil would be to provide that the offender should be committed by the Magistrate to the Supreme Court; and that then, should it appear that justice would be defeated by reason of the absence of a material witness if the trial were postponed until the next regular Sessions, the

Judge of the Supreme Court should summon a Petty Jury to try the case at once, without the intervention of a Grand Jury. His own opinion was that, where persons accused of an offence were committed for trial by a Judicial Officer, the intervention of a Grand Jury was unnecessary, and he was quite prepared to abolish the system of Grand Juries in such cases. But it might be objectionable to insert such a provision as he had referred to, in a mere Police Bill; and he thought that it would be better to retain the Section in question than to leave the class of cases which it contemplated, altogether unprovided for. If the Section were retained, offenders might sometimes get less punishment than they deserved; but they would get that, instead of none at all, which latter, it appeared, would be the case if the Section were left out. Moreover, he observed that the Magistrate might commit a case brought before him under this Section to the Supreme Court if he thought fit. Therefore, it would be only in those cases where a Magistrate thought that there would be a failure of justice if he did not try them himself that he would hold a summary investigation.

He (Mr. Peacock) should, therefore, offer no objection to the passing of this Section if the Honorable Member now in charge of the Bill wished to press it.

The Section was put, and agreed to.

Section XXXI was then put, and agreed to, after a verbal amendment.

Section XXXIII was passed.

Section LXXXIV was the next Section reserved.

MR. CURRIE said, he was not quite sure why this Section had stood over. He had been under the impression that it had not been objected to.

MR. PEACOCK said, he thought an objection had been taken to it grounded on the preceding Section, which authorized a Police Officer to arrest without a warrant any person committing a felony or offence against the Act in his view. This Section authorised a Police Officer to arrest without a warrant any person charged with recent aggravated assault, although such assault might not have been committed in his view. It was thought, at the time, that the Section ought to be extended to any assault whether committed in a Police Officer's view or not, where the person assaulting refused to give his name and address. He remembered that, on the former occasion, certain words had been added to the Section on the motion of the Honorable and learned Chief Justice. He now proposed to move that the words "aggravated assault" be left out of the Section, in order that the words "any offence under this Act" be substituted for them, coupled with the words introduced by the Honorable and learned Chief Justice.

The Section was eventually put, and agreed to as it stood.

The next postponed Section LXXXV was as follows:—

"Whoever is found committing an offence on, or with respect to any property belonging to another person, may be apprehended by such person, or by his servant, or by any person authorized by him; and may be detained until he can be delivered into the custody of a Police Officer."

MR. PEACOCK said, he had an amendment to propose in this Section, for the purpose of extending it. It made no provision for several offences under the Act by which injury might be done to persons or property. When the Section was last before the Council, he had instanced the offence of furious driving. In the commission of that offence, a man might drive against, and do serious injury to the person, or to the carriage, or horse, or other property of another. Under this Section, he could not be arrested by the person injured, because the offence under the Act was the offence, not of injuring the property or the person of another, but of furious driving. He (Mr. Peacock) thought that, in such a case, if a Police Officer was not present, the person injured ought to have the power of arresting the offender, if his name and address were unknown, and he refused to give them. Otherwise, the offender would drive on, and the person who had sustained damage would have no means of obtaining redress. This was a state of things which should not be allowed, and he therefore proposed that the present Section be left out, in order that the following new one might be substituted for it:—

"Whoever commits an offence on, or with respect to the person or property of another, or, in committing an offence under this Act, injures or damages the person or property of another, may, if his name and address be unknown, be apprehended by the person injured, or by any person who may be using the property to which the injury may be done, or by the servant of either of such persons, or by any person authorized by, or acting in aid of him; and may be detained until he shall give his name and address, and satisfy such person that the name and address so given are correct, or until he can be delivered into the custody of a Police Officer."

The motion was carried.

Section XCVI was the next Section reserved. It provided that

"whoever gives false evidence on oath in any judicial proceeding before a Magistrate, shall be deemed guilty of perjury, and may be committed by the Magistrate for trial before Her Majesty's Supreme Court of Judicature."

MR. CURRIE said, when this Section was first read in Committee, the Honorable and learned Chief Justice and the Honorable and learned Member opposite (Sir Arthur Buller) seemed to think that it did not go far enough, and that it should be extended to all cases of perjury, and possibly to some other descriptions of cases.

SIR ARTHUR BULLER said, upon consideration, the learned Chief Justice and himself quite concurred in the views which the Honorable Member had expressed as to the inappropriateness of the present occasion for the introduction of such provisions.

MR. GRANT asked if the words "shall be deemed guilty of perjury" were necessary. If they were retained, it might seem as if, at present, false evidence upon oath in a judicial proceeding before a Magistrate was not perjury.

MR. ALLEN said, the words had been copied from previous Acts of a similar nature.

MR. PEACOCK said, he thought it would be better to leave the Section as it stood. At present, the legal construction of the term "perjury" was false evidence upon oath on material points. But it appeared to him that a person ought to be liable to be tried for perjury if he gave false evidence in a Court of Justice whether such evidence might be proved to have been material to the issue or not. He would not be so liable under this Section if the words referred to were left out.

MR. GRANT said, he had wished before to ask whether the intention was to alter by this Section the substantive Law relating to perjury. If it was, the words in question would, doubtless, be necessary.

The Section was then put, and agreed to as it stood.

The Preamble was passed as it stood.

The Title was passed after some verbal amendments.

CONSERVANCY (PRESIDENCY TOWNS &c.)

The Council then resolved itself into a Committee for the consideration of the postponed Sections of the Bill "for the conservancy and improvement of the Towns of Calcutta, Madras, and Bombay, and the several stations of the Settlement of Prince of Wales' Island, Singapore, and Malacca."

MR. CURRIE said, the first postponed Clause in this Bill was, the definition which Section II assigned to the term "Magistrate." The Clause containing the definition ran thus :—

"The word 'Magistrate' shall mean any Magistrate of Police acting for the Town or Station where the matter requiring the cognizance of a Magistrate, arises; or (in any case referred to the determination of 'two Magistrates,' if there be only one Magistrate of Police acting for the Town or Station), any Justice of the Peace for such Town or Station."

This Clause had been reserved pending the consideration of the Police Bill, it not being known at the time what a "Magistrate" was to be. That question had been settled now, and the definition of the term as contained in the first part of the above Clause, corresponded with the definition of the term in the Police Bill. There could, therefore, be apprehended, be no objection to the first part of the Clause.

But the further interpretation in the latter part of the Clause was rather an awkward one, and was not strictly accurate; for, according to it, in a Station where there might be but one Magistrate, that Magistrate might be excluded altogether from the investigation of cases referred to two Magistrates, and the investigation be held by two Justices of the Peace; whereas the intention was that the cases should be heard by the Magistrate and a Justice of the Peace. He thought it would be better to make such an alteration in Section CXXXII, which provided for the procedure before two Magistrates, as would make this interpretation unnecessary. That Section provided that

"in all cases where any damages, costs, or expenses are by this Act directed to be paid, the amount of the same, in case of dispute, shall be ascertained and determined by two Magistrates, except in the Town of Bombay, and in the Town of Bombay by the Court of Petty Sessions."

He proposed to add to this Section the following proviso :—

"Provided that, if there be only one Magistrate acting for a Town or Station, such ascertainment and determination shall be made by a Magistrate and a Justice of the Peace."

This would supersede the necessity of any interpretation of the term "Magistrate" in relation to cases which might be referred to "two Magistrates."

At present, therefore, he moved that the

second part of the Clause, beginning "or (in any case referred," &c.,) be left out of the Section.

Agreed to.

The next postponed Clause defined the word "owner."

MR. PEACOCK said, it appeared to him that it was not right to make the agent appointed to collect the rents of any property liable to a penalty for not doing an act required to be done by the owner of the property, when he had no money in his hands belonging to the owner sufficient to pay for the work. There were many Sections in this Bill requiring owners to do certain acts —such as making drains, affixing troughs and pipes, &c., to houses, within a given number of days after notice from the Commissioners. If the Commissioners required the owner of a house to do any such act, and he neglected to do it within the prescribed time, he would be liable to a penalty for every day that he should make default, and to pay the expenses of the work if the Commissioners should execute it for him. This Interpretation Clause made the term "owner" include an agent receiving the rent of a house; but it was hard that such a person should be made liable for the non-execution of work required by the Commissioners to be done to the house if he could satisfy the Magistrate that, at the time the Commissioners required him to execute it, he had no funds in his hands belonging to the owner. His authority might only be to receive the rent. The Commissioners might call upon him to do some act after he had remitted to the owner the rent last received, and the owner might revoke his authority to receive the subsequent rents. In that case, if he were to be held liable, he would be left in the lurch, and have either to do the work at his own expense or to pay a penalty from day to day for default. Section LXXI of the Bill afforded protection to occupiers against defaulting owners; for it said that no occupier of any building or land should be liable to pay more money in respect of any expenses charged by this Act on the owner thereof, than the amount of the rent due from him. Why should not a similar protection be given to an agent? It appeared to him that this Interpretation Clause ought to be modified so as to protect Agents in the same way that occupiers were protected by Section LXXI; and he should therefore move that the following proviso be added to it:

"Provided that no person receiving the rent of any land or premises as agent for another person, shall be liable to do any thing by this Act required to be done by the owner of such land or premises, unless he have sufficient funds of the owner to pay for the same: nor shall he be subject to any penalty for omitting to do such act, if he can prove that the default was occasioned by reason of his not having funds of the owner sufficient to defray the expenses of the act required."

MR. ALLEN said, he thought that a proviso of this sort did not come in very well in an Interpretation Clause. It was no part of an interpretation to say that an agent should not pay money in certain cases. If the proviso was proper at all, it should be introduced as a separate Section, or attached to those enacting Sections which made agents liable.

But he objected to the proviso. He did not think that the analogy which the Honorable and learned Member had drawn between the case of an occupier and that of an agent, quite held good. An agent, when he took upon himself the duty of receiving the rents of property, did so with the knowledge that he must make repairs to it, and otherwise incur expenses in respect of it. He must, therefore, make his own bargain with the owner, so as to secure himself against any loss. If this proviso were to come into operation, and the owner of a house was in England, how were the Commissioners to realise the expenses they might have incurred in doing certain work to the house under the Act? The definition to which the Honorable and learned Member objected, had been introduced into many English Acts upon similar subjects. It had been found to operate fairly and justly in England; and he did not think that this Act could be worked satisfactorily without it.

MR. CURRIE said, he quite agreed in what had fallen from the Honorable Member for the North-Western Provinces. The proviso moved by the Honorable and learned Member (Mr. Peacock) was open to this obvious objection. The act required by the Commissioners to be done, might be a very necessary act; and, if the proviso were allowed, there would be no means of enforcing it. As had been said before, this definition had been taken from English Acts of a similar character—it was the definition given in the Public Health Act, the Removal of Nuisances Act, and probably in others. Certainly, the two which he had named contained similar provisions for the recovery of penalties and expenses from owners; and, as had been observed in the former debate upon this Bill, what had not been objected to in England, might well be allowed here.

MR. PEACOCK said, the Honorable Member for the North-Western Provinces had urged that this definition had been taken from an English Act. But it was impossible for the Council, unless it knew what every Section of the English Act provided, to say that, because a particular Section did not operate unjustly in that Act, therefore it would operate justly in this. There might be a difference between other provisions of the two Acts which might render the particular Section objectiouable in the one, although it was not objectionable in the other. He would give one instance of this. By Section XXXIII of this Bill, the owner of every house or building in any public street was required to put up and keep in good condition proper troughs and pipes for catching and carrying the water from the roof of the house or building, and for discharging the same in such manner that it shall not fall upon persons passing along the street. Now, he believed that the English Act imposed this obligation, not upon the owner, but upon the occupier; and, therefore, under the English Act, an agent would not be liable for a default in this respect, whereas, under this Act, he would be.

Then the Honorable Member on his left (Mr. Allen) had asked, if the agent were not to be made responsible to execute the works which the Commissioners might require owners to do under this Act, how were the works to be executed? The Honorable Member appeared to have forgotten Section LXIX, which said

"whenever, under the provisions of this Act, any work is required to be executed by the owner or occupier of any building, or land, and default is made in the execution of such work, the Commissioners, whether any penalty is or is not provided for such default, may cause such work to be executed, and the expense thereby incurred shall be paid to them by the person by whom such work ought to have been executed, and shall be recoverable as hereinafter provided."

Therefore, the Commissioners could give notice to the occupier to execute the work required, leaving him to deduct the amount of his expenses from the rent payable by him: if he refused, they could execute the work themselves, and recover their outlay by a distress on the premises. Or they might give notice to the agent and compel him to do the work, if he had sufficient funds belonging to the owner in his hands; and if he refused, they might execute the work themselves, and compel him to pay the expenses by bringing an action. But if the agent had no funds belonging to the owner, it would be very unjust to make him pay a penalty of so much per day for not doing the work required, or to render him liable to be sued for the expenses, if the work should be done by the Commissioners.

MR. CURRIE said, the Public Health Act afforded no special protection to the Agent. Section LX of that Act enacted that, on a Certificate of the Officer of Health, or of two Medical Practitioners, the Local Board of Health

"shall give notice in writing to the owner or occupier of any house, or part thereof, to white-wash, cleanse, or purify the same, as the case may require; and if the person to whom notice is so given fail to comply therewith within such time as shall be specified in the said notice, he shall be liable to a penalty not exceeding ten shillings for every day during which he continues to make default."

Another Section enacted that, upon the Report of the Surveyor, the Local Board of Health shall give notice to the owner or occupier of any house to construct drains in connexion with it, and that,

"if such notice be not complied with, the said Local Board may, if they shall think fit, do the works mentioned or referred to therein, and the expenses incurred by them in so doing, shall be recoverable by them from the owner in a summary manner."

This summary manner, as far as he could make out, was provided for as follows:—

"In all cases in which the amount of any damages, costs, or expenses is by this Act directed to be ascertained or recovered in a summary manner, the same may be ascertained by and recoved before two Justices, together with such costs of the proceedings as the Justices may think proper; and if the sums adjudged be not paid by the party against whom the adjudication is made, the same may be levied by distress and sale of his goods and chattels, by warrant under the hands and seals of Justices making the adjudication."

So far as he could see, the proceeding here provided was a summary proceeding against the owner, and the Act gave no special protection to the agent.

MR. ALLEN said, if the Council considered it right to insert the proviso proposed at all, he thought it would be much better to place it after the Sections which related to penalties, but not after those which related to expenses.

MR. GRANT said, he agreed in thinking that the proviso moved appeared extraordinarily placed in an Interpretation Clause; but that was the fault of the Interpretation Clause itself, which, in this part of it, was,

not an Interpretation, but a Misinterpretation Clause. When, for instance, that Section said, the word "month" should mean a calendar month, that was a fair interpretation; but where it said the word "owner" should mean a person not an owner at all, that was a misinterpretation.

MR. PEACOCK said, if the Honorable Member to his left (Mr. Allen) desired it, he should have no objection, intead of introducing his amendment as a *Proviso* to the Interpretation Clause, to insert it as a substantive Section after Section LXXII, which provided that an occupier might execute works required by the Commissioners, and deduct the expenses from his rent.

THE CHAIRMAN put the question that the Proviso moved by Mr. Peacock, be added to the Clause.

The Council divided :

Ayes 5.	*Noes* 2.
Sir Arthur Buller.	Mr. Currie
Mr. Peacock.	Mr. Allen.
Mr. Grant.	
TheCommander-in-Chief	
The Chairman.	

The Proviso was carried, and Section II then passed.

Section XXIV was the next Section reserved.

MR. CURRIE said, this Section had been deferred for further consideration, and, if necessary, for alteration. Since the last debate, the Honorable Mover of the Bill had communicated with the Honorable and learned Member to his right (Mr. Peacock) who had made some objections to it on that occasion, and a Section had been drawn up with, he believed, the Honorable and learned gentleman's concurrence. It was now in the following form, and it was proposed that it should be substituted for the present Section :—

"Whenever the Commissioners, by report of competent persons, are satisfied that any existing block of huts, in or near any street, is, by reason of the manner in which the huts are huddled together, or of the want of drainage and the impracticability of scavengering, attended with risk of disease to the inhabitants in the neighborhood, they may, with the consent of the local Government, cause a notice to be affixed to some conspicuous part of such block of huts, requiring the owners or occupiers thereof, within such reasonable time as may be fixed by the Commissioners for that purpose, to execute such operations as the Commissioners may deem necessary for the avoidance of such risk. And in case such owners or occupiers shall refuse or neglect to execute such operations within the time appointed, the Commissioners may cause the said huts to be taken down, or such operations to be performed in respect of such huts as the Commissioners may deem necessary to prevent such risk. If such huts be pulled down, the Commissioners shall cause the materials of each hut to be sold separately, if such sale can be effected, and the proceeds shall be paid to the owner of the hut; or, if the owner be unknown, or the title disputed, shall be held in deposit by the Commissioners, until the person interested therein shall obtain the order of a competent Court for the payment of the same. The Courts of Small Causes for Calcutta, Madras, and Bombay, shall respectively be deemed competent Courts for that purpose."

He now moved that the present Section be left out, in order that the above might be substituted for it.

Agreed to.

MR. CURRIE then said, some amendments had been rendered necessary in Sections XXV, XXVIII, XXXV, XLVI, LXXXV, LXXXVII, XCIV, and CXV, in consequence of the alteration in the interpretation of the word "Magistrate." In all the above Sections, it was enacted that any dispute respecting damages and expenses should be settled "by two Magistrates." He proposed to leave out the words "by two Magistrates" from each, and to substitute for them the words

"in the manner hereinafter provided for the settlement of disputes respecting damages and expenses."

The Honorable Member accordingly moved this amendment in each of the Sections mentioned; and his motions were severally carried.

Section CXVI, the consideration of which had also been reserved, was passed after some slight amendments.

MR. CURRIE then moved that the Proviso which he had read when remarking upon the definition of the term "Magistrate," be added to Section CXXXII.

Agreed to.

Section CXXXIII and the new Section CXXXIV, which had also been reserved, were passed after amendments rendered necessary by the above Proviso.

Section CXLI was the next Section reserved. It provided that penalties under the Act should be sued for within three months after the commission of the offence.

MR. CURRIE said, this Section had been deferred on the motion of the Honorable Member for Bombay; but when the Select Committee met after the Bill had passed through Committee, he (Mr. Currie) understood the Honorable Member to say he did not desire to press any alteration in it. His objection to it was that

encroachments might be made in drains underground without coming to the notice of the Commissioners within the period of three months. But a covered drain could not be obstructed without the ground above being broken up, and so attracting observation. At any rate, the Section referred only to penalties, and not to the removal of obstructions; and, therefore, it was thought that it might remain unaltered.

The Section was passed as it stood.

The Preamble and Title were passed.

The Council having resumed its sitting, both Bills were reported.

MARRIAGE OF HINDOO WIDOWS.

MR. GRANT said, at the last Meeting of the Council, he had presented, on the part of the Select Committee on the Bill "to remove all legal obstacles to the Marriage of Hindoo Widows," a Report upon the Bill. He now moved that, with the leave of the Council, that Report be withdrawn. The reason why he considered himself obliged to make this Motion was, that the Select Committee consisted of four Members, of whom two had left Calcutta since the Meeting of the Committee, on a visit to their respective Presidencies. Their absence had appeared to be no reason for delaying the progress of the Bill; and therefore, the remaining Members—the Honorable and learned Chief Justice and himself—had prepared and presented a Report upon it. After that, it was brought to their notice that the Report had not been prepared and presented by a quorum of the Committee. Standing Order CVI said—

"The majority of the Members of a Select Committee shall form a quorum, and, except when otherwise provided by these Orders, shall appoint its Chairman."

And Order CVII said—

"Every Report of a Select Committee shall be signed by the Members thereof, or by a majority of such Members."

As, therefore, a technical objection might be taken to the Report if it remained as it now stood, he proposed to withdraw it, and to postpone the presentation of the Report until the return of the two absent Members—or, at least, of one of them, so that there might be a quorum.

Agreed to.

SALE OF UNDER-TENURES (BENGAL).

MR. CURRIE gave notice that, on Saturday next, he would move that the Council resolve itself into a Committee on the Bill "to amend the law relating to the Sale of Under-Tenures."

The Council adjourned.

Saturday, May 10, 1856.

PRESENT:

The Honorable J. A. Doria, *Vice President*, in the Chair.

Hon. Sir J. W. Colvile,
His Excellency the Commander-in-Chief,
Hon. J. P. Grant,
Hon. B. Peacock,
C. Allen, Esq.
and
Hon. Sir A. W. Buller.

MARRIAGE OF HINDOO WIDOWS.

THE CLERK presented a Petition from Inhabitants of Chittagong against the Bill "to remove all legal obstacles to the Marriage of Hindoo Widows."

MR. GRANT moved that this Petition, and the Petition presented on Saturday last from certain Inhabitants of Bengal against the same Bill, be referred to the Select Committee on the Bill.

Agreed to.

SIR ARTHUR BULLER moved that a communication received from the Government of Bombay, forwarding translations of Petitions to the Right Honorable the Governor in Council against the same Bill, be laid on the table and referred to the Select Committee on the Bill.

Agreed to.

SONTHAL DISTRICTS.

THE CLERK presented a Petition of certain Members of the Indigo Planters' Association, praying that Act XXXVII of 1855, (entitled "an Act to remove from the operation of the General Laws and Regulations certain districts inhabited by Sonthals and others, and to place the same under the superintendence of an Officer to be specially appointed for that purpose,") may be so amended that the parts of the districts therein mentioned not exclusively inhabited by Sonthals, may be excepted from its operation. The Petitioners stated that the Act contained no provision to empower either the Governor General in Council or the Lieutenant Governor to restore the districts named therein, or any parts of them, to the operation of the ordinary Regulations, and that, therefore, an Act of the Legislative Council would be necessary for that purpose, or for at all altering the limits of the said districts.