Saturday, 29th September, 1860

PROCEEDINGS

OF THE

LEGISLATIVE COUNCIL OF INDIA

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tion for a term which may extend to seven years, and shall also be liable to fine."

Agreed to.

Section 12 (against counterfeiting a device or mark used for authenticating documents described in Section 6, or against possessing counterfeit marked material), was passed after the substitution of transportation for life, or imprisonment for seven years, for imprisonment for ten years, as the punishment for the above offences.

Section 13 was passed after the substitution of seven for two years' imprisonment for counterfeiting a device or mark used for authenticating documents other than those described in Section 6, or for possessing counterfeit marked material.

Section 14 related to the fraudulent cancellation, destruction, &c., of a will, and Section 15, of a valuable security; the former providing imprisonment for ten years and fine, and the latter imprisonment for three years and fine, as the punishment for the offences of which they severally treated.

The Sections were incorporated together, the incorporated Section running as follows:—

"Whoever fraudulently or dishonestly or with intent to cause damage or injury to the public or to any person, cancels, destroys, or defaces, or attempts to cancel, destroy, or deface, or secretes or attempts to secrete any document which is or purports to be a will or any authority to adopt a son, or any valuable security, or commits mischief in respect to such document, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine."

Sections 16 to 20 were passed as they stood.

Sections 21 and 22 were passed after verbal amendments.

Section 23 was passed after the substitution of three years for two years' imprisonment for fraudulently making or having possession of any die, plate, or other instrument for counterfeiting any public or private property or trade-mark.

Section 24 was passed as it stood.

Section 25 was passed after the substitution of three years for one year's imprisonment for fraudulently making a false mark upon any package or receptacle containing goods.

Sections 26 and 27 were passed as they stood.

The consideration of the Code was then postponed, and the Council resumed its sitting.

The Council adjourned.

Saturday, September 29, 1860

PRESENT:

The Hon'ble the Chief Justice, *Vice-President*, in the Chair.

Hon'ble Sir H. B. E. Frere,
Hon'ble C. Beadon,
H. B. Harington, Esq.,
A. Sconce, Esq.,
Hon'ble Sir C. R. M. Jackson,
and
C. J. Erskine, Esq.

GRANTS OF LAND.

THE CLERK reported to the Council, that he had received from the Home Department, an Extract from the Proceedings of the Government of India, relative to the proposed enactment of a law regarding the extension of the provisions of Act VI of 1849, to grants of land for services rendered to the State, or in support of titles conferred by Government.

SIR BARTLE FRERE moved that the above communication be printed.

Agreed to.

RAILWAYS.

MR. ERSKINE presented to the Council a further communication which he had received from the Bombay Government relative to the Bill "to amend Act XVIII of 1854 (relating to Railways in India)," and moved that it be printed and referred to the Select Committee on the Bill.

Agreed to.

PORT-DUES (CALINGAPATAM AND MUNSOORCOTTAH).

MR. HARINGTON said, the Honorable Member for Madras being

he regretted to say, prevented by indisposition from attending the Council to-day, had asked him to solicit the Council to allow the Motion for the first reading of the Bill "for the levy of Port-dues at Calingapatam and Munsoorcottah within the Presidency of Fort St. George" to be postponed until the next Meeting of the Council.

POLICE.

SIR BARTLE FRERE, in moving the first reading of a Bill "for the better regulation of Police," said that the pressure of business upon the Legislative Council, so shortly before its adjournment, compelled him to be very brief in stating the views of Government on this measure, which he believed was second in importance to few at this moment. The Council was aware, from what had repeatedly been mentioned by Mr. Wilson in the course of the current year, that there was no portion of the civil expenditure of Government which had more rapidly increased of late years, none into which searching enquiry was more necessary and where economy was more possible, than in the Police and semi-Military charges. The attention of the Government of India had long been directed to this subject, in the belief that greatly increased efficiency was not only compatible with, but essential to, greater economy in this branch of the expenditure. In this belief the Government of India desired, before the Council adjourned over the holidays, to lay before the Council a number of papers relating to the appointment and labors of the Commission which was now sitting on the subject of the general Police of India, with the present Bill which was founded on the report of that Commission. It was proposed that this Bill should, if the principle be approved by the Council, be read a second time, so as to go forth to the public for the criticism of those who were best able to offer an opinion on the subject, and it was hoped that, by the time the Council re-assembled, we should be in a position to proceed with advantage in the further discussion of such an important measure as a general law for the regulation of Police.

It was necessary that he should offer a few brief remarks on the history of Police reform in India during the last quarter of a century. It would be in the recollection of Honorable Members of this Council, that up to a recent period, the Magistrate was charged with the oversight of the Police of his district, and this had been the practice for upwards of half a century. The consequence was that, as business increased, the Magistrate gradually became a Judicial Officer with very extended powers, and was little able to give his Police that exclusive attention which was absolutely requisite to keep it efficient. About the time of Lord William Bentinck, complaints of the inefficiency and corruption of the Police in all our Regulation Provinces became universal. The complaints were generally that, whether few or many in proportion to the population, the Police was everywhere oppressive and corrupt, undisciplined and ill-supervised. The superior Officers and Magistrates were either inefficient Superintendents of Police, or if active as Police Officers, apt to be biassed as Magistrates. The earliest attempts at reform were made in the Presidency towns by appointing Superintendents of Police separate from the Magistrates, and it was observable that the result had been invariably such as to demonstrate the soundness of the principle of that separation. He thought that any body coming to Calcutta, where the Police and Judicial duties of sitting Magistrates had long been separated, must be struck with the general efficiency of the Police. In Bombay great insecurity of life and property prevailed for some time until Lord Clare about 1832 or 1833 reformed the Police by appointing separate Officers as Superintendents of Police, and separate sitting Magistrates to try cases that were brought up. This measure was coupled with the appointment of non-official Justices of the Peace, both native and European. These gentle-

men had discharged the duties entrusted to them in a very satisfactory manner, and it had been found that the change had been attended with excellent results as regarded the administration of justice in Bombay, where a very general interest was taken in the matter by the non-official public. His Honorable and learned friend opposite (Sir Charles Jackson) would recollect numerous instances of the efficiency of the Police under Mr. Forjett, which was as high as could be expected of any Police in India. He (Sir Bartle Frere) would instance the suppression of the Bunder gang which had for some time entirely baffled the efforts of the Police. During the mutiny, Mr. Forjett was successful in maintaining public confidence in the Government throughout the native town, in a manner which would serve as an example in any European country. He (Sir Bartle Frere) mentioned these instances in illustration of the value of one great feature of the measure which he was about to lay before the Council, that is, the entire separation of the Executive Police from all immediate subordination to the sitting Magistrate and from all judicial functions.

The first real attempt to reform the Mofussil Police was made in Sind by Sir Charles Napier. Immediately after the conquest of that province, he drew up a plan, on the model of the Irish Constabulary, which though complete from the first, was the result of long thought. Its characteristics were separate organization, complete severance of Police and judicial functions, complete subordination to the general Government, and lastly, discipline not in the nature of parade, but as far as was necessary to effective organization. His plan was adapted to the local village system as then prevailing in that Province, and since its introduction nothing could have been more efficient than the Police. It was at first received with great distrust by the civil officers, a feeling in which he (Sir Bartle Frere) must say he at first shared, but its results were such as to convert the most sceptical among them. He might enumerate the total suppression of organized violent crime, the entire absence of dacoities or highway robberies, and the check to the very prevalent crime of cattle-stealing, all which testified to the soundness of the principle of the measure. Nothing could have been better than the conduct of the Sind Police during the mutiny, and for that and the general efficiency of that Police the thanks of the Government had repeatedly been conveyed to Major Marston, the Captain of Police who had belonged to it since its first formation under Sir Charles Napier. The plan was approved by Lord Ellenborough who was then Governor-General of India, and he ordered its extension to the North-Western Provinces. Three Police corps were raised to relieve the Military of the Civil duties previously performed by them. Lord Ellenborough however left India and there the reform stopped. Shortly after, Sir George Clerk, who came out as Governor of Bombay, visited Sind in 1847. He instantly recognized the value of the Sind Police and commenced reforms on a similar principle in Bombay. He (Sir Bartle Frere) would refer to the great value of Sir George Clerk's opinion, as affording an ample answer to the usual objection, that this system might do very well for England and Europeans, but was not adapted to this country. He believed there was no man living whose opinion was entitled to greater respect on such a question than Sir George Clerk, whether as regarded his intimate knowledge of the natives, or his sympathy with their wants and wishes, and his tact and discrimination in dealing with them. Shortly afterwards the lamented Sir Henry Lawrence was appointed Chief Commissioner of the Punjab after the annexation of that Province, and he commenced upon the re-organization of the Police very much on the same plan adopted in Sind. Unfortunately, however, the original was departed from in many particulars, and a double system of Police created, namely, first, the employment of an unorganized

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body of Burkundauzes under the Deputy Commissioners as Magistrates, and secondly, the formation of Police Corps under the control of the Chief Commissioner, doing no real Police work, but exclusively employed as Jail and Treasure Guards and on other duties which had previously devolved on the regular army.

This system was effective but very costly. The Police Corps were in fact a second Civil Army. This was an objection to them as a Police, but it was very fortunate for India that the mistake—for it was a mistake as far as regarded their Police duties—was made, for it was these Corps which so materially assisted Sir John Lawrence to hold the Punjab and to retake Delhi. Still they were a very expensive addition, whether looked on in connexion with the Police or the Army.

The Punjab Police was, he believed, the model for the Police Corps and levies which had grown up in the North-Western Provinces since 1857, and which now formed so serious a charge on the finances, and also for the Police Corps which existed in Oude before the mutiny.

He would now turn to Oude. The day after the fall of Lucknow, Sir James Outram, under instructions from the Governor-General, desired Colonel Bruce to submit a scheme for Police, which he did on the Sind model, on the 23rd March 1858. When Sir Robert Montgomery succeeded, we only held the capital, and the country had still to be subdued. He ordered Colonel Bruce to raise a Police to aid in the first instance in that object. In June 1858, three thousand cavalry in five regiments, and twelve thousand Infantry in fourteen regiments, were ordered to be ready to take the field with Lord Clyde by the 1st October 1858. This was done. They occupied the country as the army passed over it, were engaged in eighteen actions, and lost one European officer and thirty-seven men killed, one hundred and seventy-six men wounded, and one hundred and ninety-two horses, casualties. On the 1st January 1859, Sir Robert Montgomery decided that the country having been thoroughly subdued, the Police should have a less Military character, and be made a purely Civil body on the principle of entire separation from the Military on the one hand, and from the Judiciary on the other. Within two months this was done. Colonel Abbott organized a Constabulary for Lucknow on the model of the London Police, and large numbers of Nujeebs and Burkundauzes were absorbed. The success of the measure was so great, and tranquillity so complete, that on the 21st July 1859 the Commissioners proposed a reduction of eleven lakhs per annum, the Theseel establishment being simultaneously reduced. The present Oude Police was about 9,200 men in number. Before the mutiny it was about 10,000 Police besides the Oude local force, three regiments of Cavalry, and ten regiments of Infantry. The annual cost of Nujeebs and Police under the King's Government as taken from Parliamentary papers was 45,61,000 Rs. After annexation, the cost of the Police and Local Force was 26,98,000 Rs. The present Police expenditure was about 15,82,000 Rs. Meanwhile the Chief Commissioner contemplated further reduction, which it was hoped would bring it down to eleven lakhs of Rupees per annum. The hearty thanks of India were due to Sir Robert Montgomery, Mr. Wingfield, and Colonel Bruce for these results, which he begged the Council to note as evidence of the mode in which such a Police could be adapted to the wants of any province, and as a very sufficient answer to the objections which had been raised, both in this country and in England, to the large expenditure on the Police of the conquered province.

He would only briefly advert to what had been done in the way of Police reform in Madras with which the Council were probably better acquainted than he was. Attention was first drawn to the subject by the Report of the Torture Commission, and the result was embodied in the Act passed by the Legislative Council on the 6th September 1859. He might

mention that he had often heard Mr. Robinson, the Chief of Police at Madras, speak of the obligation he was under to this Council, and especially to the Hónorable and learned Vice-President, for the aid he received in framing this Act, which, although it had not been in force for more than a year, had proved most successful in operation. The principle of that Act was well known to the Council, and he (Sir Bartle Frere) would therefore only read the following brief Extract from the Report on the administration of the Police, as constituted under that Act, for the official year ending 30th April last:—

"The constitution of the Madras Police is as follows:—

I. A village or local Police consisting of, 1st. The village Watch or local Police Establishment—constituted as at present, of the Talari or Village Watch and detective; but strengthened, improved, adequately remunerated and properly controlled: The Talari Police is strictly localized, and the limit of their duty duly circumscribed. They do the ordinary Police duty of the village, and are kept in daily communication with each other and the general Constabulary, through—2ndly, the Village Inspector, who is one of the principal and most intelligent ryots of the neighborhood and supervises the working of the Village Watchers within a circle of the Villages conveniently clubbed together, and makes a daily report of all occurrences that take place to Head Constable of the district. The Village Inspector forms an important link in connecting the Police with the respectable rural population of the country.

II. General Stipendiary Constabulary—consisting of Inspectors of Police, Head and Deputy Constables, and Privates. These latter are formed into Police parties of a strength adapted to the work to be performed; and are located under the command of Head and Deputy Constables at the Head-quarters of the Taluc Magistracy, and in other convenient positions for the patrol and watch of the highways and country in general; every part of which is visited and communicated with once in twenty-four hours. District Inspectors of Police control and supervise the working of both the Village Police and the parties of the general Constabulary. They command them when collected for the performance of any duty; and form, with the petty officers, the detective, and, so far as falls within the proper province of the Police, the prosecuting agency of each district. The lower grades of the general Constabulary are drawn from that class of the people who become peons and enter the Native Army; and are of all castes and races. The Constables or petty Officers will generally rise from the ranks. The Inspectors, the superior Officers of the Force (a fair proportion of whom will be Europeans and East Indians) are drawn from those superior classes of native society that enter the higher walks of the general service of the Government. They will intelligently guide and carefully watch the conduct and spirit of the ranks without being too intimately connected either in interest or sympathies with the bulk of the Force.

That degree of Constabulary training and instruction which are indispensable to a body which has to guard Treasuries and Jails, and may be called upon to support the Magistracy in preserving the peace and ensuring order, is imparted to the force. They learn the use of their arms and the simple evolutions that may be required, but they carry no arms beyond the truncheon, the ordinary badge of Office, except when occasion requires. The supply of arms to each district will be in a very limited proportion to the force employed. The means of rapid concentration are observed, and are greatly facilitated by the relation the Constabulary stands into the Village Police.

No distinction is observed between preventive and detective duties. Every Police Officer whether of the Village Police or general Constabulary is responsible for every duty belonging to the Police. The smooth working of the Police is especially attended to; and above all they are enjoined not to annoy the people by unnecessary interference. The Police is forbidden by the law to entertain petty complaints of every description, and even in cases of grave crime operates generally under a Magistrate's warrant only. Every grade of the Police is amenable to the jurisdiction of the Magistracy."

The Council would observe that this constitution struck at the root of one of the great curses of this country, namely, the detention by the Police of persons charged with offences, often without warrant and for corrupt purposes. Since the passing of the Act eleven districts had been examined and reported upon by the Inspector-General. On the 25th of October 1859, North Arcot was the first district brought under the operation of the Act. It had been extended to seven districts before the end of the official year. The area taken in hand up to this date was nearly ten thousand square miles, and the number of the force organized was six thousand. Care had been taken to render the Village Police effective in every district simultaneously with the introduction of the regular Constabulary. No single case of jarring with the Magistracy had occur-

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red. This was remarkable, as a transition state was full of anxiety, and nothing but great forbearance on both sides could have enabled it to be passed through in peace. He thought that what he had said on the subject of the Madras Police would be satisfactory to the Council as tending to show that they had not been wrong in passing that Act.

In the North-Western Provinces a great deal had been done preparatory to effecting a reduction of Police expenditure and a reform of the Police. In November 1858, two Commissions were appointed at Agra and Allahabad to consider and report on the Police of those Provinces. In October 1859, a comprehensive report was received from the Lieutenant-Governor on the subject, on which after much correspondence, final instructions were given by the Governor-General in April last. The cost of the Military Police alone in the North-Western Provinces amounted to 44,61,000 Rupees, from which the Lieutenant-Governor proposed to reduce thirteen and a quarter lakhs, the Civil Police to continue as a separate establishment costing about fifteen lakhs annually. The Military Police were employed to guard Jails and Treasuries, escort treasure and prisoners, and have a reserve force at Head-quarters. The entire proposed force of Military Police consisted of eighty-six European Officers, four thousand horse, and sixteen thousand foot, the cost of which was thirty-one and a half lakhs of Rupees per annum. The Governor-General estimated that seven thousand foot and eighteen hundred horse would be sufficient at a cost of about eighteen lakhs per annum, and suggested an amalgamation of the Civil and Military Police on the Oude system, so as still further to reduce the cost. In reply the Lieutenant-Governor intimated his willingness to accept the Oude system with some modifications, and appointed a Committee at Nynee Tal to consider the subject, and report on it, and it was hoped that the result of their labors would be a very considerable reduction of expenditure under this head.

So with regard to the Punjab. Sir Robert Montgomery was asked, in a letter from the Governor-General in April last, to consider the expediency of remodelling the Punjab Police on the Oude system, or, if that were impracticable, to reduce his Military Police to what was absolutely necessary for the internal peace of the country. It was calculated that seven thousand foot and sixteen hundred horse would suffice for these purposes, thus providing for an immediate reduction of 2,888 horse and 2,144 foot. The Lieutenant-Governor seemed inclined to adopt the Oude system. He did not anticipate that he would effect much reduction in the Police expenditure, but he hoped greatly to reduce the standing Native Army of the Punjab.

The Government of India had thus done its part towards reducing the Police and semi-Military expenditure within proper bounds. It now rested with the local Governments to carry out these views, and from their well-known ability and energy, there was every hope of a satisfactory result.

In Bengal Police Battalions were raised during the mutinies of 1857. The present strength was 6,600 privates at a cost of nine lakhs and sixty thousand Rupees per annum, but the old Police and station guards had been abolished, and the total increase was less than seven lakhs per annum. It was the least expensive Police in India, but it was very desirable to render it more efficient, which could not be done without increased cost.

Thus it would be seen the necessity for economy had not been overlooked, but in order the better to secure that object and something like uniformity, the Police Commission was appointed on 17th August last, consisting of Mr. Court, for the North-Western Provinces; Colonel Phayre, for Pegue; Mr. Wauchope, for Bengal; Mr. Robinson, for Madras; Mr. Temple, for the Punjab; and Colonel Bruce, for Oude; all men of ripe experience, especially in matters connected with Police. They had submitted an able report which would be laid before the Council, to-

gether with this Bill which embodied the principles adopted in their report. The report was accompanied with documents which he thought would be found extremely interesting as regarded the cost of the Constabulary, which it was proposed to substi ute for the present Police. The propositions of the Commission would be found stated in full in their report. He woul l nly advert to the important ones; they were as f llows:—

Complete separation of a Military armed force under Military command, from the Civil Constabulary—

That the Military Force should confine itself to Military duties, and the Civil Constabulary to Civil duties—

That the Civil Constabulary for India should be formed on the model of the English and Irish Constabulary—

That the Civil Constabulary should be under the Executive Government for all Police purposes, protective, preventive, and detective—

That unity of action and organization were essential to efficiency and economy—

That all separate Police and quasi Police bodies must therefore be absorbed in the new Constabulary—

That the same body should also provide for all purely Civil Police duties connected with the army, such as watching military stores, &c., as distinguished from guarding them—

All personal guards and orderlies and Municipal Police to be incorporated in the new Constabulary—

That the new Constabulary be linked to the village Police, so as to make the latter an useful supplement to the former—

Mounted Policemen to be employed only where absolutely necessary—

That there was to be no separate detective body, no spies and informers, who, under the present system, were a curse to the country

That the Police department should be a separate branch of administration with an Inspector-General under each Government, the Police being linked on to the Magistracy at the District Office or Chief Magistrate of the district, whatever might be his denomination—

The Inspector-General to have under him Deputy Superintendents and other subordinates—

Complete severance of Executive Police and judicial functions. The paragraph on this subject ran thus:—

"That as a rule there shall be a complete severance of Executive Police from judicial authorities, that the official who collects and traces out the links of evidence, in other words virtually prosecutes the offender, should never be the same as the Officer, whether of high or inferior grade, who is to sit in judgment on the case even with a view to committal for trial before a higher tribunal. As the detection and prosecution of Criminals properly devolve on the Police, no Police Officer should be permitted to have any judicial function."

The rest were details as to pay and organization. Among them it was provided that the pay of the Constabulary should be always equal to the highest wages of unskilled labor; that of Officers and Non-Commissioned Officers being such as to put them above temptation and to form an inducement to respectable men to enter.

It was not to be expected that this plan would be accepted everywhere. Its progress must be gradual as it had been in England and Ireland, where many years had elapsed before the system was extended over the whole kingdom. It was hardly to be expected that the measure would be carried out at once. It was essential that it should carry with it the consent of the officers by whom it would be worked. It was not the intention of Government to put in force such a system until the officers to whom that duty would be entrusted were convinced of the soundness of the principle on which it was based. We had an encouraging proof of the mode in which those principles commended themselves to the judgment of practical men in the report of the Commission which was composed of officers of Government who had come from different parts of the country, and who had previously held the most discordant views. But after they had very fully discussed the subject, they unanimously adopted the report which was the foundation of this Bill. The Commis-

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sioners would now return to their districts and would re-assemble here to determine the financial part of the scheme proposed by them. But wherever these officers went, he trusted that they would carry with them and disseminate the principles on which they had agreed, for he felt that they were not only calculated to maintain the public peace and security but were also connected with the prosperity of the country, because unless the proposed scheme or some other equally efficacious in reducing the costs were adopted, there was no hope of bringing the income and expenditure of the Indian Government to meet within a reasonable period. It was to this point he trusted that the attention of the officers of Government would be directed. The subject of Police was one which had long attracted the attention of Mr. Wilson, and he believed that the plan of the Commission would have received his entire concurrence.

He must apologize to the Council for having detained them so long. He trusted the importance of the measure would plead his excuse. He should now move the first reading of the Bill.

The Bill was read a first time.

STAGE CARRIAGES.

MR. HARINGTON moved the second reading of the Bill "for licensing and regulating Stage Carriages."

The Motion was carried, and the Bill read a second time.

CUSTOMS DUTY (PEPPER).

MR. HARINGTON (in the absence of Mr. Forbes) moved the second reading of the Bill "to alter the Customs Duty on Pepper exported by Sea from the British Port of Cochin."

The Motion was carried, and the Bill read a second time.

SMALL CAUSE COURTS (MOFUSSIL).

The Order of the Day being read for the third reading of the Bill "for the establishment of Courts of Small Causes beyond the local limits of the Jurisdiction of the Supreme Courts of Judicature established by Royal Charter"—

MR. HARINGTON moved that the consideration of this Bill be postponed till after the Order of the Day for the adjourned Committee on "The Indian Penal Code" was disposed of.

Agreed to.

PENAL CODE.

The Order of the Day being read for the adjourned Committee of the whole Council on "The Indian Penal Code," the Council resolved itself into a Committee for the further consideration of the Code.

Chapter XIX (Of the Criminal Breach of Contracts of Service) was passed after the omission of Section 2 (relating to breach of contract made in India to serve on board of any vessel) as being sufficiently provided for in the Merchant Seamen's Act.

Chapter XX (Of offences relating to Marriage) was passed after the omission, on the Motion of Mr. Erskine, of the following Explanation attached to Section 7, as relating only to points of procedure:—

"No prosecution for the offences defined in Sections 6 and 7 shall be instituted, except by the husband of the woman."

MR. ERSKINE then observed that, as the Members could not have perused the voluminous papers on this subject recently laid upon the table, and as he had looked into them as fully as the time allowed, it might be right to mention that the correspondence did not seem to suggest much matter for discussion in connection with this Code. A great part of the correspondence was occupied with several suggestions for reforming in various ways the prevailing immoralities of the people. But those were questions which it was rather in the province of the Executive Government to deal with. Another portion of the correspondence was occupied with suggestions as to who should prosecute in cases of this kind, to what extent punchayets should be encouraged to interfere, by what authorities trials should be held, and how sentences should be carried out. But these were

matters rather for consideration in connection with the Criminal Procedure Bill. As regards the punishments which should be inflicted for this offence, there seemed to be an opinion, on the part of many Officers, that male offenders should in aggravated cases be flogged, and this opinion was supported by more than one Member of the Government. But this matter also would now fail to be considered in connection with the separate Bill about flogging. The only other suggestion as to the penalties to be awarded to offenders of this class was one which he could not personally propose to the Council, and did not suppose they would be likely to acquiesce in; but which also had the support of some Members of the Bombay Government, and ought therefore to be made known to the Council, namely, that female offenders should be punished by shaving the head. He certainly could not propose this himself, and did not expect that it would meet with approval in the Council. But since it had received support in such high quarters, as reported in papers which Members could hardly have gone through, he deemed it his duty just to allude to it.

Section 1 of Chapter XXI (defining defamation) was passed after amendments in Explanation 1.

Sections 2 to 4 were passed as they stood.

Section 5 provided as follows :—

"It is not defamation to publish a substantially true report of the proceedings of a Court of Justice, or of the result of any such proceedings; but in any case in which the Court before which such proceedings is had shall by order have prohibited the publication of the proceedings, it may be defamation to publish such report before the prohibition has been withdrawn or the case has been finally disposed of by that Court, or in the case of proceedings preliminary to a trial in another Court, before the conclusion of the trial."

THE CHAIRMAN moved the omission of all the words after the words "result of any such proceedings" in the 4th and 5th lines, as the words in question provided rather against contempt of Court than defamation.

Agreed to.

Sections 6 to 9 were passed as they stood.

Section 10 was passed after a verbal amendment and the addition of the following Illustration :—

"A, a Magistrate, in making a report to his superior officer, casts an imputation on the character of Z. Here if the imputation is made in good faith and for the public good, A is within the exception."

Section 11 was passed after the addition of the words "or for the public good."

Sections 12 to 14 were passed as they stood.

Chapter XXII (Of Criminal Intimidation, Insult, and Annoyance) was passed as it stood.

Chapter XXIII (Of Attempts to commit Offences) was passed after verbal amendments.

THE CHAIRMAN moved the introduction of the following new Section after Section 4 of Chapter III :—

"In calculating fractions of terms of punishment, transportation for life shall be reckoned as equivalent to transportation for twenty years."

Agreed to.

THE CHAIRMAN moved the omission of the sixth description of punishment ("Flogging") from Section 1, and of Sections 8 and 22 of the same Chapter which also related to flogging.

Agreed to.

THE CHAIRMAN moved the introduction of the following new Section after Section 7 of Chapter V:—

"Whenever any person, who, if absent, would be liable to be punished as an abettor, is present when the act or offence for which he would be punishable in consequence of his abetment is committed, he shall be deemed to have committed such act or offence."

Agreed to.

SIR CHARLES JACKSON said, he would now beg to call the attention of the Committee to Section 29 of Chapter XI, which had, at his request, been postponed for reconsideration.

The question which this Clause raised was, whether Judges were to be exposed to Criminal prosecution on such a charge as that mentioned in this Section, namely, pronouncing decisions which they knew to be contrary to law. He wished to guard himself against the possibility of it's being supposed that he had any personal feeling in the matter, or that he had any wish to exempt Judges from Criminal accusations or proceedings when they acted criminally. Shortly after this Code would come into operation, and certainly long before it would be understood by the people, he should have left India, and therefore the matter would not affect him personally; and it was not any desire to exempt Judges from punishment, if criminal, that now actuated him, but a desire to keep them in the position they now held and not to subject them to the operation of a vague and novel law. The question now was, whether this Section should be allowed to stand or not. It was as follows:—

"Whoever, being a public servant, makes or pronounces in any stage of a judicial proceeding, any report, order, verdict, or decision which he knows to be contrary to law, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both."

What he objected to were the words "which he knows to be contrary to law." The Section did not mention one word of corruption or of malice. If the word "corruptly" were introduced, then it would be necessary for the prosecutor to show that the Judge received a bribe or some other gratification, or was influenced by some other corrupt motive; if "maliciously" were introduced, the Judge would be protected by the necessity for proving malice. But, no, it simply rested on the vague words "which he knows to be contrary to law." Now he thought that, if any Judge were charged with an offence under this Section as now framed, the presumption would be against him, and it would be extremely difficult for him to prove that he did not know he was acting contrary to law. It was true that Section 2, Chapter IV provided that—

"Nothing is an offence which is done by a Judge when acting judicially in the exercise of any power which is, or which in good faith, he believes to be given to him by law."

But that Section would be no answer to such a charge, which in itself excluded all idea of good faith. But it might be said, "Surely you do not mean to exempt Judges from prosecution when they are not acting on good faith." But that was not the question. The question was, whether Judges ought to be exposed to vague charges of this sort which it would be impossible for them to meet, for how could a Judge state that he was ignorant of the law? The framers of the Code might have taken the precaution to protect Judges to some extent by providing that no proceedings of this kind should be taken, unless they were instituted by the Advocate General or the Government. But as the Section now stood, any unsuccessful suitor might take his revenge—and a sweet one it would be—by dragging a Judge into Court, and placing him as a Criminal at his own bar. He could not conceive any thing more incongruous than this. He would put the case in this way. He would suppose, trusting to be pardoned for putting such a case, namely, that his Honorable and learned friend, the Chief Justice, were to make a mistake in giving a decision, and the disappointed suitor brought a charge against him of having passed a decision which he knew to be contrary to law. He would first like to know, though it was rather a question of procedure than one affecting this Code, who was to try his Honorable and learned friend? Would he be tried by his two Puisne Judges, or would some special authority be provided for that purpose?

SIR BARNES PEACOCK said, he should be tried by a Judge and Jury.

SIR CHARLES JACKSON said, whatever the result would be, he felt sure that his Honorable and learned friend would not sit on the bench a day longer after he had been exposed to the indignity of such an accusation. Again, just fancy the body of evidence that would be brought against his Honorable and learned friend on

such a charge as this. It would no doubt be proved that he had devoted the greater part of his life to the study of the law, that he was remarkable for his laborious study of law, that he had got into a great business in England and was always chosen to argue questions of law, that he came out here and was for eight years Chief Legislator and Chief Justice, and that this very Code was chiefly prepared and amended by him, and that indeed he might be called the actual framer of the Code. On such a mass of evidence, the Judge would be bound to sum up to the Jury, that it was very improbable that his Honorable and learned friend could be ignorant of law. The presumption would be that he was not ignorant of law. And on the other hand it would be very difficult for any Judge to prove that he did not know he was acting contrary to law.

Under these circumstances, he (Sir Charles Jackson) thought that this Section was altogether objectionable. The principle ought to be to protect Judges from vexatious and harassing charges of this kind. He admitted that Judges who acted corruptly or maliciously ought to be punished, but the mere vagueness of the Section, as it now stood, would be a temptation to disappointed suitors. The framers of the Code had departed from the principle of the English law in this respect, and had proceeded on their own crude notions of the fitness of things. He asked the Council to look into the history of their own country, and see whether it had ever been found necessary there to expose Judges to such charges as this—charges which they could never directly refute—and if not, why should Judges here be less protected? The protection they enjoyed in England had never been abused, and the history of the world did not show any body of men more respected than the English Judges, since the time they were rendered independent of the Crown.

He had looked into a great number of authorities on this point, but he would not trouble the Council by citing many of them. He would only draw attention to two cases. The first was the case of Garnett *versus* Ferraud in Vol. VI of Barnewall and Cresswell's Reports. It was an action brought against a Coroner for turning the plaintiff out of his Court. The Chief Justice, Lord Tenterden, in delivering the judgment of the Court, observed as follows :—

"This freedom from action and question at the suit of an individual is given by the law to the Judges, not so much for their own sake, as for the sake of the public, and for the advancement of justice, that being free from actions, they may be free in thought and independent in judgment, as all who are to administer justice ought to be. And it is not to be supposed before-hand, that those who are selected for the administration of justice will make an ill-use of the authority vested in them. Even inferior Justices, and those not of record, cannot be called in question for an error in judgment, so long as they act within the bounds of their jurisdiction. In the imperfection of human nature, it is better, even, that an individual should occasionally suffer a wrong than that the general course of justice should be impeded and fettered by constant and perpetual restraints and apprehensions on the part of those who are to administer it. Corruption is quite another matter; so, also, are neglect of duty and misconduct in it. For these, I trust, there is and always will be some due course of punishment by public prosecution."

The other was the case of the King *versus* Skinner as given in Loffts' Reports, on a Motion to quash an indictment against the defendant, a Justice of the Peace, for scandalous words spoken by him in a general Sessions of the county, in which he told the Grand Jury, "You have not done your duty; you have disobeyed my commands: you are a seditious, scandalous, corrupt, and perjured jury." In that case, the Judge, Lord Mansfield, observed as follows :—

"I am willing, as neither Serjeant Davy, nor Mr. Buller, (Counsel in support of the indictment) find any precedent in the History of England, for an indictment of this kind, to give them time till next Term to find any.

What Mr. Lucas (Counsel against the indictment) has said, is very just; neither party, witness, counsel, jury, or judge, can be put to answer, civilly, or criminally, for words spoken in Office. If the words spoken are opprobrious or irrelevant to the case, the Court will take notice of them as a contempt, and examine on information. If any thing of *mala mens* is found on such enquiry, it will be punished suitably.

"The words are extremely improper. If the party were not a Borough Justice, I should think there might be grounds to apply to the great seal to remove him from his office. But to go on an indictment, would be subversive of all ideas of a constitution. If any precedent should be found, you should have time to make use of it; otherwise it would be proper to quash the indictment immediately."

That was the distinction which he (Sir Charles Jackson) wished to draw. Let him not be misunderstood. It was not his wish to protect Judges from all Criminal indictments. But he thought that they were entitled here, as in England, to protection for all things said or done by them, even erroneously or irregularly, if said or done in office and within their jurisdiction. A good deal had been said at *different times* about the independence of Judges as regarded the Government. That would cease as soon as the amalgamation of the Courts took place, for the Government of India would then have the power of suspending any Judge it thought fit. But Judges should be protected against other influences than the Government, and particularly against the unscrupulous attacks, to which they would be exposed under this Section, of disappointed suitors in their Courts. He was disposed to move the omission of the Section.

THE CHAIRMAN said, he confessed he did not quite agree with his Honorable and learned friend in his remarks with reference to this Section. It appeared to him that, if a Judge corruptly gave a decision which he knew to be contrary to law, he ought to be punished.

SIR CHARLES JACKSON said, the word "corruptly" was not in the Section. The insertion of some such words was one of the very points he was arguing for.

THE CHAIRMAN said, he did not see how a Judge could give a decision which he knew to be contrary to law without some wilful or corrupt motive. He had no objection to insert the word "corruptly" to meet the views of his Honorable and learned friend. The words used in the corresponding Section of the Original Code were "knows to be unjust." The following were the remarks of the Law Commissioners on considering the observations which had been made upon the Penal Code as originally published:—

"*The next Clause 142 provides that whoever*, being a Judge pronounces on any question which comes before him in any stage of any judicial proceeding, a decision which he knows to be unjust, shall be punished with simple imprisonment which may extend to two years, or fine, or both. Objections to this Clause are made by many officers which may be summed up in the question of Sir H. Seton, 'who is to decide what is unjust, and how is the knowledge of it to be proved?' Her Majesty's Justices are required by their oath 'to do equal law and execution of right,' that is, as it is expressed in the margin, to do justice to all Her Majesty's subjects, and it is provided in the Digest that all who shall be found in default in any of the points contained in the oath, shall be punished with imprisonment not exceeding three years and fine, with a saving Clause that 'no judicial officer shall be criminally liable in respect of any error in giving judgment.' It seems to us that a Judge, who by his decision, does injustice not by error of judgment, is in other words a Judge who pronounces a decision which he knows to be unjust. We apprehend that the expression 'which he knows to be unjust' was adopted purposely to exclude the excuse of an error of judgment, and that the meaning is, that a Judge who pronounces a decision which is unjust without the excuse of an error of judgment, must be presumed to have pronounced the decision conscious of its injustice, and shall be liable to punishment accordingly. So understood, the Clause appears to us no more exceptionable than the English law in the same matter, as it is expressed in the Digest. Mr. A. D. Campbell suggests that the words 'contrary to law' should be substituted for 'unjust,' as it is not intended that the Code should meet individual opinions of justice, except 'as these may coincide with the sentiments of the Legislature,' but such a substitution would narrow the provision to a degree that would greatly impair its efficacy, for many a decision may be 'unjust' which cannot be said to be contrary to any law, except the general law which requires justice to be done."

It appeared, therefore, that the Law Commissioners were of opinion that, although no Judge should be liable to punishment for an error in judgment, still he ought to be so for any wrongfully corrupt decision. When this matter was before the Select Committee, it was consi-

dered safer to omit the word "unjust," and to substitute the words "contrary to law," as more correctly defining the offence, and he had no objection to insert the word "corruptly," if his Honorable and learned friend wished.

SIR CHARLES JACKSON suggested the addition of the words "or maliciously."

THE CHAIRMAN said, he was quite willing to insert those words, but still that would not remove his Honorable and learned friend's principal objection.

SIR CHARLES JACKSON.—No, but it will remove some of my objections

THE CHAIRMAN continued—It appeared to him that it ought to be provided in the Code of Criminal Procedure, that such accusations should be brought by some competent Government Officer, the Advocate General for instance, and not by any common informer. He thought, however, that if a Judge were to pass a decision which he knew to be contrary to law, whether he was a Chief Justice or a Judge of the Supreme Court, he ought to be equally liable to punishment as a Moorsiff. In England the laws provided a punishment for any Magistrate or Justice of the Peace passing a judgment which he knew to be contrary to law, a Criminal information being filed against him in the Court of Queen's Bench by the Attorney General. If, therefore, a Magistrate or Justice of the Peace could be brought to trial, he saw no reason why a Judge should not be so as well, provided the case was not one of error or mistake. In the seventh Report of the English Law Commissioners, in which they followed up what was stated in their fifth Report, it was laid down :—

"Justices who shall be found in default in any of the points contained in the oath required to be taken by them, by a Statute of the 18th year of the reign of King Edward III, shall incur the penalties of the twentieth class."

The following Article provided :—

"Any other judicial officer who shall, in violation of his duty as such officer, commit any excess of authority with any corrupt or injurious intention, or wilfully neglect to execute his duty as such officer to the hindrance of justice, shall incur the penalties of the twentieth class."

Then there was a similar Article relating to any Judicial Officer

"abusing his authority by doing or omitting to do any act or thing wilfully and corruptly, or with the malicious intent to oppress or injure any other person in violation of his duty as such officer ;"

and another Article

"provided that no judicial Officer shall be criminally liable in respect of any error in giving judgment."

SIR CHARLES JACKSON said that his objections had, in a great measure, been removed by the observations and proposed amendments of the Honorable and learned Chairman. If the words "corruptly or maliciously" were inserted, the sting of the objection would be destroyed. It would also be a great safeguard if some provision were made in the Criminal Procedure Code for the prosecution of such offences by the Government alone, and he now understood that it was conceded this might be provided. His argument was that the Clause, as it before stood, threw the onus of proof on the Judge, of showing that he was ignorant of the law. Whereas, as the Clause was now proposed to be altered, the Judge could fall back upon the exception in the previous part of the Code and rely on his acts being done in good faith, and the other party would be bound to show some malice or corrupt intention in support of the charge. For these reasons he saw no objection to the Section as proposed to be altered, taken together with Section 2 Chapter IV, being retained in the Code.

SIR BARTLE FRERE must say that he agreed with the Honorable and learned Judge opposite (Sir Charles Jackson) that, looking to the risk of having the acts of Judges challenged in the way he had mentioned, he (Sir Bartle Frere) would rather run the chance of seeing Judges escape punishment altogether than see

them exposed to accusation at the instance of a malicious suitor. Cases in point were not unknown even in England. One, if he recollected rightly, happened in Liverpool, where the Judge of a Small Cause Court, not from malice or corruptly, but simply from temper, pronounced decisions contrary to law. The presumption was irresistible that the Judge must in his calmer moments have known them to be contrary to law. Yet it was not considered necessary to provide any heavier punishment than to remove such a Judge from the Bench. This he thought was ample even in the cases in which a Judge might decide contrary to law, knowingly, but not corruptly or maliciously. Cases of malversation from malice or corruption stood on a different footing, and might be punished under other Clauses. He should much prefer, therefore, if the law were allowed to remain as at present, or that at least no means were afforded for challenging the decisions of Judges as a Criminal offence, except at the instance of the Crown.

The Section as proposed to be amended was passed accordingly.

The postponed Section 30 (relating to commitment for trial or confinement by a person having authority) was passed after a similar amendment.

Section 31 and the Preamble were passed after verbal amendments, and the Title was passed as it stood.

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

SMALL CAUSE COURTS (MOFUSSIL)

The Order of the Day being read for the third reading of the Bill "for the establishment of Courts of Small Causes beyond the local limits of the jurisdiction of the Supreme Courts of Judicature established by Royal Charter"—

MR. HARINGTON moved that the Council resolve itself into a Committee for the purpose of considering proposed amendments therein.

Agreed to.

MR. HARINGTON said, at this late hour, and looking to the quantity of business before the Council which still remained to be disposed of, he would not occupy the time of the Council with any lengthened remarks, but would content himself with stating briefly that the chief object aimed at in the amendments to which he was anxious to obtain the consent of the Council, was to confine the Bill to giving power to the Executive Governments with the previous sanction of the Supreme Government, rendered necessary on account of the expense, to constitute Courts of Small Causes very much after the model of the Small Cause Courts at Calcutta, Madras, and Bombay, and invested with similar jurisdiction, wherever there was found to be sufficient work for Courts of that description. Whatever difference of opinion might exist on some points connected with the Bill, he believed that they were all agreed as to the urgent necessity that there was for Courts constituted as proposed, and as to the advantages which might be expected to result from the establishment of such Courts. To the establishment of Courts so constituted, he thought that no one would object. He had reason to know that the Bill, altered as proposed, would be very acceptable to the local Governments on this side of India, and he would fain hope that it would not be otherwise than acceptable to the other local Governments. He might here remark, in reference to those Governments, that, in so far as the constitution of new Courts was concerned, the Bill was entirely of a permissive chraacter. It necessitated no action whatever. The several local Governments were left to exercise their own discretion as regarded both the first introduction of the Bill into the Territories under their Governments, and the subsequent extension of the sphere of its operations. With these few observations he would proceed to move the amendments contained in the notice-paper which had been printed and circulated.

Section 1 provided as follows:—

"It shall be lawful for the Executive Government of any of the said Presidencies or of any place, with the previous sanction of the

Governor General in Council, to constitute Courts of Small Causes, with the required establishment of Officers, at any place within the limits of their respective Governments, for the trial of suits under this Act. Whenever any such Court may be so constituted, the Executive Government shall fix the territorial jurisdiction of such Court, and may, from time to time, alter the same as may appear proper.

MR. HARINGTON moved the insertion of the words "and to abolish any Court so constituted" after the word "Act" at the end of the first sentence.

Agreed to.

THE CHAIRMAN moved the addition of the following Proviso to the words just carried :—

"Provided that no Judge of any Court constituted under this Act shall exercise any civil jurisdiction except under the provisions of this Act."

Agreed to.

MR. HARINGTON moved that the remainder of the Section stand as a separate Section.

Agreed to.

Section II was passed after an amendment.

Section III provided as follows :—

"Every Court of Small Causes, constituted under this Act, shall have cognizance of all such suits as are mentioned in the last preceding Section, if the cause of action shall have arisen, or the defendant at the time of the commencement of the suit shall dwell or personally work for gain within the local limits of the jurisdiction of such Court."

MR. HARINGTON moved the omission of the words "the cause of action shall have arisen, or."

The Motion was carried, and the Section as amended then passed.

Section IV provided that the Small Cause Courts should "be subject to the general control and orders of the Judge of the District and of the Sudder Court."

THE CHAIRMAN moved the omission of the words "of the Judge of the District and."

The Motion was carried, and the Section as amended then passed.

Section V provided as follows :—

"Whenever a Court of Small Causes is constituted under this Act, all suits cognizable under the provisions of this Act, for any amount exceeding twenty Rupees, which shall arise within the limits of the jurisdiction of such Court, shall be heard and determined in such Court, and shall not be cognizable in any other Court."

MR. HARINGTON moved the omission of the words "for any amount exceeding twenty Rupees."

MR. ERSKINE pointed out that there was an inconsistency between this Section and Section III.

After some conversation, the Section was amended as follows, on the Motion of Sir Barnes Peacock :—

"Whenever a Court of Small Causes is constituted under this Act, no suit cognizable by such Court under the provisions of this Act shall be heard or determined in any other Court having any jurisdiction within the local limits of the jurisdiction of such Court of Small Causes."

Section VI after a verbal amendment was added as a Proviso to the preceding Section.

Section VIII was passed after the substitution of "Sudder Court" for "Judge of the District" as the authority who should control the appointment of the time at which any Court constituted under the Act, if directed to be held at more places than one within the local limits of its jurisdiction, should hold its sittings in every such place.

Section IX provided as follows :—

"The procedure to be observed in the trial of cases cognizable under this Act, shall be that prescribed in Act VIII of 1859 (for simplifying the Procedure of the Courts of Civil Judicature not established by Royal Charter), in so far as the same may be applicable and necessary. Provided that in all suits under this Act the summons to the defendant shall be for the final disposal of the suit, and provided also that, at the time of passing a decree under this Act, the Court may, on the verbal application of the party, in whose favor the decree is passed, direct immediate execution of the same by the issue of a warrant directed either generally against the personal property of the judgment-debtor wherever it may be found within the local limits of the Court's jurisdiction, or specially against the personal

property belonging to the judgment-debtor within the same limits which may be indicated by the judgment-creditor."

MR. HARINGTON moved the omission of the above Section, and the substitution of the two following Sections :—

"In all suits under this Act the summons to the defendant shall be for the final disposal of the suit, and no written statement other than the plaint shall be received unless required by the Court."

"At the time of passing a decree under this Act, the Court may, on the verbal application of the party, in whose favor the decree is passed, direct immediate execution of the same by the issue of a warrant directed either generally against the personal property of the judgment-debtor wherever it may be found within the local limits of the Court's jurisdiction, or specially against any personal property belonging to the judgment-debtor within the same limits which may be indicated by the judgment-creditor."

Agreed to.

MR. HARINGTON moved the addition of the following words to Section XI .—

"But no new trial shall be granted unless the party applying for the same shall, with his application, deposit in Court the amount for which judgment shall have been given against him including the costs (if any) of the opposite party."

The Motion was carried, and the Section as amended was then passed.

Section XII was passed after a verbal amendment.

Section XIX (making final the decision of any existing Court subordinate to a District Court in suits below twenty Rupees) was omitted, on the Motion of Mr. Harington.

Section XX proposed to make final the decision of any Court subordinate to the Sudder Court in suits below five hundred Rupees, and Section XXI to allow a reference to the Sudder Court of questions under the preceding Section.

MR. ERSKINE observed that, whereas the rest of the Bill was permissive and special in its provisions, these Clauses were general and compulsory.

THE CHAIRMAN suggested that, as these Sections had no connection with the subject of this Bill, although they were of an analogous character, they should be omitted from the present Bill, and introduced in the form of a separate Bill.

MR. HARINGTON said, he was willing to adopt the suggestion of the Honorable and learned Chairman, and he would bring in a Bill, embodying the Sections in question, at the next Meeting of the Council.

The Sections were accordingly omitted.

MR. HARINGTON moved the addition of the following Section to the Bill :—

"Except as hereinbefore provided, the provisions of Act VIII of 1859 (for simplifying the Procedure of the Courts of Civil Judicature not established by Royal Charter) shall be applicable to cases cognizable under this Act in so far as the same may be applicable and necessary."

Agreed to.

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

MR. HARINGTON postponed the Motion (which stood in the Orders of the Day) for the third reading of the Bill.

PAPER CURRENCY.

SIR BARTLE FRERE moved that the Bill "to provide for a Government Paper Currency" be referred to a Select Committee consisting of Mr. Harington, Mr. Forbes, Mr. Scouce, Mr. Erskine, and the Mover.

Agreed to.

STAGE CARRIAGES.

MR. HARINGTON moved that the Bill "for licensing and regulating Stage Carriages" be referred to a Select Committee consisting of Mr. Forbes, Mr. Erskine, and the Mover.

Agreed to.

CUSTOMS DUTY ON PEPPER.

MR. HARINGTON (in the absence of Mr. Forbes) moved that the Bill

"to alter the Customs Duty on Pepper exported by Sea from the British Port of Cochin" be referred to a Select Committee consisting of Mr. Forbes, Mr. Erskine, and Mr. Harington.

Agreed to.

RECOVERY OF RENTS (BENGAL.)

MR. SCONCE moved that the Bill "to amend Act X of 1859 (to amend the law relating to the recovery of rent in the Presidency of Fort William in Bengal,") be referred to a Select Committee consisting of Mr. Beadon, Mr. Harington, and the Mover.

Agreed to.

EMIGRATION TO ST. KITTS.

SIR BARTLE FRERE moved that Mr. Beadon be requested to take the Bill "relating to the Emigration of Native Laborers to the British Colony of St. Kitts" to the Governor-General for his assent.

Agreed to.

The Council adjourned at 5 o'clock on the Motion of Sir Bartle Frere, till Wednesday, the 3rd of October, at 11 o'clock.

Wednesday, October 3, 1860.

PRESENT:

The Hon'ble the Chief Justice, *Vice-President*, in the Chair.

Hon'ble Sir H. B. E. Frere,	A. Sconce, Esq., and
Hon'ble C. Beadon, H. B. Harington, Esq.,	C. J. Erskine, Esq.

PENAL CODE.

THE CLERK presented to the Council a Petition signed by 332 British and Christian inhabitants of Calcutta against "The Indian Penal Code."

THE VICE-PRESIDENT moved that the above Petition be printed, and that it be now read at the table by the Clerk of the Council.

The Motion was carried, and the Petition read accordingly.

PORT DUES (CALINGAPATAM AND MUNSOORCOTTAH).

MR. HARINGTON, in moving the first reading of a Bill "for the levy of Port-dues at Calingapatam and Munsoorcottah within the Presidency of Fort St. George," said that the Honorable Member for Madras, by whom this Bill had been prepared, was still, he regretted to say, prevented by indisposition from attending the Council, and he had therefore asked him (Mr. Harington) to move the first reading of the Bill. The object of the Bill was simply to carry out the provisions of Section XLI Act XXII of 1855 (for regulating Port and Port-dues) in respect to two Ports in the Madras Presidency, named Calingapatam and Munsoorcottah. The Council were aware that similar Acts had already been passed at different times in regard to other Ports in the three Presidencies. Looking to the number of vessels now resorting to the Ports of Calingapatam and Munsoorcottah, and to the value of the Export and Import Trade thereat, it was considered that the time had arrived for declaring those Ports subject to the provisions of Act XXII of 1855. This was the opinion of the local Authorities and of the Government of Madras, and the present Bill was introduced at the request of that Government. The Bill had been framed on Acts II and VII of 1858.

The Bill was read a first time.

CIVIL PROCEDURE.

MR. HARINGTON moved the first reading of a Bill "to amend Act VIII of 1859 (for simplifying the Procedure of the Courts of Civil Judicature not established by Royal Charter)." He said, it must be scarcely necessary for him to remind Honorable Members that the amendment of Act VIII of 1859, known as the Code of Civil Procedure, which was proposed to be made by this Bill, originally formed the subject of two Sections in another Bill before the Council, entitled "A Bill for the establishment of Courts of Small Causes beyond the local