

Saturday, 19 December, 1857

PROCEEDINGS
OF THE
LEGISLATIVE COUNCIL OF INDIA,

FROM

January to December 1857.

VOL. III.

Published by the Authority of the Council.

CALCUTTA :
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1857.

Saturday, December 19, 1857.

PRESENT :

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

Hon. the Chief Justice,	E. Currie, Esq.,
Hon. B. Peacock,	Hon. Sir A. W. Buller
D. Elliott, Esq.,	and
P. W. LeGeyt, Esq.,	H. B. Harington, Esq.

CRIMINAL PROCEDURE (BENGAL).

THE CLERK presented to the Council a Petition from certain Hindoo Inhabitants of Bengal assembled at a public Meeting in the Town Hall at Calcutta.

The Petitioners prayed—

“that so much of a project of law now before your Honorable Council as provides that no class of Her Majesty’s subjects in India shall, by reason of place of birth, or race, or descent, be exempt from the jurisdiction of the Mofussil Courts, be passed into law; and that the principle thereof be carried out in its integrity, without reference to the official position of any class or individual of the community.”

The Petition was accompanied by a Letter from Rajah Radakhant Bahadur, stating that—

“In consequence of the disturbances in the North-Western Provinces, it had been considered expedient to postpone the submission of the Petition. But as the Court of Directors have referred to the subject in a recent Despatch, I have been requested no longer to delay the presentation.”

MR. PEACOCK moved that the above Petition be printed.

Agreed to.

THE CLERK also presented a Petition from proprietors of licensed taverns &c. in Calcutta praying that all boarding or lodging-house keepers and keepers of houses of public resort and entertainment for seamen and soldiers in the town, whether licensed retail-vendors of spirits or otherwise, be required to take out the same boarding or lodging-house license, and to submit to the same conditions, as themselves; it being left optional to take or not a license from the Collector of Calcutta for the sale of spirits.

MR. CURRIE moved that the above Petition be printed.

Agreed to.

CRIMINAL PROCEDURE.

THE CLERK reported to the Council that he had received, by transfer from the Under-Secretary to the Government of India in the Home Department, for consideration in connection with the Law of Criminal Procedure, a communication from the Secretary to the Government of the Central Provinces relative to the case of one Brown who was sentenced by the Superintendent of Police at Cawnpore to imprisonment on a charge of theft, but who was subsequently released on the alleged ground of his being a European British subject.

MR. HARRINGTON moved that the above communication be referred to the Select Committees on the Bills regarding Criminal Procedure.

Agreed to.

MR. PEACOCK moved that the Petition of the Hindoo Inhabitants of Bengal this day presented be referred to the Select Committees on the same Bills.

Agreed to.

PORT-DUES (MOULMEIN, &c.)

The following Message from the Governor General was brought by Mr. Peacock and read:—

MESSAGE No. 122.

The Governor General informs the Legislative Council that he has given his assent to the Bill which was passed by them on the 5th instant, entitled “A Bill for the levy of Port-dues in the Ports of Moulmein, Rangoon, Kyook Phyoo, Akyab, and Chittagong.”

By order of the Right Honorable the Governor General.

CECIL BEADON,
Secy. to the Govt. of India.

FORT WILLIAM, }
The 14th Dec. 1857. }

MUNICIPAL ASSESSMENT (SUBURBS OF CALCUTTA, AND HOWRAH).

MR. CURRIE presented the Report of the Select Committee on the Bill “for raising funds for making and repairing roads in the Suburbs of Calcutta and the Station of Howrah.”

COTTON-FRAUDS (BOMBAY).

MR. LEGEYT postponed the motion (of which he had given notice for this day) for the second reading of the Bill "for the suppression of Frauds in the Cotton-trade in the Presidency of Bombay."

OOTACAMUND SUBORDINATE CRIMINAL COURT.

MR. ELIOTT moved that the Bill "to extend Act XXV of 1855" (to empower the Session Judge of Coimbatore to hold Sessions at Ootacamund on the Neilgherry Hills) be now read a second time.

The motion was agreed to, and the Bill was read a second time.

REGULATION OF PORTS (FORT ST. GEORGE.)

MR. ELIOTT moved that the Bill "for the regulation of certain Ports within the Presidency of Fort St. George" be now read a second time.

The motion was agreed to, and the Bill was read a second time.

COMPULSORY LABOR (MADRAS.)

MR. ELIOTT moved that the Council resolve itself into a Committee upon the Bill "to make lawful compulsory labor for the prevention of mischief by inundation, and to provide for the enforcement of customary labor to certain works of irrigation in the Presidency of Fort St. George;" and that the Committee be instructed to consider it in the amended form in which the Select Committee had recommended it to be passed.

Agreed to.

Sections I to IV were passed as they stood.

Section V empowered Heads of Villages to call upon the Inhabitants for the supply of "cocoa-nut trees" and certain other materials, "and to seize such articles wherever they may be found, giving receipts for them in writing; such supplies shall be paid for from the public Treasury at the highest prices for which such articles are sold in the neighborhood."

MR. PEACOCK said, trees other than cocoa-nut trees might be required to be

taken. He would suggest the omission of the word "cocoa-nut."

The word was, on MR. ELIOTT'S motion, omitted.

MR. PEACOCK said, he would call attention to the part of the Section which gave power to "seize" materials required. He observed that that word had been substituted in Select Committee for the word "take." Was it intended to give power under that word to cut down trees and to enter private grounds or plantations for that purpose, paying only the market-value of the timber? If it was, he did not think that such a power ought to be given. He thought that the Bill might give a general power to cut down any trees, but that it should provide, with regard to private estates, that full compensation should be made for the damage which might arise in consequence.

MR. ELIOTT replied, he presumed that the intention was to give the power of cutting down trees on private plantations.

MR. PEACOCK said, then, not only the value of the trees or timber, but compensation for the injury done to the estate, ought to be given. If trees were taken for public works, they should be taken on the same principle as that on which land was taken for a similar purpose; the principle of making full compensation for any damage sustained was the correct one. The Section, as it stood, provided for the payment of only the market price of the materials taken; but the cutting down of trees might injure an estate to an extent considerably beyond the mere market-value of the timber. It appeared to him that the Section should be so amended as to provide for compensation in such cases.

After some conversation, amendments were inserted on the motion of MR. PEACOCK, which made the part of the Section to which he referred, run thus—

"And to seize, and, if necessary, to cut down such articles wherever they may be found, giving receipts for them in writing: such supplies shall be paid for from the public Treasury at the highest prices for which such articles are sold in the neighborhood. And in case damage be sustained by any person in consequence of the cutting down of any such article, compensation shall be made for such damage; the amount of which compensation shall, in case of dispute, be determinable in the same manner as amounts payable under Section VI"

The Section, after verbal amendments in a subsequent part, was passed.

Section VI, and the Preamble and Title, were passed as they stood.

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

OOTACAMUND SUBORDINATE CRIMINAL COURT.

MR. ELIOTT moved that the Bill "to extend Act XXV of 1855" (to empower the Session Judge of Coimbatore to hold Sessions at Ootacamund on the Neilgherry Hills) be referred to a Select

Committee consisting of Mr. Currie, Mr. Harington, and the Mover.

Agreed to.

REGULATION OF PORTS (FORT ST. GEORGE.)

MR. ELIOTT moved that the Bill "for the regulation of certain Ports within the Presidency of Fort St. George" be referred to a Select Committee consisting of Mr. LeGeyt, Mr. Currie, and the Mover.

Agreed to.

The Council then adjourned, on the motion of the Chief Justice, till this day fortnight.

I N D E X
TO
THE PROCEEDINGS
OF THE
LEGISLATIVE COUNCIL OF INDIA.
VOLUME III.

A.

ACT	X of 1843. <i>See Kurnool.</i>	
—	I „ 1844. „ <i>Nabob of Carnatic.</i>	
—	XIX „ 1847. „ <i>Articles of War.</i>	
—	XVIII „ 1848. „ <i>Nabob of Surat.</i>	
—	IX „ 1850. „ <i>Small Cause Courts.</i>	
—	XVI „ 1853. „ <i>Special Appeals.</i>	
—	XXV „ 1855. „ <i>Ootacamund Subordinate Criminal Court.</i>	
—	VI „ 1856. „ <i>Patents.</i>	
—	XIII „ „ „ <i>Police Act (Presidency Towns and Straits).</i>	
ACTS.	<i>See Translation of ——— and Bills.</i>	
ADJOURNMENT OF COUNCIL.	<i>See Legislative Council.</i>	
AFFIDAVITS.	<i>See Voluntary Oaths, ———, and Declarations.</i>	
—————,	AFFIRMATIONS, AND SOLEMN DECLARATIONS BILL.	
	Madras Government's communication regarding voluntary Oaths &c. referred to Select Committee,	381
AKYAB.	<i>See Port-dues.</i>	
ALLEN. Mr. C.—	<i>(Member for the N. W. P.)</i>	
	Impressment (<i>Bengal</i>) Bill,	114
	Land for public purposes Bill, 158, 199, 204, 205, 209, 210,	216, 219, 221, 225, 235
	Land-Revenue (<i>Madras</i>) Bill,	183
	Tobacco (<i>Bombay</i>) Bill,	57
AMMUNITION.	<i>See Arms and ———.</i>	
APPEALS (<i>Special</i>).		
	Bombay Government's communication on the working of Act XVI of 1853 referred to Select Committee on Civil Procedure (<i>Bombay</i>) Bill,	422
	Petition of Midnapore Residents for the amendment of the same Act, referred to Select Committee on Civil Procedure (<i>Bengal</i>) Bill,	461
APPELLATE JURISDICTION.	<i>See Principal Sudder Ameens.</i>	

ARMS AND AMMUNITION BILL.

Standing Orders suspended,	374
Read 1 ^o ,	378
Read 2 ^o ,	<i>ib.</i>
Referred to Select Committee,	379
Communication from Home Department against importation of Military Stores, to be printed,	382
Report of Select Committee presented,	387
Committee of whole Council,	393
Reported,	407
To be republished,	<i>ib.</i>
Recommitted,	408
Reported,	419
Recommitted,	424
Reported,	429
Read 3 ^o ,	<i>ib.</i>
Messenger,	430
Assent of the Governor General,	<i>ib.</i>

ARTICLES OF WAR (*Native Army*) AMENDMENT.(*See Branding Bill.*)(*„ Courts Martial Bill.*)

AUTHORITY. ABUSE OF — BY PUBLIC SERVANTS.

Madras Government's communication and former papers to be printed,	382
---	-----

B.

BILLS. *See Translation of Acts and* —.BIRTHS. *See Registration of* —.BRANDING MUTINEERS AND DESERTERS (*Native Army*) BILL.

Standing Orders suspended,	494
Read 1 ^o ,	<i>ib.</i>
Read 2 ^o ,	497
Referred to Select Committee,	<i>ib.</i>
To be printed,	<i>ib.</i>
Report of Select Committee, presented,	499
Committee of whole Council,	508
Reported,	509
Read 3 ^o ,	<i>ib.</i>
Messenger,	<i>ib.</i>
Assent of the Governor General,	513

BRIBERY (*Bombay*). *See Penal Code.*

BULLER. HON. SIR A. W. —

Arms and Ammunition Bill,	396
Criminal Procedure (<i>Bengal</i>) Bill,	129
Ferries (<i>Straits</i>) Bill,	389
Foreigners Bill,	508
Forfeitures Bill,	372
Offences (<i>State</i>) Bill,	280, 282
Volunteer Corps Bill	354

C.

CARNATIC. NABOB OF ——— BILL. (*Repeal of Act I of 1844.*)

Two Petitions of Madras Inhabitants referred to Select Committee,	1
Two communications from Madras Government referred to Select Committee,	194
Report of Select Committee presented,	213
" " " adopted,	236

————— (*Suspension of suits against the Family, &c.*

of the Nabob.)

Standing Orders suspended,	337
Read 1 ^o ,	<i>ib.</i>
Read 2 ^o ,	342
Committee of whole Council,	343
Reported,	345
Read 3 ^o ,	<i>ib.</i>
Messenger,	346
Assent of the Governor General,	<i>ib.</i>

CARRIAGE. IMPRESSMENT OF ——— AND SUPPLIES.

(*See Impressment Bill.*)

CATTLE STEALING. *See Penal Code.*

————— TRESPASS BILL.

Committee of whole Council,	40
Reported,	42
Read 3 ^o ,	56
Messenger,	57
Assent of the Governor General,	76
Petition of Mr. C. F. Chamier with draft of a ——— presented,	238

CENSUS (*Bombay*) BILL,

Communication from Bombay Government referred to Select Committee,	42
Report of Select Committee presented,	77
Withdrawn,	105

CHIEF JUSTICE. *See Hon. Sir J. W. Colvile.*

CHILDREN. DESERTION AND EXPOSURE OF ———.

(*See Penal Code.*)

CHITTAGONG. *See Port-dues.*CIVIL PROCEDURE. *See Procedure.*COLVILE. HON. SIR J. W. ——— (*Chief Justice.*)

Arms of Ammunition Bill,	378, 395, 397, 400, 402, 404, 412,	
	418, 425, 426, 427,	428
Branding Mutineers and Deserters Bill,		496
Courts Martial (<i>Native Army</i>) Bill,		263
Criminal Procedure (<i>Bengal</i>) Bill, 143,	211
Ferries (<i>Straits</i>) Bill, 390,	391
Foreigners Bill, 487, 502, 506,	507
Forfeitures Bill,		359
Impressment (<i>Bengal</i>) Bill,		122
Imprisonment of Criminals (<i>Straits</i>) Bill,		15
Joint-Stock Companies Bill,		329

COLVILLE. HON. SIR J. W. ——— (Chief Justice.) *Continued.*

Land for public purposes Bill,	203, 208, 217, 218,	222
Land-Customs (<i>Bombay</i>) Bill,		193
Land-Revenue (<i>Madras</i>) Bill,	166,	181
Limitation of Suits Bill,		511
Lunatics (<i>Supreme Courts</i>) Bill,		509
Mutiny and Desertion (<i>Native Army</i>) Bill,	319,	320
Nabob of Carnatic Bill (<i>No. 2.</i>)		343
Offences (<i>State</i>) Bill,	281,	285
Patents Act repeal Bill,		253
Police and Conservancy (<i>Suburbs of Calcutta, and Howrah</i>) Bill,	96, 99, 104,	167
Port-dues (<i>Bombay</i>) Bill,		446
Port-dues (<i>Cambay</i>) Bill,		458
Port-dues (<i>Madras Presidency</i>) Bill,		312
Port-dues (<i>Tunkaria and Broach</i>) Bill,	448,	451
Press Bill,	301, 305,	306
Rents-recovery (<i>Bengal</i>) Bill,		480
University (<i>Calcutta</i>) Bill,	2, 12, 14, 26, 27, 35,	36
University (<i>Madras</i>) Bill,		244

COMMITTEES OF WHOLE COUNCIL. (*Motions for ——— and Reports.*)

Arms and Ammunition Bill, (<i>with an instruction</i>),		393
Report,		407
Branding Mutineers and Deserters (<i>Native Army</i>) Bill, (<i>with an instruction</i>),		508
Report,		509
Cattle Trespass Bill, (<i>with an instruction</i>),		40
Report,		42
Compulsory Labor (<i>Madras</i>) Bill, (<i>with an instruction</i>),		527
Report,		529
Courts Martial (<i>Native Army</i>) Bill,		266
Report,		<i>ib.</i>
Ferries (<i>Straits</i>) Bill, (<i>with an instruction</i>),		389
Report,		407
Foreigners Bill, (<i>with an instruction</i>),		499
Report,		508
Forfeitures Bill, (<i>with an instruction</i>),		372
Report,		374
Ganja (<i>Bombay</i>) Bill, (<i>with an instruction</i>),		482
Report,		483
Gas Company's Bill, (<i>with an instruction</i>),		71
Report,		75
Joint Stock Companies Bill, (<i>with an instruction</i>),		328
Report,		331
Land for public purposes Bill, (<i>with an instruction</i>),		199
Report of progress,		211
Resumed,		213
Reported,		216
Land-Customs (<i>Bombay</i>) Bill, (<i>with an instruction</i>),		419
Report,		420

COMMITTEES OF WHOLE COUNCIL. (*Motions for ——— and Reports.*) *Continued.*

Mutiny and Desertion (<i>Native Army</i>) Bill,	317
Report,	322
Nabob of Carnatic Bill, (<i>No. 2</i>),	343
Report,	345
Native Passenger Vessels (<i>Bay of Bengal</i>) Bill, (<i>with an instruction</i>),	12
Report,	<i>ib.</i>
Offences (<i>Army and State</i>) Bill,	295
Report,	296
Offences (<i>Heinous</i>) Bill,	309
Report,	310
Offences (<i>State</i>) Bill, (<i>with an instruction</i>),	275
Report,	276
Opium (<i>Bengal</i>) Bill, (<i>with an instruction</i>),	276
Report,	278
Patents Act repeal Bill,	254
Report,	255
Piratical Vessels (<i>Straits</i>) Bill, (<i>with an instruction</i>),	259
Report,	<i>ib.</i>
Police and Conservancy (<i>Suburbs of Calcutta, and Howrah</i>) Bill, (<i>with an instruction</i>),	96, 331
Reports,	105, 331
Port-dues (<i>Bombay</i>) Bill, (<i>with an instruction</i>),	445
Report,	453
Port-dues (<i>Calcutta</i>) Bill, (<i>with an instruction</i>),	433
Report,	434
Port-dues (<i>Cuttack</i>) Bill, (<i>with an instruction</i>),	524
Report,	<i>ib.</i>
Port-dues (<i>Extension</i>) Bill, (<i>with an instruction</i>),	370
Report,	<i>ib.</i>
Port-dues (<i>Moulmein, &c.</i>) Bill, (<i>with an instruction</i>)	434
Report,	<i>ib.</i>
Port-dues (<i>Tunkaria and Broach</i>) Bill, (<i>with an instruction</i>),	447
Report,	453
Press Bill,	301
Report,	307
Small Cause Courts Bill, (<i>with an instruction</i>),	331
Report,	<i>ib.</i>
Sonthal Districts Bill (<i>with an instruction</i>),	239
Report,	<i>ib.</i>
Tobacco (<i>Bombay</i>) Bill, (<i>with an instruction</i>),	56
Report,	57
Uncovenanted Agency (<i>Madras</i>) Bill, (<i>with an instruction</i>),	236
Report,	<i>ib.</i>
University (<i>Bombay</i>) Bill, (<i>with an instruction</i>),	337
Report,	<i>ib.</i>
University (<i>Calcutta</i>) Bill, (<i>with an instruction</i>),	26
Report,	42
University (<i>Madras</i>) Bill, (<i>with an instruction</i>),	393

COMMITTEES OF WHOLE COUNCIL. (Motions for ——— and Reports.) Continued.	
Report,	407
Volunteer Corps Bill, (<i>with an instruction</i>),	350
Report,	357
COMMITTEES. SELECT ———. (Motions for ——— and Reports.)	
Arms and Ammunition Bill (<i>with an instruction</i>),	379
Report,	387
Branding Mutineers and Deserters (<i>Native Army</i>) Bill,	497
Report,	499
Census (<i>Bombay</i>) Bill. Report,	77
Civil Procedure (<i>Bengal</i>) Bill,	92
Civil Procedure (<i>Bombay</i>) Bill,	<i>ib.</i>
Civil Procedure (<i>Madras</i>) Bill,	<i>ib.</i>
Civil Procedure (<i>N. W. P.</i>) Bill,	<i>ib.</i>
Compulsory Labor (<i>Madras</i>) Bill,	257
Report,	522
Criminal Procedure (<i>Bengal</i>) Bill,	157
Criminal Procedure (<i>Bombay</i>) Bill,	158
Criminal Procedure (<i>Madras</i>) Bill,	157
Criminal Procedure (<i>N. W. P.</i>) Bill,	<i>ib.</i>
Ferries (<i>Straits</i>) Bill. Report,	383
Foreigners Bill,	487
Report,	488
Forfeitures Bill (<i>with an instruction</i>),	359
Report,	363
Ganja (<i>Bombay</i>) Bill,	361
Report,	468
Impressment (<i>Bengal</i>) Bill,	124
Joint-Stock Companies Bill. Report,	280
Land for public purposes Bill,	223
Reports,	129, 225
Land-Customs (<i>Bombay</i>) Bill,	194
Reports,	2, 360
Lunatic Asylums Bill,	512
Lunatics (<i>Mofussil</i>) Bill,	<i>ib.</i>
Lunatics (<i>Supreme Courts</i>) Bill,	<i>ib.</i>
Merchant Seamen Bill,	512
Minors (<i>Madras</i>) Bill,	435
Municipal Assessment (<i>Bombay</i>) Bill,	385
Municipal Assessment (<i>Suburbs of Calcutta, and Howrah</i>) Bill,	93
Report,	526
Nabob of Carnatic Bill (<i>No. 1</i>). Report,	213
Offences (<i>State</i>) Bill. Report	259
Ootacamund Subordinate Criminal Court Bill,	529
Opium (<i>Bengal</i>) Bill. Report,	258
Patents for Inventions. Court's Despatches regarding ———,	258
Penal Code,	15
Piratical Vessels (<i>Straits</i>) Bill. Report,	242
Police and Conservancy (<i>Suburbs of Calcutta, and Howrah</i>) Bill,	212
Reports,	43, 311

COMMITTEES. SELECT ———. (<i>Motions for</i> ——— <i>and Reports.</i>) <i>Continued.</i>	
Port-dues (<i>Aden</i>) Bill,	512
Port-dues (<i>Bombay</i>) Bill,	296
Report,	433
Port-dues (<i>Calcutta</i>) Bill,	194
Report,	431
Port-dues (<i>Cambay</i>) Bill (<i>with an instruction</i>),	460
Special Report,	482
Port-dues (<i>Cuttack</i>) Bill,	432
Report,	513
Port-dues (<i>Extension</i>) Bill (<i>with an instruction</i>),	361
Report,	363
Port-dues (<i>Kurrachee</i>) Bill,	296
Report,	482
Port-dues (<i>Madras Presidency</i>) Bill (<i>with an instruction</i>),	524
Port-dues (<i>Moulmein, &c.</i>) Bill,	279
Report,	431
Port-dues (<i>Tunkaria and Broach</i>) Bill,	296
Report,	433
Ports-regulation (<i>Madras</i>) Bill,	530
Rents-recovery (<i>Bengal</i>) Bill,	494
Small Cause Courts Bill,	158
Report,	310
Sonthal Districts Bill,	12
Report,	225
Tobacco (<i>Bombay</i>) Bill. Report,	2
Uncovenanted Agency (<i>Madras</i>) Bill. Report,	213
University (<i>Bombay</i>) Bill (<i>with an instruction</i>),	223
Report,	311
University (<i>Calcutta</i>) Bill,	14
Report,	16
University (<i>Madras</i>) Bill (<i>with an instruction</i>),	322
Report,	323
Volunteer Corps Bill (<i>with an instruction</i>),	336
Report,	<i>ib.</i>
COMPULSORY LABOR (<i>Madras</i>). <i>See Labor.</i>	
CONSERVANCY. <i>See Police and</i> ——— (<i>Suburbs of Calcutta, and Howrah</i>) BILL.	
COTTON-FRAUDS (<i>Bombay</i>) BILL.	
Bombay Government's communication, to be printed,	508
Read 1 ^o ,	514
Second reading postponed,	527
COURTS MARTIAL (<i>Native Army</i>) BILL.	
Standing Orders suspended,	259
Read 1 ^o ,	<i>ib.</i>
Read 2 ^o ,	263
Committee of whole Council,	266
Reported,	<i>ib.</i>
Read 3 ^o ,	<i>ib.</i>
Messenger,	<i>ib.</i>
Assent of the Governor General,	267

CRIMINAL PROCEDURE. *See Procedure.*CRIMINALS. *See Imprisonment of* ——— (Straits) Bill.

CURRIE. MR. E. ——— (Member for Bengal).

Affidavits, &c. Bill,	381
Arms and Ammunition Bill, 393, 394, 397, 403, 408, 412, 414,	417, 418, 428
Branding Mutineers and Deserters Bill,	496
Cattle Trespass Bill,	41, 238
Drainage of Calcutta,	380, 386
Ferries (Straits) Bill,	389, 390, 391, 392
Foreigners Bill,	502, 506, 507
Gas Company's Bill,	71, 73, 74, 75
Impressment (Bengal) Bill,	118
Joint-Stock Companies Bill,	328
Land for public purposes Bill, 203, 207, 208, 217, 218, 219,	235
Land-Customs (Bombay) Bill,	188, 192, 193
Land-Revenue (Madras) Bill,	184
Lunatic Asylums Bill,	488
Lunatics (Mofussil) Bill,	492
Lunatics (Supreme Courts) Bill,	491
Merchant Seamen Bill,	462
Minors (Madras) Bill,	423
Municipal Assessment (Bombay) Bill,	383
Municipal Assessment (Suburbs of Calcutta, and Howrah), Bill,	17
Mutiny and Desertion (Native Army) Bill,	317
Nabob of Carnatic Bill (No. 2),	343
Opium (Bengal) Bill,	277
Police and Conservancy (Suburbs of Calcutta, and Howrah) Bill, 59, 97, 98, 99, 100, 101, 103, 104, 105,	123
Port-dues (Bombay) Bill,	288, 445, 446
Port-dues (Calcutta) Bill,	159
Port-dues (Cambay) Bill,	457
Port-dues (Cuttack) Bill,	387
Port-dues (Extension) Bill,	348, 369, 370
Port-dues (Madras Presidency) Bill,	274, 311, 312, 327
Port-dues (Moulmein, &c.) Bill,	242, 519
Port-dues (Tunkaria and Broach) Bill,	447, 450, 452
Rents-recovery (Bengal) Bill,	436, 477, 479, 480
Sonthal Districts Bill,	125, 225
University (Calcutta) Bill,	35

CUSTOMS. *See Land* ——— (Bombay) Bill.

D.

DACOITS.

Bengal Government's communication regarding inefficacy of term-punishments in the case of professional offenders, referred to Penal Code Committee,	256
Bengal Government's communication regarding Lattyals and ——— referred to Penal Code Committee,	ib.

DALHOUSIE. PORT OF ———.

(See *Port-dues*.)

DECLARATIONS. See *Voluntary Oaths, Affidavits, and* ———.

DEERTERS. See *Branding Mutineers and* ——— (*Native Army*) *Bill*.

DESEETION. See *Mutiny and* ——— (*Native Army*) *Bill*.

————— OF CHILDREN. See *Penal Code*.

DIET-MONEY FOR PRISONERS. See *Small Cause Courts Bill*.

DIVISIONS OF THE COUNCIL.

On Section XIV of Bombay Tobacco Bill,	57
„ Amendment in Section LIV of Police and Conservancy (<i>Suburbs of Calcutta and Howrah</i>) Bill,	104
„ Motion for Committee of whole Council on Madras Land- Revenue Bill,	187
„ Amendment on motion for Committee of whole Council on Port-dues (<i>Tunkaria and Broach</i>) Bill,	452

DOBIN. HON. J. A. ——— (*Vice President*).

Arms and Ammunition Bill, 374, 378, 398, 407, 418,	427
Branding Mutineers and Deserters (<i>Native Army</i>) Bill,	496
Foreigners Bill,	504

DRAINAGE OF CALCUTTA.

Enquiry respecting,	379
Answers to the above,	380, 386

E.

ELIOTT. MR. D. ——— (*Member for Madras*).

Compulsory Labor (<i>Madras</i>) Bill,	226, 528
Foreigners Bill,	505, 507
Impressment Bill (<i>Bengal</i>),	107
Land-Revenue (<i>Madras</i>) Bill, 165, 166, 168, 177,	181
Ootacamund Subordinate Criminal Court Bill,	522
Port-dues (<i>Madras Presidency</i>) Bill,	516
Ports-regulation (<i>Madras Presidency</i>) Bill,	523

EXPOSURE OF CHILDREN. See *Penal Code*.

F.

FERRIES (*Straits*) BILL.

Report of Select Committee presented,	383
Committee of whole Council,	389
Reported,	407
Read 3 ^o ,	<i>ib.</i>
Messenger,	421
Assent of the Governor General,	422

FOREIGNEES BILL.

Standing Orders suspended,	483
Read 1 ^o ,	<i>ib.</i>
Referred to Select Committee,	487
Report of Select Committee presented,	488
To be published,	494
Committee of whole Council,	499
Reported,	508
Recommitted,	510

FOREIGNERS BILL. *Continued.*

Reported,	<i>ib.</i>
Read 3 ^o ,	<i>ib.</i>
Messenger,	<i>ib.</i>
Assent of the Governor General,	513

FORFEITURES BILL.

Standing Orders suspended,	357
Read 1 ^o ,	<i>ib.</i>
Read 2 ^o ,	359
Referred to Select Committee,	<i>ib.</i>
Presentation of Report of Select Committee postponed,	360
Report of Select Committee presented,	363
To be republished as amended by Select Committee,	371
Committee of whole Council,	372
Reported,	374
Read 3 ^o ,	<i>ib.</i>
Assent of the Governor General,	382

G.

GANJA (*Bombay*) BILL.

Read 1 ^o ,	323
Read 2 ^o ,	349
Referred to Select Committee,	361
Bombay Government's communication referred to Select Committee,	460
Report of Select Committee presented,	468
Committee of whole Council,	482
Reported,	483
Read 3 ^o ,	510
Messenger,	<i>ib.</i>
Assent of the Governor General,	513

GAS (*Oriental*) COMPANY'S BILL.

Committee of whole Council,	71
Reported,	75
Recommitted,	91
Reported,	92
Read 3 ^o ,	<i>ib.</i>
Messenger,	<i>ib.</i>
Assent of the Governor General,	106

GRANT. HON. J. P. ———

Arms and Ammunition Bill,	378
Civil Procedure (<i>Bengal</i>) Bill,	77
Criminal Procedure (<i>Bengal</i>) Bill,	150
Impressment (<i>Bengal</i>) Bill,	59, 119, 126
Land for public purposes Bill, 204, 205, 206, 207, 209, 210,	218
Land-Revenue (<i>Madras</i>) Bill,	186
Marriages of Hindoos,	77
Mutiny and Desertion (<i>Native Army</i>) Bill,	321
Patents Act repeal Bill,	253, 254

GRANT. HON. J. P. ——— *Continued.*

Police and Conservancy (<i>Suburbs of Calcutta, and Howrah</i>)	
Bill,	100, 102
Port-dues (<i>Extension</i>) Bill,	361
Port-dues (<i>Madras</i>) Bill,	312, 325
Press Bill,	305, 306, 307
Small Cause Courts Bill,	126
Sonthal Districts Bill,	125

H.

HINDOO POLLYGAMY. *See Marriages of Hindoos.*HOWRAH. *See Municipal Assessment (Suburbs of Calcutta, and Howrah) Bill.*,, *Police and Conservancy* ,, ,, ,, ,,

I.

IMPRESSMENT (*Bengal*) BILL. (*Carriage and Supplies for Troops and Travellers.*)

First reading postponed,	44
Read 1 ^o ,	54
Communication from Government N. W. P. to be printed,	99
Read 2 ^o ,	104
Referred to Select Committee,	127
General Low added to Select Committee,	129

IMPRISONMENT OF CRIMINALS (*Straits*) BILL.

Select Committee discharged, and Bill withdrawn,	15
--	----

INDIAN PENAL CODE. *See Penal Code.*

INFANTS. EXPOSURE OF ———.

(*See Penal Code.*)

J.

JOINT-STOCK COMPANIES BILL.

Petition of Indigo Planters Association referred to Select Committee,	13
Petition of Bengal Chamber of Commerce referred to Select Committee,	16
Petition of British Indian Association referred to Select Committee,	268
Report of Select Committee presented,	280
Committee of whole Council postponed,	310
Petition of Bombay Chamber of Commerce to be printed,	<i>ib.</i>
Committee of whole Council postponed,	313
Committee of whole Council,	328
Reported,	331
Read 3 ^o ,	336
Messenger,	345
Assent of the Governor General,	347

K.

KOOLIN POLYGAMY: *See Marriages of Hindoos.*

KURNOOL.

Madras Government's communication for an Act to repeal Act X of 1843 and to form ——— into a Zillah and Collectorate, reported,	482
--	-----

KYOUK PHYOO. *See Port-dues.*

L.

LABOR: COMPULSORY ——— (Madras) BILL.

Read 1 ^o ,	226
Read 2 ^o ,	240
Referred to Select Committee,	257
Mr. Elliott added to Select Committee,	511
Report of Select Committee,	522
Committee of whole Council	527
Reported,	529

LAND. See *Sale of Land for Arrears of Revenue (Bengal) Bill.*

LAND FOR PUBLIC PURPOSES BILL.

Communication from Bombay Government referred to Select Committee,	21
Report of Select Committee presented,	129
Petition of British Indian Association to be printed,	158
Committee of whole Council postponed,	194
Communication from Madras Government to be printed,	<i>ib.</i>
Committee of whole Council,	199
Progress reported,	211
Resumed,	213
Reported,	216
Recommitted,	<i>ib.</i>
Referred back to Select Committee,	223
Report of Select Committee presented,	225
Recommitted.	231
Reported,	236
Read 3 ^o ,	238
Messenger,	239
Assent of the Governor General,	245

LAND CUSTOMS (Bombay) BILL.

Report of Select Committee presented,	2
Bombay Government's communication to be printed,	127
Motion for Committee of whole Council withdrawn after debate,	187
Referred back to Select Committee,	194
Bombay Government's communication referred to Select Committee,	266
Report of Select Committee presented,	360
Committee of whole Council,	419
Reported,	420
Recommitted,	429
Reported,	430
Read 3 ^o ,	<i>ib.</i>
Messenger,	<i>ib.</i>
Assent of the Governor General,	431

LANDHOLDERS LIABILITY BILL.

Petition of British Indian Association referred to Select Committee,	107
--	-----

LAND-REVENUE (Madras) BILL.

Committee of whole Council postponed after debate,	163
Motion for Committee of whole Council negatived,	168

LATTYALS. See *Dacoits*.LEGEY. MR. P. W. ——— (*Member for Bombay*).

Arms and Ammunition Bill, 378, 379, 393, 394, 395, 398, 401,	
402, 403, 404, 406, 409, 426, 428	
Branding Mutineers and Deserters (<i>Native Army</i>) Bill, . . .	496
Civil Procedure (<i>Bombay</i>) Bill,	82
Cotton-Frauds (<i>Bombay</i>) Bill,	514
Criminal Procedure (<i>Bombay</i>) Bill,	154
Foreigners Bill,	500, 507
Ganja (<i>Bombay</i>) Bill,	323
Impressment (<i>Bengal</i>) Bill,	113, 121
Land-Customs (<i>Bombay</i>) Bill,	187, 190, 419
Municipal Assessment (<i>Bombay</i>) Bill,	363, 384
Mutiny and Desertion (<i>Native Army</i>) Bill,	318, 320
Nabob of Surat,	519
Offences (<i>State</i>) Bill,	284
Port-dues (<i>Aden</i>) Bill,	468
Port-dues (<i>Bombay</i>) Bill,	269, 288, 445
Port-dues (<i>Cambay</i>) Bill,	435, 454, 458, 493
Port-dues (<i>Extension</i>) Bill,	362
Port-dues (<i>Kurrachee</i>) Bill,	271
Port-dues (<i>Tunkaria and Broach</i>) Bill,	272, 452
Press Bill,	302, 303, 305
Small Cause Courts Bill,	94, 126
Tobacco (<i>Bombay</i>) Bill,	70
University (<i>Bombay</i>) Bill,	195
University (<i>Madrass</i>) Bill,	245

LEGISLATIVE COUNCIL.

Adjourned from 4th to 18th April,	223
Communication from Home Department asking for a narrative of the course of Legislation during 1856-57, referred to Standing Orders Committee,	258
Communication from Bengal Government regarding translation of Bills and Acts referred to Standing Orders Committee,	379
No Meeting, for want of quorum, on 15th August,	386
————— 12th September,	430
Adjourned from 19th December to 2nd January,	530

LIABILITY OF LANDHOLDERS IN RESPECT OF CERTAIN OFFENCES.

(See *Landholders Liability Bill*.)

LIMITATION OF SUITS BILL.

Mr. Harington substituted for Mr. Peacock as Member of Select Committee,	511
--	-----

LOW. HON. MAJOR GENL. J. ———

Offences (<i>Army and State</i>) Bill,	295
Mutiny and Desertion (<i>Native Army</i>) Bill,	319
Branding Mutineers and Deserters (<i>Native Army</i>) Bill,	496

LUNATIC ASYLUMS BILL.

Read 1 ^o ,	488
Read 2 ^o ,	509
Referred to Select Committee,	512

LUNATICS (*Mofussil*) BILL.

Read 1 ^o ,	492
Read 2 ^o ,	510
Referred to Select Committee,	512

LUNATICS (*Supreme Courts*) BILL.

Read 1 ^o ,	491
Read 2 ^o ,	509
Referred to Select Committee,	512

M.

MARRIAGES OF HINDOOS.

Petitions against Hindoo Polygamy to be printed, 1, 14, 16, 43,	
	59, 77, 94, 106 224

MEMBER.

Mr. Harington sworn,	509
----------------------	-----

MERCHANT SEAMEN BILL.

Read 1 ^o ,	462
Second reading postponed,	493
Read 2 ^o ,	499
Referred to Select Committee,	512

MESSAGES.

No. 94 Assent to Native Passengers Vessels (<i>Bay of Bengal</i>) Bill,	58
„ 95 „ „ Calcutta University Bill,	<i>ib.</i>
„ 96 „ „ Cattle Trespass Bill,	76
„ 97 „ „ Bombay Tobacco Bill,	93
„ 98 „ „ Oriental Gas Company's Bill,	106
„ 99 Withholding assent to Police and Conservancy (<i>Suburbs of Calcutta and Howrah</i>) Bill,	127
„ 100 Assent to Land for public purposes Bill,	245
„ 101 „ „ Madras Uncovenanted Agency Bill,	246
„ „ „ Courts Martial (<i>Native Army</i>) Bill,	267
„ 102 „ „ Patents Act repeal Bill,	<i>ib.</i>
„ 103 „ „ Sonthal Districts Bill,	268
„ „ „ State Offences Bill,	287
„ 105 „ „ Bengal Opium Bill,	288
„ 104 „ „ Straits Piratical Vessels Bill,	296
„ 106 „ „ Army and State Offences Bill,	297
„ „ „ Mutiny and Desertion (<i>Native Army</i>) Bill,	322
„ „ „ Nabob of Carnatic Bill,	346
„ 107 „ „ Joint Stock Companies Bill,	347
„ 108 „ „ Small Cause Courts Bill,	<i>ib.</i>
„ 109 „ „ Police and Conservancy (<i>Suburbs of Calcutta and Howrah</i>) Bill,	<i>ib.</i>
„ 110 „ „ Bombay University Bill,	360
„ 111 „ „ Volunteer Corps Bill,	<i>ib.</i>
„ 112 „ „ Port-dues (<i>Extension</i>) Bill,	372
„ 113 „ „ Straits Ferries Bill,	422
„ 114 „ „ Madras University Bill,	<i>ib.</i>
„ 115 „ „ Arms and Ammunition Bill,	430

MESSAGES. *Continued.*

No. 116	„ „	Bombay Land-Customs Bill,	431
„ 117	„ „	Port-dues (<i>Calcutta</i>) Bill,	461
„ 118	„ „	Port-dues (<i>Bombay</i>) Bill,	<i>ib.</i>
„ 119	„ „	Branding Mutineers and Deserters (<i>Native Army</i>) Bill,	513
„ 120	„ „	Foreigners Bill,	<i>ib.</i>
„ 121	„ „	Bombay Ganja Bill,	<i>ib.</i>
„ 122	„ „	Port-dues (<i>Moulmein, &c.</i>) Bill,	526

MESSENGER. APPOINTMENT OF ——— TO PROCURE ASSENT OF GOVERNOR
GENERAL.

(See under head of each Bill.)

MILITARY STORES.

Communication from Home Department against importation of ———— to be printed.	382
--	-----

(See Arms and Ammunition Bill.)

MINORS (*Madras*) BILL.

Madras Government's communication to be printed,	387
Read 1 ^o ,	423
Read 2 ^o ,	432
Referred to Select Committee,	435
Mr. Elliott added to Select Committee,	511

MOFUSSIL MUNICIPAL LAW.

Petition of Dacca Inhabitants against the Conservancy manage- ment of that City, presented,	195
--	-----

MOULMEIN. See *Port-dues*.MUNICIPAL ASSESSMENT (*Bombay*) BILL.

Petition of Bombay Justices &c. against levy of Town-dues on Merchandize and Shipping, to be printed,	16
Communication from Clerk to the Bombay Justices, to be printed,	42
Petition of Bombay Merchants &c. in support of the levy of Town-dues on Merchandize and Shipping, to be printed,	59
Petition of Bombay Chamber of Commerce against the same, to be printed,	76
Read 1 ^o ,	363
Read 2 ^o ,	383
Referred to Select Committee,	385
Communication from Bombay Government respecting licenses to retail liquor, referred to Select Committee,	407
Communication from Bombay Government referred to Select Committee,	494
Petition of Bombay retail liquor-sellers against sale of licenses by public auction, referred to Select Committee,	493
Mr. Elliott added to Select Committee,	512
Communication from Bombay Government referred to Select Committee,	521

MUNICIPAL ASSESSMENT (*Suburbs of Calcutta and Howrah*) BILL.

Read 1 ^o ,	17
Read 2 ^o ,	91

MUNICIPAL ASSESSMENT (Suburbs of Calcutta and Howrah) BILL. Continued.	
Referred to Select Committee,	93
Members of Select Committee substituted,	257
Bengal Government's communication referred to Select Committee,	453
General Law added to Select Committee,	<i>ib.</i>
Petition of Native Inhabitants of the Suburbs of Calcutta against Carriage and Horse Tax referred to Select Committee,	522
Report of Select Committee presented,	526
MUTINEERS. See Branding ——— and Deserters (Native Army) Bill.	
MUTINY AND DESEPTION (Native Army) BILL.	
Standing Orders suspended,	313
Read 1 ^o ,	317
Read 2 ^o ,	<i>ib.</i>
Committee of whole Council,	<i>ib.</i>
Reported,	322
Read 3 ^o ,	<i>ib.</i>
Messenger,	<i>ib.</i>
Assent of the Governor General,	<i>ib.</i>
N.	
NABOB OF CARNATIC. See Carnatic.	
NABOB OF SURAT. See Surat.	
NATIVE PASSENGER VESSELS (Bay of Bengal) BILL.	
Committee of whole Council,	12
Reported,	<i>ib.</i>
Read 3 ^o ,	14
Messenger,	15
Assent of the Governor General,	58
NOTICES OF MOTION.	
Arms and Ammunition Bill, Third reading,	421
Cattle Trespass Bill, Committee of whole Council,	15
Civil Procedure (Bengal) Bill, Second reading,	43, 75
Civil Procedure (Bombay) Bill, ditto,	<i>ib.</i>
Civil Procedure (Madras) Bill, ditto,	<i>ib.</i>
Civil Procedure (N. W. P.) Bill, ditto,	<i>ib.</i>
Cotton-Frauds (Bombay) Bill, First reading,	512
Second reading,	524
Criminal Procedure (Bengal) Bill, First reading,	43
Second reading,	127
Adoption of Standing Order's Committee's Report on Petition of British Subjects,	167
Criminal Procedure (Bombay) Bill, First reading,	43
Second reading,	127
Criminal Procedure (Madras) Bill, First reading,	43
Second reading,	127
Criminal Procedure (N. W. P.) Bill, First reading,	43
Second reading,	127

NOTICES OF MOTION. Continued.

Foreigners Bill, Committee of whole Council, &c.	497
Forfeitures Bill, Committee of whole Council,	371
Gas Company's Bill, Third reading,	76
Impressment (<i>Bengal</i>) Bill, First reading,	42
Joint-Stock Companies Bill, Committee of whole Council,	287
Land for public purposes Bill, Committee of whole Council,	166
Third reading,	237
Land-Customs (<i>Bombay</i>) Bill, Committee of whole Council,	166
Third reading,	421
Land-Revenue (<i>Madras</i>) Bill, Committee of whole Council,	167
Lunatic Asylums Bill, First reading,	488
Lunatics (<i>Mofussil</i>) Bill, ditto,	ib.
Lunatics (<i>Supreme Courts</i>) Bill, ditto,	ib.
Merchant Seamen Bill, First reading,	459
Second reading,	488
Municipal Assessment (<i>Bombay</i>) Bill, First reading,	362
Second reading,	381
Nabob of Carnatic Bill, Adoption of Select Committee's Report,	223
Native Passenger Vessels (<i>Bay of Bengal</i>) Bill, Third reading,	13
Opium (<i>Bengal</i>) Bill, Committee of whole Council,	267
Piratical Vessels (<i>Straits</i>) Bill, Committee of whole Council,	257
Third reading,	266
Police and Conservancy (<i>Suburbs of Calcutta and Howrah</i>) Bill, Committee of whole Council,	93
Port-dues (<i>Aden</i>) Bill, First reading,	468
Port-dues (<i>Bombay</i>) Bill, First reading,	267
Second reading,	287
Committee of whole Council,	435
Port-dues (<i>Cambay</i>) Bill, Second reading,	453
Port-dues (<i>Kurrachee</i>) Bill, ditto,	287
Port-dues (<i>Tunkaria and Broach</i>) Bill, Second reading,	287
Committee of whole Council,	435
Rents-recovery (<i>Bengal</i>) Bill, First reading,	286, 435
Second reading,	467
State Offences Bill, Committee of whole Council,	266
Third reading,	279
Tobacco (<i>Bombay</i>) Bill, Third reading,	57
Uncovenanted Agency (<i>Madras</i>) Bill, Committee of whole Council,	223
Third reading,	237
University (<i>Bombay</i>) Bill, First reading,	166
Second reading and suspension of Standing Orders,	212
Third reading,	346
University (<i>Calcutta</i>) Bill, Second reading,	12
Volunteer Corps Bill, Committee of whole Council,	346

O.

OATHS. See *Voluntary* ———, *Affidavits, and Declarations.*

OFFENCES. ARMY AND STATE ——— BILL.	
Standing Orders suspended,	289
Read 1 ^o ,	<i>ib.</i>
Read 2 ^o ,	295
Committee of whole Council,	<i>ib.</i>
Reported,	296
Read 3 ^o ,	<i>ib.</i>
Messenger,	<i>ib.</i>
Assent of the Governor General,	297
OFFENCES. HEINOUS ——— BILL.	
Standing Orders suspended,	308
Read 1 ^o ,	309
Read 2 ^o ,	<i>ib.</i>
Committee of whole Council,	<i>ib.</i>
Reported,	310
Read 3 ^o ,	<i>ib.</i>
Messenger,	<i>ib.</i>
Assent of the Governor General,	<i>ib.</i>
OFFENCES. STATE ——— BILL.	
Report of Select Committee presented,	259
Committee of whole Council,	275
Reported,	276
Recommitted,	280
Reported,	286
Read 3 ^o ,	<i>ib.</i>
Messenger,	<i>ib.</i>
Assent of the Governor General,	287
OOTACAMUND SUBORDINATE CRIMINAL COURT BILL. (<i>Extension of Act XXV of 1855.</i>)	
Read 1 ^o ,	522
Read 2 ^o ,	527
Referred to Select Committee,	529
OPIUM (<i>Bengal</i>) BILL.	
Report of Select Committee presented,	258
Committee of whole Council,	276
Reported,	278
Read 3 ^o ,	286
Messenger,	<i>ib.</i>
Assent of the Governor General,	288
ORDER. POINTS OF ———	
Land for public purposes Bill referred back to Select Committee from Committee of whole Council,	223
Foreigners Bill not read 2 ^o , the Standing Orders having been suspended,	487
ORDERS. STANDING ———	
Suspended, 14, 223, 246, 259, 289, 298, 308, 313, 322, 331, 337, 357, 361, 374, 483, 494,	524
————— <i>Committee.</i>	
Chief Justice added to ———,	126

ORDERS. STANDING ——— COMMITTEE. <i>Continued.</i>	
Petition of British Subjects to be heard by Counsel against the Criminal Procedure (<i>Bengal</i>) Bill, referred to ——— . . .	158
Report of ——— on above Petition presented, . . .	167
" " " " adopted, . . .	211
Communication from Home Department asking for a Narrative of the course of Legislation during 1856-1857, referred to ——— . . .	258
Bengal Government's communication regarding translation of Acts and Bills, referred to ——— . . .	397
ORIENTAL GAS COMPANY. <i>See Gas Company.</i>	

P.

PASSENGER VESSELS. *See Native ——— (Bay of Bengal) Bill.*
PATENTS.

Communication from Home Department forwarding two Des- patches from the Court of Directors disallowing Act VI of 1856, referred to Select Committee, . . .	258
--	-----

PATENTS ACT REPEAL BILL.

Standing Orders suspended, . . .	245
Read 1 ^o , . . .	247
Read 2 ^o , . . .	254
Committee of whole Council, . . .	<i>ib.</i>
Reported, . . .	255
Read 3 ^o , . . .	<i>ib.</i>
Messenger, . . .	<i>ib.</i>
Assent of the Governor General, . . .	267

PEACOCK, HON. B. ———

Arms and Ammunition Bill, 394, 395, 398, 399, 400, 401, 404, 409, 410, 411, 412, 413, 414, 416, 416, 417, 418, 425, . . .	428
Branding Mutineers and Deserters Bill, . . .	494, 496
Cattle Trespass Bill, . . .	41
Civil Procedure (<i>Bengal</i>) Bill, . . .	20, 55
Civil Procedure (<i>Bombay</i>) Bill, . . .	55
Civil Procedure (<i>Madras</i>) Bill, . . .	<i>ib.</i>
Civil Procedure (<i>N. W. P.</i>) Bill, . . .	24, 55
Compulsory Labor (<i>Madras</i>) Bill, . . .	528
Courts Martial (<i>Native Army</i>) Bill, . . .	259, 265, 266
Criminal Procedure (<i>Bengal</i>) Bill, . . .	44, 152, 159
Criminal Procedure (<i>N. W. P.</i>) Bill, . . .	54
Drainage of Calcutta, . . .	379
Ferries (<i>Straits</i>) Bill, . . .	391, 392
Foreigners Bill, . . .	483, 487, 503, 504, 505, 506
Forfeitures Bill, . . .	357, 359, 373
Gas Company's Bill, . . .	73
Joint-Stock Companies Bill, . . .	311, 328, 329
Land for public purposes Bill, 200, 202, 203, 204, 205, 206, 209, 210, 214, 216, 218, 219, 220, 231, 233, . . .	235

PEACOCK, HON. B. ———. *Continued.*

Land-Customs (<i>Bombay</i>) Bill,	191, 192
Land-Revenue (<i>Madras</i>) Bill,	163, 175, 177
Mutiny and Desertion Bill,	313, 318
Nabob of Carnatic Bill (<i>No. 2.</i>)	337, 343
Offences (<i>Army and State</i>) Bill,	289, 295
Offences (<i>Heinous</i>) Bill,	308
Offences (<i>State</i>) Bill,	281, 283
Opium (<i>Bengal</i>) Bill,	276
Patents Act repeal Bill,	246, 247, 253, 254, 255
Penal Code,	11
Police and Conservancy (<i>Suburbs of Calcutta and Howrah</i>) Bill,	103
Port-dues (<i>Cambay</i>) Bill,	493
Port-dues (<i>Moulmein, &c.</i>) Bill,	275
Port-dues <i>Tunkaria and Broach</i>) Bill,	451
Press Bill,	304, 305, 306
Rents-recovery (<i>Bengal</i>) Bill,	469, 479
Standing Orders Committee,	126
University (<i>Calcutta</i>) Bill,	36
Volunteer Corps Bill,	331, 350, 351, 352, 355, 356, 357

PENAL CODE.

Read 2 ^o ,	11
Referred to Select Committee,	15
Communication from Bengal Government regarding exposure of Infants, referred to Select Committee,	105
Papers from Home Department regarding Bribery in Bombay, referred to Select Committee,	238
Communication from Bombay Government regarding Sacrilege, referred to Select Committee,	256
Communication from Bengal Government regarding inefficacy of term-punishments in the case of professional offenders, referred to Select Committee,	<i>ib.</i>
Communication from Bengal Government regarding Lattytals and Dacoits, referred to Select Committee,	<i>ib.</i>
Petition of Missionaries regarding Chapter XV, referred to Select Committee,	280
Communication from Bombay Government regarding Slavery, referred to Select Committee,	287
Communication from Bengal Government regarding exposure and desertion of children in the Soonderbunds, referred to Select Committee,	322
Communication from Bombay Government regarding attempts to create public disturbances, referred to Select Committee,	345
Further communication, from Bombay Government regarding Slavery, referred to Select Committee,	381
Communication from Bengal Government regarding Cattle Stealing, referred to Select Committee,	432
Mr. Harington substituted for Mr. Grant as Member of Select Committee,	521

PETITIONS.

Against Hindoo Polygamy,	1, 14, 16, 43, 59, 77, 94, 106,	224
Of Ahmedabad Inhabitants regarding Civil Procedure (<i>Bombay</i>)		
Bill,		348
„ Armenians for same Criminal Law as British subjects,		363
„ Bangalore Inhabitants regarding registration of Births,		43
„ Beerbhoom Zemindars, &c. regarding Civil Procedure (<i>Bengal</i>)		
Bill,		224
„ Bengal Chamber of Commerce regarding Joint-Stock Com-		
panies Bill,		16
„ „ „ „ „ „ Criminal Procedure		
(<i>Bengal</i>) Bill,		241
„ „ Hindoo Inhabitants in favor of extending Criminal		
Jurisdiction of Mofussil Courts to all Classes,		525
„ Bhaugulpore Zemindars regarding Sonthal boundaries,		13
„ Bombay Chamber of Commerce against levy of Town-dues on		
Merchandize and Shipping,		76
„ „ „ „ „ regarding Joint Stock Com-		
panies Bill,		310
„ „ Justices, &c. against levy of Town-dues on Mer-		
chandize and Shipping,		16
„ „ Merchants, &c. in support of the same,		59
„ „ retail Liquor-sellers against sale of licenses by		
public auction,		498
„ British Indian Association regarding Police and Conservancy		
(<i>Suburbs of Calcutta,</i>		
<i>and Howrah</i>) Bill,		58
„ „ „ „ „ Landholders Liability Bill,		107
„ „ „ „ against Land for public purposes Bill,		158
„ „ „ „ regarding Joint Stock Companies Bill,		268
„ „ „ „ „ Sale of Land Bill,		279
„ „ Subjects against Criminal Procedure (<i>Bengal</i>) Bill,		158
„ Broach Inhabitants regarding Civil Procedure (<i>Bombay</i>) Bill,		258
„ Calcutta Tavern-proprietors, &c. regarding Boarding and		
Lodging-house licenses,		525
„ Dacca Inhabitants against the Conservancy Management of		
that City,		195
„ Furruckabad and Sumsergunge Inhabitants regarding Sonthal		
boundaries,		106
„ Goluckchunder Doss regarding Civil Procedure (<i>Bengal</i>) Bill,		347
„ Indigo Planters' Association regarding Joint-Stock Com-		
panies Bill,		13
„ Kankjole, Ashwar, Sultanabad, and Nurai Inhabitants re-		
garding Sonthal boundaries,		224
„ Madras Inhabitants regarding the Estate of the late Nawab		
of the Carnatic,		1
„ Meer Jafir Ali Khan Bahadoor, of Surat, for amendment of		
Act XVIII of 1848,		453
„ Midnapore Residents for amendment of Special Appeal Act		
XVI of 1853,		461

PETITIONS. *Continued.*

Of Midnapore Zemindars, &c. regarding Civil Procedure (<i>Bengal</i>) Bill,	224
„ Missionaries regarding Sale of Land Bill,	225
„ „ „ Chapter XV of the Penal Code,	280
„ Mr. A. M. Murdoch for exemption of Undertakers from Carriage and Horse-tax,	240
„ Mr. C. F. Chamier with Draft of Cattle Trespass Bill for Madras,	238
„ Nonee and Hurreepore Inhabitants regarding Sonthal boundaries,	125
„ Singapore Merchants &c. against levy of Port-dues at Singapore,	128
„ Suburbs of Calcutta Native Inhabitants against Carriage and Horse-tax,	522
„ Surat Inhabitants regarding Civil Procedure (<i>Bombay</i>) Bill,	241
„ Tannah Shop-keepers against requiring <i>Samadushkuts</i> to be written on Stamped paper,	129
„ Twenty-four Pergunnahs' Zemindars regarding Sale of Land Bill,	125
„ Womachurn Roy regarding same Bill,	522

PIRATICAL VESSELS (*Straits*) BILL.

Report of Select Committee presented,	242
Committee of whole Council,	259
Reported,	<i>ib.</i>
Read 3 ^o ,	275
Messenger,	279
Assent of the Governor General,	296

POINTS OF ORDER. *See Order.*POLICE ACT (*Presidency Towns and Straits Settlement*).

Communication from Straits Governor and other papers suggesting amendment of Act XIII of 1856, to be printed,	387
---	-----

— AND CONSERVANCY (*Suburbs of Calcutta, and Howrah*) BILL.

Report of Select Committee presented,	43
Petition of British Indian Association to be printed,	58
Committee of whole Council,	96
Reported,	105
Recommended,	123
Reported,	124
Read 3 ^o ,	<i>ib.</i>
Messenger,	<i>ib.</i>
Assent of the Governor General withheld,	127
Again read 1 ^o ,	167
Read 2 ^o ,	199
Referred to Select Committee,	212
Report of Select Committee presented,	311
Committee of whole Council,	331
Reported,	<i>ib.</i>
Read 3 ^o ,	337
Messenger,	345

POLICE AND CONSERVANCY (Suburbs of Calcutta, and Howrah) BILL. Continued.	
Assent of the Governor General,	347
Communication from Home Department with Court's Despatch approving of the Governor General having withheld his assent to the Bill, reported,	433
POLYGAMY. HINDOO ———.	
(See <i>Marriages of Hindoos.</i>)	
PORT-DUES.	
Communication from Straits Government with letter from Penang Chamber of Commerce against levy of ——— at that Port, to be printed,	94
Petition of Singapore Merchants against levy of ——— at that Port, presented,	128
Ditto ditto, to be printed,	166
Communication from Bombay Government relative to the Ports other than those of Bombay, Kurachee, Tunkaria and Broach, to be printed,	279
Communication from Home Department forwarding corre- spondence with the Court of Directors regarding levy of ——— at Singapore,	336
Communication from Principal Assistant to Commissioner of Arracan regarding Kyouk Phyoo, referred to Select Com- mittee on Moulmein, &c., Bill,	371
Communication from Bombay Government regarding levy of ——— under that Presidency, reported,	434
————— (Aden) BILL.	
Read 1 ^o ,	468
Read 2 ^o ,	482
Referred to Select Committee,	512
————— (Bombay) BILL.	
Read 1 ^o ,	269
Read 2 ^o ,	288
Referred to Select Committee,	296
Bombay Government's communication referred to Select Com- mittee,	421
Chief Justice added to Select Committee,	432
Report of Select Committee presented,	433
Committee of whole Council,	445
Reported,	453
Read 3 ^o ,	459
Messenger,	ib.
Assent of the Governor General,	461
————— (Calcutta) BILL.	
Read 1 ^o ,	159
Read 2 ^o ,	168
Referred to Select Committee,	194
Bengal Government's communication referred to Select Com- mittee,	297
Chief Justice added to Select Committee,	385
Report of Select Committee presented,	431

PORT-DUMS (Calcutta) BILL. Continued.

Committee of whole Council,	438
Reported,	434
Read 3 ^o ,	444
Messenger,	460
Assent of the Governor General,	461

(Cambay) BILL.

Read 1 ^o ,	435
Read 2 ^o ,	454
Referred to Select Committee,	460
Bombay Government's communication referred to Select Committee,	<i>ib.</i>
Special Report of Select Committee presented,	482
Ditto ditto to be printed,	<i>ib.</i>
Adoption of Report postponed,	493
Report adopted and to be communicated to Bombay Government,	508

(Cuttack) BILL.

Read 1 ^o ,	387
Read 2 ^o ,	424
Referred to Select Committee,	432
Bengal Government's communication referred to Select Committee,	509
Report of Select Committee presented,	513
Committee of whole Council,	524
Reported,	<i>ib.</i>

(Extension) BILL.

Read 1 ^o ,	348
Read 2 ^o ,	360
Referred to Select Committee,	361
Standing Orders suspended to enable Select Committee to report within one week,	362
Report of Select Committee presented,	363
Ditto read,	369
Committee of whole Council,	370
Reported,	<i>ib.</i>
Read 3 ^o ,	<i>ib.</i>
Messenger,	371
Assent of the Governor General,	372

(Madras Presidency) BILL.

Communications from Madras Government to be printed,	268
Read 1 ^o ,	274
Second reading postponed after debate,	311
Withdrawn after debate,	325
Communication from Madras Government to be printed,	488
New Bill read 1 ^o ,	513
Read 2 ^o ,	523
Referred to Select Committee,	524
Standing Orders suspended to enable Select Committee to report on or after 17th January next,	<i>ib.</i>

PORT-DUES (Moulmein, Rangoon, Dalhousie, Kyouk Phyoo, Akyab and Chittagong)**BILL.**

Read 1 ^o ,	242
Read 2 ^o ,	275
Referred to Select Committee,	279
Communication regarding Kyouk Phyoo, referred to Select Committee,	371
Chief Justice added to Select Committee,	385
Report of Select Committee presented,	431
Committee of whole Council,	434
Reported,	ib.
To be republished,	ib.
Read 3 ^o ,	519
Messenger,	521
Assent of the Governor General,	526

(Kurrachee) BILL.

Read 1 ^o ,	271
Read 2 ^o ,	289
Referred to Select Committee,	296
Chief Justice added to Select Committee,	432
Report of Select Committee presented,	482

(Tunkaria and Broach) BILL.

Read 1 ^o ,	272
Read 2 ^o ,	289
Referred to Select Committee,	296
Bombay Government's communication referred to Select Com- mittee,	421
Chief Justice added to Select Committee,	432
Report of Select Committee presented,	433
Committee of whole Council,	447
Reported,	453
Third reading postponed,	459

PORTS-REGULATION (Madras Presidency) Bill.

Read 1 ^o ,	523
Read 2 ^o ,	527
Referred to Select Committee,	530

POST OFFICE.

Communication from Home Department relative to an Act against demanding or receiving more than the authorized postage due on letters not prepaid, reported,	431
---	-----

POSTPONED MOTIONS AND ORDERS.

First reading of Impressment (<i>Bengal</i>) Bill,	44
Second reading of Civil Procedure Bills,	55
Committee of whole Council on Madras Land Revenue Bill,	166
First reading of Bombay University Bill,	167
Committee of whole Council on Land for public purposes Bill,	194
Consideration of Section XVI of same Bill,	205
First reading of Rents-recovery (<i>Bengal</i>) Bill,	288, 311
Committee of whole Council on Joint-Stock Companies Bill, 310,	313

POSTPONED MOTIONS AND ORDERS. *Continued.*

Second reading of Madras Port-dues Bill,	311
Presentation of Report of Select Committee on Forfeitures Bill,	360
Third reading of Port-dues (<i>Tankaria and Broach</i>) Bill,	459
Second reading of Merchant Seamen Bill,	493
Adoption of Special Report of Select Committee on Port-dues (<i>Cambay</i>) Bill,	<i>ib.</i>
Second reading of Cotton-Frauds (<i>Bombay</i>) Bill,	527

PRESIDENT.

Press Bill,	298, 302, 303, 305
-----------------------	--------------------

PRESS (*Licensing of the ———*) BILL.

Standing Orders suspended,	298
Read 1 ^o ,	301
Read 2 ^o ,	<i>ib.</i>
Committee of whole Council,	<i>ib.</i>
Reported,	307
Read 3 ^o ,	<i>ib.</i>
Assent of the Governor General,	<i>ib.</i>

PRINCIPAL SUDDER AMEENS (*Bombay*). APPELLATE JURISDICTION OF ———
(*See Civil Procedure (Bombay) Bill.*)PROCEDURE. CIVIL ——— (*Bengal*) BILL.

Read 1 ^o ,	20
Second reading postponed,	55
Read 2 ^o ,	77
Referred to Select Committee,	92
Petitions of Beerbhoom and Midnapore Zemindars, &c. referred to Select Committee,	224
Petition of Goluckhunder Doss referred to Select Committee,	347
Petition of Midnapore Residents regarding amendment of Special Appeal Act XVI of 1853, referred to Select Com- mittee,	461

————— CIVIL ——— (*Bombay*) BILL.

Papers regarding extension of Appellate jurisdiction of Princi- pal Sudder Ameens in Bombay, reported,	16
Read 1 ^o ,	26
Papers regarding extension of Appellate jurisdiction of Princi- pal Sudder Ameens in Bombay, to be printed,	42
Second reading postponed,	55
Read 2 ^o ,	82
Referred to Select Committee,	92
Petition of Surat Inhabitants, referred to Select Committee,	241
Petition of Broach Inhabitants, referred to Select Committee,	258
Petition of Ahmedabad Inhabitants, referred to Select Com- mittee,	348
Communication from Bombay Government on the working of Special Appeal Act XVI of 1853, referred to Select Com- mittee,	422

————— CIVIL ——— (*Madras*) BILL.

Read 1 ^o ,	26
---------------------------------	----

PROCEDURE. CIVIL ——— (Madras) BILL. Continued.	
Second reading postponed,	55
Read 2 ^o ,	82
Referred to Select Committee,	92
————— CIVIL ——— (N. W. P.) BILL.	
Read 1 ^o ,	24
Second reading postponed,	55
Read 2 ^o ,	82
Referred to Select Committee,	92
Mr. Harington added to Select Committee,	511
————— CRIMINAL ——— (Bengal) BILL.	
Read 1 ^o ,	44
Read 2 ^o ,	129
Referred to Select Committee,	157
Petition of British Subjects, read and referred to Standing Orders Committee,	158
Report of Standing Orders Committee, presented,	167
" " " " " adopted,	211
Petition of British Subjects, referred to Select Committee,	239
Petition of Bengal Chamber of Commerce, referred to Select Committee,	241
Petition of Armenians, referred to Select Committee,	363
Court's Despatch regarding amenability of European British Subjects to the jurisdiction of the Mofussil Criminal Courts, referred to Select Committee,	498
Communication from Government Central Provinces regarding a European British Subject charged with theft, referred to Select Committee,	526
Petition of Hindoo Inhabitants of Bengal, referred to Select Committee,	<i>ib.</i>
————— CRIMINAL ——— (Bombay) BILL.	
Read 1 ^o ,	55
Read 2 ^o ,	154
Referred to Select Committee,	158
Court's Despatch regarding amenability of European British Subjects to the jurisdiction of the Mofussil Criminal Courts, referred to Select Committee,	498
Communication from Government Central Provinces regarding a European British Subject charged with theft, referred to Select Committee,	526
Petition of Hindoo Inhabitants of Bengal, referred to Select Committee,	<i>ib.</i>
————— CRIMINAL ——— (Madras) BILL.	
Read 1 ^o ,	55
Read 2 ^o ,	154
Referred to Select Committee	157
Court's Despatch regarding amenability of European British Subjects to the jurisdiction of the Mofussil Criminal Courts, referred to Select Committee,	498

PROCEDURE. CRIMINAL ——— (Madras) BILL. *Continued.*

Communication from Government Central Provinces regarding a European British Subject charged with theft, referred to Select Committee,	526
Petition of Hindoo Inhabitants of Bengal, referred to Select Committee,	<i>ib.</i>

————— CRIMINAL ——— (N. W. P.) BILL.

Read 1 ^o ,	54
Read 2 ^o ,	154
Referred to Select Committee,	157
Court's Despatch regarding amenability of European British Subjects to the jurisdiction of the Mofussil Criminal Courts, referred to Select Committee,	498
Mr. Harington added to Select Committee,	511
Communication from Government Central Provinces regarding a European British Subject charged with theft, referred to Select Committee,	526
Petition of Hindoo Inhabitants of Bengal, referred to Select Committee,	<i>ib.</i>

PUBLICATION OF BILLS.

University (<i>Calcutta</i>) Bill <i>dispensed with</i> ,	14
Patents Act repeal Bill <i>dispensed with</i> ,	254
Courts Martial (<i>Native Army</i>) Bill <i>dispensed with</i> ,	266
Offences (<i>Army and State</i>) Bill <i>dispensed with</i> ,	295
Press Bill <i>dispensed with</i> ,	301
Offences (<i>Heinous</i>) Bill <i>dispensed with</i> ,	309
Mutiny and Desertion (<i>Native Army</i>) Bill <i>dispensed with</i> ,	317
Nabob of Carnatic Bill (No. 2) <i>dispensed with</i> ,	343
Volunteer Corps Bill, as amended by Select Committee, <i>directed</i> ,	345
Forfeitures Bill, ditto ditto,	371
Arms and Ammunition Bill, as settled in Committee of whole Council, <i>directed</i> ,	407
Port-dues (<i>Moulmein, &c.</i>) Bill, ditto ditto,	434
Foreigners Bill, as amended by Select Committee, <i>directed</i> ,	494

R.

RANGOON. *See Port Dues.*RECOMMITTALS. (*Motions for ——— and Reports.*)

Arms and Ammunition Bill (<i>under Standing Order No. 87</i>)	408, 424
Reports,	419, 429
Foreigners Bill (<i>under Standing Order No. 87</i>)	510
Report,	<i>ib.</i>
Gas Company's Bill (<i>under Standing Order No. 87</i>)	91
Report,	92
Land for public purposes Bill (<i>under Standing Order No. 86</i>)	216, 231
Report,	236
Land-Customs (<i>Bombay</i>) Bill (<i>under Standing Order No. 87</i>)	429
Report,	430
Police and Conservancy (<i>Suburbs of Calcutta, and Howrah</i>) Bill, (<i>under Standing Order No. 87</i>)	123
Report,	124

RECOMMITTALS. (*Motions for ——— and Reports.*) *Continued.*

State Offences Bill (<i>under Standing Order No. 87</i>)	280
Report,	286
Tobacco (<i>Bombay</i>) Bill (<i>under Standing Order No. 87</i>)	70
Report,	71

REGISTRATION OF BIRTHS.

Petition of Bangalore Inhabitants presented,	43
" " " " to be printed,	57

RENTS-RECOVERY BILL (*Bengal*)

First reading postponed,	288, 311
Read 1 ^o ,	436
Read 2 ^o ,	469
Referred to Select Committee,	494
Mr. Harington added to Select Committee,	521

REPORTS. ADOPTION OF ——— BY COUNCIL.

Report of Standing Orders Committee on Petition of British Subjects to be heard by Counsel against Criminal Procedure (<i>Bengal</i>) Bill,	211
Report of Select Committee on Nabob of Carnatic Bill (No. 1.)	236
Special Report of Select Committee on Port-dues (<i>Cambay</i>) Bill,	508

REPORTS BY THE CLERK.

Papers regarding extension of appellate jurisdiction of Principal Sudder Ameens in Bombay,	16
Despatch from the Court of Directors reviewing Acts from No. XV of 1854 to No. XXXVIII of 1855, and regarding arrears of business in the Calcutta Sudder Court,	94
Communication from Government N. W. P. regarding impressment of Carts for Military purposes,	<i>ib.</i>
————— from Straits Government with copy of letter from Chamber of Commerce at Penang against levy of Port-dues at that Port,	<i>ib.</i>
————— from Bombay Government with list of Vice-Chancellor and Fellows of the Bombay University,	159
Extract of Despatch from the Court of Directors regarding establishment of Small Causes Courts in the Mofussil,	225
Papers from Home Department regarding Bribery in Bombay,	238
Communication from Home Department asking for a Narrative of the course of Legislation during 1856-57,	258
————— from Home Department forwarding two Despatches from the Court of Directors disallowing Patents Act VI of 1856,	<i>ib.</i>
————— from Madras Government regarding levy of Port-dues,	268
————— from Madras Government regarding Voluntary Oaths, Affidavits, and Declarations,	323
————— from Home Department forwarding correspondence with the Court of Directors respecting levy of Port-dues at Singapore,	336

REPORTS BY THE CLERK. *Continued.*

Communication from Madras Government regarding sale of land for arrears of Ryotwar balances,	348
————— from Madras Government regarding abuse of authority by public Servants,	382
————— from Home Department on the subject of prohibiting the importation of Military Stores,	<i>ib.</i>
————— from Straits Government regarding amendment of Police Act XIII of 1856,	387
————— from Madras Government regarding education of Minors not subject to the superintendence of the Court of Wards,	<i>ib.</i>
————— from Bombay Government on the working of Special Appeal Act XVI of 1853,	422
————— from Home Department relative to an Act against demanding or receiving more than the authorized postage due on letters not prepaid,	431
————— from Home Department with Court's Despatch approving of the Governor General having withheld his assent to the Police and Conservancy (<i>Suburbs of Calcutta, and Howrah</i>) Bill,	433
————— from Bombay Government regarding levy of Port-dues under that Presidency,	434
————— from Madras Government regarding formation of Kurnool into a Zillah and Collectorate,	482
————— from Madras Government regarding levy of Port-dues under that Presidency,	488
Court's Despatch regarding amenability of European British subjects to the jurisdiction of the Mofussil Criminal Courts,	498
Communication from Government Central Provinces regarding a European British Subject charged with theft,	526

KYOTWAR BALANCES.

Communication from Madras Government regarding sale of land for ——— to be printed,	348
--	-----

S.

SACRILEGE. *See Penal Code.*SALE OF LAND FOR ARREARS OF REVENUE (*Bengal*) BILL.

Petition of Twenty-four Pergunnahs Zemindars, referred to Select Committee,	125
Petition of Missionaries, referred to Select Committee,	225
Correspondence with Bengal Government regarding Under-Tenures, referred to Select Committee,	240
Petition of British Indian Association, referred to Select Committee,	279
Petition of Womachurn Roy, referred to Select Committee,	522
Mr. Harington added to Select Committee,	524

SAMADUSKHUTS. *See Stamps.*SLAVERY. *See Penal Code.*

SMALL CAUSE COURTS (*Diet-money for Prisoners*) BILL.

Read 1 ^o ,	94
Read 2 ^o ,	126
Referred to Select Committee,	158
Bombay Government's communication referred to Select Committee,	239
Report of Select Committee presented,	310
Committee of whole Council,	331
Reported,	331
Read 3 ^o ,	337
Messenger,	345
Assent of the Governor General,	347

SMALL CAUSE COURTS (*Mofussil*) BILL.

Extract of Despatch from Court of Directors reported,	225
---	-----

SONTHAL DISTRICTS BILL. (*Amendment of Act XXXVII of 1855.*)

Read 2 ^o ,	11
Referred to Select Committee,	12
Petition of Bhaugulpore Zemindars referred to Select Committee,	13
Petition of Furruckabad and Sumsergunge Inhabitants referred to Select Committee,	106
Petition of Nonee and Hurreepore Inhabitants referred to Select Committee,	125
Petition of Kankjole, Ashwar, Sultanabad, and Nurai Inhabitants presented,	224
Report of Select Committee presented,	225
Committee of whole Council,	239
Reported,	<i>ib.</i>
Read 3 ^o ,	240
Messenger,	256
Assent of the Governor General,	268

SPECIAL APPEALS. See Appeals.

STAMPS.

Petition of Tannah Shop-keepers against requiring Samaduskhuts to be written on stamped paper, presented,	129
---	-----

STANDING ORDERS. See Orders.

SUBURBS OF CALCUTTA. See Municipal Assessment (——— and Howrah) Bill.
„ Police and Conservancy „ „ „

SURAT. NABOB OF———

Petition of Meer Jafir Ali Khan for amendment of Act XVIII of 1848 to be printed,	453
Bombay Government to be asked for copies of papers relating to the same Act,	519

T.

TAVERNS.

Petition of proprietors of —— &c. in Calcutta regarding Boarding and Lodging-house Licenses, to be printed,	525
---	-----

TERM PUNISHMENTS. See Dacoits.

TOBACCO (*Bombay*) BILL.

Report of Select Committee presented,	2
Committee of whole Council,	56
Reported,	57
Recommitted,	70
Reported,	71
Read 3 ^o ,	76
Messenger,	76
Assent of the Governor General,	93

TOWN-DUES ON MERCHANDIZE AND SHIPPING, AND ON TIMBER.

(See *Municipal Assessment (Bombay) Bill.*)

TRANSLATION OF ACTS AND BILLS.

Bengal Government's communication referred to Standing Orders Committee,	379
---	-----

U.

UNCOVENANTED AGENCY (*Madras*) BILL.

Report of Select Committee presented,	213
Committee of whole Council,	236
Reported,	<i>ib.</i>
Read 3 ^o ,	239
Messenger,	<i>ib.</i>
Assent of the Governor General,	246

UNDER-TENURES.

Correspondence with Bengal Government regarding ——— re- ferred to Select Committee on Sale of Lands for arrears of Revenue (<i>Bengal</i>) Bill,	240
--	-----

UNIVERSITY (*Bombay*) BILL.

Communication from Bombay Government reported,	159
First reading postponed,	167
Read 1 ^o ,	195
Read 2 ^o ,	213
Referred to Select Committee,	223
Standing Orders suspended to enable Select Committee to report after four weeks,	<i>ib.</i>
Bombay Government's communication referred to Select Com- mittee,	286
Report of Select Committee presented,	311
Committee of whole Council,	337
Reported,	<i>ib.</i>
Read 3 ^o ,	349
Messenger,	359
Assent of the Governor General,	360

UNIVERSITY (*Calcutta*) BILL.

Read 1 ^o ,	2
Read 2 ^o ,	14
Standing Orders suspended,	<i>ib.</i>
Referred to Select Committee,	<i>ib.</i>
Report of Select Committee presented,	16

UNIVERSITY (Calcutta) BILL. Continued.

Committee of whole Council,	26
Reported,	42
Read 3 ^o ,	<i>ib.</i>
Messenger,	<i>ib.</i>
Assent of the Governor General,	58

UNIVERSITY (Madras) BILL.

Read 1 ^o ,	240
Read 2 ^o ,	244
Referred to Select Committee,	322
Standing Orders suspended to enable Select Committee to report within eight days,	322
Report of Select Committee presented,	323
Committee of whole Council,	393
Reported,	407
Read 3 ^o ,	408
Messenger,	421
Assent of the Governor General,	422

V.

VICE-PRESIDENT. See Hon. J. A. Dorin.

VOLUNTARY OATHS, AFFIDAVITS, AND DECLARATIONS.

Communication from Madras Government, to be printed.	323
Ditto ditto, referred to Select Committee on Affidavits, &c. Bill,	381

VOLUNTEER CORPS BILL.

Standing Orders suspended,	331
Read 1 ^o ,	336
Read 2 ^o ,	<i>ib.</i>
Referred to Select Committee,	<i>ib.</i>
Report of Select Committee presented,	<i>ib.</i>
To be published as amended by Select Committee,	345
Committee of whole Council,	350
Reported,	357
Read 3 ^o ,	<i>ib.</i>
Messenger,	359
Assent of the Governor General,	360

Z.

ZEMINDARS. See Landholders.

