

Saturday, 7th June 1856

PROCEEDINGS



OF THE

LEGISLATIVE COUNCIL OF INDIA,

FROM

January to December 1856.

VOL. II.

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Commissioners, who, if they thought it necessary, would institute proceedings against him.

The Section was agreed to.

MR. ELIOTT moved that the following new Section be inserted at the end of the Bill:—

“This Act shall commence and take effect from and after the 1st of November 1856.”

Agreed to.

The Council having resumed its sitting, both the Bills were reported.

**POLICE (PRESIDENCY TOWNS, &c.)**

MR. ELIOTT said, he had received a communication from the Government of Madras in answer to a reference which he had made to it in relation to a Section in the Police Bill which had undergone considerable discussion when the Bill first came before a Committee of the whole Council. It was the Section which provided that, in Calcutta, Madras, and Bombay, charges of stealing, embezzlement, &c., of property above the value of Rupees 50, belonging to persons about to sail in steamers or passenger ships, should be tried summarily by two Magistrates. It had been suggested that a better provision for the exigency contemplated by this Section would be the more frequent holding of Sessions by the Supreme Court. He had now obtained from the Madras Government returns showing the number of persons committed to each of the Sessions quarterly in that Presidency during a period of three years, the average period that the persons committed remained in confinement awaiting trial, and the longest period of confinement before trial at each Sessions. The Return showed that, sometimes, the imprisonment between the committal and the trial extended to so much as three months. The return was of importance; and he now moved that it be printed.

Agreed to.

The Council adjourned.

*Saturday, June 7, 1856.*

**PRESENT :**

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

His Excellency the Com- mander-in-Chief,	D. Elliott, Esq.,
Hon. J. P. Grant,	C. Allen, Esq.,
Hon. B. Peacock,	E. Currie, Esq., and Hon. Sir A. W. Buller.

**MARRIAGE OF HINDOO WIDOWS.**

THE CLERK presented a Petition from Inhabitants of the Sattara District in the

Presidency of Bombay against the Bill “to remove all legal obstacles to the Marriage of Hindoo Widows.”

MR. GRANT moved that the Petition be printed.

Agreed to.

**POLICE (PRESIDENCY TOWNS, &c.)**

THE CLERK presented a Petition from the Bombay Association submitting some remarks on the Bill “for regulating the Police of the Towns of Calcutta, Madras, and Bombay, and the several stations of the Settlement of Prince of Wales’ Island, Singapore, and Malacca.”

MR. ELIOTT moved that this Petition be printed.

Agreed to.

**PORT-DUES AND FEES.**

MR. ELIOTT moved the first reading of a Bill “to authorize the levy of Port-dues and fees at the present rates for a further period of twelve months.” He said, he had explained at the last Meeting of the Council his reason for intending to propose this Bill. Section XLI of Act XXII of 1855 (for the regulation of Ports and Port-dues) provided that the dues and fees usually collected at the several Ports before the passing of that Act might continue to be collected for a further period of one year, in order that the local Government might have time to send in Schedules containing certain data which would enable the Council to pass a supplemental Act for fixing the dues to be collected in future. These Schedules had not been received as yet; and the time during which, as the Act stood, the collection of Port-dues now levied would be legal, would expire on the 13th of August. It was necessary, therefore, to extend the period, and, that the local Governments might have sufficient time for the preparation of the Schedules required, this Bill proposed to extend it to one year.

With these observations, which were all that he thought it necessary to make on the subject, he begged to move the first reading of the Bill.

The Bill was read a first time.

**AFFIDAVITS, AFFIRMATIONS, AND SOLEMN DECLARATIONS.**

MR. PEACOCK moved the first reading of a Bill “to amend the law relating to affidavits, affirmations, and solemn declarations.”

He said, some short time ago, the Government of India applied to the Supreme Court of Judicature in Calcutta to know whether the expenses of taking out Probates of Wills where the value of the estates was very small, might not, in future cases, be diminished. The Supreme Court replied that a considerable portion of the expenses was at present incurred as costs of Commissions which it was necessary to issue into the Mofussil for the purpose of taking affidavits to prove the Wills. As the law now stood, Judges in the Mofussil were not able to take affidavits for the purpose of being used in the Supreme Court. In consequence of a suggestion made by the Supreme Court, the Government of India requested the Advocate General to prepare a Bill for enabling Judges and other Officers of Government in the Mofussil to swear parties to affidavits to be used in the Supreme Courts. The Advocate General had done so, and his Bill, subject to some alteration, was the Bill now proposed. In addition to taking affidavits and affirmations to be used in the Supreme Courts, the Bill authorized certain Officers to take voluntary affidavits and declarations for the purpose of confirming statements, of authenticating documents, and of proving debts, and other matters.

The Bill was read a first time.

#### CONSERVANCY OF MILITARY CANTONMENTS (BENGAL).

THE COMMANDER-IN-CHIEF moved the second reading of the Bill "for the Conservancy of Military Cantonments in the Presidency of Bengal."

MR. ALLEN said, he wished to offer a few words upon this Bill.

He had no objection whatever to introduce a Bill for the Conservancy of Military Cantonments; indeed, he thought it was very desirable that a Conservancy Bill should be introduced both for Cantonments and for large Towns; but he did not think that this Bill should go before the Public in the precise form in which it was presented. He thought that there were Sections in it which were arbitrary in their nature, and which interfered with rights of property to a greater extent than was advisable; and that, therefore, it should be referred to a Select Committee before publication, with an instruction to them to amend it if they could, or to prepare a new Bill on the subject.

The first objection which he felt against the Bill was founded on the recital in the

Preamble. From that recital, it appeared that the Bill was intended only for the Military Cantonments of the Bengal Army. If this was a good measure for establishing conservancy and sanitary Regulations for Military Cantonments generally, it was unwise to limit its application to only one Presidency. At any rate, as he had observed on a former occasion, it was always better that a Bill should be published as applicable to all the Presidencies, because if, upon discussion, it should appear that it ought not to be extended to any particular Presidency, it would be easy to exclude that Presidency in Committee; whereas, if the Bill were published as applicable only to a single Presidency, and the Council should be of opinion that it ought to be made applicable to all the Presidencies, there would be difficulty in making the necessary amendment.

But there was a special reason why this Bill should not be confined to a single Presidency. Military Cantonments were often transferred from the Army of one Presidency to that of another; and as this Bill affected property, the security which property in a Military Cantonment now enjoyed might be materially diminished on the Cantonment being removed to another Presidency. Since he had been in the country, he remembered that the Cantonment of Mhow had been changed from the Bengal Army to the Bombay Army, and from the Bombay Army back again to the Bengal Army. So with the Cantonment of Cuttack, which had also been changed from one Presidency to another.

Then, Section I of the Bill provided that "An Assessment upon occupied houses, not exceeding two Rupees per mensem for any one occupied house, may be levied for sanitary purposes, &c."

It did not appear from this whether the intention was to levy the assessment only upon houses of the larger size, such as those occupied by the Officers, or also upon the houses in the bazars and of small value. His Excellency the Commander-in-Chief had referred to the communication from the Quarter Master General of the Army on the subject of this Bill. The draft Regulations which accompanied that communication contained a Clause which proposed a tax on all occupied houses within Cantonments—those in bazars excepted—the estimated value of which should not be less than Rupees 300, the amount of the tax to vary from 8 annas to 2 Rupees monthly, according to the value of each house. This limitation was omitted from the Bill: and

Section I would authorize the levy of an assessment not exceeding two Rupees per mensum upon every occupied house within Cantonments. The Station of Meerut and Cawnpore contained thousands of houses of various sizes and value. The population of non-military men in each was 50,000, and the number of houses might amount to 10,000. Surely, it was not intended to authorize the levy of an assessment not exceeding 2 Rupees upon all houses in such Stations, including houses in the bazars and of small value! The Bill ought to exclude such, or at any rate the assessment should be a rateable one, or a percentage on their rent.

His next objection related to the constitution of the Commissioners. These Commissioners were to regulate the conservancy of Cantonments, and also to try offences against the provisions of the Act. Now, this was obviously objectionable, because it made the same men both prosecutors and judges; and it was particularly so, because they would be interested in the amount of the fines levied; for these would go to the Municipal Fund. Now, the men who it was proposed should be the Judges of the offenders, would administer that Fund; and it would be their interest to levy as many fines as they could.

Section III specified twenty-five offences, and prescribed penalties for them. He did not think that the Clauses detailing these offences had been very well selected. They had almost all of them been taken from Section VII of Act XII of 1852, which this Council was now amending, and many of them applied to towns rather than to Cantonments. But he fully admitted that the Clauses—such as 6, 7, 8, and 9, which did not apply to Cantonments generally—might be hereafter amended in a Committee of the whole Council.

Section IV of the Bill provided that—

The Commander-in-Chief may, with the sanction of Government, issue such orders as may, from time to time, be deemed necessary for the benefit of Cantonments; and direct that breaches of such orders shall be liable, on conviction of the offenders, to be punished as provided for in Section III of this Act, &c."

This gave a power to the Commander-in-Chief which this Council had frequently refused to give. It delegated the power of making Laws, instead of requiring that the Military Authorities should come to this Council for them; and he could not think that the Council would now undo

what it had so often done in regard to proposed measures of the same kind.

But of all the Sections contained in the Bill, Section V—the last but one—was the most objectionable. It provided as follows:

"Any house-owner, whether resident in the Cantonment or not, who shall, after due warning, fail to comply with the orders directed to be observed, or to execute any work which, under the provisions of this Act, he is required to do, will, in addition to any fine inflictible by this Act, be liable to have the land on which his house is situated, resumed. And the Officer commanding the Cantonment will be empowered, on obtaining the sanction of His Excellency the Commander-in-Chief, to serve a notice on the offender that, at the expiration of one month, the land will be resumed, and the materials of the house and other buildings sold for his benefit by public auction, unless previously removed, and, at the expiration of that period, to direct the adoption of those measures. And further, that any resident of a Cantonment, not being a person amenable to Articles of War, who may, after conviction of breach of these rules or of any one of them, again commit a breach thereof, shall be liable, under the authority of the Commander-in-Chief, to be expelled from the said Cantonment."

Now, when he considered that, in most Cantonments, the majority of houses belonged to non-military men, he could not understand how any one could ask the Council to empower the Military Authorities, not only to sell a house compulsorily, but to pull down the house and sell the materials. The last Military station which he had left before he came to Calcutta, was that of Futteyghur. In that station, Dhulleep Singh owned a house within the Cantonment. He had spent a considerable sum of money upon it, and he (Mr. Allen) believed that the value of the property now was not less than 100,000 Rupees. If the Military Authorities were to resume the land upon which the property stood, and to pull down the building and sell the materials, he did not suppose that they would get 10,000 Rupees. Such a proceeding would be contrary to the existing Regulations. The existing Regulations allowed of the freest possible sale by proprietors of houses within Cantonments. If there should be a deficiency of accommodation for Military men, a house might be selected, a Committee of Arbitration appointed, and the house be rented or purchased, at the will of the owner, at the rent or for the price fixed by that Committee; but, beyond this, no power existed for interfering with rights of property. Where a person, Military or non-Military, wished to build a house within a Cantonment, he had to apply for the ground, and the Command-

ing Officer of the Cantonment forwarded the application to the Quarter Master General of the Army for submission to the Commander-in-Chief; but when once the permission had been given, and the grantee had built a house and enclosed it, he was perfectly free to sell it to any one, without any reference whatever to the Military Authorities; and this right had been frequently exercised. What the Regulations said upon this point was this:—

“The ground of an estate cannot be sold by the grantee; but houses or other property thereon may be transferred from one Military or Medical Officer to another without restriction, except at the period of relief, when, if required, the terms of sale or rent are to be adjusted by a Committee of Arbitration. The transfer thereof to any person not belonging to the Army can be effected with the consent of the Officer belonging to the station.”

The Regulations then went on to say:—

“All houses in Cantonments being the property of non-residents, or of persons not belonging to the Army, and which may be deemed by the Commanding Officer of the station to be suitable for the accommodation of Officers, are claimable for purchase or hire at the option of the owner.”

Consequently, if a house had been built by a Military man, and he obtained the consent of the Commanding Officer of the station to sell it to a Native, the Native might sell it as he liked. It was true that another Regulation provided that transfers should be registered in the Registry Book of the Cantonment; but the Registry Books of Cantonments were very irregularly kept up; and, as there was no penalty attached to non-registration, houses in Cantonments were constantly sold and resold without any reference to the Officers Commanding. It was a great accommodation to Officers of the Army that non-Military men should be allowed to hold houses in Cantonments, which they might sell or let out on rent as they pleased. Young Officers, who were liable to be removed from the Station any day, were thus enabled to rent houses instead of being obliged to borrow the capital necessary for the purchase of houses. No difficulty was experienced in this respect in the large Stations.

Non-Military men often owned within the limits of Cantonments houses which were not required for Military purposes. For instance, in Cawnpore, the Cantonment Bazaar joined the town; and no one purchasing a house there knew or asked whether it belonged to the Cantonment or not; and, therefore, the circumstance of a house being within the limits of Cantonments did not diminish its

*Mr. Allen*

value. But if this Bill were to be passed, the value of houses within Cantonments would be very much diminished.

He fully admitted that a Bill for the Conservancy of Military Cantonments was a desirable measure; but, as he considered the present Bill objectionable on the grounds to which he had adverted, he would suggest that it be referred to a Select Committee for amendment before publication, or, if that should seem inexpedient, for the preparation of a new Bill, which would not be an arbitrary interference with the rights of property.

THE COMMANDER-IN-CHIEF said, he thought it necessary to make a few observations in reply to what had fallen from his Honorable friend. He was quite willing to admit that there was some force in many of the arguments which the Honorable Member had used, and that he had taken great pains in explaining what the present Regulations regarding this subject were. But the Honorable Member had not shown how the power given by the 5th Section, upon which he had commented so strongly, exceeded the power which was already in the hands of Officers commanding Stations under the existing Regulations. He (the Commander-in-Chief) admitted that this Bill might not go far enough in some respects, while it went too far in others, and that it was subject to the remark that it had been prepared in a hurried manner. But he thought that he was hardly to blame upon that account. For what was the state of the question when he first took his seat in this Council? A paper had been forwarded by the Quarter Master General of the Army to the Supreme Government, asking for certain Regulations to make more definite the powers of Officers commanding Stations. As the power to levy an assessment upon houses was asked for, the Supreme Government had thought it advisable to refer the communication to this Council. He found that the communication had not been under consideration and, therefore, he had requested and obtained permission to take it up himself and prepare a Bill. He had not anticipated so much difficulty as he had found in preparing this Bill. His Honorable friend said that it was a most arbitrary measure. But the Council was aware that all Cantonments were, at the present moment, subject to Military Regulations; and that these gave to the Officers commanding, powers as arbitrary as any man could wish to possess. He was not prepared to say that, as Head of the Army, he

should have required this Bill to assist him in carrying out measures of conservancy in Cantonments. When he commanded a large Military Station in the Bengal Presidency, he had found that there was no difficulty whatever in enforcing compliance with the rules laid down for observance.

The Honorable Member made it an objection to the 5th Section that it gave the right to pull down buildings and to resume land. The Honorable Member must be aware that that power was already possessed. All grants of land were liable to be resumed by Government on giving one month's notice, and upon paying the value of buildings that might have been authorized to be erected upon it. If the owner wished to sell or let his house, the price was determined by a Committee of Arbitration. If the building were erected for purposes which made them public nuisances, the owner would receive notice to remove them; and if he did not comply with that notice, the Commanding Officer of the Cantonment had the power to remove the buildings. Therefore, this Section would only give power to do by Law what the Regulations of Cantonments authorized Commanding Officers to do at present.

He did not believe, therefore, that the existing system would be virtually much altered.

The Honorable Member said that it was a convenience to Military Officers that houses in Cantonments were owned by non-military men. He was quite ready to admit this. But why did non-military men purchase properties in Cantonments? They purchased them, not for the convenience of Military Officers, but for the purpose of effecting a good investment of their money. That was their chief object; and when they made the purchase, they did so with the full knowledge that they would be subject to the Rules which might be laid down by the Military Authorities.

With regard to the power of ejection, it was clear that the population in Military Cantonments should be subject to Military Rules. Considerable difficulty had been sometimes experienced in exercising this power. Upon an undue and arbitrary exercise of it, the aggrieved party had an appeal against it: but where a person was of bad character, or was repeatedly guilty of infringing the local rules, he could have no pretence for complaining if he were ejected. If the Commander-in-Chief had confidence in the judgment of a Commanding Officer in a Cantonment, he would probably readily agree to any recommendation which he

might make for the ejection of non-military residents who disregarded the Regulations.

The Honorable Member had suggested that the Bill should be referred to a Select Committee before the second reading. He (the Commander-in-Chief) had no objection to following that course; but he should like to know what had been the practice of the Council in such cases. He agreed that it was not desirable that the Bill should be published in its present form, if it was likely to give rise to much objection; and, therefore, if the Council thought that the Bill as framed would create objections, and that it would be better to refer it to a Select Committee before the second reading with a view to its amendment, or even to prepare a new Bill altogether if they should deem it preferable, he was ready to accede. He should be glad to avail himself of the assistance of Honorable Members. But, as he had said before, he did not know what the practice of the Council upon this point had been.

With regard to Section III, which provided penalties for certain offences, and the objection that they were not as definite and explanatory as they might be, he had only to say that the Clauses had been taken from the existing Act—namely, Act XII of 1852. There was a Bill, he believed, now before the Council in which clauses for similar purposes appeared in a more perfect form; but that Bill had not yet been passed. He had, therefore, adopted the terms of the Act of 1852.

The Honorable Member had asked whether the assessment authorized by this Bill was to be levied only on large houses in Cantonments or also on houses in the bazaars within the limits of Cantonments. The intention was to levy it only on houses the value of which was not less than Rupees 300. It was quite fair that houses of that value should be subjected to the assessment proposed. In a Military Cantonment, there were not many houses which could be assessed unless houses of low value were included; and the tax which the Bill proposed to levy was not one of large amount.

He understood the Honorable Member to have remarked that, in former times, at Cawnpore, the limits of the Cantonment were mixed up with those of the town, and that a person who purchased a house in the Cantonment purchased it with as much security of its being free from the control of the Military Authorities as if it were in the Town. If this had been the case at any time, he (the Commander-in-Chief) supposed that the boundaries of the Cantonment

had not been well defined, or the Regulations must have been applied with great laxity. He thought that they ought to be strictly adhered to, and that military authority should be maintained within the limits for which the Commanding Officer was responsible.

He repeated that he had no objection whatever to reconsider this Bill with the assistance of his Honorable friend and other Members of the Council before the second reading, if that course would be regular. He was desirous of having their assistance and experience, and would be obliged if they were afforded him. The object of the Bill was to confirm to Officers commanding Cantonnements the power which they now possessed, as well as to raise funds for purposes of Conservancy, to establish rules for the preservation of good order and discipline, and to enable the Military Authorities to punish legally any infringement of them.

THE VICE PRESIDENT said, the substantive Motion now before the Council was, that the Bill be read a second time. His Excellency the Commander-in-Chief had asked whether it had been the practice of the Council to refer Bills for examination to Select Committees before they were published for general information. The Council had taken that course upon former occasions, and the Standing Orders permitted of its being taken. But no Motion had yet been made that it should be taken in regard to the present Bill. The substantive Motion, therefore, before the Council at present was that the Bill should be read a second time.

THE COMMANDER-IN-CHIEF said, if he were right in supposing that it was the general wish of the Council that the Bill should be referred to a Select Committee before the second reading, he should be happy to propose a Motion to that effect.

MR. GRANT referred to Standing Order No. LXX, which provides that any Member "may move a special instruction to the Select Committee immediately after its appointment, directing it to submit forthwith a preliminary Report, suggesting any alterations which it may deem expedient to make in the Bill previous to the publication thereof in the *Calcutta Gazette*."

THE COMMANDER-IN-CHIEF observed that he understood this to authorize a Bill to be referred to a Select Committee after the second reading; and that then special instructions would be given to the Committee to report upon it before publication in the *Gazette*, in the usual course. The first step, therefore, would be to read the Bill a second time.

*The Commander-in-Chief*

The Motion for the second reading was then put and carried, and the Bill read a second time.

THE COMMANDER-IN-CHIEF moved that Mr. Peacock, Mr. Allen, and the Mover be appointed a Select Committee on the Bill. Agreed to.

THE COMMANDER-IN-CHIEF moved that a special instruction be given to the Select Committee in the terms of Standing Order No. LXX.

Agreed to.

#### POLICE (PRESIDENCY TOWNS, &c.)

On the Order of the day for the third reading of the Bill "for regulating the Police of the Towns of Calcutta, Madras, and Bombay, and the several stations of the Settlement of Prince of Wales' Island, Singapore, and Malacca" being read—

MR. PEACOCK moved that the Bill be re-committed, in order that he might move an amendment in a Section which, upon his Motion, had been inserted at the last Meeting. The Bill contained a Section for punishing persons who might assault or resist a Police Officer in the execution of his duty. The Section which he had introduced related only to private individuals. But, as it now stood, the words were:—

"If any person, lawfully apprehended *under this Act*, shall assault or forcibly resist the person by whom he is apprehended, &c."

It was possible that some doubt might arise, on the construction of these words, whether the Section did not refer to the Section applicable to Police Officers as well as to that which related to private persons. To obviate all doubt on the point, he proposed to move that the words "under this Act" be left out, in order that the words "under the last preceding Section" might be substituted for them.

He might mention that he also proposed to call the attention of the Council to the Section which related to the appointment of Police Magistrates. In the original Bill, that Section appeared as Section XX; but in the Bill as amended by the Select Committee, it appeared as Section XXI. After providing that the local Government, with the sanction of the Supreme Government, might constitute as many Police Districts as it saw fit, and define their extent, it authorized the local Government to establish a Police Court in and for each of such Districts, and from time to time to appoint a sufficient number of fit persons to sit as Ma-



gistrates in such Police Courts. In a letter which had been printed and circulated to the Council only during the present week, the Madras Government, alluding to the Section as No. 21—from which he presumed they had seen the amended Bill—urged an objection against it, which it appeared to him was of great force. They said—

“Section XXI provides for the constitution, within each Presidency Town, of as many Police districts as the Local Government shall see fit, and for the establishment of a Police Court in each such district. It does not appear to the Governor in Council that the Police and Magisterial districts will of necessity correspond. In Madras, they would not.”

If the Local Government should constitute districts, and then appoint a Police Court in and for each district, and a Police Magistrate to sit as Magistrate in that Court, a question might arise whether the Magistrate could take cognizance of offences committed out of that particular district. As the Madras Government had drawn attention to the point, he (Mr. Peacock) should move an amendment in the Section, which would make it run thus :—

“and to establish a Police Court in and for each of such districts, or in and for such other districts as the local Government may consider necessary. The local Government may, from time to time, appoint a sufficient number of fit persons as Magistrates of Police for the said Towns and Stations respectively, who may sit and act as such Magistrates in any of the said Police Courts.”

This would enable the Local Government, with the sanction of the Supreme Government, to appoint Police Magistrates to act generally for the whole Town or Station, instead of only for a Police district or the district of a Police Court. Ordinarily, their duties would be confined to offences committed within their own district; but they would also have the power to deal with offences committed in other districts, whenever they might see occasion to do so.

The motion for the re-committal of the Bill having been put—

MR. ELIOTT said, he had no objection to the re-committal—not that he himself entertained any doubt that the Bill as it stood would secure the object of the intended amendment, but he deferred to the opinion of the Honorable and learned Member opposite—an opinion which was shared in by the Honorable and learned Member to his right (Sir Arthur Buller). The Select Committee upon the Bill had thought that the words already in the Section were sufficient. All that was intended was, that there

should be a Police Court in each district, and that the Government should appoint a sufficient number of qualified Magistrates to perform the duties of the several Police Courts. It was not meant that a person intended to sit as Magistrate in a Police Court established in and for a certain district, should be a Magistrate only for that particular district, but that he should be a Magistrate for the whole Town or Station. The Select Committee, referring to this point in their Report, said :—

“The Local Government being empowered from time to time to appoint a sufficient number of fit persons to sit as Magistrates in the Police Courts for the trial of offences, will of course take care to appoint an acting Magistrate whenever the incumbent is unable, from any cause, to perform his duties for a time during which it would be inconvenient to leave his place unoccupied. Where there are two or more Magistrates, when either of them is prevented from sitting in his Court for a short period, one of his colleagues may take the business arising there. With a view to this, every Police Magistrate should be appointed for the Town or Station generally, though he may be directed to sit in ordinary in the Police Court in and for a particular district.”

This was precisely what the Select Committee had intended by the present Section; but, as he had observed before, in deference to the opinion of the Honorable and learned Member opposite, in which other Honorable Members concurred, he would not object to the re-committal of the Bill for the proposed amendment.

The motion was then put, and carried.

MR. PEACOCK then moved that the words “or in and for such other districts as the local Government may consider necessary,” be inserted after the words “and establish a Court in and for each of such districts.”

MR. ELIOTT said, it seemed to him that these words were hardly necessary. Would it not be enough to say, as the Bill now did, that the local Government might, from time to time, appoint a sufficient number of persons to sit as Magistrates in the Police Courts which it might establish?

MR. PEACOCK said, the Madras Government, as he understood their letter, did not wish to have their Police Courts co-extensive merely with their Police Districts. They said—

“Section XXI provides for the constitution, within each Presidency town, of as many Police districts as the local Government shall see fit, and for the establishment of a Police Court in each such district. It does not appear to the Governor in Council that the Police and

Magisterial districts will of necessity correspond. In Madras, they would not."

This Act only allowed Police Courts co-extensive with Police districts, and Police Magistrates to be appointed to sit in the Police Courts. The object of his amendment was to allow the local Government, if they thought it expedient, to appoint Police Magistrates, giving them jurisdiction over the whole Town, although they might direct them to sit at particular Police Courts.

MR. ELIOTT said, all he understood the Madras Government to mean was, that the Police divisions should not be conterminous with the Police Courts—in other words, that there should not be a Police Court in each Police division, but that one Police Court might comprehend the limits of two divisions.

With regard to the Honorable and learned Member's remark that the letter of the Madras Government had been circulated among the Members of the Council only last week, he thought it proper to mention that it had been circulated the week before, with the intention that it should be in the hands of Members when the Bill was re-committed, as it was at the last Meeting of Council.

MR. PEACOCK replied, that he had received his copy only this week.

MR. CURRIE said, his idea had always been—but the Honorable Member opposite (Mr. Elliott) would correct him if he was wrong—that the words "Police district" in this Section were meant to define the jurisdiction of each Police Court.

MR. PEACOCK said, if an entire town were constituted a Police district, then a Police Court might be established in and for that district, and the Magistrate appointed to sit in such Court would act as Magistrate in and for the town generally; but as the Bill stood, if the town were divided into several Police districts, and a Police Court were established in each such district, and the Police Magistrate were appointed merely to sit in that Court, he would have no jurisdiction over offences committed beyond the district. A Magistrate appointed to act in and for Calcutta could not act in respect of offences committed beyond Calcutta; and he could not act in respect of offences committed in Calcutta when he was sitting out of Calcutta. The Act did not contain power to appoint Police Magistrates for the whole Town unless the Police district and the Town were co-extensive; a Magistrate could be appointed only for a particular Police Court, and if the Police and Magisterial districts

*Mr. Peacock*

were to correspond, the jurisdiction of the Magistrate would be limited by the district assigned to the Court in which he was appointed to sit. He (Mr. Peacock) thought it right that the amendment he proposed should be introduced, in order that the local Governments might be enabled to establish Police Courts either co-extensive with Police districts or not, and to authorize Magistrates sitting in Police Courts established in and for particular districts to take cognizance of offences committed in any other district of the Town or Station.

After some conversation, the amendment was put and carried.

MR. PEACOCK then moved that the words "to sit" before the words "as Magistrates" in the 14th line of the Section be left out.

Agreed to.

MR. PEACOCK next moved that the words "in such Police Courts" after the words "as Magistrate" in the 14th line of the Section be left out, in order that the following might be substituted for them:—

"of Police for the said Towns and Stations respectively, who may sit and act as such Magistrates in any of the said Police Courts."

The amendment was agreed to, and the Section passed.

MR. PEACOCK moved that the words "this Act" after the words "lawfully apprehended" in Section LXXXIX (introduced at the last Meeting) be left out, in order that the words "the last preceding Section" might be substituted for them.

The amendment was agreed to, and the Section then passed.

The Bill was reported, and, upon the motion of Mr. Elliott, was read a third time.

#### CONSERVANCY (PRESIDENCY TOWNS, &c).

MR. ELIOTT moved that the Bill "for the conservancy and improvement of the Towns of Calcutta, Madras, and Bombay, and the several stations of the Settlement of Prince of Wales' Island, Singapore, and Malacca," be now read a third time and passed.

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

#### MESSENGER.

MR. ELIOTT moved that Mr. Grant be requested to take the Bill "for regulating the Police of the Towns of Calcutta, Madras, and Bombay, and the several stations of the Settlement of Prince of Wales' Island, Singapore, and Malacca," and the Bill "for the

Conservancy and improvement of the Towns of Calcutta, Madras, and Bombay, and the several stations of the Settlement of Prince of Wales' Island, Singapore, and Malacca," to the Governor General for his assent.

Agreed to.

NOTICES OF MOTIONS.

MR. ELIOTT gave notice that he would, on Saturday the 14th instant, move the second reading of the Bill "to authorize the levy of Port-dues and fees at the present rates for a further period of twelve months;" also the suspension of the necessary Standing Orders to enable him to pass the Bill through its remaining stages.

MR. ELIOTT also gave notice that he would, on the same day, present a Report of the Select Committee appointed to take into consideration the projects of law relating to the Police and Conservancy of Madras, and the Settlement of Prince of Wales' Island, Singapore, and Malacca, and the proposals for revising Acts X, XII, and XIII of 1852, relating to the Conservancy and Police of Calcutta; and that Members of the Committee would move the first reading of the following Bills—namely, a Bill "to comprise in one Act the provisions necessary for the assessment and collection of Municipal rates and taxes in the Towns of Calcutta, Madras, and Bombay, and the several stations of the Settlement of Prince of Wales' Island, Singapore, and Malacca;"

A Bill "for appointing Municipal Commissioners, and for levying rates and taxes, in the Town of Calcutta;"

A Bill "for appointing Municipal Commissioners, and for levying rates and taxes, in the Town of Madras;" and

A Bill "for appointing Municipal Commissioners, and for levying rates and taxes, in the several Stations of the Settlement of Prince of Wales' Island, Singapore, and Malacca."

The Council adjourned.

Saturday, June 14, 1856.

PRESENT :

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

His Excellency the Com- D. Elliott, Esq.,  
mandar-in-Chief, C. Allen, Esq.,  
Hon. J. P. Grant, E. Currie, Esq. and  
Hon. B. Peacock, Hon. Sir A. W. Buller.

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

MESSAGE No. 77.

The Governor General informs the Legislative Council that he has given his assent to the Bill which was passed by them on the 7th June 1856, entitled "A Bill for regulating the Police of the Towns of Calcutta, Madras, and Bombay, and the several stations of the Settlement of Prince of Wales' Island, Singapore, and Malacca."

By Order of the Right Honorable the Governor General.

CECIL BEADON,

*Secretary to the Govt. of India.*

FORT WILLIAM, }  
The 13th June, 1856. }

MESSAGE No. 78.

The Governor General informs the Legislative Council that he has given his assent to the Bill which was passed by them on the 7th June 1856, entitled "A Bill for the conservancy and improvement of the Towns of Calcutta, Madras, and Bombay, and the several stations of the Settlement of Prince of Wales' Island, Singapore, and Malacca."

By Order of the Right Honorable the Governor General.

CECIL BEADON,

*Secretary to the Govt. of India.*

FORT WILLIAM, }  
The 13th June, 1856. }

MOOKHTEARS' PETITION (CALCUTTA  
SUDDER COURT).

THE CLERK presented a Petition from Mookhtears attached to the Sudder Court of Calcutta, complaining of the rule of practice recently made by the Court, and sanctioned by the Government, respecting the dismissal, or *ex parte* decision, of suits in the absence of the Vakeels engaged, as illegal and unjust.

MR. PEACOCK moved that the Petition be printed.

MR. GRANT said that, from the title just read, it occurred to him that the Petition did not relate to any Legislative business. It seemed rather to relate to an executive matter. If it prayed for any law on the subject, then it might be received.

THE CLERK read the following from the Petition :—