PROCEEDINGS

OF THE

LEGISLATIVE COUNCIL OF INDIA,

FROM

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was not to meet on Saturday next, an earlier day in the week might be named.

SIR JAMES COLVILE said this was a *quæstio otiosa* for him, since he intended to leave Calcutta for Penang before Saturday next; but he agreed with the Honorable Member who had just spoken in thinking that the better course would be to adjourn until that day fortnight.

THE VICE-PRESIDENT said, for urgent business, the Council might meet any day of the week; but where there was no necessity for doing so, he apprehended that, as the papers necessary for Meetings could not be prepared before the latter part of the week, it would not meet except on the regular day. If, therefore, the Council was not to meet on the 24th, it would be more convenient to adjourn for a fortnight.

MR. CURRIE's amendment was negatived.

SIR JAMES COLVILE'S motion was carried, and the Council adjourned accordingly.

Saturday, May 31, 1856.

PRESENT:

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

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

MARRIAGE OF HINDOO WIDOWS.

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

Also a Petition of Inhabitants of Ahmednuggur in favor of the same Bill.

MR. GRANT moved that these Petitions be printed.

Agreed to

MR. GRANT presented the Report of the Select Committee on the Bill.

CONSERVANCY OF MILITARY CANTONMENTS (BENGAL).

THE COMMANDER-IN-CHIEF said, it was his duty to propose to the Council a Bill "for the Conservancy of Military Cantonments in the Presidency of Bengal."

The Council was aware that, some months ago, a paper from the Quarter Master General of the Army had been transferred from the Supreme Government to the Council containing certain suggestions for making proper Regulations for the Conservancy of Cantonments. When he arrived in Calcutta, he had found that paper on the table of the Council; and he had thought it his duty to request that it might be transferred to him for consideration. This had been done; and it appeared to him that it was desirable that some Rules should be adopted for bringing all persons residing within Cantonments under proper authority. The Council was aware that the present Regulations provided that all persons residing within Military Cantonments, should be bound by them. They gave large powers: amongst them, that of resuming land, if required for public purposes; of removing objectionable buildings; and of ejecting bad characters from the Cantonments.

It was considered that these were fit powers to vest in the Officer Commanding the Station. They were also empowered to make other Regulations for the Conservancy of the Cantonments. The power of ejection was subject to the approval of the Commander-in-Chief. Fines for some few breaches of discipline were also imposed. But it appeared necessary that some more stringent Rules should be introduced for enforcing measures of Conservancy within Cantonments. The Quarter Master General stated the following to be the reasons given by the late Commander-in-Chief of the Indian Army for submitting these Regulations for the sanction of the Supreme Government:—

"The Local Conservancy rules proposed for general adoption, in paragraphs 4 to 9 inclusive, are more or less in force now at many Stations; but, to ensure uniformity and their authoritative promulgation, they are embodied in these Regulations, as there is nothing in them that all residents should not be bound to abide by, or that interfere with their present rights and privileges according to Government standing orders."

In another paragraph, he said:—

"Some stringent measures had long been required to force house proprietors, especially non-Military ones, to comply with Conservancy and other similar rules, to which hitherto they had in many Stations offered a pertinacious, though passive resistance; and Local Authorities have felt themselves powerless, and without the means of enforcing obedience. The more stringent the measure, the less probability there will be of any necessity for having recourse to it; and unless a general Regulation is laid down, with the sanction of Government, and Commanding Officers be empowered to exact obedience to it, residents pay little or no attention to local orders on these subjects, save when it suits their convenience to do so."

If this was the result of the present system, it must be obvious that it was desirable some Law should be passed to empower Officers Commanding Stations to do what was provided by this Bill.

The Bill was a short one.

Section I gave power to assess houses in every Cantonment at a certain amount, and thereby to establish a Conservancy Fund.

Section II laid down that the Commanding Officer of the Cantonment, or the Cantonment Magistrate, or, at Stations where there was no Cantonment Magistrate, the Station Staff Officer, should be the authorities for carrying out its provisions.

Section III prescribed the penalties which might be imposed for a breach of the Rules annexed to it. These rules were for the purpose of enforcing proper conservancy in Cantonments; and he did not suppose they would be objected to.

Perhaps it might be thought that the Bill did not go far enough, or that it went too far; but, after consideration of the subject, he did not think that it would be necessary to extend its provisions, and that it was better to confine it to what might be classed under the head of "Conservancy."

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

The Bill was read a first time.

TOLLS ON THE KURRATIYA RIVER.

MR. CURRIE moved the first reading of a Bill "for establishing a toll on boats and timber passing through the Kurratiya river in the district of Bogra." The object of this Bill, he said, was, as the title implied, the establishing of a toll on the Kurratiya river, which was situated in the District of Bogra, and ran from the foot of the hills in a southerly direction until it joined the Pudda river. Formerly, the Kurratiya was a considerable stream; but, about thirty years ago, the waters began to leave their original bed, and find their way to the eastward through a channel called the Katakalee, situated some 20 miles above the station of Bogra. The change had been very gradual; but, ten years ago, it had reached to such an extent that the Kurratiya below the Katakalee had become unnavigable during the greater part of the year. The Ferry Fund Committee then endeavored to remedy the evil, and to restore the stream to its original bed by shutting up its entrance into the Katakalee. But the attempt failed. The Ferry Fund Committee, however, did not abandon their project; and, upon their Report, Captain (now Colonel) Boileau, of the Engineers, was directed to examine the place. Nothing came of that examination. The Military Board was not favorable to the project, and the matter dropped; until it was revived by Mr. Mills' Report on the Bogra district on the occasion of a tour of inspection which he had made under the orders of Government. Mr. Mills very strongly urged the benefit that would result to the District from the restoration of the stream to its original bed; and, in consequence of his representations, the Government ordered a second survey, which was made by Major Lang. That officer was of opinion that the desired object was not hopeless of attainment; but his suggestions met with only a partial approval from the Chief Engineer. Colonel Goodwyn thought that very much larger operations would be necessary than those suggested by Major Lang, and he recommended that they should not be undertaken by the Government, but be left to a Zemindar of the district, Baboo Prosono Coomar Tagore, who possessed several villages in the upper part of the Kurratiya river, and had intimated his willingness to carry out the undertaking, if a toll were established on the restored channel to reimburse him for his outlay. This appeared to the Government to be a fair proposition; and he (Mr. Currie) had been desired to consider the expediency of obtaining an enactment for the purpose of enabling the Bengal Government to give effect to it. He had, accordingly, prepared the Bill which he now presented. He had so framed it as to authorize the Government to carry out the measure itself, or to entrust it to a private individual, and, in the latter case, to make a grant to him of the tolls, under such conditions and for such a term as it might think proper.

In asking for the first, and in due course for the second, reading of this Bill, he did not wish the Council to pledge itself to anything more than a recognition of the general principle that, when a private individual was willing to advance money for an undertaking which had been declared by the Government to be one of public utility, it was just and proper that an impost should be levied upon the people who were to benefit by it, sufficient to reimburse the undertaker for his outlay. This principle was recognized in different forms in England; and it was very desirable that it should be extended to this Country. Upon this particular project, the Council would of course be

free to form its own judgment on further information and the Report of the Select Committee. So far as appeared from the papers upon record, both the public authorities, and the inhabitants of the district of Bogra generally, were of opinion that the restoration of the Kurratiya to its original bed was a measure of very great importance to the interests of the district. The operation, however, would involve the necessity of damming up the Katakalee; and it was quite possible that there might be persons who were interested in keeping that stream open. It would be but right that an opportunity should be afforded to them for offering objections to the measure, if they had any, and care would be taken that such opportunity was afforded to them if the Bill should pass the second reading.

It might be well that he should explain more particularly the nature of the proposals made by the Zemindar to whom he had alluded, Baboo Prosono Coomar Tagore. The Baboo was proprietor of several villages on the upper part of the Kurratiya; and he, therefore, had an interest in the restoration of the river. But his interest was not perhaps greater than that of other proprietors of land in the same neighborhood and of the inhabitants of the station of Bogra. When Captain Boileau proposed to excavate a canal with the view of coaxing the stream back to its original bed, Baboo Prosono Coomar Tagore offered to pay one-half the expense if the Government would provide the other half; or, if the Government was unwilling to incur any expense, he offered to bear the whole charge of the undertaking on the condition that he should be permitted to levy a toll on boats passing through the re-opened channel. Colonel Goodwyn now estimated the expense of cutting the canal and clearing out the channel of the Kurratiya at Rupees 34,000, and this did not include the expense of raising the dam across the Katakalee. If the Zemindar's enterprize should prove successful, he would be reimbursed for his outlay and perhaps make a profit; but, if it should fail, as the professional officers thought not improbable, he would be a loser of a considerable sum.

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

The Bill was read a first time.

SALE OF UNDER-TENURES (BENGAL).

The Order of the Day for the third reading of the Bill "to amend the law relating to the sale of Under-tenures" being read—MR. CURRIE moved that the Bill be re-committed to a Committee of the whole Council in order that he might move an amendment in it.

Agreed to.

MR. CURRIE said, the amendment which he intended to move had for its object the exemption of putnee Talooks from the operation of this Bill in the case of sales in execution of summary decrees. For this class of tenures, there was a special process provided. Under Regulation VIII of 1819, they could be brought to sale without any decree at all twice a year. This was the process which was always resorted to, and it was ordinarily mentioned in the putnee grants. These instruments provided that, in case of arrears occurring, they should be recovered under the provisions of Regulation VIII of 1819. There was indeed a Law—Regulation I of 1820—which authorized the sale of putnee Talooks in satisfaction of summary decrees; but it was nearly a dead letter, because the process provided by Regulation VIII of 1819 was much more easy and favorable to the Zemindars than the process of obtaining a summary decree. But, although that Regulation, under which sales could take place only at the end of the year, was a dead letter, it was possible that Zemindars might avail themselves of this Act to bring putnee Talooks to sale at the quarterly sales for which it provided. It was not at all necessary that they should have this remedy as to putnee Talooks, because the special remedy provided as to them by Act VIII of 1819 was quite sufficient, and it was one which Zemindars did not possess in respect of any other class of tenures. Therefore, when giving to Zemindars the power of bringing tenures to sale four times a year, he thought it would not be right to extend to them that power in respect to putnee Talooks. He, therefore, moved that the following proviso be added to Section II:—

"Provided that Putnee Talooks, and other Tenures which are liable to sale under the provisions of Section VIII Regulation VIII. 1819, shall not be brought to sale in execution of summary decrees."

The proviso was agreed to.

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

MR. CURRIE then moved the third reading of the Bill.

MR. PEACOCK said, upon the motion that the Council should go into Committee upon the Bill, he had moved that the consider-

ation of it should be postponed until after the Bill "to improve the law relating to sales of lands for arrears of Revenue in the Bengal Presidency" should have been considered. He did so, in order that the Council might know what the law was to be with respect to sales of under-tenures for arrears of revenue, before it determined what the law should be with respect to sales of under-tenures for arrears of rent. The Council had objected to that postponement; and the Bill had consequently been considered in Committee and settled as it now stood. Since then, the Honorable and learned Chief Justice had moved a Resolution which the Council had adopted, and the question of the propriety of protecting under-tenures against the consequences of a sale for arrears of rent had been referred for consideration and report to the Select Committee on the Bill relating to sales of land for arrears of revenue.

This was a Bill to amend the law regarding the sale of under-tenures. It contained a recital that it was expedient that, in the territories subject to the Government of the Lieutenant Governor of Bengal, the laws relative to the public sale of under-tenures in satisfaction of summary decrees for arrears of rent, for the recovery of arrears of rent in Mehals under the immediate management of the Officers of Government, and for the recovery of arrears of Revenue or other demands recoverable as arrears of Revenue, should be consolidated and amended. He perfectly agreed with this recital. He thought it was most desirable that the law relating to public sales of under-tenures should be consolidated. But this Bill did not consolidate the most material part of that law. It was a consolidation of some part of the law, but not of that part to which any intending purchaser of an under-tenure would have to refer for the purpose of ascertaining what the security was upon which he was to invest his capital. Before a person laid out his money in the purchase of an under-tenure, he would wish to ascertain in what mode and to what extent his interest in it would be protected. He would refer to this Bill, expecting, from the recital, to find in it the whole law on the subject. But, if he should wish to ascertain whether an under-tenure was saleable for arrears of rent due upon it by the previous holder, he would not in this Bill find any answer whatever upon the point. He would be forced to go to Regulation VIII of 1831; and there he would find that Section XX provided that "such part of Clause 3 Section XXIII Regulation VII of 1822 as relates to the execution of awards in cases where a specific sum of money shall be adjudged to be due, or any cost or damage be awarded, is declared equally applicable to the awards which may be made by Collectors under this Regulation—that is to say, awards for arrears of rent. Even this would not show the intending purchaser what the law was. It would only show him that under-tenures might be sold under the provisions contained in Clause 3 Section XXIII of Regulation VII of 1822. He would go back to that Regulation, and would find that the Clause referred to, provided as follows:—

"Collectors of the Land Revenue are hereby empowered to execute all awards made by them under the rules of this Regulation ——"

namely, awards for arrears of rent—

"in cases wherein a specific sum of money shall be adjudged to be due, or any costs or damages be awarded. The Collector decreeing the same, shall proceed to levy the amount for the party in whose favor it may be adjudged, by the process in use for the recovery of arrears of the Government Revenue. Provided, however, that he shall not sell any lands, houses, or other real property, in satisfaction of any judgment passed in favor of any individual, on a summary inquiry."

From this proviso, he would find that the Collector would have no power to sell his land. But if, fortunately for himself, he should happen to refer to the late edition of the Regulations edited by Mr. Clark, he would find by a marginal note that the proviso had been rescinded by Section I of Act VIII of 1835. This would teach him that lands might be sold in satisfaction of summary decrees for arrears of rent. But if this Bill should be passed, he would be placed under a further difficulty; for he would find by Section I, that Act No. VIII of 1835 was repealed: but he would also find an exception, and that it was repealed except so far as it repealed any part of any other Regulation or Act. If, as probably would be the case, he should happen to be unlearned in the law, he would find himself in a considerable state of confusion upon the subject.

That was the first example which the Council had of the manner in which the Bill consolidated the laws relating to the sale of under-tenures for arrears of rent.

If the intending purchaser, after wading through the various Regulations to which he had referred, should be able to make out that the effect of them was to render under-

tenures saleable in satisfaction of decrees for arrears of rent, he would naturally wish to know whether they could be sold free from incumbrances; that is to say, whether the Zemindar could sell only the existing interest of the defaulting proprietor who held immediately of him, or whether he could sell it so as to destroy the subordinate tenures which the defaulting proprietor might have created upon the land. If he should refer to this Bill for information on that point, he would find nothing whatever on the subject. He might go to an Index to the Regulations, and obtain a reference to Regulation VII of 1799, Section XV, Clause 7; and he would there find that, if the defaulter were a dependent talookdar or the holder of any other tenure which, by the title deeds or established usage of the country, was transferable by sale or otherwise, it might be brought to sale in satisfaction of the arrears of rent; but, still, he would be left in doubt whether or not the tenure might be sold free from incumbrances. If, by any chance, he should obtain a reference to Clause 1 Section XI Regulation VIII of 1819, he would find that certain talooks might be sold free of incumbrances. It said ——

"It is declared that any talook or saleable tenure that may be disposed of at a public sale under the rules of this Regulation, for arrears of rent due on account of it, is sold free of all incumbrances that may have accrued upon it by act of the defaulting proprietor, his representatives, or assignees, unless the right of making such incumbrances shall have been expressly vested in the holder by a stipulation to that effect in the written engagements under which the said talook may have been held."

This, as he (Mr. Peacock) understood it, applied only to tenures that might be disposed of under the rules of that Regulation, and it was doubtful whether it applied to all under-tenures.

The clause, however, proceeded thus——

"No transfer by sale, gift, or otherwise; no mortgage or other limited assignment, shall be permitted to bar the indefeasible right of the zemindar to hold the tenure of his creation answerable in the state in which he created it, for the rent, which is in fact his reserved property in the tenure, except the transfer or assignment should have been made with a condition to that effect, under express authority obtained from such zemindar."

But this, he (Mr. Peacock) thought, was only an enlargement of the previous part of the Section, and did not extend it to under-tenures which were saleable otherwise than under the rules of that Regulation. The question was one of construction; and therefore, the intending purchaser would be left to decide, on the meaning of the words of the clause, whether he should risk the chance of buying a lawsuit, or keep his money in his pocket.

The result was, that this Bill, though it recited that it was expedient that the laws relating to public sales of under-tenures in satisfaction of summary decrees for arrears of rent, should be consolidated, would leave it necessary for intending purchasers to refer to six or seven different Regulations, some of them altered, some of them repealed, and some of them partly repealed, before he could ascertain the law upon the subject; and even when he had referred to them, he would find the whole subject in such a state of complication and confusion that no one not a lawyer could get to the bottom of it. This was a Bill which ought to consolidate the whole law upon the subject, so that holders of under-tenures, by referring to it, and to it alone, might be able to see clearly, at one view, the nature and extent of their rights and interests; and as it did not do so, it appeared to him that there was no occasion for hurrying it through the Council.

The Honorable Mover of the Bill might say——"I don't want to consolidate the law. I want only to amend it—I want to make under-tenures saleable before the end of the year for instalments of rent which may fall due in that year. I want to make them saleable on such days in the year as the Board of Revenue may fix, not being fewer than the number of days fixed for the recovery of Government Revenue, instead of leaving them, as they now are, saleable at the commencement of the ensuing year for the arrears of the preceding one."

But would that be fair to persons who had purchased under-tenures under the existing law? Suppose that A held immediately of a zemindar a tenure at Rupees 1,000 a month; that B held of A at Rupees 1,200 a month; and that C purchased B's interest. C, when he made the purchase, would have found that, if his interest could be destroyed by a sale for arrears of the rent due from A to the zemindar, it could be destroyed only on A's continuing to be a defaulter up to the end of the year; in which case, the tenure would be sold at the commencement of the ensuing year, but not before. That was the law now. But it would not be the law under this Bill. Under this Bill, if A should become a defaulter to the zemindar for a single monthly instalment of rent, the tenure would be liable to sale under a summary decree at any period of

the year that the Board of Revenue might fix. Now, when C purchased B's interest, what did he look to as his security? He looked to the ryots paying him an amount of rent which would be sufficient to enable him to pay the sum for which B had engaged. He might know that the land was in such a state that, if he expended his capital in improving it, or without doing so, he would be safe, even if A should fall into arrear in the payment of his rent; for as soon as he collected his rent from the ryots, he would have sufficient to pay off A's arrears, and so secure his own tenure from destruction, and he might deduct the amount paid from the rent which he would have to pay to A. The crops grown on the land were his security for the payments which he was to receive from his ryots. If the ryots failed to pay him his rent, he could, as the law now stood, distrain the crops, and reap them, and harvest them, and sell them, and, in that way, realise what was due to him, and, out of the proceeds, he would be able to pay whatever might be due from A to the Zemindar. But if, in the event of A's falling into arrear, the Zemindar were empowered to sell the tenure as soon as he could obtain a decree against A for a single monthly instalment of the rent, and could, by such sale, destroy C's interest at any period of the year, he might destroy it before the crops were ripe, and deprive him of the only security upon which he had relied for the recovery of his rent from his ryots and for obtaining the means of paying off A's arrears and preventing the sale of the land. This would be very unjust to C, who would have bought B's interest on the security that it was not to be destroyed by reason of any non-payment of rent by A, until the commencement of the following year.

Then, the Bill provided that sales of under-tenures for arrears of rent should not be *fewer* than four in each year, the rule at present being that under-tenures should not be saleable oftener than once in each year. He (Mr. Peacock) thought that, if the law upon this point were to be altered at all, the provision ought to be that such sales should not be held *oftener* than four times a year. As the Bill now stood, a zemindar might be empowered to bring to sale a tenure held immediately of him for the non-payment of a single kist of rent, and destroy all the under-tenures that were dependent upon it. After having referred to the Select Committee on the Bill relating to the Sale Law the question whether all that could be done ought not to be done for the protection of these under-tenures, would the Council be justified in giving this increased power to zemindars, without at the same time giving to under-tenants that increased protection which it wished to give them even under the present law, by which sales could not be made for arrears of rent before the commencement of the ensuing year?

But the Bill did not only propose to introduce this unjust law in regard to the future: it proposed to make it retrospective. It provided that, after the passing of the Act, no suit should be entertained to set aside or reverse the sale of an under-tenure made prior to the passing of the Act, on the ground of such sale having been made before the close of the year for an arrear of rent falling due within the year in which the sale was made. Such sales were to be valid notwithstanding they were in violation of the existing law; and the tenant was to be deprived of all remedy, notwithstanding he might have paid £1,000 or upwards for his tenure, upon the faith of the rule that his property was not to be sold before the commencement of the following year for any arrears of rent due from a holder of a prior tenure. This was no consolidation of the existing law, but a new law in itself, and a new law which would inflict an injustice not only prospectively, but as an *ex post facto* enactment.

The next ground on which the Bill allowed under-tenures to be sold according to its provisions was for the recovery of arrears of rent in Mehals under the immediate management of the officers of Government. One would suppose that by this it was merely intended to give to Government what it was intended to give to Zemindars. But, in point of fact, it did not do that. It did not merely give the Government the right to sell before the commencement of the next year in satisfaction of a decree, but it gave the Government a new right altogether. As the law now stood, the Government had no power to sell, for arrears of rent, Mehals under the immediate management of its officers at any period of the year it pleased without a decree. But the provision in this Bill would enable it to sell lands for arrears of rent at any time of the year that might be fixed by the Board of Revenue without obtaining a decree. Now, if the Council was going to consider and determine what remedy ought to be allowed for the purpose of preventing under-tenures

from being destroyed by sales for arrears of rent, it did appear to him that it would not be right to give the Government the power here proposed, before we considered what protection ought to be given to under-tenants.

This Bill also gave to the Government the right to sell under-tenures for any demand recoverable as arrears of revenue. The words of the Bill were these :—

"All sales of under-tenures in execution of summary decrees for the recovery of arrears of revenue, or of other demands recoverable as arrears of revenue, shall be made under the provisions of this Act."

Now, suppose a Treasurer gave bond to a Collector as a security for the due discharge of his duty, and forfeited his bond. He would become a debtor to Government, and the Collector might sell all the property of the defaulter which the defaulter himself could dispose of. But, if the property consisted of an under-tenure with incumbrances, the provision in this Bill would give the Collector power to sell the tenure before the commencement of the ensuing year, not only subject to all the incumbrances that had been created upon it, but free from all incumbrances :—in other words, it would give the Collector the power of selling, not only the property of the person who was the defaulter, but also the property of his innocent under-tenants. Surely, it would not be just to extend the power which the Government had at present without some corresponding protection to the under-tenants. Government ought to be able to sell the defaulter's tenure subject to the rights of his under-tenants at any time of the year ; but their power to sell free from incumbrances ought not to be extended, otherwise the under-tenants would be placed in a position materially different from that upon which they had reckoned when they purchased their interests.

For the reasons he had stated, he did not think that any one of the grounds on which it was proposed to amend the present law was of such urgency that the Council ought to pass the Bill to-day, or at any future time, before it should have seen the Report of the Select Committee upon the question which had been referred to it at the last Meeting, for the express purpose of enabling the Council to arrive at a correct conclusion as to the protection which ought to be given to under-tenures against the consequences of sales for arrears of rent. Upon considering that Report, the Council might be of opinion that certain provisions of this Bill ought not to be allowed. Then, ought the Council to pass to-day a law which in a few weeks it might see reason to repeal ? Constant alteration of the laws upon any one subject was not a proper mode of legislation. Would it be right to allow under-tenures to be destroyed by a new law without any protection, when in a few weeks they might determine that such protection ought to be given ?

The Council ought, in this Bill, to endeavor to consolidate the whole law on the subject of sales of under-tenures for arrears of rent as far as it could, so that every man wishing to purchase an under-tenure might see, at one view, what rights he would acquire under his purchase, what risks he would incur, and what remedies he would have for the protection of his interests.

He should, therefore, move that the third reading of the Bill be postponed until after the consideration of the Bill "to improve the law relating to sales of lands for arrears of revenue in the Bengal Presidency." If he should fail on this motion, he should feel it to be his duty to vote against the third reading of the Bill.

MR. CURRIE said, after the very strong objections which the Honorable and learned Member to his right (Mr. Peacock) had urged against proceeding with this Bill at present, he felt very great difficulty in pressing his motion for the third reading. He did not, at this moment, feel himself at liberty to acquiesce in what the Honorable and learned Member proposed—namely, to suspend the third reading until the Committee on the Bill "to improve the law relating to sales of land for arrears of revenue in the Bengal Presidency" should have reported upon the Resolution referred to it at the last Meeting of the Council on the Motion of the Honorable and learned Chief Justice. But, at the same time, he confessed he did not feel that he could press for the third reading to-day. With the permission of the Council, therefore, he would withdraw his motion, reserving to himself the option, however, of bringing it forward again at any future time if he should think it expedient to do so.

But there were several points in the Honorable and learned Member's speech to which he thought it necessary to advert, and he should do so as briefly as possible.

Of course, every one must admit that this Bill would have been a more satisfactory measure if it were not, as he had repeatedly explained it to be, merely a law of procedure, but if it also declared what should be

the effect of the sale of a superior tenure on the tenures subordinate to it. He had mentioned on a former occasion that, when he originally drafted the Bill, he had been very desirous to introduce into it provisions to that effect; but it had appeared to him that, owing to the imperfect knowledge we had regarding the existing practice in this respect in various parts of the country, there was great difficulty in making any legislative declaration on the subject. Even if the Bill were read a third time to-day, he did not think that it would at all delay the determination of that most important question. If he had thought so, he would have withdrawn his Bill. But there was no reason why the enactment of a law of procedure should delay or in any way affect a change which might hereafter be considered necessary in the substantive law.

The Honorable and learned Gentleman had denied that the Bill consolidated, as it professed to do, the laws relative to the sale of under-tenures in satisfaction of summary decrees. Now, his apprehension of the meaning of consolidation was this. When a person desires to consolidate the laws on a particular subject, he takes all the existing laws on that subject as they are to be found scattered over the Statute Book, and presents them in one succinct and comprehensive measure. If that was the meaning of consolidation, he contended that this Bill was a consolidation of the laws relating to the sale of under-tenures in satisfaction of summary decrees. The Honorable and learned Member had said that the Bill afforded no answer to the question whether under-tenures were saleable for arrears of rent, and that no one but a lawyer could get to the bottom of the law on this subject. Now, really, if the Honorable and learned Member would permit him to say so, he thought that no one but a lawyer could fail to find in the Bill an answer to that question.

Section II of the Bill said :—

"Under-tenures which, by the title-deeds or custom of the country, are transferable by sale or otherwise, may be brought to sale in execution of summary decrees for arrears of rent due thereon, and for the recovery of rent in Mehals under the immediate management of the officers of Government at any period of the year."

Then Section III provided that sales of under-tenures in execution of summary decrees for arrears of rent, &c. shall be made under the provisions of this Act: and Section IV said :—

"Sales under this Act may be held by any Collector, Deputy Collector, or other Officer legally exercising the powers of a Collector" and so on.

If the Honorable and learned Member wanted an answer to his question, he would find it in these Sections. They told him at once that under-tenures could be sold for arrears of rent, and the manner in which they should be sold. The reference to Regulation VIII of 1831, Regulation VII of 1822, Act VIII of 1835, and the other Laws quoted by the Honorable and learned Member, might be very well as a matter of curious inquiry for a person who desired to know what the previous course of legislation had been; but it would certainly be unnecessary for any one who, after the passing of this Bill, might desire to know what the law actually was. That the Bill did consolidate the existing laws on the subject, he maintained; and he would satisfy the Council upon this head by the quotation of one short Section. Section X of Act VI of 1853 was as follows :—

Act XXV of 1850, and Section IX Regulation VIII. 1819 of the Bengal Code, as modified by Clause I Section XVI Regulation VII. 1832 of the same Code, except so far as the same has been altered by the said Act XXV. 1850, are hereby extended to all sales under Act VIII. 1835.

Thus, to see how sales of under-tenures were to be held under Act VIII of 1835, the Revenue Officer would have to refer to five several Laws. Act VIII of 1835 was repealed by this Bill; and the substance of it, and of the other Laws mentioned in the Section which he had read, was comprised in the Bill. The Bill *was*, therefore, a consolidation. Whether it was an amendment of the existing law or not, was of course a matter of opinion. It did not go the length which the Honorable and learned Member said it was desirable that it should go; but it did make several important changes in the law.

The Honorable and learned Member had urged that it would be unjust to holders of subordinate tenures to make the superior tenure saleable for arrears of rent four times a year, instead of only once, at the end of the year. In this, the Honorable and learned Member had assumed that the Bill declared what he had begun by complaining that it did not declare—namely, that all under-tenures would be voided on a sale in execution of a summary decree for arrears of rent. The fact was, that the existing law, as well as the Bill, was silent on this point. Subordinate tenures might or might not be voided on the sale of the superior tenure, according to the particu-

lar character of the tenure, and the practice which had obtained with respect to it. In some parts of the country, the practice was, that they were not voided. He held in his hand a paper containing answers to some questions which he had proposed several months ago, when he was preparing the Bill, to a Deputy Collector of great experience in the Backergunge District. To a question respecting the effect of the sale of a Talook in satisfaction of a summary decree, on the subordinate interests between the talookdar and the ryot, the reply was:—

"The fact of a tenure having been sold in execution of a summary decree does not necessarily affect the interests of the subordinate tenants. The Court have invariably ruled that a subordinate *bonâ fide* tenure shall remain intact, until declared to be invalid by the decision of a regular suit."

His Bill, as drawn, left the determination of these matters as they were left at present—to the Civil Courts. Except as to putnee tenures, for which there was a special provision, there was no express Law whatever declaring the effect of the sale of a superior tenure for arrears of rent on the subordinate tenures.

With regard to the objection founded on the possibility of an under-tenant paying off the rent due by the holder of the superior tenure out of his collections from the ryots if he had time until the end of the year to make them, that objection would tell equally against the Government system of quarterly sales for arrears of revenue. But, in fact every Zemindar was able to make such arrangements with those holding under him as would enable him to pay the Government revenue at appointed periods of the year. Every under-tenant paid the superior holder by instalments at stated periods. The whole chain of under-tenures was regulated by that rule; and, as decrees could be obtained only when instalments were proved to be overdue, it seemed to him that there was no injustice in bringing a tenure at once to sale in execution of a decree.

As to the provision to uphold sales of under-tenures made heretofore before the close of the year being an *ex post facto* law, he would observe that, where an irregularity was one only of form, it had been usual to rectify it in this manner. The irregularity in this case was one only of form. It had always been the practice at Backergunge to sell under-tenures in execution of summary decrees at all times of the year. The liability, though not strictly according to law, was known and recognized. This had been casually brought to notice by Mr. Colvin in his Report on that District, and it was to remedy this irregularity that the Board of Revenue had recommended to Government that the provision in question should be passed.

In his objections to the Bill, the Honorable and learned Member had fallen into one or two misapprehensions, doubtless arising from the revenue practice of the country not being easily ascertainable from the laws on the subject. The Honorable and learned Member had said that the Government could not, under the existing law, sell under-tenures in Mehals under the immediate management of its officers for arrears of rent without a decree. He (Mr. Currie) apprehended that that was not the law. It certainly was not the practice; and he believed that the practice was in conformity with the law. Section XXV of Regulation VII of 1799 said:—

"When lands are attached by a Collector, or other Officer of Government, under the present Regulation, or become subject to a Khas Collection on the part of Government under any Regulation authorizing the same, or by any means come under the immediate management of the Officers of Government, so that the rents are collected by them from the ryots, jotedars, dependant talookdars, under-farmers, or other descriptions of under-tenants; the Collector, in addition to the power vested in him, and in the Officers employed under him, by Section XIX and the preceding Sections of this Regulation, is authorized, without any previous application to the Dewanny Adawlut, to proceed against defaulting under-renters of whatever denomination, from whom arrears of rent may be due, and their sureties, if he shall consider this mode of procedure more likely to be effectual, in causing payment of the arrear due from them."

The application to the Dewanny Adawlut here spoken of, and which the Collector was authorized to dispense with, represented, according to subsequent laws, the summary suit now instituted before the Collector.

Then, the Honorable and learned Member said that the Bill authorized the Government to sell a tenure absolutely for any breach of contract by a talookdar, as in the case of the forfeiture of a Treasurer's security; and that subordinate tenures would fall with it. There, again, the Honorable and learned Member had assumed that the Bill contained a provision which assuredly it did not contain. The Bill spoke of sales for the recovery of arrears of revenue, or of other demands recoverable as arrears of revenue. Now, arrears of revenue were recoverable in this way. (He was speaking now of

estates paying revenue to Government.) The first process was to sell the estate on which the arrear had accrued. This was a sale of the estate free of all incumbrances. If the proceeds were not sufficient to pay the debt, any other property of the zemindar, land or goods, was liable to sale. If this other property consisted of land, and it was put up for sale, it was sold subject to all incumbrances as it stood at the time of sale. This was the law under Act I of 1845. The sale of an estate for any other demand than that of an arrear due from the estate itself was no more than a sale of rights and interests; and the practice was precisely the same with regard to the tenure of a talookdar who had given security to the Collector, and failed in the performance of his bond. In such a case, if the tenure were brought to sale, it was sold subject to all the incumbrances upon it, in the same way as if it was a Sudder estate paying revenue to Government. Although there was no express Law applicable to under-tenures, the general law would of course apply; and that which would be sold would be, not the substantive tenure, but the rights and interests of the tenant in it.

With these observations, he should, with the leave of the Council, withdraw his motion for the present, reserving to himself the right of bringing it forward at any future time that he might think necessary.

MR. PEACOCK said, he had no objection to the Honorable Member adopting this course. His only object was, that this Bill should not be read a third time before the Bill relating to sales for arrears of revenue should have been considered, or before the Report of the Committee upon the Resolution referred to them at the last Meeting of the Council should have been presented. If the Honorable Member should again bring forward his motion in the mean time, he should have the same objections to urge against it that he had urged to-day.

With regard to the observations of the Honorable Member in reply, he (Mr. Peacock) begged to observe that the Bill did not say what class of under-tenures might be sold in execution of summary decrees for arrears of rent. It left that question entirely open. It merely enacted by Section III that all sales of under-tenures in execution of summary decrees for arrears of rent due thereon, should be made under the provisions of that Act: it did not state what tenures might be sold in execution of such decrees.

MR. CURRIE observed that the Regulations gave but one definition to saleable under-tenures, which had been preserved in the Bill.

MR. PEACOCK said, one of his principal objections was, that this Bill, while purporting to consolidate the laws relating to sales of under-tenures for arrears of rent, compelled one to go back to a number of Regulations and Acts before he could ascertain what tenures were saleable for such arrears and what was the effect of such a sale. It was not every person who went to purchase an under-tenure that would have a lawyer at hand or a Law Index to consult; and the new Law ought to be made so comprehensive and clear that any intending purchaser might see at once what his rights would be, and how they would be protected, if he made a purchase.

The Honorable Member had said that the law was silent as to the effect of the sale of a superior tenure for arrears of rent upon the subordinate tenures, and that this Bill left the question to the decision of the Civil Courts. Now, that was exactly what he contended that the Bill ought not to do. He contended that the Bill ought not to leave it uncertain what the rights and interests of under-tenants were; and that, if it intended that the sales of superior tenures transferable by express stipulation or by the custom of the country should destroy all incumbrances, it should say so in express terms, and also make some provision for the protection of the under-tenants.

With regard to the power to sell under-tenures for the recovery of arrears of rent in Mehals under the immediate management of the officers of Government, the Honorable Member had said that the Government had the power to sell under-tenures in Mehals for arrears of rent at the close of the year without a decree. As he (Mr. Peacock) understood the existing law, the Government had not that power. He might be right, or he might be wrong. In either case, the question was one of construction; and he repeated that, when the Council was consolidating a law upon a particular subject, it ought to make all questions connected with that subject perfectly intelligible and clear. The Honorable Member had read a Section of a Regulation of 1799 in support of his position; but he (Mr. Peacock) had not caught in it the word "estate," which was material, because an "estate" had been defined to mean land held immediately of the Government, and paying revenue to Government.

He was not so familiar with the Revenue Law as the Honorable Member; but he certainly did understand the power given by the Bill to Government to sell under-tenures in mehals under the immediate management of the officers of Government as entirely a new power. The Honorable Member's own words on this point in his Statement of Objects and Reasons, were these :—

"The Bill provides, as is necessary, for sales of under-tenures in Government Mehals, which may be made by the Collector without formal suit, as well as for sales in satisfaction of summary decrees, and also for sales of under-tenures for the realization of any Government demand recoverable in the same manner as an arrear of revenue, the Sale Law, Act No. 1 of 1845, providing only for the sale of *estates*, or Sudder Mehals."

By Regulation XLVIII of 1793, the word "estate" meant, as he had said before, only an estate held immediately of the Government, and paying revenue to Government.

In reply to his objection that the provision to uphold sales of certain under-tenures which had been made before the close of the year contrary to the existing Regulations would be an *ex post facto* law, the Honorable Member had said that the provision had been inserted as a mere matter of form. He would ask, was it a mere matter of form to take away a right by an *ex post facto* law? The Honorable Member had said that, in some districts, under-tenures had been sold for arrears of rent before the close of the year as a matter of course. If any under-tenures had been so sold as a matter of course, they certainly had been sold in direct violation of the Regulations; and it was not a mere matter of form to prevent the persons who had been injured by these illegal sales from seeking a remedy in a Court of Justice. When the law said that the sale of an estate for arrears of rent falling due on account of it within the year, should not take place before the commencement of the ensuing year, it did not appear to him a mistake merely of form to sell the estate within the year. He did not consider the right to recover a tenure which had been sold contrary to law a mere matter of form. When the law laid down certain rules, if the Judges of one district acted contrary to those rules, while the Judges in other districts acted in conformity with them, he considered it to be not a mere matter of form, but an error of judgment; and those who had suffered from that error of judgment were entitled to their remedy. But this provision would take away their remedy. If a man's tenure had been sold contrary to law, surely he ought not to be deprived of the remedy which the law afforded him. He found it stated in one of the annexures to the Bill, that such sales had been effected in a great many cases in the district of Backergunge; and this seemed to be thought a good opportunity of setting right all the past illegalities. But to him it appeared that setting such things right was not a mere matter of form, when it might deprive men of the power of recovering estates of which they had been illegally deprived.

MR. CURRIE begged to observe that the passage read by the Honorable and learned Member from his Statement of Objects and Reasons seemed to him clearly to indicate that the power affirmed by the Bill of selling under-tenures in Mehals under the immediate management of the Officers of Government was *not* a new power. It spoke of sales of under-tenures in Government Mehals, *which may be made by the Collector without formal suit*—that is, of course, which may be so made now under the existing law.

MR. CURRIE'S motion was then, by leave, withdrawn.

POLICE (PRESIDENCY TOWNS, &c).

MR. ELIOTT moved that the Bill "for regulating the Police of the Towns of Calcutta, Madras, and Bombay, and the several stations of the Settlement of Prince of Wales' Island, Singapore, and Malacca" be re-committed, in order that certain amendments might be inserted in it.

Agreed to.

MR. ELIOTT said, the first amendment he had to move would follow Section VIII. The Governor of the Straits Settlement had brought to notice that the new Charter for the Court of Judicature for that Settlement contained the same provisions for the appointment of Police Officers as the former Charter, which was superseded by Act III of 1847; and he submitted the question whether the new Charter might not be deemed to over-rule that Act. To remove all doubts, it appeared to him desirable to insert in the Bill a provision similar to that which was made by Act III of 1847. The Section he proposed was in the terms of that Act, and ran as follows :—

"In the Settlement of Prince of Wales' Island, Singapore, and Malacca, no constable or subordinate Peace Officer, or other person

appointed to perform duties of Police, shall be appointed by the Court of Judicature of the Settlement, or by any division of that Court, at their general and quarter sessions, or otherwise."

The next Section of the Bill provided for the appointment of these Officers by the Commissioners of Police.

The new Section was agreed to.

MR. ELIOTT next moved an amendment in Section XXI, which provided for the appointment of Police Magistrates. The latter part of the Section ran thus :—

"Every person appointed, before he shall act as such Magistrate of Police, shall also be appointed a Justice of the Peace."

This would empower the Magistrate to do every thing that a single Justice of the Peace could do. But by some of the laws in force, two Justices were required to adjudicate certain penalties. It was necessary, therefore, to give power to a Police Magistrate to exercise all the powers and jurisdictions which, by virtue of any law, might be exercised by two Justices of the Peace. He therefore moved that an amendment to that effect be added to the Section.

Agreed to.

MR. ELIOTT said, he had now an amendment to move in Section XXVI, which was more substantial. The Section provided penalties for stealing or receiving stolen property not exceeding the value of 50 rupees, and had been altered in Committee on the former occasion by the omission of the words "or, if a male, to corporal punishment not exceeding 30 stripes of a rattan." He had, on that occasion, referred to Act III of 1844. He did not feel at all sure, however, that all Honorable Members had fully understood the effect of that Act. Its effect was this—that, out of Calcutta, throughout the Presidency of Bengal, corporal punishment was actually in force in such cases as those provided for by this Section. The object of inserting the provision in question was to make the law within the Mahratta Ditch similar to the law which obtained without. The same Law also prevailed in Madras and Bombay, not only in the Mofussil but in the Presidency towns. It had been remarked on the former occasion that there was no precedent for inflicting such punishment within the jurisdiction of the Supreme Court. The two cases of Madras and Bombay showed that Magistrates there had and exercised the power of inflicting it ; and if the jurisdiction of the Supreme Court itself were referred to, he should point to Statute 9 of Geo. IV, which provided corporal punishment in cases of larceny *in addition to* imprisonment. The Bill provided corporal punishment *in substitution of* imprisonment. When recently at Madras, he had had some conversation with the Chief Magistrate there, Mr. Elliot, who was probably the most experienced Police Magistrate in the country, and that Officer had expressed bis opinion that the abolition of corporal punishment in cases of larceny would have a very mischievous effect. He stated that it was a punishment very sparingly enforced ; but that he thought the possession of the power to inflict it was decidedly beneficial. A few days ago, he (Mr. Eliott) had received a similar communication from the Superintendent of Police at Bombay, forwarded by the Member for that Presidency. He, therefore, pressed the subject again upon the attention of the Council. For his own part, he thought that it was not unfitting to visit men guilty of petty larcenies punishable summarily—looking to the class of persons by whom they were generally committed—with a kind of punishment the pain of which falls on their persons and affects themselves alone, instead of sending them to gaol, where they would be fed well and enjoy other comforts, while their families, who may be entirely dependant upon their labor, would be left starving at home. He, therefore, moved that the words "or, if a male, to corporal punishment not exceeding 30 stripes with a rattan" be added to the Section.

MR. PEACOCK said, be did not see any reason why the provision proposed should be inserted merely because the punishment at present existed at Madras and Bombay. As the Penal Code was likely to be brought forward in a short time, the principle of inflicting corporal punishment would be fully considered in connection with it, and it would be advisable not to anticipate that discussion by a provision in this Bill. His own opinion at present was against corporal punishment. The Honorable Member had referred to the Statute 9 of George IV as providing for corporal punishment for similar offences ; but he (Mr. Peacock) thought that the general principle of that punishment ought to be considered with reference to the present state of society. He was aware that an endeavor had been made to introduce corporal punishment in England ; but it did not appear to have received much encouragement. He thought it would be better to consider the propriety of introducing this punishment in connection

with the Penal Code, instead of re-opening a question which had been deliberately determined by a Committee of the whole Council, and in a former stage of this Bill.

MR. ELIOTT observed, that, if the Section in this Bill were left as it now stood, the law which obtained in the Presidencies of Madras and Bombay at present would be altered.

MR. ELIOTT'S motion being put, the Council divided :—

Ayes 4.	*Noes* 4.
Mr. Elliott.	Sir Arthur Buller.
Mr. Grant.	Mr. Currie.
The Commander-in-Chief.	Mr. Allen.
The Chairman.	Mr. Peacock.

The numbers being equal, the Chairman gave his casting vote in support of the motion.

MR. PEACOCK said, Section XXIX provided for the wrongful appropriation of property found. As it stood originally, it said—"Whoever, finding any property not in the possession of any person, takes it into his own possession, and, with intent to despoil the owner, fraudulently disposes of it, shall be liable to imprisonment, with or without hard labour, for a term not exceeding six months."

Now, a person finding any property and fraudulently disposing of it, might or might not be guilty of larceny, according to the English Law. That would depend upon the particular circumstances of the case. If the case amounted to larceny, it appeared to him (Mr. Peacock) that it ought to be dealt with as a larceny. Under a previous Section, stealing was made punishable by Magistrates if the value of the property stolen did not exceed Rupees 50. But if a person stole by finding, then, as this Section originally stood, the offence would be summarily cognizable by the Magistrate, who might convict and sentence the offender to imprisonment for only six months, whatever the value of the property might be. When the Bill was last before the Committee of the whole Council, it had appeared to him that the law should be consistent ; and that, where misappropriation of property found amounted to larceny, and the value of the property exceeded Rupees 50, the case ought to be committed for trial to the Supreme Court. He had, therefore, proposed on that occasion an amendment which would limit the jurisdiction of Magistrates in cases under the Section to misappropriation of property the value of which did not exceed Rupees 50. That amendment had been carried. The Chief Magistrate had since called his attention to the inconsistency of the clause as it now stood, and he quite agreed with him that it was inconsistent ; for, if a man fraudulently converted to his own use property which he found, he would be punishable under this Section whether the offence amounted to larceny or not, provided the value of the property did not exceed Rupees 50 : but if the property exceeded that value, he would not be punishable at all unless the offence amounted to larceny. To remove this inconsistency, he now proposed that the following words should be added to the Section :—

"And if, in the judgment of the Magistrate, the property exceed the value of 50 Rupees, may be committed for trial to Her Majesty's Supreme Court of Judicature, and, upon conviction in such Court, shall be liable to be punished in the same manner as if he had been convicted of simple larceny, whether the offence shall amount to larceny or not."

The effect of this amendment would be to get rid of that technicality of the English law by which, if a person who picked up property had not the means of tracing the owner at the time of the finding, but afterwards discovered him, and yet converted the property to his own use, he would not be guilty of larceny. Though the amendment he proposed created a new offence in cases to which the English law applied, it appeared to him that it was not objectionable ; because, if a person, having the means of discovering the owner of property which he found, fraudulently appropriated that property to his own use, he ought to be punished even if he did not know who the owner of it was at the time when he found it.

The amendment was agreed to.

Section XXX provided that, in Bombay, certain offenders might be committed for trial before the Court of Petty Sessions, and that, in cases falling under Section XXVI, they might, if males, be subjected "to corporal punishment not exceeding 30 stripes with a rattan." These words had been left out of the Section when the Bill was first considered in Committee.

MR. ELIOTT now moved that they should be restored.

The motion was carried, and the Section then passed.

Section XXXIV provided for fraudulent possession of property.

MR. ELIOTT said, in the first Committee, of the whole Council, the first clause

of this Section had been passed without any objection. The second clause having been put, an amendment was proposed leaving out the latter part of it, which was carried; but on the clause being put as amended, it was thrown out; and then, the whole Section being put, it was negatived. He proposed now to restore the first clause of the Section. The Chief Magistrate of Calcutta had very strongly represented how useful the same provision in the existing Police Act had proved in practice; and, as no objection had been urged against it, he (Mr. Eliott) hoped it would now be restored. He proposed, however, to make one verbal alteration in it; namely, to substitute "fraudulently" for "unlawfully" before the word "obtained" in the 5th line of the clause, so that it might agree with Section XXXV of the Bill.

The clause, as amended, was agreed to.

MR. ELIOTT then moved that a clause be inserted following the above, much to the same effect as the second clause of the original Section XXXIV, but with certain alterations, which he had introduced with the view of meeting the objections which had been raised on the former occasion.

The new clause was agreed to, and the Section then passed.

MR. CURRIE moved an amendment in Section LXVII, which provided that brokers and pawn-brokers should report "stolen goods or articles," under a penalty for neglect. He said, it had been represented by the Chief Magistrate of Calcutta that it was very desirable that the Section should provide that information should be given of stolen Bank Notes as well as of other property. This addition would make many trifling alterations necessary in the Section; and, therefore, instead of moving a series of amendments, he should move that the present Section be left out, and a new Section be substituted for it containing the alterations he referred to. [The Honorable Member here handed in his Motion.]

At the suggestion of Mr. Peacock, he altered his amendment "goods, articles, or Bank Notes" into the general term "property," so that Promissory Notes and other valuable security might be included; and the Section was then agreed to.

Clause 12 of Section LXXIX provided as follows:—

"Whoever beats a drum or blows a horn or trumpet, or beats or sounds any brass or other metal instrument or utensil, between the hours of ten at night and four in the morning, so as to disturb the repose of the inhabitants; or at any time or place so as to endanger the safety of passengers by terrifying horses or cattle. This provision shall not apply when the Commissioner of Police has granted a license for the use of music in the streets on occasions of festivals and ceremonies."

MR. CURRIE said, this clause had been discussed when the Bill was before in Committee. But he much preferred the terms of the present law, and the Chief Magistrate had strongly urged that the Section as it stood would occasion great annoyance to the Public. He (Mr. Currie), therefore, moved that all the words after the word "utensil" be left out of it, and that the words "except at such time or place as shall from time to time be allowed by the Commissioner of Police" be substituted for them.

The Amendment was agreed to, and the Clause then passed.

MR. CURRIE said, he had now a new Clause to propose. The present law, which would be superseded by this Act, provided against bathing and washing in the public streets. There was no provision of the kind in this Act. He had mentioned the matter the last time the Bill was before a Committee of the Council, but had not pressed it to a division. It had, however, been again pressed on his attention by the Chief Magistrate of Calcutta. The practice had been found to be a nuisance, and as such had been prohibited by Act XIII of 1852; and it would be a retrograde step to omit a similar provision from the present Bill. He, therefore, moved that the following new Clause be inserted after Clause XII:—

"Whoever bathes or washes himself in any public street or in, upon, or by the side of, any public tank, reservoir, or aqueduct not being a place set apart for such purpose."

The Clause was agreed to, and the Section then passed.

MR. PEACOCK said, he had an amendment to move in Section LXXXII, which provided that—

"Whoever, in any public road, street, thoroughfare, or place, begs or applies for alms to the annoyance of passengers, &c., shall be liable to imprisonment, with or without labor, for any term not exceeding one month."

Since the Bill had been last considered in a Committee of the whole Council, he had received a communication from the Chief Magistrate of Calcutta representing that the words "to the annoyance of passengers" were not used in the present Police Act, and that the insertion of them in this

Act would occasion inconvenience. It appeared to him (Mr. Peacock) also that the words ought not to be retained. It would be very seldom that passengers would be disposed to go before a Magistrate to give evidence that the begging had been to their annoyance. If the Police saw that begging was to the annoyance of passengers, it appeared to him that they ought to be at liberty to apprehend the beggars without compelling the passenger to attend and give evidence. He should, therefore, move that the words "to the annoyance of passengers" be left out of the Section.

MR. ELIOTT said, he quite agreed with the Honorable Member in thinking that the words referred to should be left out. If they were retained, the Section would be almost inoperative.

The amendment was agreed to.

Section LXXXIII provided that

"Any Police Officer may arrest, without a warrant, any person committing in his view any felony or any offence against this Act."

MR. CURRIE said, when this Bill passed through Committee on the former occasion, the following proviso was added to it on the the motion of the Honorable and learned Chief Justice :—

"Provided that the name and address of the offender be unknown, or he refuse to give his address, or fail to satisfy the Police Officer that the name and address he gives are true."

These words were not in the present Police Act ; and he thought that, in practice, they would be found extremely inconvenient. The Chief Magistrate had put the case of a known drunkard lying drunk in a street. If this Proviso were to stand, a Police Officer would not be able to remove him to the lock-up, though the man was unable to take care of himself. Then, again, he (Mr. Currie) did not very well see what, in practice, the satisfaction of the Police Officer was to be. He must, apparently, accept as true what any person might tell him, or run the chance of a prosecution for a false arrest. He should, therefore, move that the Proviso be left out.

The amendment was agreed to, and the Section then passed.

MR. PEACOCK said, a clause had been inserted in the Bill, upon his motion, on a former occasion allowing private individuals to arrest parties who, in committing offences, might injure their persons or property. But if a private individual should attempt to apprehend another who had injured his person or property, there would be a greater chance of resistance, than if the arrest were made by a police officer. There was a Section in the Bill which provided a punishment for assaulting or resisting policemen in the execution of their duty ; and he (Mr. Peacock) thought that a similar Section should be inserted regarding private persons who lawfully endeavored to detain offenders. He should, therefore, move that the following new Section be added to the Bill after Section LXXXIV :—

"If any person lawfully apprehended under this Act shall assault or forcibly resist the person by whom he shall be so apprehended, or any person acting in his aid, he shall be liable to a fine not exceeding 200 Rupees."

The Section was agreed to.

Section XCVI provided as follows :—

"Whoever wilfully 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."

SIR ARTHUR BULLER said, as the Honorable and learned Member opposite (Mr. Peacock) had pointed out on a former occasion, this Section clearly created a new offence. It made that perjury which was not perjury now. Under the existing law, a person would not be guilty of perjury unless the false evidence which he gave related to something that was material to the issue. He would not now stop to consider whether it would be useful hereafter to make all false evidence given upon oath perjury, whether material to the issue or not. That question would, he hoped, be soon settled by the long-looked for and much-desired Criminal Code. It certainly was an anomaly to say, as this Section did, that that should be perjury if stated upon oath before a Magistrate which would not be perjury if stated upon oath before the Supreme Court or the committing Justice of the Peace. He, therefore, moved that all the words after the word "whoever" in the first line of the Section be left out, in order that the following words might be substituted for them :—

"commits perjury in any judicial proceeding before a Magistrate may be committed by such Magistrate for trial before Her Majesty's Supreme Court of Judicature."

The amendment was agreed to, and the Section then passed.

Section CII was passed after a verbal amendment.

SIR ARTHUR BULLER, in the

absence of Mr. LeGeyt, moved that the following new Section be introduced :—

"1. Every Magistrate of Police shall have the same authority to require persons to enter into recognizances to keep the peace or to be of good behavior as may lawfully be exercised by a Justice of the Peace."

"2. If any person, who has entered into a recognizance in any amount not exceeding Rs. 200 to keep the peace, or to be of good behavior before any Magistrate of Police or any Justice of the Peace, by any act forfeits such recognizance, the Magistrate or other authority before whom he may be convicted of any act by which such recognizance is forfeited shall, when applied to, certify any such conviction on the back of such recognizance, and thereupon the sum thereby acknowledged to be due by such person shall be recoverable in the manner provided by this Act for levying fines."

"3. Whenever it shall be shown to the satisfaction of a Magistrate of Police, either by the production of such certificate of conviction as is mentioned in the preceding clause, or otherwise, that any such recognizance is forfeited, the Magistrate, if he think that proceedings should be had against the sureties, shall give notice to them to pay the sums which, by their recognizances, they have respectively acknowledged themselves to owe; or to show cause, on a day to be named in such notice, why the said sums should not be paid. And if no sufficient cause shall be shown, the said sums shall be recoverable in the manner provided by this Act for levying fines."

The Section was agreed to.

MR. ELIOTT moved that the following new Section be inserted before Section CIII:—

"No distress levied by virtue of this Act, shall be deemed unlawful, nor shall any party making the same be deemed a trespasser, on account of any defect or want of form in the summons, conviction, warrant of distress, or other proceeding relating thereto, nor shall such party be deemed a trespasser *ab initio* on account of any irregularity afterwards committed by him; but all persons aggrieved by such irregularity may recover full satisfaction for the special damage in any Court of competent jurisdiction."

This Section would correspond with Section CXXXIX of the Conservancy Bill.

The Section was agreed to.

The Council resumed its sitting.—

CONSERVANCY (PRESIDENCY TOWNS, &c).

MR. ELIOTT moved that 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" be re-committed, in order that certain amendments might be inserted in it.

Agreed to.

MR. CURRIE said, when this Bill was first before a Committee of the whole Council, a Proviso had been inserted in that Clause of the interpretation Section which defined the meaning of the term "owner." It had been then observed that such a provision was not in its proper place in an interpretation Clause; and that, if it was to be passed at all, it ought to be transferred to some other part of the Bill. The Select Committee had since looked into the matter, and were of opinion that, if the proviso was to stand part of the Bill, the proper place for it would be after Section LXXIII. He, therefore, proposed to move that the Proviso be omitted from this Interpretation Clause. He had with him a motion paper for the insertion of a Section to the same purport after Section LXXIII; but he himself would not be able to make that motion, because he was still very strongly of opinion that such a provision ought not to be inserted at all. He thought that the Council was not doing well in ignoring the experience of the English Legislature on such a point as this, and refusing to follow its example. The definition which the Bill as framed assigned to the term "owner" was the definition which all similar English Acts assigned to it. In his opinion, too, it was clear that the responsibilities attaching to property which were imposed for the public good ought not to be defeated or in any way affected by such a contingency as the non-residence of the proprietor on the spot. He, therefore, would move that the Proviso be omitted.

MR. PEACOCK said, if the Honorable Member had proposed to transpose this Proviso from Section II to any other part of the Bill, he should not have objected; but he proposed to omit it altogether, leaving it to any other Honorable Member to move for its introduction into some other part of the Bill. He (Mr. Peacock) thought that the Council would not agree to omit the Proviso altogether after it had already decided that it should be introduced. Without this Proviso, the interpretation of the word "owner" appeared to him to be precisely what the Honorable Member opposite (Mr. Grant) had, on a former occasion, described it to be; namely not an "interpretation," but a "mis-interpretation."

MR. ELIOTT said, the omission of the Proviso from this Clause would not preclude the Honorable and learned Member from moving its insertion in a proper place in the Bill. There could be very little doubt that

this was not the proper place. His own opinion was, that the proviso ought to be rejected altogether. But the real question now was, whether it should or should not be left out of this clause.

SIR ARTHUR BULLER said, agreeing as he did in the objections that had been urged against the clause, he was of opinion that this was the very best place for the Proviso that had been added; for he thought that the antidote should be as near as possible to the bane.

MR. ALLEN said that, with regard to the remark that the proviso was necessary as the word owner had been misinterpreted rather than interpreted, he would observe that words were not ideas, but merely represented such ideas as were given them by usage; now, inasmuch as the word owner had been interpreted in several Acts of Parliament to mean that which this Bill declared it should mean, the word had in law acquired this extended meaning. In matters of interpretation of words, he thought this Council could not do better than follow the Imperial Legislature, and attach the same meaning to words which they bore in Acts of Parliament.

MR. GRANT said, in matters of interpretation, Dr. Johnson was a better guide than the English Parliament. In his opinion, the word "owner" meant a person who owns property.

MR. ELIOTT said, if Dr. Johnson were to be followed in the interpretation clauses of an Act rather than the English Parliament, then the words "any man" could not properly be defined in Bills, as they were now always defined, to mean any woman.

MR. CURRIE'S Motion was then put. The Council divided.

Ayes 3.	*Noes 5.*
Mr. Currie.	Sir Arthur Buller.
Mr. Allen.	Mr. Peacock.
Mr. Eliott.	Mr. Grant.
	The Commander-in-Chief.
	The Chairman.

so the motion was negatived.

MR. CURRIE moved that the following new Section, of which he had given notice at the last Meeting of the Council, be inserted after Section VI :—

"In laying out new streets, in addition to the land required for the carriage-ways and foot-ways thereof, the Commissioners, with the consent of the local Government, may purchase also the land necessary for the houses and buildings to form the said street; and may sell and dispose of the same with such stipulations and conditions as to the class and description of houses or buildings to be erected thereon as they shall think fit."

It was quite necessary that the Commissioners should possess this power. A great portion of the benefit of making new streets would be lost if they had no means of providing that the buildings to be erected along the sides of the streets should be of a suitable character. No doubt, in disposing of the additional lands which they should take as sites for houses, they would generally dispose of them at a greater price than that for which they had obtained them; but this was far from being any objection to the measure; for the increased value of the land would be a consequence of the new thoroughfare opened out at the expense of the Town; and it was but just that the Town, which incurred the expense, should enjoy some portion of the benefit.

It had been mentioned to him that this was a very late period at which to insert so important a Section in the Bill. His explanation was, that it was only very recently that the matter had been strongly pressed on his attention. It had, indeed, been mentioned when the Bill was before the Select Committee; but it had not received much consideration then, as it was thought that it —might be provided for in the Bill for taking land for public purposes, which was then under consideration. But, in preparing that Bill, it was found that such a provision would be quite out of place there; and there could be no doubt that, if it was to be enacted at all, the proper place for it was in this Bill. If he had taken the Council by surprise, there might have been some force in the objection to which he referred: but he had taken the precaution of giving notice of his motion at the last Meeting; he had read the Motion on that occasion; it had been before Honorable Members in print since; and, therefore, the Council had had as full an opportunity of considering it as if it had been introduced into the Bill by the Select Committee.

The power which it proposed to give, was only in extension of that given by Section VI, and it was not a new power. It was a power which had been exercised in Calcutta before, under similar circumstances. He understood that the Lottery Committee, which had the power, in some way or another, of obtaining land by compulsory sales, had frequently taken more land than was

required for the streets made by them, and disposed of it afterwards.

MR ELIOTT said, he was in favor of the Section, for the reasons which the Honorable Mover had stated. In addition to these, he would observe that the principle involved in it was the principle adopted by the English Acts for improvements of the same nature. The English Acts empowered the Commissioners to take, by compulsory means, not only land required for road-ways, but also adjacent lands for sites for houses, and also to enter into building-leases, under certain covenants, to sell such portions of the land taken as might not be required for the original purpose, and to take fines for leases of such land for building—evidently showing that it was designed that a profit should be made by these transactions for the benefit of the Fund out of which the improvements were to be paid for. It was but fair that the public body who made these improvements, should derive the benefit arising from them, so that it might augment its funds and extend its operations. This would ensure public improvements which could not otherwise be made.

SIR ARTHUR BULLER said, he felt a very strong objection to introducing a Section of this character at this stage of the Bill. The Honorable Member might say, with some show of fairness, that the Council had had, by reason of the notice of the motion circulated last week, sufficient opportunity for considering its propriety; but even supposing that this was the case, he would ask, had the Public had any such opportunity? For his own part, he was not at all disposed to admit that notice to Members of the Council was sufficient without notice to the Public; for he thought it important that Members should come to the discussion of questions of this magnitude armed with all the information which a previous publication was calculated to elicit from persons best acquainted with, and most interested in, the subject; and he felt pretty confident that there was not a single Section in this Bill which would have attracted so decided an opposition as this, if it had been inserted in the Bill as published. The only occasion on which he was personally aware of the Public having in any manner spoken out upon the subject was in a case which had lately come before the Supreme Court, and in which the Commissioners claimed the power of doing the very thing which this Section proposed to enable them to do. On that occasion, the right of the Commissioners under the existing law was not alone disputed, but the claim was most indignantly denounced as arbitrary in the extreme, and a most wanton invasion of private rights. The Court decided that, under the existing law, the Commissioners had no such power. Well, then, after this, how stood the Public in relation to this question? The existing law had been solemnly laid down by the highest tribunal: this new Conservancy Act was shortly after published: and not one word was there in it to indicate a desire to revive the obnoxious claim: the Commissioners themselves, in their Report, though strongly advocating its necessity, did not propose that it should be introduced into this Bill; but, on the contrary, expressly suggested that it should form part of a general Bill relating to the taking of land for public purposes, which was understood to be in contemplation. Still, under these circumstances, the Honorable Member proposed to smuggle in this most important measure at this eleventh hour of the Bill. For his part, he could not look upon it as any thing but a surprise upon the Public, and a glaring evasion of that most salutary rule which required a previous publication of proposed Bills in the public *Gazette*.

He did not wish now to discuss—for he did not, with such information as he possessed, feel competent to discuss satisfactorily—the general question of the propriety of giving the Commissioners the proposed power; but he should be somewhat surprised if, among all the English Acts referred to by Honorable Members, they could produce one which went to the extent of saying to Commissioners—as the Bill did—

"If you want to make openings for purposes of ventilation, and although you don't want any houses at all to be built by the sides of the openings, still you may take from the owners a sufficient quantity of land by the side to enable you to sell it again at an increased rate for building purposes, in order that you may thus re-imburse yourselves the expenses of making the opening."

In fact, the Commissioners, not having sufficient funds for the purpose of making such improvements, had recourse to this ingenious expedient for raising funds.

He must not be understood as doubting for a moment the perfect justice of making on some occasions the rights of private property give way to the exigencies of the public good; but, in so doing, he thought that the greatest possible care should

be taken that no sacrifice of legitimate private rights or advantages should be required beyond what was absolutely necessary: and, as regarded the present Clause, he could not help thinking that, even if the power asked for were conceded, some provisions might not be added by which some advantages, or some preferential rights, would be reserved to the owner of the land taken. What those advantages should exactly be, he was not prepared to say. But he had no doubt that, if the scheme were properly made known to the Public, some satisfactory mode would be discovered of reconciling it with the interests of all parties concerned.

However, on the present occasion, he rested his opposition to the Clause mainly upon the fact of the Public having had no opportunity of expressing their opinions upon it.

MR ALLEN said, as a Member of the Select Committee on the Bill, he wished to say that he fully agreed in the propriety of the Section proposed. The Council had been told about its being an ingenious mode of acquiring funds. But the real question was—was it a just way of acquiring land? He certainly thought that it was. If the Council admitted that it was right that the Commissioners should take land for public purposes, he thought it could not affect the principle whether the whole land taken was used for a road-way, or whether part of it only was used for a road-way, and the remainder used for building houses to form the street. In both cases, the proprietors of the land would receive the full value which it might possess as it stood at the time. The Commissioners would make a great improvement and increase the value of the land, towards which the old proprietors would contribute nothing. The value of their property would be considerably enhanced. Should the old proprietors have the benefit of that enhancement without paying for it? Had not the Commissioners a right to the enhanced value obtained by their work, and should they not be thus enabled to make further sanitary improvements?

As he had said before, if the Council admitted that the Commissioners should be empowered to take land compulsorily for public purposes—which it did—he thought this Section was not at all such an alteration of the Bill as to make it necessary that the Bill should be re-published.

MR. PEACOCK said, he quite agreed with the Honorable Member opposite (Sir Arthur Buller) that the proposed Section would be such an alteration of the Bill as published that it ought not to be inserted, or that, if inserted, the Bill ought to be re-published. The Standing Orders required the publication of Bills before they came to be considered by a Committee of the Council, not that the Council, but that the Public, might not be taken by surprise. He could not say that he was taken by surprise by the present Motion, inasmuch as the Honorable Mover had given notice of it at the last Meeting; but, if the Section were inserted in this Bill, he could not say that the Public would not be taken by surprise.

There was a very material distinction between taking land for the road-way of new streets, and taking land adjacent to new streets with liberty to sell or let it out on building leases. In the one case, a house standing upon land adjacent to the new street would have the advantage of being open to the street; in the other, the compound, or part of the compound of a house intervening between the new street and the house might be taken and sold or let out by the Commissioners, and buildings might be raised upon it in such a manner that the house might be blocked up and deprived of all ventilation. He confessed that, without the power which this Section proposed to give, the Commissioners might not be able to make streets look uniform; but the object of municipal improvements was, not to make streets look uniform, but to give to the Public good thoroughfares and wholesome ventilation. It might be very convenient to the Municipality that, when it opened new road-ways and streets for purposes of ventilation, the owners of adjacent lands should be bound to make over to it those lands for the sake of erecting uniform buildings upon it; but it would not be just to compel them to do so without full compensation, not only for the value of the land, but for all consequential injury that the owner might sustain in consequence of its being used for the erection of new buildings which, by intervening between the street and adjacent property of the proprietors of the land, might materially depreciate the value of such property.

The Honorable Member who moved this Section had cited an Act passed in England; but that Act did not allow part of a property to be taken if the owner were willing to sell the whole.

MR. GRANT said, he did not quite follow the Honorable and learned Member's argument. The Section did fully provide for compensating the owner of any land that might

be taken to the extent of its actual value at that time, whatever that value might be. It was well known that, in these cases, compensation always went, and very properly went, somewhat beyond the bare market value. The new street along the sides of which houses would be built, would not be a street that was in existence at the time the land was taken, but a street for the very construction of which it was taken; and therefore he could not see what right the owners of the land would have to complain. Practically, the whole question, as it seemed to him, whether Calcutta and the other Presidency towns should be improved, or not, was involved in the Council's decision upon the present question. If the Commissioners were to be allowed to take only so much land as was required for the road-way of new streets, and the whole increased value of the land lying along the edges of the new way were to go into the pockets of those who were so fortunate as to own it, the Public deriving no advantage from the increase of value which the public money had produced, then he was sure that there would be very little improvement in these towns. We all knew what the condition of the Presidency towns was—how productive it was of disease and death. It was all very well to say that the object of these public improvements was, not that the Municipality should make streets look uniform, but that it should provide for thoroughfares and healthy ventilation. But the Municipality would not be able to provide for anything without money; and it appeared to him that the provision contained in this Section would afford it legitimate resources. It was a provision which had been adopted, not in one English Act alone, but, he believed, in every English Act relating to improvements of this sort in towns. He was old enough to remember Swallow Street. By the exercise of a power similar to that which this Section proposed to give, that Street and the adjacent land had been converted into one of the largest thoroughfares in the world; and he remembered to have been told, upon what he believed to be good authority, that, by letting the land on the sides of Regent Street on building leases, there was a return from this magnificent improvement of something like 3 per cent. upon the outlay; without which the improvement could not have been effected. Let any body who remembered what Swallow Street and its neighbourhood was, and what Regent Street is, say whether the principle had worked well for London. The people owning the land on either side obtained for their property the full value which it possessed at the time it was taken; and the public body who improved that land, obtained the value of their improvements. Surely, this principle was both the more just and the more advantageous to the Public. And if we turned from London to Calcutta, or any other Presidency Town, we could not fail to see that the argument from London applied with ten-fold force here. Believing that the provision of the proposed Section was just, and that it would be for the good of the Presidency Towns and of the Public, he should vote in support of it.

He quite agreed that there should be full compensation, not only for the value of the land that might be taken, but also for any consequential damage that might accrue to the adjoining property by reason of severance or otherwise. But, if there was no specific provision for such compensation, this was a defect which should be remedied as running through the whole Bill. There was no special provision of the kind in the case of land taken for the road-way of new streets; and yet, the taking of land for such a purpose might injure the adjacent property as much as the taking of land for letting on building leases.

THE COMMANDER-IN-CHIEF said, he believed that the Section proposed was necessary, and he was entirely in favor of it. Undoubtedly, in all cases, there would always be a fair and proper compensation to owners; but, where the Commissioners would build new streets, the value of the adjacent land would be enhanced from being in the neighborhood of those improvements; and these would be made at the expense of the Municipality. It was not easy to foresee the extent to which the value of property adjoining new streets might be increased. He believed that the power of taking land besides that which was required for newly projected streets in London, was always given in the Act of Parliament. It was so in Railway Acts; and there were very few instances, he believed, in which the proprietor had not largely benefited.

He was, therefore, strongly in favor of the proposed addition.

MR. CURRIE'S Motion was then put, and carried.

MR. PEACOCK said, to make it clear that the owner of the land taken should receive compensation for any consequential damage which might be done to any adjacent land or houses belonging to him, he

should move that the following proviso be added to the Section :—

"Provided that, if any land be taken under the provisions of this Act, compensation shall be made to the owner for any damage which may be done to any adjoining land or buildings of such owner."

The Proviso was agreed to, and the Section then passed.

Section XII provided a penalty for allowing sewerage to flow on streets.

MR. CURRIE moved that the words "causes or allows any offensive matter from any sewer or privy to run, drain, or be thrown" be inserted after the word "or" and before the word "into" in the 6th line of the Section.

The amendment was agreed to, and the Section then passed.

Section XVIII provided a penalty for destroying lamps, lamp-posts, &c.

MR. CURRIE moved that the Section be omitted, as a similar Section had been introduced into the Police Bill, with the understanding that this one should be left out of the present Bill.

Agreed to.

MR. ALLEN moved that the following new Section, of which he had given notice at the last Meeting of the Council, be inserted after Section CXII :—

"The Commissioners shall, upon such information as they may be able to obtain, cause to be registered the name, sex, age, religion, residence, and cause of death, of every person whose body is brought to any of the said burial or burning grounds, and also, so far as is practicable, the like particulars of every other person who dies within the said Towns and Stations."

At present, the Chief Magistrate of Calcutta did keep a registry of deaths and causes of deaths, so far as he could. In Bombay, there was a special Rule and Ordinance requiring that this should be done ; but it was proposed to repeal that Rule by the new Police Bill. At Madras, he understood there was also at present a mortuary registry kept. By the Section which he now proposed, no penalties were imposed upon persons refusing to give the information required for the registries. He merely wished that the Council should recognise by this Act that it was the duty of the Municipal Commissioners to register the number of deaths, and to ascertain, as far as they could, the cause of death, and the locality in which each death occurred.

The Section was agreed to.

MR CURRIE said, he proposed to move a new Section after Section CXXXI. The Bill empowered the Commissioners to grant licenses in certain cases—namely, for public privies, slaughter-houses, offensive and dangerous trades, &c. It also contained provisions for granting licenses to make temporary erections in public streets. Fees were now charged by the Commissioners for granting such licenses ; and the object of his Section was only to legalise them. The Section was as follows :—

"When any license is granted under the provisions of Section LXII, XCIII, or CIII of this Act, authorizing the use of any place for any of the purposes therein described ; and when permission is given under Section XIX for making any temporary erection, or under Section XXXVI for putting up any projection, the Commissioners may charge a fee for such license or permission ; and the rates of the fees to be so charged shall be from time to time adjusted by the Commissioners with the sanction of the local Government ; provided that no such fee shall exceed the sum of 50 Rs. When permission of license is given for the temporary occupation of any ground belonging to the Commissioners under the provisions of Section LXXXVII or Section LXXXIX, the Commissioner may charge rent for such ground according to the time the occupation may continue, at such rates as may from time to to time be sanctioned by the local Government. All sums received by the Commissioners under this Section, shall be applied by them to the purposes of this Act."

Agreed to.

Section CXXXIII was passed after some slight amendments, on the motion of Mr. Elliott.

MR CURRIE moved that the following new Section be inserted after Section CXLII :—

"It shall be the duty of all Police Officers to give immediate information to the Commissioners of any offence committed contrary to the provisions of this Act. Any Police Officer may arrest any person committing in his view any offence against this Act, if the name and address of such person be unknown to him, and such person may be detained at the Station House until his name and address shall be ascertained."

MR CURRIE said, he himself had been rather opposed to a provision of the kind contained in the latter part of this Section, the more so because offences under the Act could only be tried on the information of the Commissioners. But very strong reasons had been shown why a power should be given for the arrest of unknown offenders ; and, according to the Section, such persons would be taken to the Station house for the purpose of discovering their names and address, and then information would be given to the

Commissioners, who, if they thought it necessary, would institute proceedings against him.

The Section was agreed to.

MR ELIOTT moved that the following new Section be inserted at the end of the Bill:—

"This Act shall commence and take effect from and after the 1st of November 1856."

Agreed to.

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

POLICE (PRESIDENCY TOWNS, &c.)

MR. ELIOTT said, he had received a communication from the Government of Madras in answer to a reference which he had made to it in relation to a Section in the Police Bill which had undergone considerable discussion when the Bill first came before a Committee of the whole Council. It was the Section which provided that, in Calcutta, Madras, and Bombay, charges of stealing, embezzlement, &c., of property above the value of Rupees 50, belonging to persons about to sail in steamers or passenger ships, should be tried summarily by two Magistrates. It had been suggested that a better provision for the exigency contemplated by this Section would be the more frequent holding of Sessions by the Supreme Court. He had now obtained from the Madras Government returns showing the number of persons committed to each of the Sessions quarterly in that Presidency during a period of three years, the average period that the persons committed remained in confinement awaiting trial, and the longest period of confinement before trial at each Sessions. The Return showed that, sometimes, the imprisonment between the committal and the trial extended to so much as three months. The return was of importance; and he now moved that it be printed.

Agreed to.

The Council adjourned.

Saturday, June 7, 1856.

PRESENT:

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

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

MARRIAGE OF HINDOO WIDOWS.

THE CLERK presented a Petition from Inhabitants of the Sattara District in the Presidency of Bombay against the Bill "to remove all legal obstacles to the Marriage of Hindoo Widows."

MR. GRANT moved that the Petition be printed.

Agreed to.

POLICE (PRESIDENCY TOWNS, &c.)

THE CLERK presented a Petition from the Bombay Association submitting some remarks on the Bill "for regulating the Police of the Towns of Calcutta, Madras, and Bombay, and the several stations of the Settlement of Prince of Wales' Island, Singapore, and Malacca."

MR. ELIOTT moved that this Petition be printed.

Agreed to.

PORT-DUES AND FEES.

MR. ELIOTT moved the first reading of a Bill "to authorize the levy of Port-dues and fees at the present rates for a further period of twelve months." He said, he had explained at the last Meeting of the Council his reason for intending to propose this Bill. Section XLI of Act XXII of 1855 (for the regulation of Ports and Port-dues) provided that the dues and fees usually collected at the several Ports before the passing of that Act might continue to be collected for a further period of one year, in order that the local Government might have time to send in Schedules containing certain data which would enable the Council to pass a supplemental Act for fixing the dues to be collected in future. These Schedules had not been received as yet; and the time during which, as the Act stood, the collection of Port-dues now levied would be legal, would expire on the 13th of August. It was necessary, therefore, to extend the period, and, that the local Governments might have sufficient time for the preparation of the Schedules required, this Bill proposed to extend it to one year.

With these observations, which were all that he thought it necessary to make on the subject, he begged to move the first reading of the Bill.

The Bill was read a first time.

AFFIDAVITS, AFFIRMATIONS, AND SOLEMN DECLARATIONS.

MR. PEACOCK moved the first reading of a Bill "to amend the law relating to affidavits, affirmations, and solemn declarations."