Saturday, 28th July, 1855

PROCEEDINGS

OF THE

LEGISLATIVE COUNCIL OF INDIA

Vol. I

(1854 - 1855)

wished that the progress of the Bill should be stayed until the correspondence should have been printed and circulated among the Members. For his own part, he was most desirous to proceed with the Bill, and saw no necessity for delaying it at that stage, since the papers called for could only affect the details, and not the principle, of the Bill. At the same time, however, if it was the wish of the Council that the second reading should be postponed until the papers should have been seen by Honorable Members, he would offer no opposition to that course.

MR. GRANT said, when he made his motion at the last Meeting of the Council, he certainly was of opinion that, in the absence of the papers referred to, the Council had not before it sufficient information upon which to come to a decision on the question. He was of the same opinion still ; and as the papers were not yet before Honorable Members, he should very much wish the second reading of the Bill to be postponed until they should be received and circulated.

MR. CURRIE postponed the second reading of the Bill.

INDECENT PUBLICATIONS.

MR. ALLEN moved that the Bill "to prevent the public sale or exposure of obscene books and pictures" be read a second time.

Agreed to.

The Bill was read a second time accordingly.

MR. ALLEN then moved that the Bill be referred to a Select Committee, consisting of General Low, Mr. Currie, and the Mover.

Agreed to.

SESSIONS COURT AT OOTACAMUND.

MR. ELIOTT moved, that the Bill "to empower the Session Judge of Coimbatore to hold Sessions at Ootacamund on the Neilgherry Hills" be read a third time and passed.

Motion carried, and Bill read a third time accordingly.

MR. ELIOTT moved that Mr. Peacock be requested to carry the Bill to the Honorable the President in Council, in order that it may be forwarded to the Most Noble the Governor General for his assent.

Agreed to.

NOTICES OF MOTION.

SIR JAMES COLVILE gave notice that, on Saturday next, he would move the second reading of the Bill "to provide for the acquirement and extinction of rights by prescription, and for the limitation of suits."

MR. PEACOCK gave notice that, on Saturday next, he would move the second reading of the Bill "for granting exclusive privileges to inventors."

MR. LEGEYT gave notice that, on Saturday next, he would move the first reading of a Bill "to explain and amend Act No. XXXIII of 1852."

The Council adjourned.

Saturday, July 28, 1855.

PRESENT :

The Honorable Sir Lawrence Peel, *Vice President*, in the Chair.

Hon. J. A. Dorin,	D. Eliott, Esq.,
Hon. Maj.-Genl. J. Low,	C. Allen, Esq.,
Hon. B. Peacock,	P. W. LeGeyt, Esq., and
Hon. Sir J. W. Colvile,	E. Currie, Esq.

MOCHULKAS OR PENAL RECOGNIZANCES.

THE CLERK brought under the consideration of the Council a Petition from certain Members of the Indigo Planters' Association, on behalf of themselves and the Association, concerning the Bill "for the better prevention of offences against the public tranquillity, and to amend the Law regarding the taking of bonds for keeping the peace."

MR. CURRIE moved that the above Petition be printed, and referred to the Select Committee on the Bill.

Agreed to.

REPORTS OF SELECT COMMITTEES.

MR. PEACOCK presented the Report of the Select Committee on the Bill "to facilitate the payment of small deposits in the Government Savings' Banks to the representatives of deceased depositors."

Also, the Report of the Select Committee on the Bill "for the repeal of the Usury Laws."

Also, the Report of the Select Committee on the Bill "to enable the Banks of Bengal, Madras, and Bombay, to transact certain business in respect of Government securities and shares in the said Banks."

MASTER AND SERVANT (FORT ST. GEORGE).

MR. ELIOTT presented a Report of the Select Committee on the Penal Code

prepared by the Indian Law Commissioners, relative to the proposed Act for the settlement of disputes between Master and Servant. The subject, he said, had been referred to the Select Committee on the Penal Code, with a request that they should make a special Report upon it. The present Report was signed by all the Members of the Committee except one. Their recommendation was, that the measure should not be proceeded with. He did not propose taking the votes of the Council upon this recommendation, but would simply transmit a copy of the Report to the Madras Government for their information.

ENFORCEMENT OF JUDGMENTS.

Mr. LeGEYT moved the first reading of the Bill "to explain and amend Act No. XXXIII of 1852." He said, it was a Bill framed by the Select Committee appointed to consider the correspondence which had been forwarded by the Government of Bombay to the late Member for that Presidency in this Council, relative to a Judgment of the Supreme Court there, in the matter of a writ of execution issued by that Court upon a decree of the Zillah Court of Surat, under Act XXXIII of 1852. The defendant in that case, upon process issuing from the Supreme Court, objected to its being enforced against him, on the ground that he was not liable to the jurisdiction of the Surat Court, by reason of a residence of several years in Bombay, and want of knowledge of any proceedings having been undertaken against him. The Supreme Court, after hearing Counsel on both sides, determined that it would interfere, released the defendant from custody, and directed the decree to be taken off its files. Some time afterwards, the Judges of the Sudder Dewanny Adawlut at Bombay, upon a reference made to them by the Government on a question of jurisdiction, submitted a Report, in which they asserted very broadly that the Supreme Court had gone beyond its jurisdiction in inquiring into the validity of the decree passed by the Zillah Court of Surat. The Bombay Government thought the matter one of considerable importance, and sent the correspondence regarding it to the late Member for Bombay in this Council. The correspondence was subsequently referred to a Select Committee of the Council, whose Report he (Mr. LeGeyt) had the honor of presenting on Saturday last. Honorable Members were probably acquainted with the opinion which the Select Committee had come to. The Select Committee was of opinion that—

"it would very much diminish the benefits of this enactment, (that is, of Act XXXIII of 1852) if litigation on disputed facts could arise again in the new Court on matters which, if they could regularly be raised at all, would be for the purpose of affecting the validity of the judgment. On the other hand, it can hardly have been the intention of the Legislature that a judgment totally without jurisdiction and void, should be enforced, merely because a plaintiff, who ought never to have obtained it at all, had changed the tribunal."

Under these circumstances, the Select Committee had thought it right, in order to obviate all doubts on the point, which were likely to lead to collision between the judicial authorities, and also to public inconvenience, to frame a Bill, the provisions of which he would briefly state.

The Bill provided that, if a person, against whom a process in aid issued, felt himself aggrieved, he should move the Court issuing the process to suspend the execution of the judgment until he could apply to the Court which gave the judgment, or to any Court having appellate jurisdiction in respect of it; and that, if the Court from which the process issued, should be of opinion that the party had made out his case, or that there was any valid objection to the judgment on the face of it, it might stay the further execution of the judgment, and allow the party a reasonable time to seek redress in the Court having jurisdiction in the case.

The Bill also gave such Court a discretionary power to take such securities for the eventual satisfaction of the decree as it might consider necessary.

It also provided that, if the application was rejected by the Court which gave the judgment, or the Court which was the proper appellate tribunal, the Court to which the application for execution in aid was made, should no longer hesitate, but should proceed to enforce the judgment at once.

The Bill further provided an indemnity for all persons acting in execution of process issued by such last mentioned Court.

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

The Bill was read a first time accordingly.

LIMITATION OF SUITS.

On the Order of the Day for the second reading of the Bill "to provide for the acquirement and extinction of rights by pre-

scription, and for the limitation of suits" being read—

SIR JAMES COLVILE moved to amend a clerical error at the end of Section XII; which being done, he moved the second reading of the Bill.

MR. ALLEN said, he rose to offer a few observations upon the Bill. He had no feeling of opposition towards its principle; on the contrary, he would vote heartily in its favor. He was glad that the Bill assimilated the Law of Limitation throughout India, and also that it reduced the period of limitation. But with regard to the last point, he did not think that the Bill went far enough; and he desired to offer a few suggestions in reference to it for the consideration of the Honorable Member who introduced the measure, and of the Council generally.

The first suggestion he would make was the insertion of a Clause to make two years the maximum period of limitation for the institution of suits in the Small Cause Courts, exclusive, of course, of the period allowed for any disability. It would be in the recollection of the Council that the Honorable Gentlemen who had prepared the Bill for the constitution of Small Cause Courts, had introduced into it a Section to that effect, but that the Council, on the knowledge that a Bill to amend the Law of Limitation was shortly coming on, had thrown it out. It appeared to him that the increased facility and cheapness with which a suit could be instituted, was a good and fair ground for abridging the period of limitation. He observed that the Indian Law Commission, in one of its Reports upon a proposed Law on this subject, quoted with approbation a remark of the English Real Property Commissioners, who said

"As knowledge is diffused, and the administration of justice becomes regular and pure, the periods of limitation may be safely abridged."

It also appeared to him that the Bill itself, by Section XXX, did, to a certain extent, admit this principle. That Section said that no process of execution to enforce a summary decision or award of any Civil Court should remain in force for more than two years. Now, if a process of execution ought not to be carried out two years after a decree had been obtained, he thought that a similar principle would justify the Legislature in saying that a suit should not be instituted two years after the cause of action had accrued.

The next point to which he wished to draw the attention of the Council was contained in the commencement of Clause 8 of Section XIII. That clause assigned 12 years as the period of limitation for

"suits upon all debts and obligations of record, and upon specialties and such written securities, not being negotiable, as are attested by a witness."

This appeared to him to be a most important point. He approached the subject with very great diffidence; for he was aware that it had been considered before by men to whom, in ability and legal experience, he was but a pigmy. If the clause had referred solely to English specialties, he might perhaps have refrained from noticing it. But it also included Native bonds; of which he had some experience. He had also been able to consult a number of gentlemen in Calcutta respecting them; and the opinion seemed to him universal that six years would be a sufficient and fairer term of limitation as to them than twelve. He need scarcely remind the Council that, at present, by the English Law, the period of limitation for written contracts and obligations not under seal was six years; while for bonds and obligations under seal it was twenty years. Now, generally speaking, almost universally, Native bonds in the Mofussil would fall within the former class of instruments, and the period of limitation for them would be, by the English law, six years. This Bill did away with the touchstone of a seal, and said that English specialties under seal should not have more consideration than Native bonds not under seal. So far, he agreed with the Honorable and learned framer of the Bill. For what was the seal usually affixed to a bond? Was there any specialty about it? Could the seal of one man be distinguished from that of another? The Law, he believed, presumed that the signature of the party binding himself was first written upon the instrument, and that the seal was affixed afterwards—that, in fact, there was some time for consideration between the two acts—some *locus penitentiæ* afforded to the party between the signing and the making of the instrument. But was that the case in practice? Was not a bond generally sealed by the attorney who prepared it before it was presented for signature to the person who had to execute it? Did the person look at the seal as anything more than the pencil cross at the foot of the deed which told him where to put his signature? If a professional man or a particular witness versed in Law, was present, he was perhaps ask-

ed if he delivered the deed under his hand and seal, or he was asked to put a blank seal upon the wafer affixed, or to put his thumb upon it; but did he not consider that as a mere matter of form, and that it was his signature alone which bound him, and gave validity to the instrument? He, therefore, thoroughly agreed in the principle of abolishing the distinction of a seal. But instead of raising Native bonds to the dignity of specialties, as this Bill proposed to do, he would degrade specialties to common obligations without seal. This Bill, in abandoning the distinction of a seal, took up another—namely, that of negotiability. He did not see the propriety of that. If he were to look about for any class of instruments which should, for any special reason, have a longer period of limitation than another, he would take instruments that were negotiable; because, in a country in which there was no gold or bank note currency, a negotiable document might pass from hand to hand as money, and the holder might forget that six years had elapsed since the note became payable. Upon general principle, however, he would make no distinction in this respect between specialties and common obligations not under seal, but would place them on the same footing. In India, the climate destroyed deeds; life was more uncertain than elsewhere; heavy frauds, perjury, and forgery were common; and the longer a person claiming upon an instrument delayed bringing forward his witnesses, the greater was the danger of such perjury and forgery being successful.

He would also mention that the Usury Laws did now, to a certain extent, limit the period for institution of suits upon bonds; for they declared that interest should not be recovered where it exceeded the amount of the principal. On the expiry of eight years and a half, a bond, at the common rate of interest, doubled itself; and therefore, the creditor, to keep his right of action, would probably institute his suit within eight years. One reason assigned—and he spoke of it with the greatest respect—for not allowing the period of limitation for specialties to be abridged to six years, was this:—

"As the limitation would commence, if the debtor were once within the jurisdiction, after the debt existed, and would continue to run notwithstanding his absence, there would be frequently no means whereby a creditor would obtain a fresh security or acknowledgment, and it might not be in his power to institute a suit so as to keep his claim alive against his debtor."

Mr. Allen

He fully admitted the force of that argument, and thought it the strongest of those advanced as the English Law now stood. But Section XXI of this Bill said—

"In computing any period of limitation prescribed by this Act, the time during which the defendant shall have been absent out of the territories under the management and subject to the Government of the East India Company, shall be excluded from such computation."

It appeared to him that, if this Section passed, that ground of objection for reducing the period of limitation in respect of specialties to six years would be entirely removed.

The next point to which he would advert, was in Section XII—or rather, the proviso in that Section. After stating when a plaintiff suing for property or rights to which a title may be acquired by prescription is to be barred by lapse of time, the Section said—

"Provided that no plaintiff in any such suit shall recover, by force of a title by prescription as defined by this Act, any property or right which he could not have recovered if this Act had not been passed, unless he, or some person through whom he shall claim, shall have been in actual possession or enjoyment of such property or right at or after the time when this Act shall come into operation."

A Law of Limitation must, almost inevitably, alter the rights of some parties; but the only ground of altering their rights was that other parties had just and preferential claims. If it was right to give a prescriptive title after possession for twelve years, he did not see why the fact of a person being out of possession at the time when this Bill passed, should bar his right to bring an action of ejectment. If he (Mr. Allen) wished, and if he thought it right to reserve the claims of any person under this Act, he would reserve the claims not of persons in possession, but of the persons referred to in the Report of the Law Commission—namely, of those who, under the existing laws, had right but without possession. It would be difficult to make his meaning on this point very clear; but he would endeavour to do so by an illustration. Supposing a man—whom he should call Cooke—had possession of an estate in Calcutta, at the time when this Act passed, and that he had been in possession for twelve years: he would, under this Act, have a good and indefeasible title against another man—whom he (Mr. Allen) should call Harding—who had been in possession for twenty years previously. This Bill would give Cooke a right by prescription against Harding, which he would not other-

wise have had. But supposing that, at the time when the Act came into operation, not Cooke, but a third party was in possession, and had been so only for a few days or weeks, having dispossessed Cooke; Cooke, with his twelve years of prior possession, would, according to the proviso in the 12th Section of this Bill, not be able to bring an action to eject him. Consequently, the Bill would make Cooke's right all powerful against twenty years of previous possession, but of no avail or force against twenty weeks of present possession. Would not that go against tho very principle which was advocated in the Statement of objects and reasons, where, at page 3, the Honorable and learned framer of the Bill said—

"In a country where affrays often arise out of disputes concerning the possession of land, it is impolitic to give to mere corporeal possession the high value it must have whenever the right survives the remedy, and a defendant in possession is allowed to hold adversely to a title against which, if out of possession, he could not have recovered"?

The next point that he should refer to, was in Clause 1 of Section II; and he referred to it the more especially that, as far as he could perceive, it was the only point on which the Bill made a difference as regards any one class of people. It made a disability of coverture in the case of an English lady. It said that, in computing the periods of possession or enjoyment, the time during which any person, entitled to interrupt such possession or enjoyment, should, if a woman subject to the Law of England, have been under the disability of coverture, should be excluded from the computation, provided that no longer time than 18 years be so excluded. He could not see the propriety of this exception. If an English lady was "an unprotected female," she must bring her claim within twelve years; but if she married, and had Mr. Jones, her husband, to help her to bring her claim, she would be allowed 18 years more. The Indian Legislature had passed an Act last year to enable married women to dispose of their effects as fully and freely as unmarried women. If some such Sections as the 5th and following Sections of Act XXXI of 1854 were introduced into this Bill, this difference of jurisdiction as regarded a lady subject to the Law of England and a lady not so subject, might, he hoped, be removed.

There were one or two other points which he might have remarked upon; but as they were of minor importance, he would bring his observations to a close.

Before doing so, however, he begged to say again that he fully approved of the principle of the Bill, and would vote most heartily for the second reading.

SIR JAMES COLVILE said, he thanked the Honorable Member for the good that he had said of the Bill, and he also thanked him for the care he had taken in suggesting those amendments which he thought might hereafter be usefully made by the Select Committee to whom the Bill would be referred. Some of the observations which the Honorable Member had made, might be well worthy of future consideration. With others, he (Sir James Colvile) was not disposed to agree.

The Honorable Member's first observation was, that the Bill as it now stood did not do what, from his (Sir James Colvile's) recollection of the debates upon the Small Cause Courts Bill, he knew the Honorable Member to have very much at heart—namely, prescribe a shorter period of limitation for all suits instituted in Small Cause Courts. He (Sir James Colvile) had purposely refrained from inserting such a provision in the Bill, because his own understanding was unable to suggest any answer to the objection which had been stated by the Honorable and learned Member opposite (Mr. Peacock) that the period of limitation should depend, not upon the remedy, but upon the nature of the debt. Many personal claims which, by this Bill, were subjected to a very short period of limitation—only one year—would be matter within the cognizance of Small Cause Courts. But there would be many claims within the cognizance of those Courts which would not fall within that category; and he thought it would be unreasonable to limit the right to sue, in respect of them, in a cheaper and more expeditious tribunal, to a period of two years, when the Law gave to parties suing in respect of claims of the same nature, though of higher amount, in the regular Courts, a period of six years. If the remedy in the Small Cause Courts were limited to two years, you must, at the end of that period, either extinguish the debt altogether, or force the parties, to the disadvantage of defendant as well as plaintiff, to try the question between them by a more expensive and protracted procedure.

The Honorable Member suggested that there was some inconsistency in omitting to restrict the period of limitation for suits in Small Cause Courts to two years, and providing, by a subsequent Section, that summary decrees should be enforced by process

of execution within two years. He (Sir James Colvile) had prescribed that shorter period for such writs of execution in consequence of suggestions from those who knew a great deal more about the proceedings of Mofussil Courts in summary suits than himself; and, really, he did not see the force of the Honorable Member's objection. It was not a question of barring the claim, but a question whether the plaintiff, having chosen to avail himself of a summary and expeditious remedy, and having obtained a decree, should not be forced to proceed with diligence in the later stages of his suit, and to take those steps which were necessary to bring the litigation to an end. Whether, however, it was right to prescribe a limitation of two years for process on summary decrees, when the limitation prescribed for process on regular decrees was twelve years, was undoubtedly a matter which fairly might be questioned and considered by the Select Committee.

With regard to the period of limitation assigned by the Bill to specialties and written securities not negotiable, on which the Honorable Member had chiefly commented, he (Sir James Colvile) had this remark to make. When the measure of the Law Commission was first published, it was suggested that it would be too strong an alteration in the Law to reduce the period of limitation for suits on English bonds from twenty years to six years, the period of limitation for suits for simple contract debts: and, no doubt, it was unwise unnecessarily to make a violent and abrupt change in the existing Law, on the faith of which persons had entered into contracts, evidenced by instruments under seal. Such securities were often taken with an intention on both sides that they should not be speedily enforced. Upon these grounds, the Law Commission were willing to allow the longest period of limitation to claims arising upon specialties, properly so called, reduced as that period was to be from twenty years to twelve. It then occurred to them that securities were in use in the Mofussil which, though not of the same form, were virtually of the same kind; securities, namely, which the contracting parties intended to be of a more permanent character, but which, according to the habits of the people, were not under seal; and that it was fair to place claims arising upon such securities upon the same footing as claims arising upon specialties. As the existing period of limitation applicable (at least in this presidency and that of Fort St. George) to such claims was twelve years, it was only necessary to leave the law relating to them unaltered. The Law Commission proposed to place all debts, evidenced by an attested instrument, upon the same footing with specialty debts. He had qualified that (and the Honorable Member thought that there was an inconsistency in the qualification) by excluding negotiable securities. His reason for so qualifying the recommendation of the Law Commission was, that it seemed to him desirable to apply the same period of limitation to all negotiable securities which were obviously not of the class contemplated by the Law Commission as analogous to bonds, but were intended to pass from hand to hand; and that the mere accident of a Bill of Exchange or Promissory Note being attested by a witness, ought not to alter its character, or entitle it to a limitation of twelve instead of six years. There was no branch of the Law in which it was so desirable to secure uniformity as the Law Merchant. He begged to say, however, that he had no strong or settled conviction in favor of allowing to claims arising upon any instrument not under seal the longer period of limitation; and if it should turn out, on the publication of the Bill, that, in the opinion of those who were better able to judge of this matter, all personal demands arising out of these Mofussil securities should be sued for within six years, he should not object to such an alteration of the Bill. But he still thought that it would be inexpedient to make so violent a change in the existing Law as the reduction of the period of limitation upon debts on English bouds and other specialties from twenty to six years.

It was with some surprise that he had heard the Honorable Member invoke the Usury Laws; because it seemed to him that his Honorable friend's allies were likely to perish before they could come to his aid. The Usury Laws, and all the reasoning founded upon them, would probably be swept away before this Bill could be discussed by a Committee of the whole Council.

Upon the proviso in Section XII of the Bill, he confessed he had heard nothing from the Honorable Member which shook his opinion that it was unnecessary. The Honorable Member had put the cases of Harding and Cooke, and Cooke and Harding. But the broad principle upon which the proviso in question depended was, that he who was in possession of real property should not be ousted from it except by one having a better title. There was no abstract or moral right

in one who had been in possession for twelve years; and if the Law made an alteration in the period which should give title by prescription, and if that new Law were allowed to be applied against those who already have possession, and now, as in the Presidency towns, can only be ejected by one proving a twelve years' title, it would have a retrospective or *ex post facto* application. As the Law now existed, if Harding were in possession, Cooke could turn him out only by showing a better title. If he could show any better title, however derived, he might eject Harding. The proviso in question would not prevent him from recovering the property by any title which would now avail him against Harding.

Then, the Honorable Member said that, if a person had been in possession twelve years, this Act would give him the right of resisting a title, which he could not resist in the existing state of the Law. But that objection was intended to be met by the 28th Section of the Bill, which said that the Act should not apply to pending cases, or to cases instituted within one year after the passing of the Act. The object of the Section was to protect the titles of those who were now out of possession, by giving them a limited time in which to assert them. The object of the proviso in Section XII was the converse of this. It was to protect titles founded on actual possession against any title which might be given for the first time under this Act.

In commenting on the exception based on the disability of coverture, the Honorable Member had imaged to himself an unprotected female, whom this Act would certainly not protect, and was not intended to protect, since the unprotected female had the power of going to her attorney whenever she pleased. But surely, the Honorable Member would recollect that, although the virtual protection of marriage might be great, the legal disabilities which the contract of marriage imposed on the wife were also very great. By the Law of England, she could no longer bring an action in her own name, but the action must, in some cases, be brought by her husband, and, in others, by her husband jointly with herself. Then, if it should happen—as unfortunately, it often happened—that there was a quarrel between husband and wife, and the husband refused to give his name to an action which the wife desired to bring, the wife would have no means of proceeding. The exception arising out of the disability of coverture had been admitted by the Law Commission, limited, as this Bill proposed to limit it, to 18 years. It was confined to persons subject to the English Law, because Hindu and Mahomedan women, who could hold property and bring suits independently of their husbands, required no such exception to be made in their favor.

These were all the topics to which the Honorable Member had directed the attention of the Council; and he (Sir James Colvile) should conclude by renewing his motion that the Bill be now read a second time.

MR. LEGEYT said, he did not rise with the intention of offering any opposition to the second reading of this Bill: on the contrary, he generally approved of the principle on which it was framed, and should vote for the second reading. But with reference to an observation made by the Honorable and learned Member who had brought in the Bill, on the motion for the first reading—namely, that the measure would introduce a material change in the Law of Limitation existing in the Presidency of Bombay—he desired to state that he should reserve to himself the right at any future time, to reconsider the present provisions of the Bill, and support any arguments which he might receive from that Presidency in regard to it.

THE PRESIDENT said, he doubted whether the debate had been strictly regular. On the motion for the second reading of a Bill, the question to be discussed was limited to the general principle and merits of the measure. The Honorable Gentleman who had spoken first in the debate (Mr. Allen) had stated his entire concurrence with the general principle and merits of the Bill, but had dwelt at length on his objections to details in particular Sections. He (the President) considered himself precluded from entering now into a discussion of the details of particular Sections, although he had some alterations to suggest in certain portions of the Bill, the mention of which he would postpone until the measure was before the Council in Committee, unless the Bill underwent such alterations in the Select Committee as to remove his objections. He had not come prepared for a debate which had taken the turn of the present one. The points on which the Honorable Member had dwelt, and indeed others in the Bill, were points on which infinitely various opinions had been, and probably would be, entertained; and he had not as yet sufficiently mastered the subject to enter on the discus-

sion of them now. At present, he wished merely to express his general assent to the measure, with a reservation as to a few portions of the Bill, of which he did not now approve.

SIR JAMES COLVILE'S motion was then put and carried, and the Bill was read a second time accordingly.

PATENTS.

MR. PEACOCK moved that the Bill "for granting exclusive privileges to inventors," be read a second time.

Motion carried, and Bill read accordingly.

CATTLE TRESPASS.

MR. CURRIE moved that a communication which he had received from the Lieutenant Governor of Bengal on the subject of Cattle Trespass, be laid upon the table and printed. He said, a Petition on this subject had been presented to the Council some months ago by .the Indigo Planters' Association, accompanied by the copy of a Petition which the same body had presented to the Government of Bengal. The Government of Bengal, on the receipt of that Petition, communicated with Mr. Mills, the late Member for this Presidency in the Council, and also with its officers in the Mofussil. The correspondence that had taken place had now been forwarded to him (Mr. Currie), with an expression of the Lieutenant Governor's opinion, and he desired that the papers should be printed. When that was done, he should move for a Select Committee to consider the whole question, and, if it should be deemed expedient, to prepare a Bill.

Agreed to.

LIMITATION OF SUITS.

SIR JAMES COLVILE moved that the Bill "to provide for the acquirement and extinction of rights by prescription, and for the limitation of suits" be referred to a Select Committee consisting of Sir Lawrence Peel, Mr. Peacock, Mr. Eliott, Mr. LeGeyt, and the Mover.

Agreed to.

NOTICE OF MOTION.

MR. LEGEYT gave notice that, on Saturday next, he would move the second reading of the Bill "to explain and amend Act No. XXXIII of 1852."

The President

PATENTS.

MR. PEACOCK moved that the Bill "to grant exclusive privileges to inventors" be referred to a Select Committee consisting of Mr. Grant, Sir James Colvile, and the Mover.

Agreed to.

NOTICE OF MOTION.

MR. ALLEN gave notice that, on Saturday next, he would move the first reading of a Bill "to enable Magistrates to take cognizance of offences which affect the public, without requiring a written complaint."

The Council adjourned.

Saturday, August 4, 1855.

PRESENT :

The Honorable Sir Lawrence Peel, *Vice President.*

Hon. J. A. Dorin,	C. Allen, Esq.,
Hon. B Peacock,	P. W. LeGeyt, Esq. and
D. Eliott, Esq.,	E. Currie, Esq.

COGNIZANCE OF OFFENCES (BENGAL AND FORT ST. GEORGE).

MR. ALLEN moved the first reading of a Bill "to enable Magistrates to take cognizance of certain offences without requiring a written complaint." This Bill, he said, made no alteration in the Criminal Law of the Presidency. It merely referred to procedure. The original Criminal Law for Bengal was chiefly contained in Regulation IX of 1793. In that, it was laid down that Magistrates were to proceed upon written complaints, and upon written complaints only. That included all cases whatever—heinous crimes and misdemeanors. This rule was modified by other Regulations, and more particularly by Regulation IX of 1807. But that Regulation, while, with others, it modified this law as regarded heinous crimes and felonies, re-enacted it as regarded misdemeanors, or what the Regulations termed bailable offences. It had not been the practice of Magistrates in the Mofussil to refuse to take up cases of misdemeanor when they affected the public, and by the punishment of which a public object would be gained. But the question was raised some six years ago, when an energetic Magistrate in the North-West, believing certain ministerial officers of the Criminal Court of Agra to be guilty of corruption and extortion, charged them with the commission of those crimes. In many of the cases, he did not succeed in obtaining a conviction;