

Saturday, 9th May, 1857

PROCEEDINGS  
OF THE  
LEGISLATIVE COUNCIL OF INDIA,

FROM

January to December 1857.

VOL. III.

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CALCUTTA :  
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1857.

Bengal Government on the subject of Under-tenures be laid upon the table and referred to the Select Committee on the Bill "to improve the law relating to sales of land for arrears of Revenue in the Bengal Presidency."

Agreed to.

The Council adjourned.

Saturday, May 9, 1857.

PRESENT :

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

Hon. the Chief Justice, Hon. Major General J. Low, Hon. J. P. Grant,	Hon. B. Peacock, P. W. LeGeyt, Esq. E. Currie, Esq., and Hon. Sir A. W. Buller.
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THE CLERK presented the following Petitions :—

CRIMINAL PROCEDURE (BENGAL.)

A Petition of the Bengal Chamber of Commerce against so much 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" as proposes to entrust powers of imprisonment to Native Officers in the two lower Courts: and also praying that such amendments may be introduced into the Bill as will ensure to the two higher Courts competent and independent Judges, before the jurisdiction of those Courts is extended.

MR. PEACOCK moved that the above Petition be referred to the Select Committee on the Bill.

Agreed to.

CIVIL PROCEDURE (BOMBAY.)

A Petition of Inhabitants of Surat praying that the Clauses of the Bill "for simplifying the Procedure of the Courts of Civil Judicature of the East India Company in Bombay" concerning suits against Officers of Government, may be omitted; and that such suits may be placed on the same footing as suits against private persons.

MR. LEGEYT moved that the above Petition be referred to the Select Committee on the Bill.

Agreed to.

PIRATICAL VESSELS (STRAITS SETTLEMENT.)

MR. PEACOCK presented the Report of the Select Committee on the Bill "to authorize the arrest and detention, within the Ports of the Settlement of Prince of Wales' Island, Singapore, and Malacca, of Junks or Native Vessels suspected to be piratical."

PORT-DUES (MOULMEIN, RANGOON &c.)

MR. CURRIE moved that a Bill "for the levy of Port-dues in the Ports of Moulmein, Rangoon, Dalhousie, Akyab, and Chittagong" be now read a first time.

He said, when he lately introduced the Bill for levying port-dues in the Port of Calcutta, he mentioned that there were other ports under the Government of Bengal at which port-dues were levied, and that he was not then in possession of the information necessary to enable him to include them in that Bill, or to frame another Bill concerning them. He had since been furnished with information respecting the ports of Akyab and Chittagong; but it had appeared to him that the other ports on the Eastern side of the Bay of Bengal—Moulmein, Rangoon, and Bassein or Dalhousie—should be included in any Bill that might be framed for Akyab and Chittagong. The Commissioner of Pegu had furnished full information respecting the port of Rangoon, and recommended that the port-due now levied there—namely, four annas per ton—should be raised to six annas. Calculated on the quantity of shipping which now frequented Rangoon, the Commissioner shewed that even this enhanced rate would not be sufficient to cover the expenses of the port. He was, however, of opinion that no higher tax should be levied; and he (Mr. Currie) had taken the rate which that Officer recommended should not be exceeded, as the maximum rate to be levied under the Bill. The Commissioner of Pegu proposed that the Harbour Act should not, at present, be extended to the new port of Dalhousie, and

that the existing duty there of four annas per ton should continue to be levied. But it should be remembered that, after the 16th of August next, no port-due at all could be levied at any port, whether the Harbour Act was extended to it or not, without the authority of the Legislature; and he (Mr. Currie) had, therefore, thought it advisable to include the port of Dalhousie in this Bill. Of course, if it should appear proper to the Council, or to the Select Committee to whom the Bill might be referred, to forego the levy of duties altogether until the requirements of the new port, and the probable amount of shipping, should be ascertained, the necessary amendment could easily be made; but if that port had been omitted from the original Bill, and it were afterwards thought necessary to include it, it would not have been so easy to rectify the omission.

For Akyab and Chittagong, he had taken the rates which at present prevailed—namely, two-and-a-half annas and four-and-a-half annas. At both ports, the receipts were somewhat in excess of the expenditure; but the rates were, probably, not too high. The Commissioner of Arracan stated that the future expenses of that port would probably exceed the income.

In apology for bringing in a Bill which was based on information confessedly in some respects defective, he thought it necessary only to say that it appeared to him desirable that there should be no further delay in passing the supplemental Acts required by Section XLI of the Harbour Act. These supplemental Acts ought to have been passed within twelve months after the passing of the Harbour Act, and nearly two years had now elapsed. From Moulmein, no communication whatever had been received since the Harbour Act was passed. He thought that the surest way of getting what was wanted, was the introduction of a Bill framed upon such imperfect information as had been obtained, which would impose a sort of necessity on the parties interested to communicate their views on the subject, within a certain definite period.

If the Bill should be read a second time, he would ask permission to refer it to the same Select Committee which

had been appointed to consider the Calcutta Port-dues Bill, and it could then be determined whether the two Bills should be consolidated into one, or passed as separate measures. The provisions of this Bill were not entirely identical with the provisions of the Calcutta Bill; and he thought that they would probably be better as separate enactments.

The Bill was read a first time.

#### MADRAS UNIVERSITY.

MR. LEGEYT moved the second reading of the Bill "to establish and incorporate an University at Madras."

THE CHIEF JUSTICE said, he rose to make only one observation upon Section VI of the Bill. He observed that, both in this Bill and in the Bill intended for Bombay, the Governments of those two Presidencies, or the framers of the drafts, had, in appointing ex-officio Fellows, proceeded upon a principle different from that which had been adopted in the Bill for Calcutta with the sanction of the Governor-General in Council. By the Bill for Calcutta, the only ex-officio Fellows appointed were the Lieutenant-Governor of Bengal, the Lieutenant-Governor of the North Western Provinces, the Chief Justice, the Members of the Supreme Council, and the Bishop of Calcutta, all for the time being. In the Bill for Madras, he observed that the present Chief Justice of that Presidency was appointed first Vice-Chancellor of the Madras University, but that no provision was made for the Chief Justice for the time being continuing to be an ex-officio Fellow. The ex-officio Fellows whom the Bill did appoint, were the Bishop of Madras for the time being, the Commander-in-Chief of the Forces in Madras for the time being, the Members of the Council of Madras for the time being—and then followed a great number of other persons, some of them public Officers, and some Heads of private Institutions. There were the Secretary to Government in the Departments of Revenue and Public Works, the Secretary to Government in the Military Department, the Director of Public Instruction, the Principal of the Presidency College, the President of the Medical College, the Principal of the Doveton College, the Principal of the Government Normal School, and the President

of Patcheapah's Institution, all for the time being. That last Institution, he apprehended, and the Doveton College, would be rather in the nature of affiliated Institutions—Institutions which would become connected with the University on their own application and on the recommendation of two Members of the Senate. It did not seem to him very expedient to make the Heads of such Institutions for the time being ex-officio Members of the Senate for all time to come. Because, though he trusted such an event was far from probable, yet it was possible that such a considerable difference of opinion regarding the course of instruction proper to be adopted might at some time arise as to induce them to withdraw from the University altogether; notwithstanding which, they would, by the Act establishing and incorporating the University, be ex-officio Members of the Senate for all time to come, or at least until a new Act of the Legislature was passed. He, therefore, thought it desirable that the Bills for Madras and Bombay should correspond in this respect with the Bill for Calcutta.

MR. LEGEYNT said he quite agreed in these observations, and had already forwarded a communication to the Government of Bombay, and sent a copy of it to the Government of Madras, embodying very much the same arguments, and suggesting that the selection of ex-officio Members should be only from amongst public Officers. He had no doubt that he would receive in a very few days communications from both Governments expressing their concurrence in the views he had submitted, and the desired amendments in the Bill might be made in Select Committee.

The Bill was then read a second time.

#### ACQUISITION OF LANDS FOR PUBLIC WORKS.

The following Messages from the Governor-General were brought by Mr. Peacock and read:—

#### MESSAGE No. 100.

The Governor-General informs the Legislative Council that he has given his assent to the Bill which was passed

by them on the 25th April 1857, entitled "A Bill for the acquisition of land for public purposes."

By order of the Right Honorable the Governor-General.

CECIL BEADON,

*Secy. to the Govt. of India.*

FORT WILLIAM, }  
The 1st May 1857. }

#### UNCOVENANTED SERVANTS (FORT ST. GEORGE).

#### MESSAGE No. 101.

The Governor-General informs the Legislative Council that he has given his assent to the Bill which was passed by them on the 25th April 1857, entitled "A Bill for the more extensive employment of Uncovenanted Agency in the Revenue and Judicial Departments in the Presidency of Fort St. George."

By order of the Right Honorable the Governor-General.

CECIL BEADON,

*Secy. to the Govt. of India.*

FORT WILLIAM, }  
The 1st May 1857. }

#### PATENTS FOR INVENTIONS.

MR. PEACOCK said, the Honorable Court of Directors had signified to the Governor-General in Council that they had disallowed Act VI of 1856, for the granting of exclusive privileges to Inventors. It therefore became necessary for the Council, under Section XLIV of the Charter Act, to take measures forthwith to repeal the Law. The 44th Section of the Charter Act said:—

"In case the said Court of Directors, under such control as by this Act is provided, shall signify to the said Governor-General in Council their disallowance of any Laws or Regulations by the said Governor-General in Council made, then and in every such case, upon receipt by the said Governor-General in Council of notice of such disallowance, the said Governor-General in Council shall forthwith repeal all Laws and Regulations so disallowed."

He therefore moved that the Standing Orders of the Council be suspended, that he might be enabled to bring in and carry through the different stages at once a Bill "to repeal Act VI of 1856."

MR. GRANT seconded the motion, which was carried.

MR. PEACOCK then moved the first reading of a Bill "to repeal Act VI of 1856." He said, by the Charter Act of 3 and 4 William IV, which conferred powers of legislation upon the Governor-General of India in Council, it was provided that the Governor-General in Council should not have power to pass any Act which should affect any prerogative of the Crown. By the 16 and 17 Vict. c. 95, it was enacted that no Law shall be invalid by reason only that the same affects any prerogative of the Crown, provided the same shall have received the previous sanction of the Crown. The Select Committee who prepared the Bill for granting exclusive privileges to Inventors in India, having taken the question into consideration, came to the conclusion that the Bill, as they had framed it, did not affect any prerogative of the Crown, and, upon their recommendation, the Bill was passed without having been sent home for the sanction of the Crown. As one of the Committee, he thought at the time that, if the Act did not affect the prerogative of the Crown, it would be better not to send it home for sanction—not because he wished that the Council should run any unnecessary risk of exceeding its powers, or that it should assert a right to pass such an Act without the previous sanction of the Crown; but because he thought that, as the Act was introducing into India for the first time the right to grant exclusive privileges to Inventors, it would be necessary for the Council to watch the mode in which it worked, and to have the power, if it saw any inconvenience arise from any of its provisions, to amend it at once without making a reference home. If the Council was unable to pass such an Act without the previous sanction of the Crown, it followed that it would be unable without the sanction of the Crown to amend any of its provisions after it had been passed with such sanction. The Select Committee, therefore, having very carefully considered the question, and having come to the conclusion that the Act did not affect any prerogative of the Crown, recommended the Council to pass the Act without sending it home for the previous sanction of Her Majesty. When the Act went home, the opinion of Her Majesty's Law Officers was taken on the question whether it

was within the competency of this Council to pass it without the sanction of the Crown; and Her Majesty's Law Officers, proceeding on the assumption that the prerogative of the Crown to grant Letters Patent extended to India, gave it as their opinion that the Act did affect that prerogative, and that therefore it was beyond the competency of this Council to pass it without the Royal sanction. It was unnecessary for him to combat that opinion, or to enter into any argument upon the point, because the Honorable Court of Directors, guided by that opinion, had disallowed the Act, and had notified such disallowance to the Governor-General in Council. All that remained for the Council to do was to take measures to repeal the Act without delay.

As, however, the Honorable Court's Despatch entered into the subject at length, and the Council had not yet had an opportunity of seeing it, he would ask permission to read it.

He was glad to say that it was not on the ground of any objection to the Act itself on the part of the Court or of the Law Officers of the Crown, but simply on the dry legal question relating to the prerogative of the Crown, that the Act had been disallowed. He believed that the Court of Directors were still anxious that an Act should be passed under which Inventors might obtain exclusive privileges. The Law Officers of the Crown suggested that the Act should be reconsidered, and that a Bill in substitution of it should be sent home for the sanction of Her Majesty, containing a Clause enacting that privileges which had already been granted under it should be held to be as valid as if the Act had received the previous sanction of the Crown.

The Despatch of the Court was dated the 18th of March 1857, and was as follows:—

"Para. 1. In continuation of our Despatch of the 2nd January (No. 1), 1857, we herewith transmit to you the joint opinion of the Law Officers of the Crown and of the East India Company 'as to the mode in which it is now necessary to proceed in order to legalize what the Government of India may have done under Act VI of 1856, in regard to granting Patents, and to enable them in this respect to act legally for the future;'—and in so doing, we cannot but express our regret that the Legislative Council should have taken

the step of passing an Act upon the subject of Patents under circumstances which have rendered its early repeal a matter of necessity.

"2. The proceedings before the Council at the time of passing the Act shew that discussion respecting the power of the Government of India to legislate in regard to Patents for the protection of inventions and discoveries had been carried on from the year 1835—that is, from a date shortly after the enactment of the Act 3 and 4 William IV. c. 85, by the 43rd Section of which extended powers of legislation were conferred upon the Governor-General in Council. The Law Officers of the Crown and of the East India Company had been repeatedly consulted, and the majority of opinions were adverse to the competency of the local Legislature to legislate upon the subject. Under these circumstances, it was suggested in a joint Opinion, dated 24th May 1850, subscribed by Her Majesty's Attorney General and Solicitor General, and by the Company's Standing Counsel, 'either that a Law should be passed in India confined to the confirmation of any Letters Patent which may be granted by the Crown for India, and to provisions for making the same effectual, or that the aid of the Imperial Legislature should be sought for either now, or on any renewal which might be granted of the East India Company's Government.' The Law Officers were in favor of the latter course.

"3. An opportunity was accordingly taken in the year 1853, of introducing into the Act 16 and 17 Vic. c. 95, a Clause empowering the Governor-General in Council to legislate in matters affecting the Prerogative of the Crown, provided that the Law or Regulation to be passed by the local Legislature shall have received the previous sanction of the Crown, signified under the Royal Sign Manual of Her Majesty, countersigned by the President of the Board of Commissioners for the Affairs of India; and the Government of India cannot but have been aware that the insertion of this Clause was the result of the previous discussion in regard to the respective powers of the Crown and of the Governor-General in Council to provide, by means of Patents, for the protection of Inventions.

"4. Provision was thus made, by the Law of 1853, for satisfactory legislation in India upon the subject, and for securing, under the joint action of the Crown and of the Government of India, the rights of Patentees, by avoiding all questions as to the validity of their Patents which might otherwise have been raised in the Courts of Law on the ground of the incompetency or legal inability of the authority granting the Patent. A draft Act 'for granting exclusive privileges to Inventors' was, however, shortly after laid before the Legislative Council, and passed on the 28th February 1856, without the sanction of the Crown having been previously obtained.

"5. It was considered by the Legislative Council, on the advice of the Select Committee to whom the Bill had been referred, that the provisions of the Act would not affect any Royal Prerogative, even on the assumption

that the Prerogative of the Crown to grant Patents extended to India. In order, however, to avoid any possible case of conflict or collision, it was provided by the 35th Section that—'Nothing in this Act shall affect the Prerogative of the Crown, or interfere with or affect any Letters Patent now or hereafter to be granted by the Crown.'

"The Law Officers of the Crown, proceeding on the same assumption, have given it as their opinion that 'it was not competent to the Legislative Council to pass the Act VI of 1856, without previously obtaining the sanction of the Crown; and that the omission is in no way cured or affected by Section XXXV, or the interference removed by a declaration that the usurped right is exercised subject to any similar exercise of its Prerogative by the Crown.' In passing Act VI of 1856, the Legislative Council departed from the course specially indicated for its guidance by the Imperial Legislature, and adopted one which, if within the competency of the Council at all, was as much so at the commencement, as at the close, of twenty years' discussion upon the subject.

"6. Under these circumstances, it only remains for us formally to disallow Act VI of 1856. We disallow it, and direct that you will take measures for its immediate repeal."

It was upon this Clause of the Despatch that he now proposed to repeal the Act.

His own opinion was that Section XXXV of the Act did sufficiently provide against any interference with the prerogative of the Crown. The only case in which, as it appeared to him, such an Act as the present could affect the prerogative of the Crown was if one person should obtain from the Crown a Patent for an invention extending to India, and another should obtain from the Government here an exclusive privilege under this Act. In such a case, there would be two persons claiming an exclusive privilege in respect of the same Invention, and there would be a conflict of rights. To avoid such a conflict, and to prevent any interference with the prerogative of the Crown, the Select Committee had inserted in the Act Section XXXV. The Section said—

"Nothing in this Act shall affect the prerogative of the Crown, or interfere with, or affect any Letters Patent now or hereafter to be granted by the Crown."

So that if the Crown should think it right to exercise the prerogative of granting a Patent in India, the exclusive privilege granted by the Government here would give way, and the Pa-

tent of the Crown would be of as much force as if the exclusive privilege had never been obtained. He mentioned this with the view, not of disputing the Opinion given by the Law Officers of the Crown, but of explaining to the Council, with reference to the Court's Despatch, why the Select Committee had recommended that the Act should not be sent home for sanction before it was passed.

The Despatch proceeded as follows :

" We desire that, for the information of the Legislative Council, and with a view to the protection of the rights of the Patentees to whom you have already granted Patents, you will lay before the Council a copy of the Opinion herewith transmitted. We also transmit, for the same purpose, copies of correspondence noted in the margin relative to a reference made to us on the subject of Act VI of 1856 by the Directors of the East India Railway Company."

As the Opinion and correspondence to which he had referred, together with the Despatch itself, would be laid before the Council in due course, and they were of some length, it was unnecessary for him to detain the Council by reading them now. But he would state shortly what the Law Officers had recommended. They said :—

" We are of opinion that the advisable course will be that an Act should be passed by the Indian Legislature, with the previous sanction of the Crown, which should recite that the Act No. VI of 1856 had been passed without the previous sanction of the Crown, and that a question had been raised as to the competency of the Indian Legislature to pass it ; and should then repeal the Act No. VI of 1856, and afterwards proceed to re-enact its provisions, but excluding the 35th Clause. If any Patents have been granted under the Act No. VI of 1856, a Clause should be added to provide that every thing done under that Act before the passing of the new Act, shall be of the same force and effect as if previously to the passing thereof the same had received the sanction of the Crown.

" In framing the new Act to be submitted for the sanction of the Crown, the provisions of the former Act will doubtless receive re-consideration. In doing this we think that (amongst other points) it will deserve to be considered whether Clause XVIII, which enacts that an invention is to be deemed a new invention, if it shall not have been *publicly* used in India, or been made *publicly known* there by means of a printed publication, is not too largely worded. Also whether the enactment of Clause XXII, which restricts the defence of want of novelty to a Defendant

who has publicly or actively used the invention in India, may not temporarily (that is, until the Patent be set aside) give to the holder of a Patent fraudulently taken out, all the profits of a valid Patent."

These were subjects which would receive consideration before the Act in substitution of Act VI of 1856 was sent home for sanction. All he proposed now was to introduce a Bill to repeal forthwith Act VI of 1856, which the Court of Directors had disallowed, and which it was therefore the duty of the Council to repeal without delay. It would not be right to follow in this case the course prescribed by the Standing Orders, and publish the Bill for three months before passing it. The Act having been disallowed by the Court of Directors, the Council was bound, under the provisions of the Charter by which it was constituted, to repeal it forthwith. As soon as the papers now in his hand were fully before the Council, which he hoped they would be before their next Meeting, it was his intention to move that they should be referred to the Select Committee who had framed Act VI of 1856, in order that they might consider whether there was any necessity for altering or modifying the Act. He would then suggest that the Select Committee should prepare a Bill in substitution of the Act, and that it should be read a first and second time, and settled in a Committee of the whole Council, and then sent home for the sanction of the Crown. It appeared to him that that would be the most advisable course to be adopted. But intermediately, he thought that the Act VI of 1856 should be repealed forthwith. He therefore now proposed a Bill to repeal it, which, as it was very short, he would read to the Council :—

*A Bill to repeal Act VI of 1856.*

Whereas Her Majesty's Law Officers, preceding upon the assumption  
Preamble. that the Prerogative of the Crown to grant Letters Patent for Inventions extends to India, have given it as their opinion that the Legislative Council of India was not competent to pass Act VI of 1856 without previously obtaining the sanction of the Crown ; and the Court of Directors of the East India Company have, in pursuance of the power vested in them by law, disallowed Act VI of 1856, and have signified to the



Governor-General of India in Council their disallowance thereof. It is enacted as follows:—

Act VI of 1856 is hereby repealed.

He had thought it right to state in the Preamble that Her Majesty's Law Officers had given that opinion, because the Court of Directors stated the opinion to be their reason for disallowing the Act: otherwise, it might appear that the disallowance had proceeded either on the principle that exclusive privileges ought not to be granted to Inventors in India, or on the ground that there were provisions in the Act of which the Home Authorities did not approve—which was not the fact.

MR. GRANT said, before the motion for the first reading was put, he would ask the Honorable and learned Mover of the Bill if it would not be better to omit all that part of the Preamble which explained the reason of the disallowance of Act VI of 1856 by the Honorable Court of Directors. It might perhaps be proper to insert such an explanation in the Bill which the Honorable and learned Member intended to introduce to supply the place of that Act; but he did not think that the Council ought to put forward the opinion of the Law Officers of the Crown as a reason for repealing the existing Law. That, in fact, was not the real reason for repealing the existing Law. The real reason was that the existing Law had been disallowed by the Court of Directors. The Council, in this case, was acting in only a ministerial capacity; and he thought it would be better to omit from the Preamble of the Bill the reasons of the disallowance.

THE CHIEF JUSTICE said, he did not think that the Preamble, as worded, stated the opinion of Her Majesty's Law Officers to be the reason why the Council repealed Act VI of 1856. It only recited that opinion as a reason why the Court had disallowed the Act. If that were a fit recital to insert in any Act passed by the Council, it appeared to him that it was more fit to insert it in this Bill than in the Bill which was to be substituted for Act VI of 1856.

MR. PEACOCK said, his only object in introducing the first part of the Preamble was to explain to the Public at large that the reason why the Court

of Directors had disallowed Act VI of 1856 was, not that they objected to a Patent Law for India, but merely because Her Majesty's Law Officers had given it as their opinion that the Act affected the prerogative of the Crown.

The Bill which would be introduced in lieu of Act VI of 1856 would be brought in just as if the present Act had never been passed, except that the delay of publishing it for three months would not take place. His own opinion was that it should, to a great extent at least, follow the provisions of the existing Law. The two Clauses which were referred to by the Law Officers of the Crown, would of course receive full consideration. But whatever further consideration those and other Clauses might receive, it was incumbent on the Council to repeal the Act now; and in the Bill which he had prepared for that purpose, he had thought it right to frame the Preamble so that the Public should see that the Council's reason for repealing the Act was the disallowance by the Court, and that the Court's reason for disallowing it was the opinion of Her Majesty's Law Officers that it interfered with the prerogative of the Crown. But he had no particular wish to retain that part of the Preamble which referred to the opinion of Her Majesty's Law Officers; and if Honorable Members thought that it should be struck out, the amendment might be made in Committee of the whole Council.

The motion for the first reading was then put and carried, and the Bill read a first time.

MR. PEACOCK moved that the Bill be read a second time.

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

MR. PEACOCK said, his next step was to move that the Council resolve itself into a Committee on the Bill; but if any Honorable Member desired time to consider the recitals in the Preamble, he had not the slightest objection to postpone his Motion until the next Meeting of the Council.

MR. GRANT said, he was entirely willing to go into Committee on the Bill at once; but he should take this opportunity of stating more fully than he had done before, his reasons for thinking that the Preamble should recite nothing more than that Act VI of



1856 had been disallowed by the Court of Directors. This was the first time that an Act passed by the present Legislative Council had been disallowed by the Court, and the first time that the Council—under the Charter Act which required it to repeal any Act which had been disallowed by the Court—had acted accordingly simply in a ministerial capacity. In what it was now about to do, therefore, it was about to constitute a precedent; and he thought that, in this and in all future cases, the better course would be simply to state in the Preamble what was the sole reason upon which the Council proceeded—and that was the disallowance of the existing Law by the Honorable Court. Otherwise, supposing that the Court should, in some future case, disapprove of an Act, not, as in the present instance, because of a purely technical objection, but on some substantial grounds affecting the merits of the Law; and that, in their letter of disapproval, they should enter at length upon their reasons. If, in such a case, the Council were to attempt to give in the Preamble of the repealing Act an explanation of the reasons of the disapproval, the Home Authorities might think that the Preamble did not quite correctly, or sufficiently fully state their reasons for disallowing the Act, and might have ground to complain that the Council had not done them justice. It appeared to him that it would be much safer to adopt it now as a principle, establishing a precedent which he had no doubt would be conformed to in future, that whenever an Act is disallowed by the Court, the Preamble of the Bill repealing that Act should simply state the actual reason why the Act is repealed,—which is, that it has been disallowed by the Court of Directors.

MR. PEACOCK said, he thought the Honorable Member had shewn strong reasons in support of his view, and he was quite willing to make the amendment suggested.

He should now move that the Council resolve itself into a Committee upon the Bill.

Agreed to.

Section 1 was passed as it stood.

The Preamble being proposed—

MR. PEACOCK moved that the words "Her Majesty's Law Officers,

*Mr. Grant*

proceeding upon the assumption that the Prerogative of the Crown to grant Letters Patent for inventions extends to India, have given it as their opinion that the Legislative Council of India was not competent to pass Act VI of 1856 without previously obtaining the sanction of the Crown; and," after the word "Whereas" in the first line, be omitted.

The Motion was agreed to, and the Preamble then passed.

The Title was passed as it stood.

MR. PEACOCK moved that the Bill be now read a third time, and passed.

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

MR. PEACOCK moved that Mr. Grant be requested to take the above Bill to the Governor-General for his assent.

Agreed to.

#### SONTHAL DISTRICTS.

MR. CURRIE moved that Mr. Grant be requested to take the Bill "to amend Act XXXVII of 1855" to the Governor-General for his assent.

Agreed to.

#### THE OFFENCE OF SACRILEGE (PENAL CODE.)

MR. LEGEYT moved that a letter received by him from the Secretary to the Government of Bombay, forwarding a communication from the Lord Bishop of Bombay remarking on the provisions in the Penal Code against the offence of Sacrilege, be laid upon the table and referred to the Select Committee on "The Indian Penal Code."

Agreed to.

#### DACOITY (PENAL CODE.)

MR. CURRIE moved that a communication received by him from the Government of Bengal, forwarding an extract of a Report from the Commissioner for the Suppression of Dacoity urging the inefficacy of term-punishments in the case of professional offenders, be laid upon the table and referred to the same Committee.

Agreed to.

#### LATTYALS AND DACOITS (PENAL CODE.)

MR. CURRIE moved that a communication received by him from the Go-

vernment of Bengal, regarding the career of a notorious Dacoit named Sreemunto Ghose by whom the professions of Lattyal and Dacoit were jointly followed, be laid upon the table and referred to the same Committee.

Agreed to.

#### MUNICIPAL ASSESSMENT (SUBURBS OF CALCUTTA AND HOWRAH.)

MR. CURRIE moved that Mr. Grant and Mr. LeGeyt be substituted for Mr. Elliott and Mr. Allen as Members of the Select Committee on the Bill "for raising funds for making and repairing roads in the suburbs of Calcutta and the Station of Howrah."

Agreed to.

#### COMPULSORY LABOR IN MADRAS.

MR. CURRIE moved that the Bill "to make lawful compulsory labor for the prevention of mischief by inundation, and to provide for the enforcement of customary labor to certain works of irrigation in the Presidency of Fort St. George" be referred to a Select Committee consisting of Mr. Grant, Mr. LeGeyt, and Mr. Currie.

Agreed to.

#### PIRATICAL VESSELS (STRAITS SETTLEMENT.)

MR. PEACOCK gave notice that he would, on Saturday the 16th Instant, move for a Committee of the whole Council on the Bill "to authorize the arrest and detention, within the Ports of the Settlement of Prince of Wales' Island, Singapore, and Malacca, of Junks or Native Vessels suspected to be piratical."

The Council adjourned.

Saturday, May 16, 1857.

#### PRESENT:

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

Hon. the Chief Justice,	P. W. LeGeyt, Esq.
Hon. Major General	E. Currie, Esq.
J. Low,	and
Hon. J. P. Grant,	Hon. Sir A. W. Bul-
Hon. B. Peacock,	ler.

#### CIVIL PROCEDURE (BOMBAY.)

THE CLERK presented a Petition of inhabitants of Broach, praying that the Clauses of the Bill "for simplifying the Procedure of the Courts of Civil Judicature of the East India Company in Bombay" concerning suits against Officers of Government may be omitted; and that such suits may be placed on the same footing as suits against private individuals.

MR. LEGEYT moved that the above Petition be referred to the Select Committee on the Bill.

Agreed to.

#### LEGISLATIVE COUNCIL.

THE CLERK reported to the Council that he had received a communication from the Secretary to the Government of India in the Home Department, forwarding copies of two Circulars to the Local Governments and other authorities, with a request that, with the permission of the Council, a narrative of the course of Legislation during the official year 1856-57 may be drawn up and forwarded to that Department for publication with the other Reports.

MR. GRANT moved that the above communication be referred to the Standing Orders Committee.

Agreed to.

#### PATENTS FOR INVENTIONS.

THE CLERK also reported to the Council that he had received a communication from the Officiating Under-Secretary to the Government of India in the Home Department, forwarding copies of two Despatches from the Honorable Court formally disallowing and desiring the repeal of Act VI of 1856 (for granting exclusive privileges to Inventors).

MR. PEACOCK moved that the above communication be referred to the former Select Committee on the Patents Bill, consisting of the Chief Justice, Mr. Grant, and Mr. Peacock.

Agreed to.

#### OPIUM (BENGAL.)

MR. CURRIE presented the Report of the Select Committee on the Bill "to consolidate and amend the Law re-