LEGISLATIVE COUNCIL

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PROCEEDINGS

OF THE

LEGISLATIVE COUNCIL OF INDIA,

January to December 1858.

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1858.

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

PORT-DUES (ADEN).

MR. LEGEYT moved that the Council resolve itself into a Committee on the Bill "for the levy of Port-dues in the Port of Aden;" and that the Committee be instructed to consider the Bill in the amended form in which the Select Committee had recommended it to be passed.

Agreed to.

Sections I to V were pased as they stood.

Section VI was passed after an amendment.

Section VII and the Preamble and Title were severally passed as they stood.

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

MINORS (FORT ST. GEORGE).

MR. ELIOTT moved that Mr. Grant be requested to take the Bill "to extend the provisions of Act XXI of 1855 in the Presidency of Fort St. George to Minors not subject to the superintendence of the Court of Wards" to the President in Council in order that it might be submitted to the Governor-General for his assent.

Agreed to.

AUTHENTICATION OF GOVERNMENT STAMPS.

MR. PEACOCK moved that the Standing Orders be suspended to enable him to proceed with the Bill "to provide for the authentication of Government Stamped Paper."

MR. GRANT seconded the Motion, which was then agreed to.

MR. PEACOCK moved that the Bill be referred to a Select Committee consisting of Mr. Currie, Mr. Harington, and the Mover, with an instruction to present their Report at the end of a fortnight.

Agreed to.

NOTICE OF MOTION.

MR. LEGEYT gave notice that he would, on Saturday the 3rd of April next, move the third reading of the Bill "for the levy of Port-dues in the Port of Aden."

CIRCULAR ORDERS, &c. (PUNJAB).

MR. HARINGTON moved that an application be made to the Supreme Government, requesting that copies of all Circular Orders and Constructions issued in the Punjab, either by the Chief Commissioner or the Judicial Commissioner, relating to the administration of Civil Justice in that Province, be laid before the Council.

Agreed to.

The Council adjourned.

Saturday, April 3, 1858.

PRESENT:

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

Hon. the Chief Justice,	P. W. LeGeyt, Esq.
Hon. J. P. Grant.	E. Currie, Esq.
Hon. B. Peacock,	and
D. Eliott, Esq.	H. B. Harington, Esq.

REGULATION OF PORTS (FORT ST. GEORGE).

MR. ELIOTT presented the Report of the Select Committee on the Bill "for the regulation of certain Ports within the Presidency of Fort St. George."

LIGHT-DUES (GULF OF CAMBAY).

MR. LEGEYT presented the Report of the Select Committee on the Bill "to repeal the laws relating to the levy of Light-dues at Ports within the limits of the Gulf of Cambay."

SETTLEMENT OF ALLUVIAL LANDS (BENGAL).

On the Order of the Day being read for the adjourned debate on the Bill to "explain Regulation XI. 1825 of the Bengal Code, and to prescribe rules for the settlement of land gained by alluvion"—

THE PRESIDENT said, he had to remind the Council that, according to the Standing Orders, Honorable Members could speak only once to the question; and that therefore those who had already spoken could not address the Council again, except in explanation.

MR. GRANT said, as the Council had been so good as to adjourn the

debate until this day upon his Motion, he had felt it his duty to go as carefully into the question at issue as he could. The question was one of very great importance; but, having given to it the most careful consideration in his power, he would say that it did not appear to him to be one of difficulty, or, speaking with deference, of doubt.

It was not the object to criticise the decision of the Sudder Court; and in speaking of it, he would wish always to be understood as speaking with the greatest respect for that high authority. But it was absolutely necessary for the Council, which had been called upon to legislate on the general subject to which the decision in question relates, to determine what the present state of the law on that subject is; for it could not legislate to any good purpose without ascertaining what the law at present is; and to ascertain what it is, it was absolutely necessary to see whether the view of the law which had been taken by the Sudder Court was a correct view or not. Therefore, the Council was constrained, whether it wished it or not, to enter into the question which was the question before the Sudder Court when they passed their decision. He had entered into it fully, and had come to the conclusion that the view of the present law taken by the Sudder Court was decidedly unsound. If it was a correct view, then our Revenue law was certainly in a most deplorable state, and had been in such a state for the last seventy years. The practice had always been contrary to the view of the law on which the decision is founded. If that view was correct, our system, not only of Permanent Settlement, but of temporary Settlement—our whole system of Settlement—our whole Revenue system, in fact, was nothing more than a delusion; and the right of property—that security in his estate which the system was intended to give, and was believed to have given to every landholder—was without support in law. This would be a very serious condition of things; and it was absolutely necessary, therefore, for the Council, when called upon to legislate in the matter, to go into the whole question at issue, and to consider whether such a condition of things actually exists or not.

He would state five fundamental principles of our Revenue law—which, he apprehended, were the elementary principles, the A. B. C. of the system. They would not be disputed, he was sure, being such as it was the first duty of every young Assistant Collector passing out of College to learn, and such as he must never forget during the whole course of his future official career. He would state them broadly, and generally; and so stated, he was convinced that no Revenue Lawyer would contest them.

The first principle was that no estate, and no portion of an estate, is liable to sale for its own arrears of revenue, unless the owner, or some one on his behalf, has engaged for that revenue. This would be admitted to be a principle of common sense and natural justice. It seemed to him hardly necessary to quote chapter and verse for so manifest a principle; but he should do so nevertheless, especially as it would draw attention to Regulation I. 1793, the foundation upon which the rights of private property of every landholder in this Presidency rest. Section VII of that Regulation provides for the sale of the lands of actual proprietors "with or on behalf of whom a settlement has been or may be concluded, or his or her heirs or successors," on their failing to discharge the public revenue assessed. Clause 5 Section VIII of that Regulation, after speaking of disqualified proprietors who are not managing their land, declares that the lands of such proprietors "will be held answerable for any arrears that are or may become due from them, on the fixed jumma which they, or any persons on their behalf, have engaged or may engage to pay." Here is the foundation of the right of the Revenue Authorities to sell land for arrears of Revenue, and the provision applies only to land for the Revenue assessed upon which the owner, or some one on his behalf, has engaged. To support this principle, if it was necessary to support so plain a principle of justice, he might refer further to the whole series of Regulations applicable to the recovery of arrears of Revenue; but he would refer only to one passage, because it explained the principle of the right of sale in a few words. The passage occurred in Regulation XI. 1822, which was the old Sale Law. That Regulation was no longer in force now; but the Section which he was

about to quote was a mere statement of what the law on this point was; and what it was, so it remains. In Section XI of that Regulation, this declaration is made:—"All estates, for which a settlement shall have been made, being liable for the Revenue assessed upon them to the extent of the interests possessed by the person or persons who may have engaged with Government as ratified and confirmed by the act of settlement and by those deriving title from such person or persons, unless otherwise especially provided," no sale shall be annulled on certain pleas which are specified.

This, then, was the first principle of our Revenue system; and he had referred to the Laws by which it was supported.

The second principle he would state, was this. No estate is liable to be sold for arrears of revenue not its own, unless those arrears are due from its owner; and in this case, only the defaulter's right and interest can be sold. When an estate is sold for arrears of revenue that have accrued upon itself, it is sold out and out, and the auction-purchaser comes in and obtains the property free from all incumbrances. But when landed property is sold otherwise than for arrears that have accrued upon itself—when, for instance, it is sold because the owner owes a debt to Government in the shape of arrears of revenue due from some other estate, then nothing but the right, title, and interest of the owner are sold, as would be the case in a sale under a process for the recovery of any other personal debt. The reason of the distinction is obvious. The land itself is hypothecated for the jumma assessed upon it and engaged for by the owner; but what is due from another estate, and under a different engagement, is a mere personal debt, due by the owner to Government so far as the first-mentioned land is concerned. He would not trouble the Council by quoting the law to prove this well-known principle, but he would merely refer to the existing Sale Law, Act I of 1845, Sections V, XXVI, and XXVII.

The third principle he would state related to what constitutes an "estate," a word he had often had occasion to use. He would draw the attention of the Council particularly to this point, because he believed that the whole fallacy of the view of the law under examination arose from its not having been brought to the minds of the Judges at the time they gave their decision, what an estate, according to the technical definition of our Revenue law, really is. An estate, in Revenue language, was defined by the law—he would quote the very words of the law—as "any land being Malgoozaree, or subject to the payment of public Revenue, for the discharge of which a separate engagement has been, or may be entered into with Government." That was the original definition, given in Regulation XLVIII. 1793, Section II, Clause 2. It remained the definition for many years, and, so far as it went, was a perfectly accurate definition. But it was not broad enough; because there were, and had always been understood to be, estates, according to our interpretation of the term, for which there were no engagements with Government; namely, lands on which a separate jumma had been assessed, but which were held Khas. Regulation VIII. 1800 gave the necessary width to the definition of the term. Section XIII commenced by reciting the definition given by Regulation XLVIII. 1793, and proceeded thus:—

"But as this definition, strictly construed, would exclude estates held Khas, in consequence of the proprietors having declined to engage for the public assessment thereupon, under the option given by the rules for the permanent settlement; as well as the estates of disqualified proprietors, which, by those rules, and by Regulation X. 1793, were placed under the superintendence of the Court of Wards; as well as estates belonging to Government, for the Revenue of which no engagement may have been taken: and it being intended that all lands paying revenue to Government should be included in the registers of estates prescribed by Regulations XLVIII. 1793, and XIX. 1795, it is hereby further explained that by the term 'estate' therein used, is to be understood any land subject to the payment of Revenue, for which a separate engagement may have been executed to Government by the proprietor, or by a farmer; or which may have been separately assessed with the public Revenue, although no engagement shall have been executed to Government, as in cases where the estate may be held Khas."

The Council would observe that the claim in question falls precisely within this definition, having been separately assessed, and a separate engagement having been executed for its Revenue by a farmer.

The fourth principle he would state, was that the owner of an estate may alienate it, or any portion of it, without asking permission of any one, and that the transfer is good against all parties saving only the lien of Government on the whole land of an estate for the whole jumma assessed upon it. This, also, was a well known principle. But to place it beyond a doubt, he would refer to Regulation I. 1793 again. Section IX of this fundamental Revenue Law says:—

"That no doubt may be entertained whether proprietors of land are entitled, under the existing Regulations, to dispose of their estates without the previous sanction of Government, the Governor General in Council notifies to the Zemindars, independent talookdars, and other actual proprietors of land, that they are privileged to transfer to whomsoever they may think proper, by sale, gift, or otherwise, their proprietary rights in the whole, or any portion of their respective estates, without applying to Government for its sanction to the transfer."

Thus, in regard to all questions of property as between private parties, the sale of any specific portion of an estate, no matter what portion or how acquired, was as valid as a similar sale in England. All that remained to be done, in order to make such a sale to all intents and purposes similar to a like sale in England, was to obtain from the Revenue authorities a separate assessment of the Revenue demand upon the alienated portion, which is provided for in the next Section of the same Regulation, which he would immediately come to.

The fifth and last principle which he had to state, was that, when the Revenue Authorities allot or assess separately a specific jumma on a specific portion of an estate, thus, by the definition, creating that portion into a separate estate—whether that portion be sold privately by its owners, or whether it be sold for arrears of revenue at auction by the Collector—the hypotheca of Government is distributed separately between the portion separated and the rest of the land, the Government abandoning its lien on the whole of the original property for the whole of the original assessment, and reducing it to a lien on each part of the property for the specific jumma of that part, as newly allotted or assessed. When this is done, then to all intents and purposes —not only as between private individuals, but also as between the Government and the respective owners of the several portions of the original estate—the portion sold off becomes a separate and independent property, responsible only for what is due from itself. Section X Regulation I. 1793 declares upon what principle, in the event of one or more portions of an estate being transferred by public auction sale, or by private conveyance, the allotment and separation of the jumma shall be made, whereby what was, in Revenue language one estate, becomes two separate estates, to all intents and purposes.

These were five fundamental principles—the A. B. C. of our Revenue System, as he had called them; and he was sure that no one would dispute them. He asked the Council to apply these unquestionable and elementary principles to the case decided by the Sudder, and it would find that there was not one of them which was not contravened by the view of the law there taken. The decision confounded the tenure of property and the private right of acquisition in new land which that tenure gives in certain cases, with the lien which the Government has on the land for the protection of the public Revenue. It was impossible to imagine two things more distinct than these. For all he knew, the Rajah of Burdwan might hold the whole of his lands, paying forty lakhs of Revenue under one and the same tenure; in which case, the whole would constitute one property, and what in England we should call one estate. But, nevertheless, the Government might have assessed a separate jumma on every village within the Rajah's territory, and the Rajah might have given a separate engagement for the Revenue of each; and in that case, he would, in the language of our Revenue law, possess as many separate estates as there are villages in his Zemindarees. In that case, every village would appear under a separate number as a separate mehal upon the Towjee, and the land of each village would be responsible only for its own assessment.

In the suit determined by the Sudder Court, the Zillah Judge stated in his decision

"that a proprietary right in alluvial lands separate from and independent of a title in

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a substantive or parent estate, is a thing unknown in this country, and certainly unrecognized by the laws."

He (Mr. Grant) fully agreed in this. It was so. Such a proprietary right in new soil could only become the acquisition of a private person, because the private person possessed already the adjoining land. But it did not follow from that, that, after acquiring it, he might not alienate it, like any other portion of his estate; or that the Collector, in the event of arrears of Revenue accruing—even supposing the case to be one in which no separation had been completed by a separate assessment of revenue on the alluvion—might not lawfully sell only the old estate, or only the new one, just as well as he might lawfully sell any other particular portion of the integral estate if he chose to do so, instead of selling the whole. The decision of the Zillah Judge, therefore, stands upon nothing material to the issue. The judgment of the Sudder Court says that the malikana paid on a *chur* "is an asset of the Zemindaree which the defaulting proprietor has no power either to alienate or reserve, and which passes with the estate to the auction purchaser." But what estate is meant? If it is meant that malikana passes with the estate in respect of which it is payable, there is no doubt that the position is correct; but it is immaterial to the question. It does not follow that the malikana of one estate passes with another; that the malikana of an alluvion, after it has been separately assessed, and so created a new and separate estate, and has been entered as such under a new number on the Towjee, passes with the adjacent estate from which it has been severed, and with which it retains no more connexion than it may have with any other property belonging to the same owner in any other part of the country—in Bombay, for instance, or elsewhere.

The reason which the decision gives for supporting the judgment of the Court below is this. After stating most truly that the rights and interests of the old proprietors in the parent estate of Koélwar ceased and determined when that estate was passed at the Revenue sale, it is laid down that "it is quite clear that under the law the rights of those persons, whatever they were, to the alluvial increment of the talook and the malikana due therefrom, passed at the same time." This seemed to him an obvious *petitio principii*. Whether the law is so, or not, was the very point at issue: it was the very question raised in the appeal. No attempt is made to prove the position, by reference to any particular Law in support of it; and no such law can be pointed out. Had no separate assessment of the alluvion been made, the position could not have been impugned; but it is clear that the legal effect of a separate assessment of the alluvion, and of the consequent recognition of it upon the Towjee as a separate estate under a separate engagement with a distinct party was overlooked.

In selling the estate of Koélwar alone at auction, and excluding the *chur* from the Latbundee, the Revenue Officers acted quite correctly. They acted in perfect accordance with the law, and their proceedings were unimpugnable. When selling the estate, they had carefully specified that they were selling only the old estate, and had in words, not to take in purchasers, excluded its increment the *chur*, which was the parcel of land in dispute in the suit. Therefore, the decision of the Sudder Court went this length—that what had not been offered for sale, and therefore had certainly not been sold, had nevertheless been bought!

MR. CURRIE asked, if the Revenue Officers had specifically stated that the *chur* was excluded from the sale?

MR. GRANT said that what he gathered from the annexure to the Bill appeared to him to amount to a specific statement to that effect. On the old estate, there was a particular jumma assessed—a jumma of several thousand Rupees: on the *chur*, there was a new and different jumma assessed—a jumma of one thousand Rupees and odd; and moreover the *chur* must have borne a different and a much higher number on the Towjee than the old estate. The decision admitted that "the land in suit was not lotted with the parent estate."

The decision endeavored to get rid of that fact by saying—

"The proceedings of the Revenue Authorities in this case could not affect the Civil rights of the defendants, even if they bore the interpretation which the appellants have put upon them."

That seemed much like saying that what an Auctioneer sold, had nothing to do with the Civil rights of the purchaser under the sale. He maintained that the thing sold was that which the Auctioneer stated that he offered for sale. There was no other means of judging what was sold.

The Sudder Court went on to say :—

"But the fact appears to be that the land in suit was not lotted for sale with the parent estate on the two occasions alluded to, merely because it had been temporarily settled with other parties, and the proprietor had no right of entry until the expiry of the farming engagements."

The question seemed to be what the Collector did—not why he did it. But if he, Mr. Grant, were driven to assign motives for the Collector not having lotted the *chur* for sale, he could assign a much more obvious motive than that suggested by the Sudder Court. He might say that the motive of the Collector was that, if he had lotted the *chur* with the old estate, the sale would have been certainly invalid because he could not sell two separate estates simultaneously for one arrear.

There were three objections to the view of the Revenue law taken in this decision, every one of which appeared to him to be fatal, and he thought that, if Honorable Members would attentively consider them, they would eventually arrive at the same opinion.

The first objection was that the *chur* had been specifically excluded from the sale. Even admitting, therefore, for the sake of argument, that the *chur* formed one estate with the original land, and was liable to sale—it was not sold. If it was argued that the Collector had no right to exclude any portion of the integral estate when arrears of Revenue had accrued, that position could be maintained only by a forgetfulness of what the existing law was and is; and also of what the general practice had been up to the year 1827. When the law was framed originally, it was framed in a very just and considerate spirit. It did not intend that a proprietor should lose a large estate for a small arrear of Revenue; and, therefore, it very carefully provided that it should not be necessary to sell the whole of an estate for the recovery of an arrear, but that the Collector might sell any portion of it which he should specify. He (Mr. Grant) would refer again upon this point to Regulation I. 1793, Section VII, and Section X Clause 2. Then, to shew what the practice had been, he would refer to Regulation XIV. 1793, Section XIII, and Regulation XI. 1822, Section VI; and also to the Circular Order of the Board of Revenue dated 22nd May 1827. So long ago as 1827, the Board of Revenue had issued this Circular, which said :—

"The Board of Revenue for the Lower Provinces have had under consideration the practice, which now generally obtains throughout all the districts under their control, of realizing arrears of Revenue by the sale of fractional portions of estates, whose Sudder jumma exceeds the sum of five hundred Rupees without previously allotting, upon specific parts or divisions of such estates, a jumma which shall bear the same proportion to the actual produce of such specific parts or divisions, as the fixed assessment upon the whole estate may bear to its actual produce, thereby creating interests in common tenancy, and opening a door to indefinite subdivisions of landed property, which have a manifest tendency to depreciate its value."

Now, that was the practice up to 1827. It was an objectionable practice to sell portions of an estate without separate allotments of jumma, because it introduced confusion between old and new purchasers; but it is clear that even this was perfectly legal.

The sale of portions of an estate with separate allotments of jumma, was both legal and unobjectionable, if properly managed. He would add that, whilst in 1793 it was in the discretion of the Collector to sell the whole or a portion of an estate, from 1796 to 1822 even that provision was thought to be a hardship; for Sections II and III of Regulation V. 1796 made it obligatory on the Collector to select for sale such portion of an estate in arrear as was likely to suffice for the arrear "and no more." Thus, it would be seen that what the Collector had done in the present case, was, in any view of the position of the *chur*, perfectly legal; and it appeared to him, therefore, that the first objection to the view of the law taken by the Sudder Court was insurmountable.

The second objection was that the *chur*, being a separate estate, could not be sold with another estate, having a different Towjee number. As he had said before, the Collector could not sell

two separate estates for one arrear. Such a sale, on the face of it, would have been monstrous; but it would also have been opposed to the terms of the Sale Law, Act I of 1845, Section XIV of which provides that "Sales shall proceed in regular order, the estate to be sold bearing the lowest number on the Towjee" being put up first, and so on in regular sequence.

The third objection was that the *chur* being a separate estate, and not being in arrear, was not primarily responsible; and that, therefore, if it had been sold at all, it could not have been sold out and out, as the parent estate was sold.

He had now gone through, he feared in a very tedious manner, the arguments which had convinced his own mind that the decision of the Sudder Court did not take a correct view of the existing law. He conceived, therefore, that the law required no amendment; for not only did he think that the Sudder Court were wrong in holding that the Revenue Authorities, even when they wished to do it, were incompetent to separate the properties in the manner they had done, but he maintained that a just reading of the Regulations made it imperative upon them to assess an alluvion as a separate estate, and to assess it in no other way, whether the owner of the adjacent land sold off the alluvion or kept it. The Revenue Authorities had no power to break up the existing engagement of a Zemindar, and to force him to resign the Charter upon which he stands, and to accept another which certainly increased the extent of his liability, and might be of very inferior value. Suppose that the Zemindar's old estate were worth one thousand Rupees a year, and that a large *chur* arose from the river, and, attaching itself to that estate, became part of the property of the proprietor. The Revenue Authorities might come in, and assess the *chur* at double its value, and there would be no appeal from that assessment. The *chur* might be worth one thousand Rupees a year, and the Revenue Authorities might assess it at two thousand Rupees a year. Would it be consistent with reason to force the Zemindar either to abandon to others the management and profits of the *chur*, or to incorporate his permanently settled estate with a new estate so highly assessed that the two together would be worth nothing? Again, suppose that there should be a perfectly fair assessment on the *chur;* would it be fair to force the owner to relinquish it, or else to incorporate it with his old estate, whereby he would lose all profit from his old estate, if the *chur* were washed away the next year? This injustice had been mentioned by the Honorable Member for Bengal last Saturday, and the argument appeared to him an extremely strong one. Or still further, suppose that the owner of the parent estate were a mokurrereedar, holding at a pepper-corn revenue—a mere nominal assessment; or a lakhirajdar holding free of all assessment: would it be contended that the law, as it stands, enables the Revenue Authorities, because a *chur* accrues to the estate, to break up the mokurreree or lakhiraj tenure, and instead of it, to force upon the owner a malgoozaree tenure for both the old estate and the new alluvion? Could greater injustice be imagined? The Revenue Authorities and Government said—"We will have none of this. We will not do it. We do not think it just. We wish to give the proprietor a separate assessment, and to create a separate estate of this new soil." But the law, it is supposed, steps in, and prevents them. Where is this absurd and iniquitous law to be found? Let any person put his finger upon the Section, if he can, and when he has so proved its existence, he (Mr. Grant) would vote for its amendment. But he was satisfied that no one could point to any such law: he was satisfied that the law, as it stands, is not open to such impeachment. He had gone over all the laws on the subject, except the last, Act IX of 1847, relating to the assessment of alluvion. That Act was not passed when the auction sale of Koélwar was made, and therefore could not be imported into this discussion of the Koélwar case. But what the Council had to determine was not the particular case of Koélwar, (although that case gave rise to the discussion), but the general question of the law bearing on such cases. He had looked into the Act of 1847, and he found that it left the law upon the point at issue, where it was. It gives the Collector in certain cases power to assess new soil, but it provides that such assessment shall be made in accordance

with the Regulations in force. Now, what are those Regulations? They are contained in Regulation II. 1819, Clauses 1 and 2 of Section III. In referring to them he would reverse their order for the sake of convenience. Clause 2 provides that

"the foregoing principles shall be deemed applicable not only to tracts of land such as are described to have been brought into cultivation in the Sunderbuns, but to all *churs* and islands formed since the period of the decennial settlement, and generally to all lands gained by alluvion or dereliction since that period, whether from an introcession of the sea, an alteration in the course of the rivers, or the gradual accession of soil on their banks."

Then what were the "foregoing principles" applicable to *churs*? Clause I states them as follows:—

"All lands which, at the period of the decennial settlement, were not included within the limits of any pergunnah, mouza, or other division of estates for which a settlement was concluded with the owners, not being lands for which a distinct settlement may have been made since the period above referred to, nor lands held free of assessment under a valid and legal title of the nature specified in Regulations XIX and XXXVIII. 1793, and in the corresponding Regulations subsequently enacted, are, and shall be considered liable to assessment in the same manner as other unsettled mehals."

These *churs*, therefore, were liable to assessment. And how were they liable to assessment? "In the same manner as other unsettled mehals;" and every one knows that an unsettled mehal must stand upon its own basis, being separate land, chargeable with a separate jumma. This was a most reasonable and just system. It was, he was convinced, the only system founded in law, and certainly, up to the time of the decision of the Sudder Court in the Koelwar case, it was generally observed.

Without, therefore, entering into the question of the propriety of this Council passing a declaratory Act—which he would leave, if necessary, to be discussed by more learned heads—he would say that he would agree to any alteration in the wording of this Bill which would obviate any objection felt on the ground that it flew needlessly in the face of a decision of the Court of Justice; but that he must object to any alteration which would make the security of landed proprietors in the separate holdings which the existing practice had given them, or which would make the Bill admit the existing law to be so absurd, and unjust, and mischievous, as it would be if that decision could be supposed to take a sound view of it.

THE CHIEF JUSTICE said, he was not present at the debate held on this question last Saturday; but having understood that it had been adjourned for discussion at a fuller Meeting of the Council, he had deemed it right to read, with as much care as his other engagements would permit, the Report of it, as also the papers originally laid before the Council in support of the Bill. Having given to them the best consideration that he could, he confessed that he had come into the Council Room that day under the impression that the decision of the Sudder Court was based upon sound legal principles; and that, therefore, whatever might be the general power of the Council to pass declaratory Acts, or the considerations which should determine the exercise of that power, he ought not to assent to this Bill in so far as it was a declaratory law impugning that decision. He had, however, also come to the conclusion, notwithstanding the arguments that had been urged by the Honorable and learned Member opposite (Mr. Peacock), that the object of the Bill was wise, just, and proper, and that he ought to support any measure which, without being open to the objection of being a law directed against a decision which he thought was right, would effect that object. After hearing, however, the very able and elaborate argument which had been addressed to the Council by the Honorable Member on his right (Mr. Grant), he felt bound to admit that his confidence in the correctness of the decision of the Sudder Court was considerably shaken.

The question before the Council bore two aspects. The Council had to consider it—first, with reference to the general law of accession, and to the phraseology of one particular Regulation, namely, Regulation XI. 1825—and secondly, with reference to the general Revenue law, and the power of Government to sell a zemindaree property for arrears of Government revenue. It was with the utmost diffidence that he expressed an opinion on a question of pure Revenue law. That was a subject to which

Mr. Grant

he had naturally not directed very much attention, seeing that it was one which had been, by positive Statute, withdrawn from the jurisdiction of the only Court with which he, during his career in India, whether as an Advocate or a Judge, had been conversant.

With respect to the other aspect of the question, it was as open to him as to any other Member of the Council to form and to express an opinion. Now considering this question with reference to the general law of accession, or with reference to the particular Regulation of 1825, it appeared to him that the principles laid down by the Sudder Court and the Zillah Judge in the suit relating to the estate of Koelwar, were perfectly correct. The papers printed with the Bill shewed that Regulation XI. 1825 was, in all its circumstances as well as in its terms, a declaratory enactment; and that, by at least two decisions of the Sudder Court, the law relating to alluvial formations had been declared to be consistent with the general law of Europe, which was itself derived from the Roman Civil Law. That was the state of things when the Regulation was passed; and the Regulation seemed only to adopt and to give a legislative sanction to the view taken by the Sudder Court in the two decisions to which he had referred. Now, if the effect of the Decennial or Permanent Settlement had been such that the Zemindar took his Zemindaree for better and for worse—that was liable in no case and in no event to the assessment of any further Revenue—it could not, he thought, be doubted that, according to the general law of accession, the land gained by alluvion, which that law, as established by the decision in question, gave to the proprietor of the adjacent land, would have been added to, and have become part of his original estate for all purposes. The proprietor of lakhiraj land would have taken the increment rent-free; in the hands of the proprietor of Malgoozaree lands, the increment with the original estate would have been a security for the Revenue assessed on that original estate. The difficulty in the case was introduced by the right of Government, notwithstanding the Permanent Settlement, to assess the increment either with a separate jumma, or with a jumma in addition to that payable on the original Zemindaree. He did not know whether that right had been asserted, or whether it had existed in practice before Regulation II. 1819. But that Regulation, which was anterior to Regulation XI. 1825, did undoubtedly assert that right, and Regulation XI. 1825 as undoubtedly recognized and was subject to it. He repeated, however, that it seemed to him impossible to contend independently of that right that, if the Zemindar of a malgoozaree tenure had fallen into arrear, and his estate been put up to sale, the sale would not have conveyed every right of the Zemindar, including his right in the land gained by alluvion. The question of proprietorship in accretion was really one of boundaries. The right implied the notion of a boundary shifting with the gradual recession of the river. Again, the phraseology of Regulation XI. 1825 appeared to him to strengthen the construction for which he was contending. The words, it was to be observed, were—

"When land may be gained by gradual accession, whether from the recess of a river or of the sea, it shall be considered an increment to the tenure"—the term used was not "estate," but "tenure"—"of the person to whose land or estate it is thus annexed, whether such land or estate be held immediately from Government by a Zemindar or other superior landholder, or as a subordinate tenure by any description of under-tenant whatever."

The Regulation, therefore, treated the alluvion as an increment to the *tenure* to which it accrued. It proceeded thus—

"Provided that the increment of land thus obtained shall not entitle the person in possession of the estate or tenure to which the land may be annexed, to a right of property or permanent interest therein beyond that possessed by him in the estate or tenure to which the land may be annexed."

Now, stopping there, consider what was the peculiar *tenure* of a Zemindar; what was the limitation on his absolute right of property in his estate. He had a right to hold the estate so long only as he paid the Government Revenue; if he failed to pay the Government Revenue, his right in that estate was liable to be put up for sale by auction, and if sold

would pass to the purchaser free and clear from all incumbrances created by the defaulting proprietor, and unaffected by any of his intermediate conveyances. The reservation of the rights of the under-tenants by Regulation XI. 1825 shewed still more clearly what the nature of the accretion was—that it was treated as a mere increment to the old tenure; so that if, before the formation of a *chur*, the zemindar had mortgaged his whole zemindaree, the mortgagee would get the benefit of the accretion as an addition to his security; or if, before such formation of the *chur*, the zemindar had granted the adjacent land in putnee, the putneedar would get the benefit of the accretion, subject to whatever right to an increased rental there might exist as between the zemindar and himself. Then, to what extent, if at all, was this state of things varied, and the general consequence that the accession followed the nature of the principal thing affected by the right of Government to claim additional Revenue in respect of the accretion; and by the general Revenue law applicable to that right? The law said that, if the Government should assess a fresh revenue on the alluvion, and the Zemindar should refuse to engage for it on the condition that it should be added to the jumma of his permanently settled estate, —which, owing to the uncertain nature of the soil, seemed to be the case generally—the Revenue Authorities might either let out the alluvion in farm, or hold it khas, reserving in either case a malikana allowance to the recusant proprietor; and the principal question before the Sudder Court appeared to have been whether the right to this malikana was a right so incident to the zemindaree right in the parent estate that it passed on a sale for arrears of Revenue to the purchaser notwithstanding its previous alienation by its original owner; or whether it was to be treated as a thing separate, and so capable of being permanently severed from the parent estate by that alienation of it. The correctness of the decision necessarily turned on the correctness of the view which the Court took of the extent of the power of sale inherent in the Government; and of its actual exercise in the particular case. If there was nothing in the law which positively prohibited the exercise of the power of sale over the accretion, and all the Zemindar's right in it, as well as over the parent estate, then we had only the general principles of the law and Regulation XI. 1825 to look to; and it appeared to him that, upon those general principles, and the construction to be put on that particular Regulation, the decision to which the Sudder Court had come was a correct one.

The speech, however, of the Honorable Member on his right (Mr. Grant) had suggested two difficulties to his mind; first, that the power of sale inherent in Government was limited to the land in respect of which the arrears of revenue had accrued; and next, that a *portion* only of an estate might be sold for the arrears of the revenue assessed on that portion. The first difficulty might be met by giving to the word "estate" a different and a wider interpretation than that which the Honorable Member would assign to it—a question on which he (the Chief Justice) still thought much was to be said. But the other difficulty seemed to him to be weightier. For if the Collector had power to sell only a portion of the estate, his acts in the particular case afforded the strongest grounds for believing that he never intended to include the right to malikana in the sale. Therefore, it seemed to him very doubtful whether, if the power to sell this right to malikana existed, it had been exercised, or had ever been intended to be exercised in the particular case; and consequently very doubtful whether the purchaser had ever acquired that right.

With respect to the question of what the law ought to be, he had, from the first, been very much in favor of making it what the Honorable Member for Bengal considered it now to be. Considering the nature of the new soil, it was hard to force the Zemindar into incorporating the jumma assessed upon it with the jumma assessed upon his permanently settled estate, and thus to make the latter liable for that increased jumma, though the new land might be swept away the next year. If—which he did not think would be the case—the right to insist on a separate settlement would in any degree endanger the public revenue, he (the Chief Justice) would not object to make

The Chief Justice

that arrangement subject to the consent of the Revenue Authorities; and to leave it a matter of contract between the Settlement Officer and the Zemindar. For if they should be unable to agree on a separate settlement, the alluvion might always be let out in farm, and the Zemindar would get his malikana.

With respect to the objections that had been urged by the Honorable and learned Member opposite (Mr. Peacock) in reference to the interests of undertenants, it appeared to him that no risk would really be run by that class of landholders. Most unquestionably, the effect of Regulation XI. 1825 was to give a putneedar the same interest in the accretion which his putnee gave him in the original estate. That provision could not be altered by the settlement of the Revenue. The only difference between a settlement which incorporated the new with the old jumma, and a separate settlement, as they affected the Putneedar, was this; that on the former, a default of his zemindar in payment of the revenue might occasion the loss of the whole putnee; on the latter a sale either of the parent estate, or of the accretion might take place, and the interest of the Putneedar in the thing sold would alone be forfeited; his interest in the other would remain unaffected.

On the whole, then, he was in favor of making the law what the Honorable Member for Bengal desired it to be. Nor did he see any objection to its enacting that the consequences which would attach under its provisions to future separate settlements of alluvion, should also attach to the separate settlements which had already been made. No existing rights would be affected by that; for the purchasers at future Government sales would know what it was that they were buying. He still thought, however, that, considering the opinion which many Honorable Members held as to what was the existing law, and the respect due to the Sudder Court, it would be better not to make the law declaratory, nor in any manner to seem to impugn the decision of which so much had been said.

MR. HARINGTON said, he concurred with the Honorable and learned Member of Council opposite (Mr. Peacock) and the Honorable and learned Chief Justice in thinking that it would be very objectionable to pass any Bill in explanation of existing enactments relating to alluvial formations which would have the effect of throwing a doubt on the correctness of the decision of the Sudder Court at Calcutta in the case reported amongst the annexures of the Bill before the Council, or which might lead to the re-opening of that case and other cases of a similar character. He would not follow the Honorable Member of Council on his left (Mr. Grant) through all the objections which he had taken to the decision of the Sudder Court. He did not think that the Council had anything to do with the circumstances of the particular case in which that decision was passed. As observed by the Honorable and learned Member of Council opposite, in the speech delivered by him on Saturday last, it was not the constitutional duty of the Legislative Council to act as a Court of Appeal, or to sit in judgment upon the decisions of the Civil Courts. What the Council had to look to were the general principles involved in the decision of the Sudder Court; and if it found them opposed to what was understood to have been the intention of the particular Regulation which the Bill brought in by the Honorable Member for Bengal proposed to explain, it might pass a declaratory Act.

The general principles laid down in the decision of the Sudder Court were to be found at page 14 of the annexures to the Bill. The Court remarked—

"It is distinctly enacted, however, in that Section"—that was to say, Section V Regulation VII. 1822—that this allowance," alluding to malikana, "shall not be claimable by any except actual proprietors or persons having the right of property in the lands; and this would necessarily be so even in the absence of any enactment, as malikana is clearly nothing more or less than a particular species of rent. It is an asset of the zemindaree which the defaulting proprietor has no power either to alienate or reserve, and which passes with the estate to the auction purchaser. Now, it is admitted that the rights and interests of Doodnarain, and of his vendee Jewan Lall in the parent estate of Koelwar ceased and determined on the 2nd of July 1845, when the estate was passed at a Revenue sale to the defendants; and it is quite clear that, under the law, the rights of those persons, whatever they were, to the alluvial increment of the talook and the malikana due therefrom, passed at the same time."

What, he would ask, had been the opinion of the highest Revenue authorities in Bengal upon this point from the time of the passing of Regulation XI. 1825 up to the present date? In the Board's Circular of the 7th of August 1838, it was ordered "that, if the zemindar agrees to the terms of settlement, the jumma of the *chur* shall be added to and included in the original *tahood*, and the parent estate with its increment shall be considered a single mehal charged with the aggregate increased jumma. But, on the other hand, should the zemindar either refuse to accede to the terms of the settlement, or object to include it in his *tahood*, the land is to be let in farm for a period not exceeding ten years, the proprietor receiving a malikana at the usual rate. Should, however, the parent estate be brought to sale for arrears of Revenue, the right of property in the *chur*"—and here was the point—"will necessarily pass to the auction purchaser."

Though the Board subsequently saw reason to modify these orders, and to issue further instructions to their subordinates in respect to the settlement of alluvial formations, they did not attempt to call in question the correctness of the interpretations which had been put upon the law in the Circular of the 7th August 1838. In their Circular of 10th July 1841, they allowed "that the instructions contained in their previous Circular were legally correct, and that the mode of settlement therein prescribed was not only borne out by the law, but was the mode most consistent with the terms of the law in which the right of property in alluvial formations is defined." From what was stated in a subsequent part of the same Circular, he was led to infer that the Board would have gone up to Government for a fresh enactment, not to explain existing laws, but to obtain a modification thereof, the practice which had been introduced admittedly under a correct interpretation of those laws having been found to lead to embarrassment; but they abstained from seeking the interference of the Legislature at that time, simply because the practice which they wished to legalize in the place of the rules then in force, involved no injury or loss to the owner of the estate to which land gained by gradual accession was found to be annexed, but would be merely a voluntary relinquishment by Government of certain rights which, under the strict letter of the law, it possessed. What the rights here alluded to were, did not very clearly appear; but the right of holding an increment by alluvion, responsible equally with the parent estate for the revenue assessed upon the latter, was probably one of the rights intended. Seeing, then, that the Sudder Court and the highest Revenue authorities in Bengal had all along been agreed as to the intention and meaning of the law, it did not appear to him that the Council could say with propriety that doubts existed as to the legal effect of particular words in Regulation XI. 1825, for the removal of which a declaratory law was necessary. Any doubts which might have been entertained on the point, had been removed by the decision of a competent Court; and he should therefore vote against the second reading of the Bill brought in by the Honorable Member for Bengal, if that reading was to be followed by the publication of the Bill as it stood.

The Honorable Member of Council on his left (Mr. Grant) had, he believed, correctly stated the law as to the settlement of lands liable to be assessed to Government, and as to their sale for any arrear of revenue accruing thereon, and he concurred in the general principles laid down by the Honorable Member in his speech; but he was unable to agree with him that alluvial formations attached to the mainland could be considered an estate within the meaning of Regulation VIII. 1800, though temporarily let out to a farmer, so long as they were not formally and absolutely separated from the parent estate with the consent and by the act of the proprietor. He could find nothing in Regulation II. 1825, to lead him to suppose that the framers of that law intended that alluvial accretions should be held separately from the estate to which they were attached, unless it was in that part of Clause 1 Section IV which declared that the increment should not in any case be understood to exempt the holder of it from the payment to Government of any assessment for the public revenue to which it might be liable under the provision of Regulation II. 1819, or of

any other Regulation in force. Clause 1 Section III Regulation II. 1819, however, which declared the liability to assessment of certain lands in the same manner as other unsettled estates, applied to lands actually existing at the period of the decennial settlement, though not included at that time within the limits of any estate for which a settlement was concluded with the owners; and although the principle of the rule contained in Clause 1 Section III Regulation II. 1819 had been extended by the 2nd Clause of the same Section to alluvial formations, Section VI. Act IX of 1847 had the following words—

"Whenever, on inspection of any such new map, it shall appear to the local Revenue authorities that land has been added to any estate paying revenue directly to Government, they shall without delay assess the same."

—thus shewing that the framers of the law of 1847, equally with the framers of Regulation XI 1825, looked upon alluvial accretions as properly forming part and parcel of the estate to which they had attached themselves; and, reading Section VI Act IX of 1847, with Clause 2 Section III Regulation II. 1819, he believed that the only object of the provisions contained in those Sections was to protect the interests of Government, and to secure the payment of a fair amount of revenue on alluvial formations. For his own part, he had no doubt that the framers of Regulation XI 1825 fully intended that alluvial accretions should be incorporated with, and form part of the estate to which they might be annexed, and that they should share its fate, whatever that might be. The framers of the Regulation, knowing the value attached by the natives of this country to land, and that they were nearly as ready to fight for their lands as for their lives, probably never contemplated the possibility of the owner of the parent estate refusing to allow an alluvial formation to be incorporated therewith, and they did not think it necessary therefore to provide for such a contingency. It had, however, occurred; and he agreed with the Honorable and learned Chief Justice in thinking, that it would be advisable to pass a new law to meet such cases, in which some provision might properly be introduced to protect the interests of under-tenants.

With respect to the remarks made by the Honorable and learned Member of Council opposite (Mr. Peacock), as to the depreciation in the value of an estate which would follow the loss of its river-frontage, he would only observe that any injury occurring to the owner of the parent estate from that cause would be equally experienced by him in the event of the alluvial accretion being let in farm to a stranger. During the continuance of the farming lease, the proprietor of the parent estate would be deprived of the use of the river-frontage, any benefits arising from which would belong to the farmer; and he saw no objection, therefore, on that ground, to the passing of a new law such as that proposed by the Honorable and the learned Chief Justice.

On the whole, then, he thought it better that the present Bill should not be read a second time; but if the Honorable Member for Bengal would introduce a new Bill not open to the objections which appeared to him to exist to the Bill before the Council, he should be prepared to support it.

MR. LEGEYT said, after the very full discussion held on the Bill this day and at the last Meeting, he should not have obtruded any observations of his own upon the Council, were it not that he thought it very desirable that the principle involved in the Bill should be determined. It appeared to him that that principle was, whether this Council could discuss, and pass declaratory Acts upon decisions of the highest Court of Civil Judicature in the Mofussil of this country. If he read Regulation X 1796 aright, the interpretation of the Regulations was vested in the Sudder Court; and if that were so, he would ask the Council if the decision passed by that Court upon the question of Regulation law at issue in this case, did not definitively settle the meaning of the law. Did it not declare the law as it stood to be in conformity with the construction which is put upon it? If that were the case, this Bill would disturb the decision, and set aside the interpretation of the Sudder Court, contrary to the provision of Regulation X. 1796.

With respect to the alteration in the existing law suggested by the Honorable Member for Bengal, his own impression

was that it was advisable. That impression had been strengthened by what he heard to-day; and he should be glad to see a Bill brought in to amend the law. But he could not assent to the second reading of a Bill which, in effect, made the Council a Court of Appeal from the Sudder Adawlut, and declared that that Court had given a mistaken interpretation of a law.

MR. ELIOTT said, he would make but a few observations on the interpretation of Regulation XI 1825. He wished to state his concurrence generally in the observations which had been made by the Honorable Member on his right (Mr. Harington). He had endeavored simply to look at Regulation XI 1825 by itself, and it appeared to him that it was the intention of the law that land gained by alluvion should constitute an integral part of the old estate, as held by the present Board of Revenue. He conceived that the ruling of the Sudder Court so far was perfectly correct. He could not see what other meaning could be properly given to the words of the Regulation declaring that "the increment of land thus obtained is annexed to the land or estate," the possession of which determined the right of property in it; and although it was not expressly laid down that the assessment on such land should be added to the jumma on the estate, yet that followed as a matter of course; for the new land, being made part and parcel of the old estate, the additional assessment must be equally part of the jumma on the whole. Thus, the law regarded the increment and the old land as composing one estate. The component parts, however, not being inseparable, but separable only in the manner in which any part of the integral estate could be separated and formed into a distinct property. The manner in which such a separation could be made was laid down by the law to which the Honorable Member on his left (Mr. Grant) had alluded. The only difference in such a case as this was that it was not necessary to go through the form of *butwarrah*. For the new land being already assessed distinctly, what was equivalent to a *butwarrah* had been done. If, then, the Zemindar did not choose to hold the new land as part of his estate, all he had to do was to apply to the Collector to register it as a separate estate, subject to the assessment already imposed upon it; and the Collector was bound so to register it. If this were so, the law required no amendment. According to his view, it was unnecessary to declare, as in the 2nd Section of the Bill, that the new land might be united to the old, for Regulation XI 1825 spoke of it as *ab initio* annexed thereto. And again, it was unnecessary to provide that the new land should be assessed and settled as a separate estate with a separate jumma if the zemindar was unwilling to hold it in union with the original estate, because it was already open to the zemindar to apply to the Collector so to settle it, and the Collector was bound to attend to such application. In his opinion, then, the Board of Revenue and Sudder Court were correct in saying that the alluvion was to be regarded *primâ facie* as part and parcel of the original estate. He did not know that the Sudder Court had said that it was absolutely inseparable from it. Section I of this Bill said that nothing in Section IV of Regulation XI. 1825 should be understood as making alluvion inseparable from the estate which it adjoined; but he was not sure that the Sudder Court positively asserted that there could be no division of the two lands under any circumstances. The Regulations pointed out a mode for obtaining a separate settlement of the alluvion; and if the zemindar applied in that mode, the separation must be made.

He therefore saw no occasion for a declaratory law on the subject.

MR. CURRIE said, he had already trespassed on the attention of the Council to a greater extent than he had wished to do in speaking in support of this Bill; and he proposed, therefore, to say but a very few words in reply on the present occasion.

When he framed this Bill—the object of which was simply to give legislative sanction to a practice in the Revenue Department which had obtained since the first settlement of alluvial formations, under the Orders of the Board of Revenue and the Executive Government—the idea had never occurred to him that it would meet with so much opposition, or give rise to so much discussion. On Saturday last, objections had been taken to its merits, as well as to its form. The objections to the merits of

the Bill he had endeavored to answer at the time, and they had been met more completely to-day by the Honorable Gentleman opposite (Mr. Grant). But there seemed to be a more general feeling in the Council against the form of the Bill. He did not propose to occupy the time of the Council with any remarks as to the general expediency of declaratory legislation; he would say only a few words explanatory of the course which he had adopted on this occasion. He had always considered it as a recognized principle of legislation that, when a construction was put upon a law by a Court of Justice contrary to that which the Legislature intended it should bear, or which the Legislature thought it ought to bear, it was the province of the Legislature to provide a remedy either by amending the law, or, if it thought that the wording as it stood would fairly bear the construction which it wished it to bear, by passing a declaratory Act. That had certainly been the practice of the Legislature of this country for the last fifty years. The Statute Book abounded in declaratory Acts. He would select one as an example. Act II of 1847 was "An Act to declare the meaning and extent of certain words in Act V of 1840," by which oaths were abolished, and affirmations substituted for them, in the case of Hindoos and Mahomedans. In Act V of 1840, it was provided that its provisions should not extend to any of Her Majesty's Courts of Justice. They were extended to the Police Court; but on the trial of a Hindoo indicted for perjury for a false statement made at the Police upon solemn affirmation, the Supreme Court held that Police Courts came under the designation of "Her Majesty's Courts of Justice." The prisoner was accordingly acquitted; and, on the advice of the then Advocate General, Act II of 1847 was passed. The Preamble of that Act declared that—

"Whereas, by Section IV of Act V of 1840, it was amongst other things provided that the said Act should not extend to any declaration or affirmation made in any of Her Majesty's Courts of Justice, and doubts have arisen whether the words 'Her Majesty's Courts of Justice' mean and extend to the Courts of Justices of the Peace—It is hereby declared and enacted that the words 'Her Majesty's Courts of Justice' in the said Act shall be deemed not to have meant, nor extended to, and not to mean nor extend to, the Courts of the Justices of the Peace."

When, following this, and other similar precedents, he prepared this Bill in its present form, it certainly never occurred to him that he was doing anything unusual, or anything which could be construed as giving any reasonable cause of offence to the Sudder Court. Viewing the question as he did, a declaratory Act appeared to him to be the simplest and most straight-forward way of doing what he wished to do. At the same time, as a majority of the Council seemed to think that the declaratory form was objectionable, and that the same ends might be attained by an enactment in a different form, he had no objection whatever to the form being changed. But he trusted that the Council would allow the Bill to be read a second time. It might then, if it thought necessary, instruct the Select Committee to whom it should be referred, to report what alteration they considered should be made in it before it was published. He should prefer this course to withdrawing the Bill and bringing in another in a different form; because, as he had said, the Bill was now in the form which he thought it should bear, and, in altering that form, he should like to have the assistance of Honorable Members who were of opinion that that alteration was desirable.

The question having been put, the Council divided:—

Ayes 5.	Noes. 3.
Mr. Currie.	Mr. Harington.
Mr. Eliott.	Mr. LeGeyt.
Mr. Grant.	Mr. Peacock.
The Chief Justice.	
The Vice-President.	

The Bill was then read a second time.

ESTATE OF THE LATE NABOB OF THE CARNATIC.

MR. PEACOCK moved that the Bill "to provide for the administration of the Estate, and for the payment of the debts of the late Nabob of the Carnatic" be now read a second time.

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

PORT-DUES (ADEN).

MR. LEGEYT moved the third read-

ing of the Bill "for the levy of Port-dues in the Port of Aden."

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

SUBORDINATE CRIMINAL COURT AT OOTACAMUND.

MR. ELIOTT moved that the Council resolve itself into a Committee on the Bill "to extend Act XXV of 1855" (to empower the Session Judge of Coimbatore to hold Sessions at Ootacamund on the Neilgherry Hills).

Agreed to.

The Bill passed through Committee without amendment; and the Council having resumed its sitting, the Bill was reported.

MR. ELIOTT then moved that the Standing Orders be suspended to admit of the Bill being read a third time and passed.

MR. HARINGTON seconded the Motion, which was then agreed to.

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

Agreed to.

The Bill was then read a third time.

MR. ELIOTT moved that Mr. Grant be requested to take the Bill to the President in Council in order that it may be submitted to the Governor-General for his assent.

Agreed to.

PORT-DUES (ADEN).

MR. LEGEYT moved that Mr. Grant be requested to take the Bill "for the levy of Port-dues in the Port of Aden" to the President in Council in order that it may be submitted to the Governor-General for his assent.

Agreed to.

ESTATE OF THE LATE NABOB OF THE CARNATIC.

MR. PEACOCK moved that the Bill "to provide for the administration of the Estate and for the payment of the debts of the late Nabob of the Carnatic" be referred to a Select Committee consisting of the Chief Justice, Mr. Eliott and the Mover.

Agreed to.

SETTLEMENT OF ALLUVIAL LANDS (BENGAL).

MR. CURRIE moved that the Bill "to explain Regulation XI 1825 of the Bengal Code, and to prescribe rules for the settlement of land gained by alluvion" be referred to a Select Committee consisting of the Chief Justice, Mr. Eliott, Mr. Harington, and the Mover.

Agreed to.

MR. PEACOCK moved that the Select Committee on the Bill be instructed to submit a preliminary Report suggesting any alterations which they may deem expedient to make in the Bill previously to the publication thereof, and that they omit such parts as are declaratory of the existing law.

Agreed to.

The Council adjourned.

Saturday, April 10, 1858.

PRESENT:

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

Hon. the Chief Justice,	P. W. LeGeyt, Esq.,
Hon'ble J. P. Grant,	E. Currie, Esq.,
Hon'ble B. Peacock,	and
D. Eliott, Esq.,	H. B. Harington, Esq.

RESTORATION OF POSSESSION OF LANDS (N. W. P.)

THE CLERK brought under the consideration of the Council a Petition of the British Indian Association suggesting amendments in the Bill "to facilitate the recovery of land and other real property, of which possession may have been wrongfully taken during the recent disturbances in the North-Western Provinces of the Presidency of Bengal."

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

Agreed to.

SETTLEMENT OF ALLUVIAL LANDS (BENGAL).

MR CURRIE presented the preliminary Report of the Select Committee on the Bill "to explain Regulation XI. 1825 of the Bengal Code, and to prescribe rules for the settlement of land gained by alluvion."

AUTHENTICATION OF GOVERNMENT STAMPS.

MR PEACOCK presented the Report of the Select Committee on the Bill "to