

Saturday, 13th October, 1855

PROCEEDINGS

OF THE

LEGISLATIVE COUNCIL

OF INDIA

Vol. I

(1854-1855)

Mr. GRANT gave notice that, at the first Meeting of the Council after the 13th inst., he would move the first reading of a Bill "to remove all legal obstacles to the Marriage of Hindoo Widows."

AMEENS (BENGAL).

Mr. CURRIE moved that Mr. Elliott, Mr. Allen, and himself be appointed a Select Committee on the Bill "to amend the Law respecting the employment of Ameens by the Civil Courts in the Presidency of Fort William." Agreed to.

NOTICES OF MOTION.

Mr. ALLEN gave notice that, on Saturday next, he would move the second reading of the Bill "to prevent the malicious or wanton destruction of Cattle."

Mr. PEACOCK gave notice that, on Saturday next, he would move the third reading of the Bill "relating to the Emigration of native laborers to the British Colonies of St. Lucia and Grenada."

Mr. CURRIE gave notice that, on Saturday next, he would move the first reading of a Bill "to amend the Law relating to the sale of under-tenures."

Mr. LEGGITT gave notice that, on Saturday next, he would move the first reading of a Bill "to amend Regulation XIII of 1827 of the Bombay Code."

The Council adjourned.

Saturday, October 13, 1855.

PRESENT :

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

Hon. J. A. Dorin,	C. Allen, Esq.,
Hon. J. P. Grant,	P. W. Leggitt, Esq.
Hon. B. Peacock,	and
D. Elliott, Esq.,	E. Currie, Esq.

The following Messages from the Most Noble the Governor General were brought by Mr. GRANT, and read.

MESSAGE No. 52.

The Governor General informs the Legislative Council that he has given his assent to the Bill passed by them on the 18th of August 1855, entitled a Bill "to facilitate the payment of small deposits in Government Savings' Banks to the representatives of deceased depositors."

By Order of the Most Noble the Governor General.

G. F. EDMONSTONE,
Secy. to the Govt. of India,
with the Governor General.

OOTACAMUND, }
The 19th September 1855. }

MESSAGE No. 53.

The Governor General informs the Legislative Council that he has given his assent to the Bill passed by them on the 18th August 1855, entitled "A 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."

By Order of the Most Noble the Governor General.

G. F. EDMONSTONE,
Secy. to the Govt. of India,
with the Governor General.

OOTACAMUND, }
The 19th September 1855. }

MESSAGE No. 54.

The Governor General informs the Legislative Council that he has given his assent to the Bill passed by them on the 18th of August 1855, entitled "A Bill for the repeal of the Usury Laws."

By Order of the Most Noble the Governor General.

G. P. EDMONSTONE,
Secy. to the Govt. of India,
with the Governor General.

OOTACAMUND, }
The 19th September 1855. }

ADMINISTRATOR GENERAL'S ACT.

THE CLERK reported that he had received from the Under-Secretary to the Government of India in the Home Department, a copy of a Despatch from the Honorable the Court of Directors in reference to Act VIII of 1855 "to amend the Law relating to the office and duties of Administrator General."

THE CLERK then read the Despatch, which was as follows :—

"OUR GOVERNOR GENERAL OF INDIA IN COUNCIL.

"We have received the proceedings of the Legislative Council under which you have recently passed Act No. VIII of 1855 'to amend the law relating to the office and duties of Administrator General,' which, in one important point, differs materially from the draft of an Act prepared under our instructions, and promulgated by you in February 1853. In the present Act, you have limited to three per cent. the commission to be charged by the Administrator General of Bengal, the whole of which is to be retained by him; whereas, in accordance with our orders, it was provided in the draft abovementioned, that a commission of five per cent. should be charged upon all funds received by him, whereof two-fifths were to be paid into the public Treasury for the purpose of defraying any expenses which might be incurred in India and in this country, consequent on the arrangements under which the Government became responsible for the safety of the funds administered by that officer.

"2. We think it right to apprise you that we are still of opinion that there is not any good reason for charging on an estate administered in the Presidency of Madras or Bombay, a commission larger than that charged on an estate similarly administered in the Presidency of Bengal. If there are valid reasons for not charging a larger commission than three per cent. in Bengal, these reasons must, in our opinion, be equally valid for not charging a larger commission in Madras or Bombay. On the other hand, if it is justifiable to charge a commission of five per cent. in Madras or Bombay, it is equally justifiable to make the same charge in Bengal; and we continue of opinion that, with reference to the advantages derived from the institution of the office of Administrator General, it is justifiable to levy on the estates administered by him the larger rate of commission.

"3. We are also of opinion that, whatever sum the commission which is charged on the estates may produce beyond the reasonable remuneration of the officers immediately entrusted with their administration, should, for the reasons stated at the conclusion of the first paragraph of this Despatch, be paid into the public Treasury.

"4. Therefore of the commission of five rupees in every hundred rupees to be charged on the estates coming under the care of the Administrator General of Bengal, three-fifths shall be for the expenses and remuneration of the Administrator General, his office, and establishment, and two-fifths shall be received by the public Treasury for the payment of the auditors, and all other such expenses incidental to the due execution of the office of Administrator General.

"5. The auditors, in their letter of the 19th March 1855, enclosed in your Despatch in the Financial Department of the 13th April, reported that the rules regarding the retention of cash, and the investment of funds in Government securities, and the lodgment of such securities in the General Treasury have been duly observed; and we remark that the cash in the

hands of the Administrator General of Bengal was only 1,052 rupees; but there were also with him promissory notes to the value of rupees 3,70,000; and rupees 1,75,364 still uninvested stood to his credit in the Bank of Bengal.

"6. The Administrator General ought not to be allowed to retain such large balances uninvested, or to keep in his possession the securities belonging to the estates administered by him; and some explanation on this subject ought to have been afforded by the auditors.

"7. Entertaining these views, we must disallow so much of the Act VIII of 1855 as is inconsistent with our present orders, which we desire may be strictly followed out; and we think it right to add that the passing of an Act founded on these directions, though it should lead to a diminution of the emoluments received by the Administrator General under a measure adopted in contravention of our instructions, will not be admitted by us as giving a just claim for any compensation."

MR. PEACOCK moved that the Despatch be printed.

SIR LAWRENCE PEEL said, as he should not have an opportunity of addressing the Council again, and as he had been a Member of the Select Committee to which the Bill was referred, he wished to say a few words in explanation of the principles upon which the Committee had proceeded in fixing the commission. It was thought by the Select Committee, on careful consideration of the subject, that the commission allowed by the Bill to the Administrator General in Bengal was sufficient—that it would give that officer a fair amount of remuneration, and would provide for the objects of the Act; and, entertaining that view, it had appeared to the Committee that they could not, with propriety, recommend to the Council a higher scale of commission as to Bengal. In the Presidencies of Madras and Bombay, it appeared that the amount of business done was considerably less; and a higher scale of remuneration was fixed as to them, because the lower one provided for Bengal would not have afforded a sufficient remuneration. If the Committee had fallen into any error, he was sure that the Select Committee of Members to whom this Despatch would be referred, would rectify it. He did not wish to raise matter of discussion, and he desired to speak with respect of the Honorable Court; but he claimed for the legislative body to which he had the honor to belong, independent action. The Honorable Court had the power to annul any Act which the Legislative Council might pass; but they had no power to send their orders to the Council to pass a particular measure.

MR. PEACOCK'S motion was then put and carried.

REPORTS OF SELECT COMMITTEES.

Mr. LEGEYT presented the Report of the Select Committee on the Bill "to facilitate the acquisition of lands needed for public purposes in the Presidency of Bombay." He said, the Committee recommended that the Bill should not be proceeded with, with a view to bringing in a general Act on the same subject applicable to all the Presidencies.

Mr. CURRIE presented the Report of the Select Committee on the Bill "for the better supervision of Embankments."

SALE OF UNDER-TENURES (BENGAL).

Mr. CURRIE postponed the motion, of which he had given notice for this day, for the first reading of a Bill "to amend the law relating to the sale of Under-tenures."

INSPECTOR OF PRISONS (BOMBAY).

Mr. LEGEYT moved the first reading of a Bill "to relieve the Court of Sudder Foudarry Adawlut at Bombay from the supervision of the Gaols in that Presidency." The existing laws in the Bombay Presidency, he said, placed the general control and management of the local prisons in the Sudder Court of Foudarry and the Judicial Commissioners who were Judges of that Court when on circuit. It had been found desirable, with the view of establishing a uniform system of prison discipline and reform, to place this control and management in the hands of an individual officer, who would act under the immediate orders of the local Government, and be designated Inspector General of Prisons. It had consequently become necessary to repeal those portions of the existing law by which the control and management of prisons throughout the Presidency of Bombay, with the exception of the prisons in the Presidency town, were entrusted to the Sudder Foudarry Adawlut; and this Bill had been prepared for that object. He had taken for its model the Act which was passed in 1852, when the control of the Police in Bombay was taken from the Sudder Foudarry Adawlut. It repealed certain words contained in Sections XVI and XXVI of Regulation XIII of 1827, and Section V of Regulation XVI of 1828, of the Bombay Code. These were all the alterations which it made. The provision of the existing law which vested the immediate charge of the prisons in the Sessions Judge, was left unchanged. That officer would continue to be

in immediate charge of the prisons, subject to the directions of the Inspector General, instead of, as at present, the Sudder Foudarry Adawlut.

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

The Bill was read a first time accordingly.

CONSERVANCY.

Mr. ELLIOTT moved the second reading of the Bill "for the Conservancy and improvement of the towns of Calcutta, Madras, and Bombay, and the several stations of the Settlement of Prince of Wales' Island, Singapore, and Malacca." In doing so, he said he would just observe, with reference both to this Bill and the Bill for regulating the Police of the Presidency towns and the Straits, that they were made up of details which did not generally involve questions of principle. If the Council would allow the Bills to be read a second time now and published, it was to be expected that the publication would elicit from the several local Governments and communities whom the measure would affect, expressions of opinion and suggestions of amendment and improvement which would greatly assist the Select Committee to whom the Bills might be referred for revision, in the performance of that duty, and would probably lead to considerable modifications of particular provisions. It might be considered that several provisions in the Bills—especially in the Police Bill—had been proposed tentatively—for the purpose of calling forth the expressions of public opinion upon them. Such were the provisions for the constitution of the office of Commissioner of Police, for the establishment of a Police Force, for divesting the Commissioner of Police of judicial functions, and for vesting him singly with the power of granting licenses. Licenses were to be granted by him for the sale of spirits or ardent liquors and intoxicating drugs, for keeping taverns and houses of public entertainment, for carrying on business as brokers and pawn-brokers, for the sale or keeping in deposit, and for the transit and carrying of gunpowder, and for the retail sale of poisonous substances. It was proposed to place the power of issuing licenses in the hands of the Commissioner of Police, because it was thought that that officer would have opportunities, in the ordinary exercise of his duties, for acquiring information regarding circumstances proper to be considered in the granting of a license better than the Justices of the Peace. There was also

the consideration that the Commissioner of Police would be most interested in the objects for which licenses were required—namely, the preservation of peace, the prevention of crime, and the protection of morals. With regard to the sale of intoxicating liquors and drugs, the Collector who issued excise licenses had to consider only the advancement of the Revenue. The Commissioner of Police would have also to consider the interests of order and morality, he being responsible for the peace and character of the town or station; and he would, therefore, be careful to see whether the licenses applied for would be used to the prejudice of those interests, or otherwise—whether the applicants were likely to conduct their business in a manner that was conducive to good order and public morality. Justices of the Peace, or Magistrates, only hearing cases on the Bench, had not the means of acquiring information respecting circumstances which required consideration before the granting of a license. They must be in ignorance of them.

With regard to the trade of brokers and pawn-brokers, it was understood that the shops kept by such persons were the great receptacles for stolen property. *Bickree-wallahs* were the men who gave the greatest encouragement to small thefts in houses by domestic servants, by the facility which they afforded to servants in disposing of what they stole. It was thought that the power of supervision over the shops of these persons was best vested in the Commissioner of Police. He would have cognizance of them by their taking out licenses, and the law would subject all who held licenses to a certain surveillance, as provided in the Bill. The provisions requiring brokers and pawn-brokers to take out licenses had been adopted from an English Act.

Again, with respect to the retail sale of poisonous substances, if it was proper to impose any check upon that trade, which it certainly was, the Commissioner of Police seemed to be the fittest person who could be empowered to impose it, as being the person best able to ascertain to whom it would be safe to confide the right to sell.

All these provisions, however, together with others contained in the two Bills, would be considered by the Select Committee, with the advantage of such suggestions as might be received from the authorities or the Public in the different Presidencies and the Straits Settlement; and it might, therefore, be the more convenient course to defer discussion

Mr. Elliott

upon them until they should come before the Council in Committee.

With these observations, he begged to move the second reading of the Bill “for the conservancy and improvement of the towns of Calcutta, Madras, and Bombay, and the several stations of the Settlement of Prince of Wales’ Island, Singapore, and Malacca.”

SIR LAWRENCE PEEL said, he had a few observations to make upon this Bill, but would reserve them until the Bill which stood next to it on the paper, should come under consideration. The subject was of the same nature; and he did not think it necessary to occupy the time of the Council by remarking upon each Bill separately.

MR. ELIOTT’S motion was then put and carried, and the Bill was read a second time accordingly.

POLICE.

MR. ELIOTT next moved the second reading of the Bill “for regulating the Police of Calcutta, Madras, and Bombay, and the Settlement of Prince of Wales’ Island, Singapore, and Malacca.”

SIR LAWRENCE PEEL said, he did not rise for the purpose of offering any opposition to the motion for the second reading of this Bill; nor did he know that he should have troubled the Council with any observations at this stage of the measure, had he seen a probability of any other opportunity for expressing his sentiments upon it.

With regard to the main or leading feature of the Bill—namely, the separation of the duties of Superintendent of the Executive Police from those of the Justices of the Peace acting judicially—he entirely agreed in its propriety. It seemed to him to proceed upon the right principle, the object being to have, as much as possible, division of labor with unity of government. It was based, in a certain degree, upon what had taken place in England some years ago, when the new Police was established. At that period, the whole constabulary and watch force in the metropolis was upon the worst possible system. Each parish provided its own Police; and there was a total absence of unity of system. The main object considered was economy—a false economy; and even in the same parish, it often happened that they were divisional establishments and separate systems. To rectify this, the whole Police of the metropolis, excepting the city of London, which was jealous of any interference with it, was placed

under the direction of two gentlemen—one a military officer of reputation, Colonel Rowan, the other a barrister of the Northern Circuit, Mr. Mayne, now Sir R. Mayne. He believed that both of these gentlemen were placed on the Commission of the Peace; but, except on extraordinary occasions, when it might be necessary to act as conservators of the peace, neither acted in that capacity. The present Bill proposed to follow out that plan here; for it provided that the Commissioner of Police should also be a Justice of the Peace, but he was to exercise his powers in that capacity only so far as might be necessary for the conservation of order, the prevention of crime, the detection and apprehension of offenders, and the performance of the duties that especially belonged to a Justice of the Peace under the first assignment of the Commission. The separation of executive from judicial powers appeared to him to proceed upon quite a correct principle. But he did not see the advantage of giving to the Commissioner of Police any other duties than those of superintending the Police that would be under his control; and the Bill, so far as it gave him judicial duties, was repugnant to its own principle, in his opinion. The selection of persons for the Police force, the framing of the rules to which that force was to be subject—rules which, he observed, the Commissioner of Police would frame under the check of the local Government—the period for which the persons selected were to serve, directions to guide them in the discharge of their duties, a visitatorial and corrective power over them, and other matters relating to the force itself, were best placed in the hands of the officer who would be the immediate head of the Force; and he thought that the Justices of the Peace ought to have nothing at all to do with the government of the force. It was doubtless matter of objection that, if the Police force were altogether taken away from under the control of the Justices of the Peace, there might be reason to fear that the men composing that force might lose respect for them in some degree. Perhaps, however, that might be only a visionary fear, and the evil was, in his mind, counterbalanced by the great advantage of unity of direction. But when he found that the Bill vested the Commissioner of Police with very large powers not relating to the government of the force—powers which were new here, and for which he would be practically irresponsible, he asked himself whether there was anything in the circumstances of the country,

or the condition of the people, to justify the placing of them in that officer's hands? There was no provision at all that his decisions, in the exercise of these powers, should be subject in any respect to review: there was no provision at all that his proceedings should be held under the wholesome safeguard of publicity, or that his opinions should be subject to revision by any other body. All those functions which would relate immediately to the preservation of order, the prevention of crime, and the detection and apprehension of offenders, would come within the scope of his duties either as Commissioner of Police or as Justice of the Peace, which office he was also to fill; and this was all that was needed for the immediate preservation of order. But the Bill also gave him the new and wide power of granting licenses to particular trades; among others, to the trade of dealing in second-hand property. It was said that to subject this trade to the system of licensing, was justifiable, because it was often used for the purpose of making away with stolen property. Probably, it was often so used. Probably, itinerant vendors of second-hand goods might often receive and dispose of articles which they were conscious had been stolen, and in this way gave an encouragement to the commission of thefts. But he did not see any necessity for subjecting *all* dealers in second-hand articles—which he understood to mean articles of any description which had once been in use and were then sold—to the system of licensing. The terms of the Bill were quite wide enough to apply to respectable houses of business, such as those of Tulloh and Co., Mackenzie, Lyall, and Co., and others, by whom the necessity of taking out a license would be felt as a degradation and an annoyance. If all such tradesmen and brokers were required to take out licenses, they might with reason ask—"Why should a license be required of us, when our neighbour, who is an agent or broker for an importer, takes out none?"

He knew the difficulty of defining beforehand a class of persons or things, so as to make the inclusive and exclusive exactly what it should be: but he thought that the line might be more carefully drawn. If the practice of disposing of stolen property in this mode was common, the evil might be met by giving a limited power of search to the Police. He knew not that it was necessary, but it appeared to him that that would be quite sufficient for the contemplated object of checking the alleged practice of receiving

and disposing of stolen property. From what he had seen of the licensing system in England, he much doubted if it answered the ends for which it was intended. The hawk's license, indeed, was not originally insisted on in England for the purpose of preventing crime, but had its rise in totally different reasons. He would defy anybody looking at the Police Reports of any town in England, to say that the previous license of certain dealers had diminished thefts or the receipt of stolen goods. Not only was its power in this respect, in his opinion, nugatory, but it would be open to great abuse in this country. Every interference with the freedom of trade and with free action was in itself an evil, and the proof of the necessity for it lay on the proposers of any new law giving the right of such interference. In boroughs and counties in England, the Magistrates acted for divisions and places of limited extent, and were, from their habits, acquainted with most of the people over whom they exercised power; so that, when representations were made to them against individuals, they, in general, had good means of ascertaining whether they had any foundation in truth or not. In this country, where the bulk of the people were the natives, such representations would generally be against natives, and natives of the lower order, who would themselves be defenceless to a certain degree—certainly in a far inferior degree to those of the same rank at home. The Commissioner of Police would not know, and could not be expected to know, anything about them. He would have to rely upon the information of others, his subordinates. Now, he (Sir Lawrence Peel) was inclined to think that a man who habitually gained his livelihood by selling stolen goods, and who was nevertheless not notoriously one of that class, might by a little bribery be pretty sure of his license; for the persons who would be the channel of information to the Commissioner of Police would be persons in subordinate positions, and often in the receipt of very small pay, and could not be said to be an incorruptible body. Those who needed a license would know that *bucksheers* was expected from them, and might fear that, if they did not see, they would be represented unfavorably; and if such unfavorable representations were made, the applicant would not know of it, and if he by chance discovered it, he would not have the right of bringing it to the test of public inquiry, for the Bill provided none. In so far as the power of licensing given related to houses kept up for

the sale of ardent liquors, or intoxicating drugs or liquors, he did not ask to have it interfered with; but he saw no necessity for a double license; and he must say that he regarded with jealousy and distrust any extension of the licensing system. It was to be remembered that, in this Bill, the Council was asked to legislate for the Presidency towns where the English Law prevailed, and wherein were many people jealous of whatever would be an encroachment upon their privileges. Could it be said that there was any thing in the condition of the people of these places to require the creation of this power in the Commissioner of Police? On the contrary, the fact was that the people here were more tractable and more submissive to authority than people in English towns of the same size; and crime was certainly not greater in this town than in towns of the same population there. Deeming, as he did, every interference with trade and freedom of action as mischievous in itself, he was opposed to the new and wide power of licensing which the Bill gave to the Commissioner of Police.

But if this licensing system was to be adopted, it should be subjected to strict revision. As the Bill now stood, the Commissioner of Police might withhold a license, and the applicant, if he felt himself aggrieved, could do nothing against the refusal. Nothing in the shape of an appeal was given. He (Sir Lawrence Peel) should much prefer to this that the Justices of Peace should, at stated times, hold a licensing Sessions; so that the presence of several might prevent the applicant from being subjected to the operation of any prejudice, which a single officer might possibly imbibe, but which a little discussion might remove. It would be perfectly easy to establish a licensing Sessions; and then a refusal to grant a license would be subject to some check. This Bill, as it stood, provided no check whatever.

He thought that it was unwise to put precedent bars to the exercise of a calling. Was it not the policy, the true policy, of rules to make punishment, if possible, reformatory of the individual, since its main object was to deter him from a repetition of the same or of other offences? But was it consistent with this to say, in substance, that none but persons of good character should be licensed to trade? If a person had fallen into the disesteem of the society in which he lived, ought he to have no means of reformation open to him—if, from your jealousy of his preying on society as a dealer of articles sold

Sir Lawrence Peel

at second-hand, you refuse to let him so trade, why not set up a bar against him in every description of trade? But if you thus dealt with him, because he had a bad character, you would force him to do what? Why, necessarily to prey upon the community. And thus, this jealous licensing system would directly defeat its own object.

For these reasons, and for others which had occurred to him but which escaped him at that moment, it seemed to him (Sir Lawrence Peel) that the power proposed to be conferred in this respect by the Bill, while it would be entirely new in its application here, was hardly likely to be productive of good results; and he objected to its being conferred.

There were some other provisions in the Bill which were of a beneficial nature, but it seemed to him that they did not go far enough. Such was the provision giving power to a Police officer to follow a suspected criminal into the Mofussil. The Bill merely gave that power in case the Police officer was armed with a warrant under the hand and signature of the Commissioner of Police. He (Sir Lawrence Peel) thought that this did not go far enough. If the Police officer had time to apply for and obtain a warrant, of course he might do so; but he frequently might not have time, and, in such cases, there was no reason why the person pursued should be suffered to escape by merely crossing the boundary. This power should, he thought, exist in all cases of fresh pursuit, whether into the Mofussil, or into the Presidency town.

Another provision which was desirable, but which, it appeared to him, should also be extended, was that which related to the moveable property of persons dying intestate, and leaving property without any proper persons to guard it. The Bill said, in such cases the Police might take charge of the property, provided its value was under 200 rupees; and it empowered the Commissioner of Police to deliver the property to any person claiming it, after holding a species of judicial investigation upon the question of his title. Now, it had happened before, and it might happen again, that persons died intestate leaving very considerable moveable property, but no relations to claim it, and that the property became *looted* (plundered). In such cases, he would authorize the Police to take charge of the property, placing it under seal or proper guard, and would require them to report the matter to the Commissioner of Police, who should refer the case

to the Administrator General when it exceeded a certain amount. Where the value of the property was small and below that amount, he would require the Commissioner of Police to refer the case to a Justice of the Peace, who should dispose of it judicially by deciding in a summary way on the title. In that manner, the judicial power of deciding upon claims would be retained in the hands of a Justice of the Peace, which he (Sir Lawrence Peel) considered very desirable. He would not devolve any judicial duties on the Commissioner of Police. The policy of the Act was to keep executive and judicial functions entirely distinct.

Then, as to the power of summary conviction, he thought that the Legislature had, generally speaking, made a mistake in giving to a *single* Justice of the Peace the power of convicting summarily in so many instances. This Bill introduced a provision extending that power to several new offences. For his own part, he had no objection to this extension of the summary jurisdiction: the cases brought under it by the Bill were nearly allied to larceny; but he thought that some of these new offences might occasionally present legal difficulties. When a Justice of the Peace was dealing with a case which he must commit for trial to, the higher tribunal, there could be no objection to his acting separately; but where the case was one of summary conviction, and the punishment might be imprisonment for six months, or fine, or both, and the conviction might even be of a felony, it appeared to him that the power ought to be exercised with great care and caution, and with something more of solemn proceeding than ordinarily obtained. It would be much better that two Justices, at least, should sit together in all such cases, and that, if there was a gentleman of the Bar in the Commission, he should be one of a quorum in such cases—that is, necessarily a member of the Court.

These were all the observations which occurred to him at present to make on the more important provisions of the Bill. He had some remarks to offer upon minor points and matters of detail, but he would record them in a note, which he would leave with Sir James Colville. To the main principle of the Bill, he entertained no objection whatever. Mr. PEACOCK said, he was sure that every Member of the Council must feel indebted to the Honorable Members who composed the Select Committee for the great labor, care, and attention which they had given to the preparation of this Bill, and of

the Bill for the conservancy and improvement of the Presidency towns and the Straits Settlement. To the general principle of the Bills, he (Mr. Peacock) was not in any way opposed; but he desired to guard himself against being supposed to approve of all the provisions which they contained. It was quite impossible that Bills ranging over so many subjects, should, in all their details, meet the views of every other Member of the Council. He fully agreed with the Honorable and learned Chief Justice in his observations on the power of issuing licenses which the Police Bill proposed to confer on the Commissioner of Police. He believed there were many very respectable persons, both European and Native, carrying on the business of brokers and dealers in second-hand goods; and it would be too much to say, as this Bill proposed to do, that no person was to follow the trade unless he should have obtained a license for that purpose. For his own part, he did not exactly see what good end the licensing system would serve. If a dealer in second-hand goods was a receiver of stolen property, a license would not prevent him from continuing to receive such property.

MR. ELIOTT observed, it would make him subject to the provisions of the Act.

MR. PEACOCK replied, still it appeared to him too much to say that no person should carry on the business of broker or dealer in second-hand goods unless he had a license. Tradesmen of the highest respectability carried on such business in this country in books, plate, &c.; and surely it could never be said that they must shut up their shops unless they took out licenses from the Commissioner of Police!

He considered it unnecessary, however, to argue upon this point. The Select Committee to whom the Bill would be referred, would doubtless fully consider it; and if the provision should be retained, the whole question involved in it, as also other matters of detail, would be open to discussion when the Bill should come before a Committee of the whole Council. Of the general principle of the Bill, he highly approved.

MR. ELIOTT'S motion was then put and carried, and the Bill was read a second time accordingly.

LAND REVENUE OF THE TOWN OF MADRAS.

MR. ELIOTT moved the second reading of the Bill "to amend Act No. XII of 1851 (for securing the land revenue of Madras)".

Mr. Peacock

MR. PEACOCK said, he had some doubts whether this Bill ought to be passed, though it was not his intention to oppose the motion for the second reading. From the Statement of Objects and Reasons annexed to the Bill, it appeared that originally, and up to the year 1828, land in Madras was held under grants from Government which were in the form of a lease, reserving a power of re-entry for non-payment of the rent or revenue reserved. In 1828, a new form was substituted, which contained no provision for re-entry, but in which the Government reserved to themselves quit-rent in the nature of revenue, and a power of distress. With respect to the grants made prior to 1828, the Government did not require the power which this Bill proposed to provide. But with respect to the form introduced since 1828, Government having omitted to insert in it a clause authorizing re-entry, the Council was now asked to add to it a term by which the Government were to have the power of re-entry and sale for arrears of revenue. A person holding a large extent of land, and under a grant in the form brought into use since 1828, might have under-let portions of the land, and the under-tenants might have erected houses or other valuable property upon their own parcels. If arrears of revenue became due from the original grantee, the Government might, under this Bill, come in and sell not only the portion of land that remained in the possession of the original grantee, but also the portions that belonged to the under-tenants. This would be a great hardship upon the under-tenants; for they would have taken their leases, and erected their buildings or made their improvements upon the faith of the terms of the grant to the original grantee, which gave to the Government the power only of distress, and not of re-entry and sale of the land. He doubted, therefore, very much whether the Council ought to pass this Bill. He did not intend to oppose the second reading. He had rather that the Bill should be published for consideration. He might mention that a clause of the same kind had been originally submitted to the Government of India in reference to Act XXIII of 1850 for Calcutta, and that the Government of India thought it right to reject it. It was unnecessary to go minutely into the question. He merely threw out these remarks for consideration, and in order to guard himself against the conclusion that, because he did not oppose the motion for the second reading, he must necessarily vote for the third reading of the Bill.

MR. ELIOTT said, the opinion of the Advocate General at Madras had been taken upon the question whether there was any legal objection to passing an Act to the effect of that which was now proposed; and, having full cognizance of the terms of the documents referred to by the Honorable and learned Member (Mr. Peacock), he had said that he was not aware of any obstacle to the passing of such an Act. The attention of the Advocate General, it appeared, had been particularly drawn to the change in the form of the documents which had been made in 1828, which the Honorable and learned Member (Mr. Peacock) had made the subject of remark. He (Mr. Elliott) apprehended that the provision that, in default of payment of the rent stipulated for, the officers of Government might enter and distrain for the same, was intended to point out the process which was to be used primarily; while the declaration that the rent was "in lieu of, and as and for a commutation of the Circar's share of the produce" seemed to intimate that the ordinary ultimate security for the dues of the Circar by sale of the land was held in reserve.

The Honorable Member's motion was then put and carried, and the Bill was read a second time.

DESTRUCTION OF CATTLE (BENGAL).

MR. ALLEN moved the second reading of the Bill "to prevent the malicious or wanton destruction of Cattle."

Motion carried, and Bill read a second time accordingly.

EMIGRATION TO ST. LUCIA AND GRENADA.

MR. PEACOCK moved that the Bill "relating to the emigration of native laborers to the British Colonies of St. Lucia and Grenada" be now read a third time and passed.

Motion carried, and Bill read a third time.

DESTRUCTION OF CATTLE (BENGAL).

MR. ALLEN moved that the Bill "to prevent the malicious or wanton destruction of Cattle" be referred to a Select Committee, consisting of Mr. LeGeyt, Mr. Currie, and the Mover.

Agreed to.

LAND REVENUE OF THE TOWN OF MADRAS.

MR. ELIOTT moved that the Bill "to amend Act No. XII of 1851 (for securing the land revenue of Madras)" be referred to a Select Committee consisting of Mr. LeGeyt, Mr. Currie, and the Mover.

Agreed to.

CONSERVANCY AND POLICE.

MR. ELIOTT moved that the Bill "for the conservancy and improvement of the towns of Calcutta, Madras, and Bombay, and the several stations of the Settlement of Prince of Wales' Island, Singapore, and Malacca" be referred to a Select Committee consisting of Mr. Allen, Mr. LeGeyt, Mr. Currie, and the Mover.

Agreed to.

Also the "Bill for regulating the Police of Calcutta, Madras, and Bombay, and the Settlement of Prince of Wales' Island, Singapore, and Malacca."

Agreed to.

MESSENGER.

MR. PEACOCK moved that Mr. Grant be requested to carry the Bill "relating to the emigration of native laborers to the British Colonies of St. Lucia and Grenada" to the President in Council, in order that it may be submitted to the Most Noble the Governor General for his assent.

Agreed to.

NOTICES OF MOTION.

MR. CURRIE gave notice that he would, at the next Meeting of the Council, move for a Committee of the whole Council on the Bill "for the better supervision of Embankments."

MR. LEGEYT gave notice that he would, on the same day, move the second reading of the Bill "to relieve the Court of Sudder Foujdarry Adawlut at Bombay from the supervision of the Gaols in that Presidency."

MR. PEACOCK gave notice that he would, on the same day, move the first reading of a Bill "to limit the liabilities of partners."

ADJOURNMENT.

MR. DORIN rose to make the usual motion for adjournment. In doing so, he said, in consequence of the approaching Native holidays, it would not be convenient for the

Council to meet this day week. Perhaps Honorable Members would prefer a longer recess than the period to which the holidays would extend ; and as the expected return of the Governor General would not leave Government House much longer available for the Council, and the Home Office, which was still under repairs, would not be ready for some time to come, and it would be necessary to provide other accommodations, he should move an adjournment until the 10th of November next.

The motion was agreed to, and the Council adjourned accordingly.

Saturday, November 10, 1855.

PRESENT :

The Honorable J. A. Dorin, Senior Member of the Council of India, *Presiding*.

Hon. J. P. Grant, D. Elliott, Esq.,
Hon. B. Peacock, P. W. LeGeyt, Esq., and
Hon. Sir J. W. Colville, E. Currie, Esq.

THE CLERK presented the following Petitions :—

MILITARY ORPHAN SOCIETY.

A Petition from the Managers of the Military Orphan Society, praying for the passing of an Act to enable them to be registered as a corporate body, and to be empowered to sue, and be sued in the name of their Secretary for the time being ; and submitting the Draft of a Bill for the purpose.

MR. PEACOCK moved that the above Petition be printed.

Agreed to.

DISTRICT MOONSIFFS' ESTABLISHMENTS (FORT ST. GEORGE).

A Petition of Vudlamunnaty Venkatachellem, District Moonsiff of Ellore, submitting the draft of a Bill relating to the Ministerial Establishments of the District Moonsiffs.

SMALL CAUSE COURTS.

A Petition from the same, relative to the Bill "for the more easy recovery of small debts and demands."

CIVIL PROCEDURE.

A Petition from Golam Botool Tomkin, Moonsiff of Amdurah, in Zillah Beerbhoom, submitting the draft of an Act for improving the procedure in the Civil Courts.

Mr. Dorin

INHERITANCE OF LANDED PROPERTY.

A Petition from Sibnarain Chuttopadhya, a Vakeel of the Sudder Court at Calcutta, suggesting the passing of an Act to amend Regulation XI of 1793.

PETITION OF COTTAH KITCHENNAH CHETTY.

A Petition of Cottah Kitchennah Chetty, praying for the reversal of an order passed by the Sudder Adawlut at Madras, on an appeal preferred by him from a decision of the Civil Court of Salem.

THE PRESIDENT said, this was a Petition which the Council could not receive. It related to a matter not connected with the business of the Council, and must be rejected.

SMALL CAUSE COURTS.

THE CLERK reported to the Council that he had received a communication from the Secretary to the Government of the North-Western Provinces, relative to the Bill "for the more easy recovery of small debts and demands."

MR. ELIOTT moved that the papers reported this day by the Clerk, relative to the above Bill, be printed.

Agreed to.

DISTRICT MOONSIFFS' ESTABLISHMENTS (FORT ST. GEORGE).

MR. ELIOTT next moved that the Petition of Vudlamunnatty Venkatachellem, District Moonsiff of Ellore, submitting the draft of a Bill relating to the ministerial establishments of the District Moonsiffs, be printed.

Agreed to.

LIMITATION OF SUITS.

MR. ELIOTT moved that a communication received by him from the Chief Secretary to the Government of Fort St. George, relative to the Bill "to provide for the acquirement and extinction of rights by prescription, and for the limitation of suits," be laid upon the table, and referred to the Select Committee on the Bill.

Agreed to.

MARRIAGE OF HINDU WIDOWS.

MR. GRANT said, he was sorry he must postpone the motion (of which he had given