PROCEEDINGS

OF THE

LEGISLATIVE COUNCIL OF INDIA,

FROM

January to December 1857.

VOL. III.

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1857.

to move that General Low be placed on the Committee.

Agreed to.

LAND CUSTOMS (BOMBAY.)

MR. LEGEYT moved that a communication which he had received from the Government of Bombay, relative to the Bill "to make better provision for the collection of Land Customs in certain Foreign Frontiers of the Presidency of Bombay," be printed.

Agreed to.

CRIMINAL PROCEDURE.

MR. PEACOCK gave notice that, on Saturday next, he would move the second reading of the Bills for simplifying the Procedure of the Courts of Criminal Judicature in the three Presidencies and in the North Western Provinces.

The Council adjourned.

Saturday, March 7, 1857.

PRESENT:

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

Hon. the Chief Justice.	D. Eliott, Esq.
Hon. Major General J. Low.	Charles Allen, Esq.
Hon. J. P. Grant.	P. W. LeGeyt, Esq.
Hon. B. Peacock.	E. Currie, Esq. and Hon. Sir A. W. Buller.

MESSAGE FROM THE GOVERNOR GENERAL.

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

MESSAGE No. 99.

The Governor-General informs the Legislative Council that he has not given his assent to the Bill which was passed by them on the 21st February 1857, entitled "A Bill to make better provision for the order and good government of the Suburbs of Calcutta and of the Station of Howrah."

On the Third Reading of that Bill, motion was made to recommit it under the 87th Standing Order of the Legislative Council, which permits this to be done for the purpose of considering any amendment of the Bill.

The amendment consisted in the introduction of a Clause forbidding the beating of drums or the blowing of horns between certain hours, except when permitted by the Magistrate on the occasion of festivals and ceremonies.

This Clause was inserted by the Committee, and the Bill was, at the same sitting, read a third time, and passed.

In the opinion of the Governor-General, the Clause is one which it would have been proper to publish for general information, under the 85th Standing Order, for such space of time before passing it into Law as to the Legislative Council might seem fit.

It treats of a matter not referred to in any other part of the Bill, and to which, therefore, it may be presumed that attention had not been given in any quarter whilst the Bill was before the Legislative Council.

It restrains the Native Community in a custom to which a part of them attach importance, and which has hitherto prevailed unchecked by the Law in the places to which the Bill applies.

Those who will be restrained by the Clause have had no opportunity of making their views of it known to the Legislative Council through any channel.

Such being the case, it appears to the Governor-General that the course which has been followed is not in strict accordance with the spirit in which the Rules of the Legislative Council have been framed.

For these reasons, respectfully stated to the Legislative Council, the Governor-General withholds his assent to the Bill.

By Order of the Governor-General.

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

FORT WILLIAM,
The 6th March 1857.

THE CLERK brought under the consideration of the Council the following Petitions:—

SINGAPORE PORT-DUES.

A Petition of Merchants, Traders, and other Inhabitants of Singapore,

against the levy of Port-dues in the Port of Singapore.

STAMPS.

A Petition of Sowkars, Merchants, and other Shop-keepers of Tannah in the Bombay Presidency, complaining of a recent order of the Sudder Court at Bombay requiring Samaduskhuts or written acknowledgments of debts to be written on stamped paper to render them valid documents under the provisions of Section X Regulation XVIII of 1827.

LANDS FOR PUBLIC PURPOSES.

MR. ALLEN presented the Report of the Select Committee on the Bill "for the acquisition of land for public purposes."

CRIMINAL PROCEDURE (BENGAL.)

MR. PEACOCK moved the second reading of the Bill "for extending the jurisdiction of the Courts of Criminal Judicature of the East India Company in Bengal, for simplifying the Procedure thereof, and for investing other Courts with Criminal jurisdiction."

SIR ARTHUR BULLER said, he had intended to have relied entirely on the understanding that no Member was to be considered as pledged to any part of this Bill by his vote for the second reading of it, and to have abstained from expressing any opinion until it should have come before the Council in Committee; and it was now only with reference to that part of the Bill which affected the present privileges of British subjects that he ventured to trespass upon the indulgence of the Council.

He was anxious to submit his views as early as possible to the consideration of the Council and of the Public, because they did not go the full length either of the scheme of the Blue Book on the one hand, or of the extreme demands of the Petition which he had lately seen circulated, on the other; and because they suggested a middle course, calculated, he really believed, to do substantial justice to all, and to extricate the Legislature from a very serious difficulty.

The Council had not yet had to deal with any question on which public feeling had been so much excited. Nor was it a sudden or transient excitement, lightly got up and easily to be allayed. These murmurs, these remonstrances that we now heard, were but the angry echoes of that old protest which had systematically, resolutely, vehemently been repeated by successive generations of British subjects at every attempt to make them amenable to the Criminal Courts of the Mofussil.

It might be that the apprehensions which they entertained were exaggerated. It might be that, in their partiality for their accustomed tribunal, they unfairly disparaged the tribunals of the Mofussil. But, at all events, this was clear and manifest beyond all doubt—they did look with an unfeigned and sincere, even if it were an unfounded alarm, not upon this *repetition* of those former attempts, but upon this attempt, as they said, to place them in a worse position than ever had been contemplated by the blackest of previous Acts, and to consign them to the tender mercies of a Moonsiff.

Then, who were they who thus came forward with this language of remonstrance? Were they some ignorant, or insignificant, or worthless section of our community? Far from it. They represented the life, the vigor, the best hopes of our Indian possessions. To the industry, the skill, the indomitable energy of the British speculator in the Mofussil, it was no little that we already owed; and it would be the height of impolicy, as well as of ingratitude, heedlessly to discourage so valuable a subject in the onward course of improvement along which it was his mission to lead the destinies of this country.

The case, then, of these Petitioners at all events came before the Council recommended by the earnestness of their complaint, and by the high and important character of the complainants.

But above all, let us bear in mind that their prayer was, not that we should bestow upon them a new privilege, but that we should not take away from them one long enjoyed and incalculably prized. He was confident, therefore, that the Council would approach this question in a forbearing spirit;—that, if it thought that the Petitioners were sometimes unreasonable in their demand or intemperate in their language, it

would not angrily shut the door in their face, but would give their Petition a patient and indulgent hearing; and that, if it could not concede to them all they asked, it would, at all events, not take from them one jot more than it felt compelled by the strictest necessity to take.

The first question which the Council had to determine was, ought the present privilege of British subjects to be tried before the Supreme Court alone any longer to be maintained? He had no hesitation in saying that, in his opinion, the answer ought to be in the negative. He could not, for a moment, resist the strong, conclusive, practical arguments for the immediate abolition of the privilege. Its maintenance either entailed intolerable hardships upon honest men, or ensured impunity to crime. It was easy to appeal to the records of the Supreme Court, and to show how few Europeans were in fact brought down for trial from distant parts. But he affirmed that those very records afforded the best illustration, not of the harmlessness, but, on the contrary, of the mischievous inefficacy of the present system. Did the Council suppose that, in their scantiness, they accurately represented the amount of crime committed by Europeans in the Mofussil? Far from it. But they did accurately represent the extreme difficulty of prosecuting distant offenders. And if the grievance was great now, as our territories increased and British enterprize pushed forward, it would daily become more and more intolerable. He therefore thought that the privilege could no longer be maintained to its present extent; and the question remained—"To what extent will you take it away?" "Give us equally good laws and equally good tribunals in the Mofussil," said they, "and we don't want to drag others, or to be dragged ourselves, from inconvenient distances to the Supreme Court. Give us our inalienable, indefeasible right of Trial by Jury!" He confessed that he did not understand this inalienable, indefeasible right. He did not believe that it existed in any authentic theory. He was sure that it did not exist in fact. The patriot pick-pocket who was to tell the London Magistrate, "Nullus liber homo imprisonetur, &c.," would be referred to the Metropolitan Police Act, and summarily sent to prison in spite of Magna Charta; and certainly the British subjects who had sought their fortunes in our colonies must long since have discovered that, if they carried any such right about with them, they carried it to very little purpose. We gained possession of Ceylon he thought in 1796; but trial by Jury was not introduced there till 1810, and then only in the Supreme Court; and instead of the duodecimal unanimity of which Britons were so fond, the verdict of a bare majority out of thirteen jurors was made sufficient for the conviction of any offence. To this very day, the District Judge, with no other aid than that of three sleepy, useless, powerless Assessors, may imprison a British subject for one year, and give him a hundred lashes; and the Police Magistrate, without even that nominal aid, may imprison him for three months, and give him twenty-five or fifty lashes.

However, he thoroughly recognized the right—call it, if you please, the indefeasible right—not only of every British subject, but also of every subject of the Crown to be as well governed in every way as circumstances would permit; and if Trial by Jury was the best form of trial, and if it was available, or, even if not available, if it could be made available to British subjects without working injustice to others—then, he said, by all means let them have their trial by Jury. Of the merits of that trial, he would say no more than to remark that he believed the faith in this old creed seemed in England to have been somewhat shaken of late, and that opinions as to its excellence were supposed to depend very much upon the point of view from which it was looked at by a person likely to commit crimes himself and calculating the chances of escape, or by a person anxious to devise the best means of repressing crime. As a protection against political oppression, the Jury-system was, no doubt, the best and surest safeguard; nor, if extended to Natives, would it, he thought, be without its wholesome influence. It would be the means of making them acquainted with the laws of their country, and giving them as it were a personal interest in the administration of them, and thus of raising them in their own estimation, and generally in the social scale.

Sir Arthur Buller

As regarded the substantive law of crime which this Code proposed to offer to British subjects, they had no longer the same grounds of complaint which were available to those who had gone before them, and who were able to say —"In our Supreme Court, we are triable by our own English Law; but you propose to give us in its stead the Law of Mahommed, and of imperfect Regulations." The remonstrants of the present day were well aware that, by the time this Bill should become Law, a new Criminal Code would be in force throughout all India; and that British subjects, whether put upon their trial before the Supreme Court or before Courts in the Mofussil, would be triable by that new Law, and that alone. He confessed that he did not quite know what the law of evidence in the Mofussil was, or how far it was identical with that which was administered in our Court. But this he thought was manifest, that, if we had everywhere one uniform law of crime, we should also have one uniform law of evidence by which crime was to be proved; and, therefore, he did hope that a clear, simple law of evidence—if such a law was not more easy to desire than to frame—would be brought into operation simultaneously with the new Penal Code and this new law of Procedure.

And now, then, as to the Tribunals which this Code proposed to give to British subjects in exchange for their Supreme Court. They were the Session Court, the Magistrate's Court, and two classes of Subordinate Courts.

To the first of these Courts, British subjects would become amenable for every offence, no matter how grave; and liable to every punishment, no matter how severe.

The Magistrate had the power of imprisoning them for two years.

The Subordinate Tribunal of the 1st Class, which was to be presided over by First Assistants to Magistrates and Principal Sudder Ameens, might imprison them for one year; and that of the 2d Class, which was to be presided over by Second Assistants to Magistrates and Moonsiffs, might imprison them for three months.

It was against these Tribunals that British subjects protested—against all as incompetent, and against some as open to the evil influences of personal prejudice and antagonism of race.

They referred us to the Penal Code, which, in its anxiety to provide for every possible offence, drew within its wide definitions, acts which men were sure to be frequently committing without imagining that they were crimes; and they showed us that, under its provisions, a person could hardly open his mouth, or move his hand, or even move the air, without committing an offence punishable with imprisonment. They asked us to picture to ourselves the sort of places which, in small localities, were available for imprisonment, and to consider well what sort of punishment imprisonment was to a European, even in the best regulated Jails. They referred us to the Calendar of the Supreme Court, and they showed us that two years was the maximum of imprisonment which that Court thought it safe to award to such persons in this climate: and they implored us not to trust a power so susceptible of abuse to unfriendly or inexperienced hands. They asked us to consider their position in the Mofussil—how perpetually they were brought into conflict with influential Natives not over-scrupulous as to making false charges, or supporting those charges with false evidence. They showed us how all persons in the locality became mixed up in these disputes—how it had come to pass that the subordinate Magistracy looked upon them, and that they looked upon the subordinate Magistracy, as natural enemies; and they declared they had no hope of obtaining impartial justice in our inferior Courts. They pointed out to us the defects of the Company's judicial machinery, whereby the administration of criminal justice must, for the most part, be entrusted to mere boys, or, at the best, to inexperienced young men, who were shifted one day from the cutcherry to the salt-field, to be removed the next to another cutcherry or another salt-field, again, on some future day, to turn up upon the Bench; and they asked us why, in this learned profession, professional learning was the only thing not required.

Then, as regarded Moonsiffs, the still unforgotten animosities of race introduced a new element of distrust. Nor would this seem to be wholly without

foundation. He found the following statement in the *Friend of India* (which should be a good authority on the subject) in an article by no means favorable to the larger pretensions of British subjects :—

"There are many, particularly Mahommedans of the old school, whose hostility to Europeans, as such, is of the most envenomed character. The Magistrate lately removed from Serajgunge would probably have put every European in the station in prison could he only have obtained the chance. The antagonism between the races is becoming every day more marked."

Now, at all events, in these representations, the Petitioners were speaking out clearly enough; and if any weight was ever to be attached to their representations, it ought to be attached to those that they now made.

"But no," he heard it said, "the only way to get the imperfections of the present system remedied, is to give these clamorous British subjects a taste of it, and then they will cry out, as Natives cannot cry out, and the system will be remedied." But surely, they were crying out loud enough now; and surely, we might be satisfied with this foretaste of it which we were giving them, without waiting for the experiment of any actual tasting! They said in very plain terms—"For Heaven's sake, don't throw us into this fire. We shall be burnt alive." And was it fair to answer them by saying—"No! you have no right to cry out, till you are burnt; and when you are really burnt, you'll cry out so much the louder, and then you'll get what you want?" He thought we need not require all this proof. If we were really satisfied that these were fiery places, he thought that we need not insist on the production of singed hair or charred stumps, but that we might take legislative notice of the fact that fire will burn. And being fully persuaded that our imaginations were perfectly competent to guide us to safe conclusions in these matters without the necessity of any personal experiments, he would ask any honorable gentleman whom he saw before him, whether, if his lot compelled him to-morrow to take up his residence at some factory in the Mofussil, he would not feel a little alarmed at the possible risk which he would run of being imprisoned by some envenomed Mahommedan, for some imaginary or for some Code-born offence from the 15th day of March to the 15th day of June in some cutcha hovel at Feverpore or Cholerabad? But he would ask him still further—did he really think that the boys who acted as Assistant Magistrates, or that the Magistrates themselves, wholly untrained as they were to their profession, and wholly unaided either by a Jury or by any competent Bar—did he really think that they were fitting depositories of the vast powers proposed to be entrusted to them? He imputed to these gentlemen no fault save that of youth and inexperience. Fine, manly, intelligent young fellows they were—all fully his equals, he was free to admit—many greatly his superiors in natural abilities: but still, the fact was undeniable, they were young and inexperienced; and youth and inexperience were not the best qualifications for the Bench. He confessed it appeared to him a just matter of reproach to this great country that, with its ample means and unlimited resources, it had effected no greater reforms in its judicial system. He did think that it was a matter of reproach to us that, while elsewhere every one was insisting on getting the right man for the right place, we were still content here to go on trusting to the miserable chance of routine. He did not pretend to say that, in order to administer satisfactorily the laws of this country, the same degree of learning was necessary as would be necessary to administer the law in England; but still, surely some sort of training was indispensable, and judicial habits did not come more instinctively to men's minds here than they did elsewhere. He could not imagine any great difficulty in establishing here a regular Judicial Service, which, in a few years, would provide us with competent functionaries for every grade. But if there were such difficulty, there were plenty of ready-made lawyers to be had, whose interest it would be to place their services at our disposal for the remuneration which it would be our interest to give. At all events, some better system was beyond all question attainable, and therefore should be attained. Direct every effort and the necessary number of Rupees to that end, and you will soon have a triumphant answer for any one

who presumes to question the competency of your Courts.

But then, what was to be done with British subjects in the meantime? "Leave us as we are," said they, "until your Courts are reformed." He answered—"No! The evils of the present system admit of no delay. They are intolerable already, and they are becoming more and more so every day." On the other hand, say the *soi-disant* advocates of equality—"Place all alike upon the same footing at once. If the tribunals of the Mofussil are as bad as they are represented to be, they must be equally bad for Natives, though the Natives may not be able to appreciate their imperfections; and why should not all share alike the evil till it can be remedied?" But why should they? Would the evil be in any way the less to the Native if it were felt also by the European? If it were an evil which was susceptible of being increased or diminished according to the surface over which it was spread—then he could imagine some reason in the argument. But if we found a certain number of persons subject to an imperfect system which we admitted must be remedied, and which we avowed our intention of remedying as soon as possible; and if we found at the same time certain others who, by no force or fraud of theirs, but by our own deliberate Acts, and the Acts of the Imperial Legislature, had been specially exempted from it, and were painfully alive to its imperfections—upon what principle would we compel the latter to become fellow-sufferers with the former? Certainly, not on the principle of the greatest happiness of the greatest number. Certainly, not on the principle of doing equal justice to all. He could imagine our doing so on no other principle than that of doing equal injustice.

No one could object to any thing in the shape of legislative favoritism more strongly than he did—no one more strongly than he did, to exclusive privileges which worked real injustice, or excited abiding discontent. No one could subscribe more readily or more loyally to the doctrine of equal laws for all. But then, while holding these principles steadily in view, he could not shut his eyes to the actual state of things around him. He was not there a philosopher, to propound a perfect theory, or to enunciate metaphysical truths. He was simply a legislator dealing with men and things as he found them—dealing with a state of Society full of anomalies, and having to carry out a great change in the manner least obnoxious to the different interests which must be affected by it. Well! What did he find? He found, on the one hand, a small but highly civilized community, long accustomed to good laws and to a good administration of them. He found, on the other hand, vast masses but lately emancipated from barbarism, and inspired with no traditionary reverence for equal laws or incorruptible justice. The former contrasted the Mofussil Courts with those by which they were now protected, and they deprecated a change with horror. The masses found in these Courts a safeguard far better than any that their forefathers ever enjoyed or dreamed of, and they accepted them with perfect content. Well, then, were these two classes really standing on equal ground, and were we really measuring out equal justice when we said—"These Courts, if good enough for the one of you, are good enough for the other." He affirmed that such an equality was a miserable sham; and that, in our anxiety to establish equality in appearances, we would be establishing the grossest inequality in fact. He admitted that, with us Englishmen, the bare semblance of inequality excited immediate discontent. We chafed at the idea of any one being permitted privileges which were denied to ourselves; and, unamiable and selfish though the feeling might often be, yet it was by the influence of such feelings that many of our most valued liberties had been achieved. But did we find the Natives animated by these feelings even in respect of the large privilege at present enjoyed by British subjects? He thought not. They objected to it, not from any constitutional or philosophical enthusiasm in favor of an abstract principle, but simply because they saw and felt that it had become a practical nuisance. He did not believe that they felt it any grievance that British subjects should be tried by Juries while they were triable by Judges alone. They knew nothing about our Jury-system; and, he believed, neither sought the bene-

fit of it for themselves, nor grudged it to those who had a fancy for it.

Well, then, if the inequality to which he proposed to give a temporary tolerance was not really felt as a grievance by those who were apparently the least favored, it was stripped of all that made inequality most odious and intolerable; and if we were called upon to choose between one or the other of these two evils, —either to force British subjects into Courts which they distrust, and which we ourselves admit to be unfit for them;—or to retain for them awhile certain modified privileges which they highly prize, and which no one grudges to them—he had no hesitation in accepting the latter part of the alternative; and in so doing, while he acknowledged that he was offending in terms against a wholesome principle, he had the consolation of knowing that he was rescuing a deserving body of men from a palpable injustice, and doing nothing, at the same time, calculated to do real injustice to any one else, or even to make any one else fancy that injustice was being done.

At all events, the framers or admirers of these Codes in their integrity, could have no horror of such amount of inequality as he could be charged with wishing to retain. Surely, when they limited Trial by Jury to certain registered classes, they, nominally at all events, and perhaps unnecessarily, did violence to the principle of equality. For why, if Trial by Jury were the best form of trial, should not the Natives have a right to be tried before the Session Court by a Jury as well as Europeans? If the answer was that competent Natives could not be found to act as jurors, nor a sufficient number of persons of other classes to sit in all cases without obvious hardship to such persons—that, he thought was a sufficient answer to the objection, and he was not so enamoured of equality as to refuse to avail himself of the benefit of Trial by Jury to any extent that it was practicable, simply because, from the poverty of means, he could not avail himself of it on all occasions.

Again, when the Civil Code gave a right of appeal in cases where the amount in dispute was above fifty Rupees, and none where it was below, was it not doing violence to the principle of equality? Indeed, was it not, in fact, giving the rich man a right which it denied to the poor? The suit under 50 Rupees might place at stake the little all of two poor litigants. A demand above that amount might be a mere drop in the ocean to the opulent Zemindar. Yet the poor man who was absolutely ruined by an erroneous decision, had no remedy; while the slightly injured man of wealth had the fullest opportunity of redress. This was inequality; but it was one, among many others, which the exigencies of circumstances forced upon us. The Codes of Criminal Procedure now under consideration certainly steered clear of this inequality by allowing appeal in every case; but in so doing, it simply rendered its whole scheme impracticable; and he quite agreed with his Honorable friend on his left (Mr. Grant), in his admirable speech on the former Procedure Bills, that the right of appeal there given, limited though it was in comparison with the Bills now before the Council, was still far too extensive to give a fair chance of success to any available scheme.

But while he instanced without any horror these deviations from the principle of equality and the scheme of the Commissioners, there was one other such deviation to which he could not help drawing attention, and on which he confessed he looked with very different feelings. He referred to that most extraordinary provision by which an exclusive right to be tried before the Session Courts was reserved to certain four classes of public servants—namely, to Judges of every description—to all members of the Covenanted Civil Service —to all Officers of the Queen's and Company's Army—and to all Officers of the Company's Navy. He could hardly believe his eyes when he first saw this provision in the Blue Book. He could hardly believe that, at the very time its authors were professing to abolish on principle all distinction between Natives and Europeans—distinctions which, merely as distinctions, the Natives cared very little about—they should have gone out of their way to invent this new distinction between different classes of British subjects; and that they should have selected as the objects of exclusion, precisely those who had always been most cla-

morous for the maintenance of their ancient privilege, and who would be so sure, not only to resist such an attempt on principle, but to resent with all the bitterness of insulted pride, an act of favoritism so offensive, so uncalled for, and so palpably unjust.

Well, he had now shown, he trusted to the satisfaction of the Council, that, on the one hand, the privilege at present enjoyed by British subjects of a resort in all cases to the Supreme Court could no longer be permitted to exist; and, on the other hand, that it would be unjust to hand them over to the inferior tribunals of the Mofussil until those tribunals were reformed. There still remained the question, what was to be done with them in the meantime? He confessed he saw no difficulty in suggesting an adequate provision. He would simply extend to all British subjects the exemption limited by the present Bill to the four before-mentioned classes of public servants. But he did not mean the exemption to apply to offences punishable only with fine, or to offences which, though punishable with fine or imprisonment, the Magistrate before whom the complaint was brought, might consider sufficiently punished by a fine.

He conceived that the Session Courts, presided over by a more experienced class of public servants, as they would be, and partaking, as he hoped they would at once, of improvements similar to those suggested by his Honorable friend for the Zillah courts, would at once be safe tribunals to offer to all British subjects; and they certainly would not become the less safe when, at a future day, they should become manned by Judges who had had the advantage of some such sort of preliminary training as he had this day ventured to recommend.

In conclusion, he would earnestly bespeak the consideration of the Council, especially of that portion of it which had access to the public purse, in favor of one more suggestion which he would make for the improvement of the administration of Criminal justice—and that was the introduction of a system of public prosecution. The Code before us almost proceeded upon the assumption that it must sooner or later be worked by means of some such machinery. England and Ireland and the purely English colonies were the only civilized countries, he believed, in which a system of public prosecution did not prevail. It prevailed in Scotland. It prevailed in those of our colonies which were governed by French or Dutch Law. It found a place in every scheme of continental jurisprudence; and, judging by the progress which it had made among thinking men in England, he should not be surprised if, before very long, it was introduced there also.

And he must say, that, if there was any country in the world in which such an institution was required, it was eminently so in one like this, where the tendency to bring false charges so universally prevailed: and more than ever would it be desirable when the Criminal Code came into force, with its tempting variety of opportunities for the maliciously disposed. But he trusted that, if the Council did establish such a system, it would establish it thoroughly and well; that it would make no falsely economical attempts to avail itself of machinery which was wanted for other purposes; but that its Public Prosecutors would be Public Prosecutors and nothing else.

He did not think it would ruin our finances, and he was sure it would greatly assist the administration of Criminal justice if there were a competent Public Prosecutor in every Zillah, or in every two or three Zillahs according to their extent, without whose fiat no person should be put upon his trial before any Session Court, and who should himself personally conduct every prosecution. Whether his services could be made available in any way to the inferior Courts, his (Sir Arthur Buller's) local knowledge was too limited to enable him to say; but he should be inclined to think they might be, at all events to some extent.

Again, every such officer should be subordinate to one chief Public Prosecutor who should perform the like duties in relation to cases cognizable by the Supreme Court, and who should watch over, control, and be responsible for the entire system of public prosecution.

To Session Courts so constituted and so assisted, he had no hesitation in confiding the protection of every British subject. At all events, this was the best solution which, after much con-

sideration, he was able to give to this most difficult question.

THE CHIEF JUSTICE said, it was not his intention, when he entered the room, to make any observations on the Bills before the Council on this occasion; but as his Honorable and learned friend had, in his very able and ingenious speech, adverted to what was the most important question of principle on the face of the Bill, he thought it right to express the view which he entertained on the subject; and he unhesitatingly said that, if a vote in favor of the second reading of the Bill was understood to involve the affirmation of this principle —that the time for removing the exclusive privilege enjoyed by British subjects with respect to the trial of offences committed by them, and for making them amenable to the Criminal jurisdiction of the Mofussil Courts, had now arrived—he was prepared to give that vote. The subject was by no means a new one. The last occasion on which it was discussed, was when the predecessor of his Honorable and learned friend opposite (Mr. Peacock) brought before the Public certain Draft Acts which proposed to solve the question in a very crude manner. Those Bills had been considered by many to whom the Government had referred them, and, amongst others, by himself. He believed that almost all by whom the subject had been considered were agreed in condemning the proposed measure as precipitate; and that their principal objection to it was that it would not only render British subjects amenable to the Criminal Courts of the Mofussil, but would also subject them to a system of Law which was utterly strange to them —a system based on the Mahommedan Law. But he also believed that all of those persons who, as public functionaries or otherwise, gave their opinion under some degree of responsibility—he believed he might almost say all who gave a dispassionate opinion,— concurred in thinking that, so soon as this objection was removed,—so soon as there should be a common Criminal Code for the country, the exclusive privilege claimed by British subjects could no longer be supported. For his own part, he recollected that he had endeavored to meet, with what success it was not for him to say, the argument that the exclusive privilege of British subjects was, in its inception, unjust and anomalous. He had endeavored to shew—though this was rather a matter of historical curiosity than of political consideration—that the so-called privilege was a necessary consequence of the strange and anomalous way in which our Indian Empire had come into being. He had also insisted that, howsoever the privilege might have been acquired, it was the duty of the Legislature, if it determined to withdraw it, to do so with the greatest possible consideration for those who had so long enjoyed it; and both to provide a system of Criminal Law applicable to persons of that class, and to make the tribunals entrusted with this new jurisdiction as efficient as possible. But he had even then admitted that, so soon as there should be a uniform system of Law for all classes, European and Native—a system which British subjects could not say had been derived from a fountain to which they were strangers—the exclusive privilege which they then enjoyed ought to cease. He had given that opinion in 1850. Since that time, whatever evils had existed previously in consequence of the exclusive privilege, had unquestionably increased. Our Indian Empire had not, perhaps, since that time, been extended to the westward; but its limits to the East, to the North, and to the South, had been widely extended. Three great Provinces, he might almost call them Kingdoms, had been added to it. And it must be remembered that, whilst the inconvenience of bringing persons down for trial in the Presidency Towns was thus increased, the progress made in public improvements—the Railway, the Electric Telegraph, and other public works—had all tended to introduce into the interior in greater numbers those Europeans who, as the Law now stood, could not be tried on a criminal charge, except in the Crown Courts. Therefore, the number of persons in the Mofussil who might be charged with criminal offences, and whom it would be a great inconvenience to try in the only tribunal in which they could now be tried, had largely increased. Before this increase in the class of "adventurers" as they had been termed—and he used the word in no offensive sense—the

practical evils and inconveniences of the existing system had been very much modified by the operation of the Mutiny Acts. But these of course did not affect the class to which he had last referred. He believed it would not be difficult to name three or four cases which had occurred within the very last year, and which, if a tribunal competent to try them had been at hand, would certainly have been tried, but which had not been tried simply because it had been thought inexpedient to send up to the Supreme Court for trial cases in which a conviction was doubtful by reason of the expense and inconvenience which that proceeding would involve. That was, certainly, not a state of things which ought to exist; and it appeared to him that it was quite impossible to go the length of those gentlemen who treated this immunity from the jurisdiction of the Mofussil Courts as an inalienable and indefeasible heritage and right, of which it would be unjust, as certainly it would not be inexpedient, to deprive them.

But he freely confessed that he had always felt, concerning another part of the scheme of the Indian Law Commissioners, which was embodied in this Bill, that it afforded grounds on which the European population might fairly complain of the proposed change. It seemed to him that the scheme was inconsistent in itself, in that it provided, or affected to provide, for British subjects and other persons who might be registered according to rules prescribed by the Governor-General in Council, some substitution of Trial by Jury; and yet proposed that so many offences involving very severe punishment should be dealt with summarily by the Magistrate or some inferior tribunal. He would not detain the Council by entering upon the general or abstract question whether Trial by Jury was a good thing or a bad thing. In his opinion, although there was occasionally a perverse or foolish verdict, the system was, in criminal cases, a good one; and it was remarkable that, in those countries on the continent of Europe which had made any advance towards constitutional liberty, Trial by Jury in criminal cases was generally one of the first improvements which were adopted.

But it appeared to him that it was unnecessary to consider the merits of Trial by Jury with reference to the Bills before the Council, because the scheme which those Bills embodied was grounded on the principle that it was expedient to give all of a certain class who should be tried in the Session Courts the right of Trial by Jury. Upon that provision, he might remark, as had already been remarked by his Honorable and learned friend, that the scheme itself was in this respect not one of absolute equality, or one which brought all classes of Her Majesty's subjects under one uniform system; because it contemplated that one class of those subjects should have the right to the Trial by Jury which it provided, and that another class should not have that right. But when he looked at the Schedule, annexed to the Bill, of the offences which were made punishable by summary conviction, it did appear to him that, in this matter of Trial by Jury, the Schedule went far "to keep the word of promise to the ear, and break it to the hope." It seemed to him to include the very offences upon charges for which European subjects were most likely to be brought before the Mofussil Courts. He alluded particularly to that class of offences which had relation to affrays concerning the possession of land, which had so often been under the consideration of the Council, and for the repression of which there had been three or four schemes before it. According to the Schedule, unless any of those offences were of so serious a character as to be punishable with imprisonment for a term exceeding two years, all persons accused, whether European or Native, would be subject to the jurisdiction of the Magistrate, or of Courts subordinate to the Magistrate. In the majority of cases, they would be subject to the jurisdiction of the Magistrate. It did seem to him that this was the very kind of offence, the trial of which it was least expedient to trust to the Magistrate who, from his position, was charged with the peace of the district. The vice of the selection which this Bill made of the cases in which Magistrates and Judges subordinate to them might convict summarily, seemed to him to be that the selection proceeded almost entirely on the principle that each func-

tionary should have the power of inflicting punishment to a certain extent, and should have jurisdiction over all offences which, in the contemplation of Law, deserved no higher penalty. In England, and in other countries, that was not the sole principle on which the trial of certain offences had been withdrawn from the cognizance of Juries, and made punishable on summary conviction. The course had been to consider, not only the amount of punishment due, but the nature of the offence and the difficulties of proof which the trial of such a charge would probably involve. The Council should consider that the feeling of British subjects, who expressed so much alarm at being made liable to the jurisdiction of the Mofussil tribunals in criminal matters, was not so much that of men who felt that persons of any race who committed such crimes as theft or the like would not be fairly tried; but it was a well grounded apprehension of being subjected to those false charges of violence and attempts at violence with which, in regard to Natives, the past history of the Mofussil Courts was so rife, and which constantly arose out of disputes respecting the possession of land. He believed it was notorious that, in almost every case of an affray in the Mofussil, the contending parties, after the chances of the field had been determined, proceeded to fight out their battle in the Courts; that each side charged the adherents of the opposite side, who had never been present at the affray, with having actively participated in it; and that the great contest was to see how many of the omlahs on each side could be convicted of having personally assisted in an affair from which, to judge from their well known nature, they would infallibly have run away. It did seem to him, therefore, that it would be rash to submit charges of affray for trial to a Magistrate who was interested in preserving the peace of the district, and who, in exercising his Police duties, must necessarily be in danger of acquiring some degree of bias against, or in favor of, particular persons within his jurisdiction.

Then, again, participation in some of these offences was generally a matter extremely difficult of proof, and such as might well require the intervention of the Session Court and the assistance of a Jury.

He also thought that there was considerable force in what his Honorable and learned friend had said as to the inexpediency of bringing British subjects under the subordinate Courts to be for the first time constituted by this Bill. He was not prepared to go so far as to say that he would allow no British subject to be amenable for trial to any but the Session Court. He had himself, only the other day, tried a case which might have been disposed of just as well by the Magistrate of Burdwan. It was a case in which a British subject, travelling by railway, had walked into the Railway Station on the line, and committed a petty theft, being taken redhanded in the fact. There was no reason why the Magistrate of Burdwan should not try a case of that kind just as a Police Magistrate of Calcutta would try a similar theft if committed in Calcutta. But he (the Chief Justice) did think that there was much weight in the objections which his Honorable and learned friend had urged with so much force to the giving, in the first instance, a criminal jurisdiction over British subjects to the Moonsiffs, or, possibly, to such very young and inexperienced men as Assistants to the Magistrates. He admitted that the exception proposed by his Honorable and learned friend would be a new anomaly, and he did not now pledge himself to support the exception. The scheme, however, of the Commissioners had, on the face of it, several anomalies, and, amongst others, that most palpable and glaring anomaly to which his Honorable and learned friend had referred—the provision which gave to four classes of public servants the exclusive privilege of being tried only by the Session Courts for any offence however punishable under any Clause of the Penal Code. He should have thought it incredible that a body like the Commissioners would propose to insert in a Code of Criminal Procedure designed for men of all races in India a provision so calculated to encourage and increase the feelings of antagonism and jealousy which existed, more or less, between that which had been termed the "adventurer" class and those who were employed in the public service.

He would not detain the Council with

The Chief Justice

any further observations, it being his intention to give his vote for the second reading. But he would offer one or two remarks upon one Chapter which formed part of the scheme as framed by the Commissioners, and which the Honorable and learned member opposite (Mr. Peacock) had retained in this Bill. He (the Chief Justice) doubted whether this Chapter did not more properly belong to that portion of the Commissioners' scheme which depended on the amalgamation of the Courts; and, therefore, whether it had been properly inserted in a Bill which applied exclusively to the Mofussil. He alluded to the Chapter which empowered the Advocate General to file criminal charges. If his memory served him aright, the public functions of the Advocate General were confined to the Supreme Court. He thought that the terms of the appointment were to the effect that he was to represent the East India Company in the Supreme Court. When the Advocate General went into the Sudder Court, he (the Chief Justice) believed that, in strictness, he stood there like any other Vakeel; though, by courtesy, that precedence which he had elsewhere, might be extended to him. He was not aware that the Advocate General had the powers of a Public Prosecutor in any Mofussil Court by virtue of his office, or of any of the Statutes which empowered him, in certain cases, to file criminal informations in the Supreme Court.

And whilst adverting to this particular Chapter, he wished to say that, in voting for the second reading of this Bill, he by no means pledged himself to adopt the proposal of the Commissioners that the charge should contain no specification of the circumstances of the particular offence, but merely state that the accused had committed an offence under a certain Article of the Penal Code. The Commissioners who proposed this had said that the circumstances would appear sufficiently from the depositions taken by the Magistrate. But by the Chapter relating to charges by the Advocate General, "the rules relating to the description of the offence in the case of charges by the Magistrate" were to apply. Yet, when such a charge was preferred, there need be no preliminary investigation; and, consequently, the accused might come to trial with no other knowledge of the case to be made against him than he could gather from the fact that he was charged by the Advocate General with having violated a particular Article of the Penal Code.

MR. GRANT said, it was not his intention to make any observations on that most interesting and important topic which had been the chief subject of discussion in this debate—namely, rendering British subjects amenable to the Mofussil Courts in criminal cases. On the second reading of the Code for reforming Civil Procedure, he had ventured to sketch the outlines of a counter-project of his own, which he proposed to bring forward. He rose to explain that the principles of his plan for Courts of Civil Procedure would apply equally to Courts of Criminal Procedure. By that project, each Divisional Full Bench, presided over by a Chief Judge, besides trying the most important civil cases in the exercise of its civil jurisdiction, would try also the most important criminal cases in the exercise of its criminal jurisdiction. He would mention one of the details of the plan, as he had it in his head, which he had not thought it necessary to explain the other day, as it was a point which might be considered to bear, in some degree, upon the argument of the Honorable and learned Member who had opened this debate. By his plan, every Divisional Full Bench Court would try, as a matter of course, all the Civil cases above a certain amount within the Division. The amount which had struck him as the best that might be fixed was Rs. 5,000, which is the amount that now makes a case appealable to the Sudder Court. But he proposed to give the Divisional Court the power, on Motion duly made before it, of calling up to itself, for special cause, any suit filed in any subordinate Court of the Division. Many cases may arise which, though within the jurisdiction of the lower Courts, it would be expedient, for obvious reasons, to decide by the best local Court available. Cases may arise in which the amount at issue is not large, but the novelty or the importance of the principle involved may make it desirable to try them before the best Court; or it may happen that circumstances give a peculiar local interest to a case, whether from the influential

position of the parties, or from any other cause, which may make it very desirable that the trial should be before the Court in which the people of the locality have the greatest confidence.

He proposed that the same principle should be applied to the criminal side of the Divisional Courts; and that these Courts should have the power of calling up for trial before themselves any criminal case which, for any reason, it might be particularly desirable for them to try. He thought that it might often be the exercise of a very sound discretion, if the Divisional Court were to call up to itself a case in which a British subject is charged. This would be a way in which a great part of the difficulty to which the Honorable and learned Member to his right (Sir Arthur Buller) had so ably adverted, would be got over, and, if so got over, he thought it would be got over by a mode better than that which the Honorable and learned Member had proposed. The Honorable Member's plan was that, to the four classes included in that very extraordinary Clause of exemption proposed by the Law Commissioners upon which the Honorable Member had himself most justly remarked, and which he (Mr. Grant) believed was supported by nobody, there should be added a fifth. He (Mr. Grant) disapproved of the provision in the Bill as it stood; and he should not disapprove of it the less if a fifth class were added to it. But he believed that the plan which he proposed, would, in most cases, practically attain the object which the Honorable and learned Member had in view; and it would do so without shocking people—for people were shocked at the proposed class-exemption—by establishing a principle of glaring inequality.

It would not be provided in the Law he intended to propose, nor would it be expected in practice, that the Session Court should call up before it every case in which a British subject is charged; but it would be expected that, in any case in which it should seem, for any reason, especially desirable that the trial should take place in the best Court available in the Division, the Divisional Court should call up the case for trial before itself, whether the defendant were a British subject or a native, a black man or a white man.

It was with him another objection to the proposal of the Honorable and learned Member (Sir Arthur Buller) that a fifth class should be added to the exemption Clause, that, if he (Mr. Grant) had his way, when this Bill should have passed through Committee, that exemption Clause would not be in it at all.

MR. PEACOCK said, he desired to make but a very few observations with reference to what had fallen from the Honorable and learned Member opposite (Sir Arthur Buller.) He felt it right, in order to prevent any mis-apprehension, and not in justification of himself, to remind the Council that, on moving the first reading of the Bill, he had stated that he did not pledge himself to all the provisions which it contained, but that he had inserted the Clauses as they had been framed by Her Majesty's Commissioners in order that the whole scheme might be fully and fairly before the Council and the Public, and that their opinions regarding it might be elicited. He certainly felt the full force of all that the Honorable and learned Member had said with respect to the Clause which exempted particular classes of public servants from the jurisdiction which the Bill provided for the rest of the community.

With respect to what had fallen from the Honorable and learned Chief Justice in reference to the Clause which enabled the Advocate General to file criminal charges, he would observe that, as he understood the Code prepared by the Commissioners at home, the intention was that the Advocate General should have power to prefer charges in the Criminal Courts in the Mofussil. Cases might occur which could be tried only by the local Courts in the Mofussil—political cases, for instance, in which it might be right to allow the Advocate General to file a criminal charge in the Court of Session without the intervention of the Magistrate. He had therefore thought it right to leave the Sections as he found them, and to authorize the Advocate General to file charges in any criminal Court whether in the Mofussil or not. If the suggestion as to the appointment of a Public Prosecutor made by the Honorable and learned Member opposite (Sir Arthur Buller) should be adopted, and he hoped it would be, that provision would be unne-

cessary; but until such an appointment was made, he thought that there would be no inconvenience from allowing the Advocate General to prefer criminal charges in the Mofussil Courts, in the same manner as in the Supreme Court.

It was not his intention to follow the argument of the Honorable and learned Member (Sir Arthur Buller), or to enter into a discussion of the question whether British subjects should be made amenable to the Company's Courts in criminal matters. He would merely observe that, after the best consideration which he had been able to give to the question, he had come to the conclusion that there ought to be no distinction between British subjects and Natives of the country. He could not conceive why, where a British subject in the Mofussil was accused of a crime which was punishable, for instance, only by fine, the complainant and his witnesses should have to travel all the way to the Session Court in order to support the prosecution. Even now, British subjects were liable to be fined by a Magistrate to the extent of 500 Rupees for assault and offences accompanied with force against the person or property of any Native of India. It appeared to him that it would be going a step backward to send such cases to the Courts of Session.

He thought it unnecessary to go farther into this question at present.

With respect to the remarks which the Honorable and learned Chief Justice had made upon the Schedule annexed to the Bill, he would mention that he had endeavored, as far as he could, to adapt the Schedule to what he understood to be the intention of Her Majesty's Commissioners and to the revised Penal Code which had been read a second time. But he rather agreed with the Honorable and learned Chief Justice that the principle upon which summary jurisdiction should be given depended, not so much upon the amount of punishment which could be inflicted, as upon the nature of the offence, and the difficulties which were likely to arise upon the trial.

He was glad to find that no Honorable Member had any opposition to offer to the second reading of the Bill, and he had listened with great pleasure to the admirable speech made by the Honorable and learned Member who had opened this debate, although he could not concur with him upon all points.

MR. PEACOCK'S's motion was carried, and the Bill read a second time.

CRIMINAL PROCEDURE (NORTH WESTERN PROVINCES).

MR. PEACOCK moved the second reading of the Bill "for extending the jurisdiction of the Courts of Criminal Judicature of the East India Company in the North Western Provinces, for simplifying the Procedure thereof, and for investing other Courts with Criminal jurisdiction."

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

CRIMINAL PROCEDURE (MADRAS).

MR. PEACOCK moved the second reading of the Bill "for extending the jurisdiction of the Courts of Criminal Judicature of the East India Company in Madras, for simplifying the Procedure thereof, and for investing other Courts with Criminal jurisdiction."

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

CRIMINAL PROCEDURE (BOMBAY).

MR. PEACOCK moved the second reading of the Bill "for extending the jurisdiction of the Courts of Criminal Judicature of the East India Company in Bombay, for simplifying the Procedure thereof, and for investing other Courts with Criminal jurisdiction."

Mr. LEGEYT said, when he came into the Council room, he was not aware that he would have had the satisfaction of hearing the lucid and able speeches which had taken place on the Bill for Bengal, and to which he had listened with great interest; and what had been said had for the most part his hearty concurrence. With reference to the Bill for the Presidency which he had the honor to represent, he considered that what had fallen from the Honorable Members who had stated, in so luminous a manner, their opinions respecting the Code of Procedure generally, was equally applicable to Bombay as to Bengal. Doubtless the extension of the criminal jurisdiction of the Mofussil

Courts was not now felt to be a matter of that paramount importance at Bombay which it was felt to be here, from the circumstance that, as yet, the number of British settlers in the Western Presidency was insignificant when compared with the large European community in the Province of Bengal. But as this Bill was intended to be one of permanency, the time might come when the objections urged against some of its provisions in Bengal would be echoed by the Public in Western India.

There were some points of detail in the Bill to which he wished to draw the attention of the Council, and of the Public to whom the Bill was about to be submitted for opinions and suggestions.

This Bill, like that relating to Civil Procedure, provided that witnesses should be examined without oath or affirmation, or any warning, as a necessary preliminary to their giving evidence. He had, on another occasion, when the Civil Procedure Bill was before the Council, objected to this wholesale sweeping away of all apparent safeguards and precautions against false evidence. What he had then said in reference to this provision in the Code of Civil Procedure, appeared to him to be equally, nay more applicable to the corresponding provision in the Code of Criminal Procedure; and he did hope that the publication of the Bill would elicit such opinions from the judicial officers in the Presidency of Bombay, and from others, as would assist the Council in determining whether all oaths and warnings to witnesses in Criminal cases could be safely dispensed with.

With respect to other points, he considered that the Bill would receive general approbation at Bombay.

In Chapter IX Section 10 Police Officers were prohibited to examine persons accused of crime. He looked upon this provision as most admirable, and one which would produce an immense improvement in the administration of criminal justice in this country. Coupled with the provisions made by Sections 14, 16, 19, and 24 of the same Chapter, he trusted the effect would be a decided and immediate improvement. Hitherto, at Bombay, it had not been permitted to the Courts to grant conditional pardons, and the reception of the evidence of an accomplice was preceded by an unconditional pardon. A prisoner charged with having committed an offence in concert with others, and whom it might appear desirable to admit as an approver, was told that he would be set at liberty if he chose and promised to give evidence against his accomplices; and if he accepted the offer, he escaped without punishment, except on the chance of a conviction for perjury, whether, at the trial, he fulfilled his promise or not. As might be expected, under such a system, cases depending on the evidence of an approver constantly broke down, and a failure of justice was the consequence. It had become very rare to offer pardons to prisoners, and the result was that testimony, which when duly corroborated, was most satisfactory, was lost, and in its place the most objectionable had been substituted—namely the confessions of prisoners before the Police, for the obtaining of which the most abominable practices were resorted to, and which, when obtained, was generally of the most unsatisfactory description. The exercise of the power conferred by Section 16 of the same Chapter, the examination of the Defendant by the Magistrate, was, he thought, free from all objection, and he was surprised and disappointed that a similar power had not been conferred on the Session Court. While an ill-regulated and improper course of questioning a prisoner by subordinate agency was most objectionable, a discreet and fair questioning of an accused person by a competent Court, before the Public, with each question and answer recorded, was highly beneficial, and would, he thought, tend to elicit guilt or innocence more than anything that could be devised.

There was one point in the admirable speech of the Honorable and learned Member to his right (Sir Arthur Buller) in which he thought his Honorable friend had arrived at an erroneous conclusion. He had understood his Honorable friend to say that the Natives of the Mofussil knew and cared but little for juries. Now in this opinion he must join issue with his Honorable and learned friend. He thought that he could state from long experience that the contrary was the fact, and that no form of inquiry was so popular, or, when properly conducted, so much trusted, as

that by punchayet, which is analogous to Juries. This was the sole ancient inquisition of the country in all matters of Civil dispute. In criminal cases, the Native Governments did not generally favor trials; but so far from the Natives of the present day regarding it with indifference, he believed that it would be preferred in every case by a man who wished for a searching and honest investigation. He had had considerable experience of it practically when sitting in a Court of justice, and, except in very few cases, had always received the greatest assistance both from Jurors and Assessors.

He would not detain the Council further, and should vote for the second reading of the Bill.

MR. PEACOCK'S Motion was carried, and the Bill read a second time.

CRIMINAL PROCEDURE (BENGAL).

MR. PEACOCK moved that the Bill "for extending the jurisdiction of the Courts of Criminal Judicature of the East India Company in Bengal, for simplifying the Procedure thereof, and for investing other Courts with Criminal jurisdiction" be referred to a Select Committee consisting of the Chief Justice, Mr. Grant, Mr. Currie, and the Mover.

Agreed to.

CRIMINAL PROCEDURE (NORTH WESTERN PROVINCES.)

MR. PEACOCK moved that the Bill "for extending the jurisdiction of the Courts of Criminal Judicature of the East India Company in the North-Western Provinces, for simplifying the Procedure thereof, and for investing other Courts with Criminal jurisdiction" be referred to a Select Committee consisting of Mr. Eliott, Mr. Allen, and the Mover.

Agreed to.

CRIMINAL PROCEDURE (MADRAS).

MR. PEACOCK moved that the Bill "for extending the jurisdiction of the Courts of Criminal Judicature of the East India Company in Madras, for simplifying the Procedure thereof, and for investing other Courts with Criminal jurisdiction" be referred to a Select Committee consisting of Mr. Eliott, Sir Arthur Buller, and the Mover.

Agreed to.

CRIMINAL PROCEDURE (BOMBAY).

MR. PEACOCK moved that the Bill "for extending the jurisdiction of the Courts of Criminal Judicature of the East India Company in Bombay, for simplifying the Procedure thereof, and for investing other Courts with Criminal jurisdiction" be referred to a Select Committee consisting of Mr. Eliott, Mr. LeGeyt, and the Mover.

Agreed to.

SUBSISTENCE OF SMALL CAUSE COURT PRISONERS.

MR. LEGEYT moved that the Bill "to amend Act IX of 1850" be referred to a Select Committee consisting of the Chief Justice, Mr. Eliott, Mr. Currie, and the Mover.

Agreed to.

The Council adjourned.

Saturday, March 14, 1857.

PRESENT:

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

Hon. the Chief Justice,	D. Eliott, Esq.,
Hon. Major General J. Low,	C. Allen, Esq.,
	P. W. LeGeyt, Esq.,
Hon. J. P. Grant,	E. Currie, Esq., and
Hon. B. Peacock,	Hon. Sir A. W. Buller.

LAND FOR PUBLIC PURPOSES.

THE CLERK presented a Petition from the British Indian Association against the Bill "for the acquisition of land for public purposes."

MR. ALLEN moved that it be printed. As the Report of the Select Committee had already been presented, he would not move that the Petition be referred to them.

The Motion was agreed to.

CRIMINAL PROCEDURE (BENGAL.)

THE CLERK presented and read a Petition signed by about 1,100 British