COUNCIL OF THE GOVERNOR GENERAL OF INDIA

VOL. 12

APRIL - DEC.

BOOK NO 2

1873

P. L.

Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 & 25 Vic., cap. 67.

The Council met at Government House, on Tuesday, the 30th December 1873.

PRESENT:

His Excellency the Viceroy and Governor General of India, G. M. S. I., *presiding.*

His Honour the Lieutenant-Governor of Bengal.

The Hon'ble B. H. Ellis.

Major General the Hon'ble Sir H. W. Norman, K. C. B.

The Hon'ble A. Hobhouse, Q. C.

The Hon'ble E. C. Bayley, C. S. I.

The Hon'ble J. F. D. Inglis, C. S. I.

The Hon'ble Rájá Ramánáth Tagore.

The Hon'ble R. A. Dalyell.

The Hon'ble H. H. Sutherland.

PRINCE OF ARCOT'S PRIVILEGES BILL.

The Hon'ble MR. HOBHOUSE moved that the Bill to continue certain privileges and immunities now enjoyed by Prince Azím Jah Bahádur, as Prince of Arcot, to his sons on succeeding to the title, as amended, be passed. He had no observations to make excepting that the Madras Government desired the Bill to be passed.

The Hon'ble MR. DALYELL said that, at the last meeting of the Council, he had endeavoured to show that the last clause of the Bill which his hon'ble and learned friend now desired to pass into law, would be an innovation on the policy which had hitherto governed our dealings with the Carnatic Family; that there was nothing in the character of any of the four Noblemen to whom the Act, when passed, would apply, which would justify the Council in placing upon them the restrictions provided by the clause; that those restrictions would have little or no effect in preventing them from incurring liabilities if they were determined to do so; and that the sense of the clause was altogether opposed to the desire of Her Majesty's Government to enhance the dignity of the family by conferring on the head of it a *British* title of the most exalted rank. The Council, in their wisdom, however, had been pleased to reject MR. DALYELL'S amendment, and he inferred from the remarks which fell from His Excellency the President, and from the hon'ble members of the

right' that it was the desire of the Government of India to restrict, as much as possible, the grant of privileges of the kind conferred by the Bill, and thereby gradually to induce the representatives of the former rulers of the country to accept the position of ordinary subjects. He did not question the justice or expediency of such a policy as a general rule. But, he did think that the circumstance of Her Majesty having conferred a special title on the Carnatic Family, placed them in an exceptional position, and in a position which would have justified the Council in treating them in an exceptional manner. As, however, the health of the Prince had of late been by no means good, it was desirable that no delay should occur in passing a Bill of some sort which would confer the privilege of exemption from civil process upon his successors in the title; and as the Government of Madras were willing to accept the measure in its present form, rather than that the settlement of the question should be deferred any longer, MR. DALYELL would not oppose the motion to pass the Bill.

The Motion was put and agreed to.

CRIMINAL PROCEDURE CODE AMENDMENT BILL.

The Hon'ble MR. HOBHOUSE also introduced the Bill to amend the Code of Criminal Procedure, and moved that it be referred to a Select Committee with instructions to report in six weeks. He said that when he got leave to introduce this Bill, he had explained that the necessity for it had arisen on account of the practical difficulty which was discovered in cases where a sentence of whipping was passed. And he had also mentioned that the opportunity would be taken to see what decisions or discussions had taken place on other sections of the Code, which might render it desirable to introduce amendments. The result was, that a few clauses had been drawn, which comprised the Bill before the Council; and with the permission of the Council, he would just run through them, to mention their purport very briefly.

The second section of the Bill was for the purpose of enabling the Government to change the venue for the purpose of a trial. It was discovered a short time since either that there was no such power in the hands of Government, or that it was difficult to put it into execution. There would not often be any necessity to change the venue in criminal trials, but cases might arise in which it would be desirable to do so. The present opportunity was a favourable one for putting that most reasonable power into the hands of the Supreme Government.

Section three was for the purpose of amending what, no doubt, was never intended by the Code. The Act gave the Government power of appealing against

criminal sentences. That was a new thing. The power to appeal from criminal sentences was limited to ninety days by the General Limitation Act. In the case of the Government that would be an unreasonably short period, and therefore the general limitation was abrogated. But no other was substituted, and so there was now no time appointed after which the Crown could not appeal. That was never meant. No hardship had arisen, because so short a time had elapsed since the passing of the Code; but it was quite possible that hardship might arise, and the opportunity might be taken of putting some limitation on the Crown's power of appeal.

The fourth section provided for the correction of a clerical error, which he need not explain.

The fifth section related also to a matter which was new in the Procedure Code. An Appellate Court had now the power to make a sentence heavier as well as lighter. There were two stages in an appeal. One was the preliminary stage in which the Court merely looked at the papers of the case, and called upon the appellant, without calling upon the other party, and on the appellant's own showing rejected the appeal. The other was after the Court had determined to receive the appeal, and when it came to the formal hearing in order to determine whether the appeal should succeed. The Code was not explicit on a question which arose in the Bombay High Court, whether, in the first of these stages, the Court might enhance a sentence. The High Court held that it could not. This decision seemed to be the most reasonable construction of the Code, and MR. HOBHOUSE thought it would be convenient to extend its authority beyond the Bombay Presidency and to make it the law for British India.

Section six was for this purpose: A Session Judge or Magistrate who considered that a person had been improperly discharged, might still commit him for trial. Here, again, a question arose whether the Court might commit a man for a totally different offence from that for which he was charged, or only for the same offence. It was decided by Mr. Justice Phear that the Magistrate could not take cognizance of a totally new offence. That seemed a reasonable construction of the Act, and worthy of a place in an amending Bill.

Section seven was merely for the purpose of explaining the expression "Subordinate Court" in a particular section. It adopted the principle expressed in a cognate section and, no doubt, intended to operate in this particular section.

Section eight related to the subject of whipping, which had been already explained to the Council.

Section nine was merely for the purpose of providing how a Commission was to go for examining a witness in the Presidency towns. This had been omitted from the Code. There were provisions for examining witnesses by commission in other places, but not in the Presidency towns, and some difficulty had actually arisen in consequence of this omission.

Section ten dealt with the cases where an issue was raised whether the accused person was sane or insane. The Code contained a provision for the Judge trying that question as a preliminary question. But some doubt was felt whether that preliminary investigation should form a part of the trial. Mr. Justice Phear had decided in the affirmative; that was a very convenient and reasonable decision, and one which we proposed to embody in the Act.

Section eleven provided for a merely verbal omission. Section 464 of the Procedure Code provided that no judgment should be impugned or invalidated for any error or defect. No doubt, only formal errors or defects were intended: otherwise every judgment would be inviolable.

The other provisions of the Bill were merely formal.

His Honour THE LIEUTENANT-GOVERNOR said before this Bill proceeded further, he wished to say a few words. As one of the few survivors, so to express it, of the Legislative Members of this Council of two years ago, he was naturally somewhat jealous lest there should be any unnecessary tampering with or tinkering of the great work which the legislature then brought to completion, and which gave to this country perhaps the most enlightened Code of Criminal Procedure in any part of the world. All Acts of this length, and this complication, must necessarily have some errors and omissions. Nothing can be perfect in this world, and it was not extraordinary that one or two holes should be discovered in this great Code. He thought it was a matter of extreme congratulation to the Council that the holes that had been fairly found should be so few. Considering the vast variety of subjects over which the Code ranged, he thought it was a matter of surprise, that so few practical defects should be discovered in the course of the working of the Act during the past year. The only pressing practical defect that had been found, so far as he knew, was that relating to the mode of carrying out the sentence of whipping. It was found that there had been an omission in making the altered section exactly tally with a section which had not been altered; and the amendment of this matter was therefore necessary and proper. So also might perhaps be one or two verbal alterations which were contained in the Bill. But he must express his belief that this Bill went beyond the absolute necessities of the

case. It seemed to him, that when an Act like the Code of Criminal Procedure had been passed by the Council, it should not be altered without absolute necessity, until it had had a fair and good and long trial. Where there was a possibility of doubt, even if our opinion was in favour of some slight change, he thought it was better that there should be a full trial, so as to diminish as far as possible the inconvenience which must attend the amendment of an Act like this. On general grounds, it was extremely inconvenient that any large Act of this kind should be encumbered by a number of small and petty amendments. Although it was a right and good suggestion which had been made, that after a certain period of time, when the principles of an Act had been well considered by the most eminent Judges of the land; when a certain construction had been placed upon the law by a series of decisions, then those decisions might be consulted, and the law put in a clear form to suit the convenience of the public, and simplify the work of those on whom devolved the administration of the law. But, on the other hand, it was too early to adopt a course of this kind in reference to the Code of Criminal Procedure. It was not meet that every petty decision of particular Judges or Benches should be embodied in a new Bill introduced at so early a stage. Looking cursorily at the clauses of the Bill which his hon'ble and learned friend had just run over, it appeared to HIS HONOUR that some of its provisions seemed to be unnecessary; they seemed to partake of a sort of refined criticism and picking of holes in regard to particular points in which amendment was not really and absolutely necessary; and there were one or two points in which, HIS HONOUR thought, the amendments partook of the nature of substantial changes; and, as at present advised, the changes appeared to him to be bad changes.

Taking some of the clauses by way of example, HIS HONOUR might say, that section three of the Bill embodied an amendment which was not at all necessary. It was a question whether it was desirable that an appeal of this kind should be limited to one year. It was quite possible that, at the end of two, three, four, or five years, evidence of a murder, for instance, might turn up, and in such cases it seemed to him that proceedings should be taken against the murderer. This was not a proceeding in the hands of a private individual; it was in the hands of the Government of India. The existing provision was deliberately made, and HIS HONOUR had not heard any sufficient reason advanced for altering it.

Then section five was also a provision which seemed to him to be unnecessary. As the hon'ble and learned Member in charge of the Bill had explained, an appeal consisted of two stages, the first was a stage in which the appellant

was heard, the record was looked at, and all that was to be said on the appellant's side was said. The second was a proceeding in which, if the Appellate Court thought there was room for doubt, notice was given to the public prosecutor or other person through whom action was taken against the accused. As far as the appellant was concerned, the first of these processes was complete in itself. It seemed a not unreasonable view that cases might happen, in which the Court might say to the appellant,—"you have chosen to appeal to us; we have considered your appeal, and so far from letting you off, we think your punishment should be doubled." There seemed to HIS HONOUR nothing very unreasonable in that. We were told the High Court of Bombay had on one occasion said, however, that such a proceeding was not lawful. That might be so, but the matter would be finally settled by other Judges and other Courts; and it appeared to him that it would be an unnecessary interference with the Code to provide that the Courts were not to exercise their discretion in regard to this point.

Then, again, section six seemed also a provision which was not absolutely necessary.

Section seven was an amendment which he did not at all like. The only effect of the change proposed was, that the Sessions Courts would have the same power in regard to the Magistrate of the District which they now exercised in regard to other Magistrates. HIS HONOUR was not at all clear that it was intended, or was desirable, that the Sessions Court should have that power in the matter dealt with by this section with regard to the Magistrate of the District, who was an officer, as regards rank and position, of the same standing as the Sessions Judge.

Finally, HIS HONOUR came to section eleven. It was a substantive amendment, and one to which he had a real and decided objection. It proposed to amend the 464th section of the Code, which was a section of enormous importance. That section was drawn with great deliberation and care by a very competent authority, with the object of putting a stop to the quibbles of lawyers, and the doing of substantial justice. HIS HONOUR had no reason to believe that it was really necessary to alter that section of the Code. The amendment now proposed would open the door to any number of lawyers. It would cut down the benefits of this most important section to a minimum. Therefore, as at present advised, he strongly objected to this amendment.

For the rest, there were some amendments which were necessary, but he regretted that the Bill had been lengthened to an extent beyond that to which it went when his hon'ble and learned friend obtained leave to introduce it.

The Hon'ble MR. HOBHOUSE wished to express his entire concurrence in what His Honour the Lieutenant-Governor had said as to the excellence of that great work, the new Code of Criminal Procedure. It had not occurred to MR. HOBHOUSE to praise the Code; because it carried its own praise with it, and because he did not consider that a Bill of this kind made any reflection or imputation whatever on the excellence of the work.

With respect to the time at which this Bill was introduced, he might mention that the plan of his friend, Mr. Stephen, with reference to Acts of this nature, was to have an amending Act passed every year, with a view to reenactments at convenient periods, until the inevitable imperfections were supplied. He had placed that opinion on formal record besides mentioning it personally to MR. HOBHOUSE. MR. HOBHOUSE himself thought the time rather too short, and would prefer the course of making amendments, from time to time as necessity arose, and of considering, when that necessity had arisen, the propriety of adding to the necessary amendments others that might appear expedient. There was not much practical difference between the two courses. But, so far from having proceeded with great haste to amend the Code, he had not proceeded with quite as much haste as the framer of the Code himself contemplated.

With respect to the particular objections that were made, no doubt they would all be considered carefully by the Committee to whom the Bill would be referred. At the same time, he might say that it was exceedingly useful that, at this stage of the Bill, objections should be brought forward by any body that entertained them; for then the Committee had the advantage of, not a decision of, Council, but a discussion in Council, on those points before they came to deal with them themselves.

With regard to section three, which provided a limitation on the right of the Government to appeal against an acquittal, MR. HOBHOUSE understood that His Honour intimated that the power of the Government in this matter should be absolutely unlimited. In his opinion, fresh evidence might be discovered which would show that a man acquitted in 1870 ought to be convicted on the same charge in 1880. But it was holding a very uneven balance between the Crown and the subject, to say that the subject should be limited to ninety days for the purpose of presenting an appeal against his conviction, and that the Crown should have absolutely no limit of time prescribed within which to present an appeal against his acquittal. He did not believe that the section was intended to do anything more than to relieve the Crown from the short limitation prescribed by the Limitation Act. Public authorities got information slower than those who had private motives to urge

them on, and they required more time for consultation and correspondence than private persons. Therefore, it was proper to give the public authorities much longer time to make up their mind than any body else. But he could not think it reasonable or strictly just to say that the Crown might perpetually hold over the head of the accused the terror of being tried again on some fresh evidence, which, in this country, we all knew was not very difficult to get. In point of justice and fair play, MR. HOBHOUSE had no doubt in saying that it was the right thing to place a reasonable limit on the power of the Crown in this matter. Whether the limitation should be one year or more or less than one year, he did not pretend to say. That was a point on which there might very well be a difference of opinion, and it was possible that the Select Committee might see fit to alter the limit of time prescribed in the Bill.

The next section to which His Honour objected was section five. In that case we had a ruling of the High Court at Bombay. His Honour thought that ruling was not in accordance with reason [The Lieutenant-Governor—No.]. MR. HOBHOUSE begged pardon. He thought His Honour's whole argument was addressed to the fact that, in the preliminary stage of an appeal, the whole case, so far as the appellant was concerned, was before the Court, and, therefore, it was reasonable that the Court should have the power of enhancing the sentence, when, having determined, in the preliminary stage, to reject the appeal, it thought the punishment that had been awarded was insufficient. His Honour thought also that it was not reasonable to make the ruling of the High Court of Bombay govern the decision of the High Courts at Calcutta, Madras and Allahabad. It was fairly arguable that the Court should have the power which His Honour would give it, but MR. HOBHOUSE thought it was improbable that the proceedings in this preliminary stage of the appeal would be taken with that degree of formality which would warrant an increase of the sentence. He thought the High Court should not take the initiative in this matter, but should weigh the whole case before taking the important step of enhancing the sentence. But take it either way, should we leave the matter as it stood with this difference of opinion? With the High Court of Bombay thinking one way, and a high officer like the Lieutenant-Governor of Bengal thinking the other, no one could say that there was not a difference of opinion? Should we leave the law in that state, or should we lay down the law by which the High Court should be bound in administering the Code? It would be a matter of inconvenience, if not of scandal, if the High Court of one presidency considered that it could enhance a sentence on the preliminary stage of an appeal, and the High Court of another province considered that it could not. MR. HOBHOUSE thought it was desirable that the law should

be authoritatively stated. We must make up our minds which was the reasonable course. If we thought that the course proposed by His Honour was a reasonable course, we should overrule the construction of the High Court of Bombay; but if we were disposed to agree with them, we should embody their decision in the law.

The next section of the Bill to which His Honour objected was section seven. That section referred to section 298 of the Code, which said:—

"The High Court, the Court of Session or the Magistrate of the District may order any Subordinate Court to enquire into any complaint which has been dismissed under section 147."

The question was, what was a "Subordinate Court"? It was proposed to make that clear, and for that purpose we referred back to a section three stages before, namely, section 295, which related to a cognate subject. Section 295 said:—

"Any Court of Session or Magistrate of the district may at all times call for and examine the record of any Court subordinate to such Court or Magistrate for the purpose of satisfying itself or himself as to the legality of any sentence or order passed, and as to the regularity of the proceedings of such subordinate Court."

The subject was almost the same; the two were exact counterparts of one another. Then section 295 went on to say that, for the purposes of that section, every Magistrate in a sessions division should be deemed to be subordinate to the Sessions Judge of the Division. The proposed section of the Bill resolved the doubt in section 298, by referring to a section three stages earlier.

Then, as to section eleven of the Bill, MR. HOBHOUSE could not help thinking that His Honour was quite mistaken as to the meaning of the language which it was proposed to amend. In the first place, our attention had been called to the point by the very best authority, namely, one of the draftsmen of the Code, who said that it was not the intention to cover all errors and defects. In the second place, MR. HOBHOUSE had seen one or two text-books published and commentaries on the Code which particularly referred to the section of the Code which section eleven of this Bill proposed to amend. One said that this was a case in which the general words of the legislature must be taken with some qualification; and another said that all that was meant was that formal errors or defects should not invalidate a judgment. To MR. HOBHOUSE's mind, to say that no defect should invalidate a judgment seemed the same thing as to say that there should be no appeal. He did not see of what use an appeal was if the law said that *no* defect should invalidate a judgment. He thought they were saying what the legislature had intended to express. He believed that a Court

of Justice would decide the question in the same way. But in order to relieve the Subordinate Courts from doubt and uncertainty, in a matter already noticed in text-books, he thought it better to express what was meant. In saying that it was meant, we had the authority of Captain Newbery, who, on a little verbal matter of this kind (of course he was not speaking of the greater features of the Code which had received the express attention of Mr. Stephen or of the legislature) was the best authority that could be found.

These were the special points on which the Lieutenant-Governor had made observations. It would be for the Council to decide whether the Bill should be referred to a Select Committee in its present form. The Committee would carefully consider all these points, and express its opinion on them when they submitted their report to the Council.

His Honour THE LIEUTENANT-GOVERNOR wished to explain that, with the exception of section eleven, in regard to which he had a great objection to the alteration proposed, and in regard to which he must say that he did not think his objection had been met, he had not expressed a decided opinion that, if the matter were considered for the first time, the course taken by the present Bill was wrong. In regard to the other sections of the Bill, he had not the time or opportunity so thoroughly to consider them as to commit himself positively as to their merits. All his argument was that the matter having been settled in one way by the Council which sat in the early part of 1872, the case that had been made out did not clearly show the necessity of change in the law. This was especially so in regard to the point on which the Bombay High Court passed a decision. That was not a case in which there was any defect for the legislature to amend. He was not prepared to say that the High Court at Calcutta, or of the North-Western Provinces, would not decide in the way which this Bill laid down, or differently. If the High Courts agreed in the view there was no need for amendment of the law. But till it was clear that the High Courts were agreed in this view, he did not think the Council should take the first decision that had been passed to make a law for all the other Courts.

The Motion was put and agreed to.

OBSOLETE ENACTMENTS REPEAL BILL.

The Hon'ble MR. HOBHOUSE also moved for leave to introduce a Bill for the repeal of certain obsolete enactments. He had had occasion to address the Council so often on the subject of the repeal of obsolete enactments, that he considered it was not necessary for him again to explain the object or intention of such a Bill as this. The only thing he had to explain was, why, after having

recently passed a Bill of that kind, he should come to the Council again with another Bill and ask leave to introduce it. This work of repeal was always going on. He thought that, in the last three or four years, we had passed three Acts for this purpose, besides the various repealing schedules which were attached to Acts, effecting substantial alterations in the law. The fact was that every Act which effected some alteration in the law superseded something which previously existed, and which was not always repealed at that time, and so we were gradually accumulating a dead mass of matter which required to be swept away. The law of the country was very much divided according to localities, and persons might have a good knowledge of the general law without knowing the local laws, or might know one local law very well without knowing another. The occasion for introducing this Bill was a Note written by Mr. Field, which was submitted to us through the Bengal Government. Mr. Field had great knowledge of the Bengal Regulations. Speaking for himself, MR. HOBHOUSE would not venture to touch the Bengal Regulations unless he was guided by a person with special knowledge on the subject. Mr. Field had such knowledge. He had made a list of the existing Regulations of the Bengal Code which were 162 in number. He pointed out that several of these would be repealed by the Bills now under the consideration of the Council, and some of the others he considered might be repealed as obsolete. There were no less than thirty-one Regulations which might be entirely swept away, and no less than thirty-four of which sections or other portions might be repealed. That was the basis on which MR. HOBHOUSE proposed to ask for leave to introduce this Bill. As in the case of other Bills of this kind, we should take the opportunity of seeing whether we could not prune away other obsolete matter.

His Honour THE LIEUTENANT-GOVERNOR hoped that extreme caution would be used by the gentlemen who would compose the Select Committee on this Bill in accepting the suggestions of the Bengal Government, or any other authority, in regard to the preparation of Bills for the repeal of obsolete enactments. It was perfectly true that several Obsolete Enactments Bills had been passed, but it was also true that great mistakes had been made in some of these Bills which had caused great inconvenience. Some Regulations had been repealed which it was a mistake to call obsolete. He hoped the hon'ble and learned member in charge of the Bill would proceed with extreme caution, and that he would not act until he was quite sure that every safeguard had been used to prevent the recurrence of such mistakes. His hon'ble friend was no doubt aware that there was such a thing as too much pruning; you might prune a tree until you killed it. His HONOUR had a great respect for the old

Bengal Regulations. He did not wish to see them too much pruned, and with respect especially to the Regulations included in this repealing Bill, he trusted that great caution would be exercised by the Committee before the Bill was passed.

The Hon'ble MR. HOBHOUSE said that he had taken occasion at Simla to explain to the Council the principles upon which enactments were repealed as obsolete, and that one of those principles was to give every enactment or regulation the benefit of the doubt where a doubt existed as to its being obsolete. Unless we were certain that the life was gone out of it, we would not cut it off. That had been our principle in the preparation and passing of these Bills; and he must say, with reference to the suggestion that an Obsolete Enactments Bill had struck out Regulations that were useful, that he should like to have those Regulations named. He believed that His Honour the Lieutenant-Governor would find it exceedingly difficult to specify one such Regulation. MR. HOBHOUSE had indeed seen a controversy on this subject, in which the Bengal Government asserted that an Obsolete Enactments Bill had repealed a useful Regulation (XXVII of 1793); but that assertion was answered by the Legislative Department of the day, which was then presided over by his friend, Mr. Stephen. In that controversy, MR. HOBHOUSE thought Mr. Stephen was entirely right, and the Bengal Government mistaken. That only which was really obsolete had been repealed. The enactment of fresh laws was not the only cause of obsoleteness. Another cause was that the circumstances of the country changed, and that the state of things to which a law was intended to apply no longer existed. So that a Regulation might appear to be of some use, but when you came to apply it to the facts, you found that the facts had slipped away, and that the Statute-book was better without it. It was a sham and a deception so long as it was there, and a source of embarrassment and litigation if you attempted to work it. That was one of the cases of repeal to which the Bengal Government objected. But when you came to apply Regulations to a state of things which had grown up perhaps fifty or sixty years after the law had been passed, you found that the world had outgrown the law. In conclusion, he expressed his entire concurrence in the necessity of extreme caution being exercised in reference to these repealing Bills.

His Honour THE LIEUTENANT-GOVERNOR explained that there was one case in which there could be no doubt whatever that there had been an erroneous repeal. It was discovered that the consequence of one of these repealing enactments had been that, for a series of years, men had been hung throughout

the country without any law whatever. Sessions Judges had been abolished by a repealing Act.

[The Hon'ble MR. HOBHOUSE observed that he believed that was not correct.]

His Honour THE LIEUTENANT-GOVERNOR resumed—it was the effect of an incautious repealing provision.

Then as regards Regulation XXVII of 1793. Although, there was now a difference of opinion on the subject, that Regulation was repealed without deliberation. The objections of the Bengal Government were not taken into consideration. It was repealed as a mere Obsolete Enactments question at Simla, and no Member of the Council had an opportunity of considering the propriety of its repeal. It was repealed under the disguise of an obsolete Regulation; and several other Regulations also were repealed, by mere inadvertence, to the repeal of which the Bengal Government had a strong objection, but in regard to which it was not heard.

His Excellency THE PRESIDENT said :—"With regard to the several points now raised by His Honour the Lieutenant-Governor, the Council will have full opportunity of discussing them in Select Committee.

"My recollection in reference to the particular case to which His Honour has referred is, that there was some correspondence between the Bengal Government and the Government of India on the subject. That correspondence took place before I arrived in India, and Mr. Stephen then gave such reasons as at any rate were worthy of consideration, showing that the view entertained by the Bengal Government (and now reiterated by His Honour the Lieutenant-Governor) could not be accepted by the Government of India."

The Motion was put and agreed to.

The following Select Committee was named :—

On the Bill to amend the Code of Criminal Procedure.—The Hon'ble Messrs. Bayley, Inglis and Dalyell, and the Mover.

The Council then adjourned to Tuesday, the 13th January 1874.

CALCUTTA;
The 30th December 1873.

WHITLEY STOKES,
Secretary to the Government of India,
Legislative Department.

Office Supdt. Govt. Printing.—No. 231 L. D.—6-1-73.—250.