PROCEEDINGS

OF THE

LEGISLATIVE COUNCIL OF INDIA,

FROM

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ed in the manner proposed ; he had therefore prepared a Bill which recited that it was expedient that every superior Officer, Captain or Commander, or Lieutenant belonging to the Indian Navy should be amenable to Naval Courts Martial for the offences specified in Article 33 of Act XII of 1844, whether the same should have been committed on the high seas or on shore ; and then enacted that nothing contained in Section III of that Act should extend to any of those offences committed by any such Officer. He could not think that there would be any objection to this amendment of the Act. The Indian Navy would be disgraced by the commission of offences of this nature whether at sea or on shore. In either case an Officer committing such an offence ought to be amenable to a Court Martial.

With these observations, he begged to move the first reading of the Bill.

The Bill was read a first time.

PREVENTION OF FIRES (CALCUTTA).

MR. PEACOCK said the Council would recollect that, sometime last year, his late colleague Mr. Mills had brought in a Bill "for the better regulation of buildings, and for the more effectually preventing accidents by fire, within the Town of Calcutta," and that the Bill had been referred to a Select Committee. Since that time, the Conservancy Bill had been passed, and there was a Section in that which obviated the necessity for Mr. Mills' Bill. The Select Committee had accordingly reported in favor of not proceeding with the Bill ; and he begged to move that the Council do adopt their Report.

Agreed to.

NOTICE OF MOTION.

MR. GRANT gave notice that, on Saturday next, he would move that the Council resolve itself into a committee on the Bill "to remove all legal obstacles to the marriage of Hindoo Widows."

The Council adjourned.

Saturday, July 12, 1856.

PRESENT :

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

Hon. Sir J. W. Colvile,	C. Allen, Esq.,
Hon. J. P. Grant,	E. Currie, Esq.,
Hon. B. Peacock,	and
D. Eliott, Esq.,	Hon. Sir A. W. Buller.

HINDOO POLYGAMY.

THE CLERK presented two Petitions from Hindoo Inhabitants of Burdwan and Nuddea praying for the abolition of Hindoo Polygamy.

MR. GRANT moved that the above Petitions be printed.

Agreed to.

EXECUTION OF CRIMINAL PROCESS.

THE CLERK presented a Petition from the British Indian Association against the Bill "to provide for the execution of Criminal process in places out of the jurisdiction of the authority issuing the same."

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

Agreed to.

ARTICLES OF WAR FOR THE NATIVE ARMY.

THE CLERK reported that he had received, by transfer from the Secretary to the Government of India in the Military Department, a correspondence with the Resident at Hydrabad on the subject of amending the 101st Article of War for the Native Army, so as to empower the Government to introduce trial by European Courts Martial into the Hyderabad Contingent.

POLICE CHOWKEYDARS (BENGAL).

MR. CURRIE presented the Report of the Select Committee on the Bill "to amend the law relating to the appointment and maintenance of Police Chowkeydars in Cities, Towns, Stations, Suburbs, and Bazaars in the Presidency of Fort William in Bengal."

LANDHOLDERS' LIABILITY IN RESPECT OF CERTAIN OFFENCES.

MR. ALLEN moved the first reading of a Bill "to extend the provisions of Regulation VI. 1810 of the Bengal Code," which defines the penalties to which zemindars and others shall be subject for neglecting to give due information of robberies and for harbouring robbers. He said, the object of the Bill was to extend the provisions of Regulation VI. 1810 to descriptions of professional thieves who were not mentioned in it. The Regulation was a penal enactment which imposed upon landholders, under pain of fine and imprisonment, the duty of reporting to the Police the resort, within the limits of the estate or farm held by them, of any dacoits, cozauks, thugs, or budhuks, or of any other description of professional rob-

bers. It also subjected those landholders who assisted or harbored any such dacoits or other class of robbers to certain severe penalties, one of which was the forfeiture of their estates. The reasons assigned for the Regulation were thus recited in the Preamble:

"there are grounds to apprehend that some of the zemindars and others, instead of aiding in the suppression of offences so injurious to the peace of Society, have countenanced and supported the offenders, with the view of securing exemption for themselves from their depredations, or even of participating in their plunder."

When this Regulation was passed, it was not generally known that there were other professional thieves in existence besides those mentioned in it. But it had since been discovered that there were several tribes who followed thieving as a profession, who brought up their children to it, and who had no other means of support. One of the principal of these was the Boureeah tribe, in the North-Western Provinces, the members of which go out on their predatory expeditions chiefly during the cold weather, and remain in their villages doing nothing during the hot months and the rains, having secured to themselves the protection of the zemindars, by giving them as *nuzzurs* portions of the plunder they had acquired during the cold season. The existence of these Boureeahs was first prominently brought to notice by Colonel Sleeman, in his report on the Budhuk *alias* Bagree Dacoits. Colonel Sleeman said:—

"The colonies of Bowrees, who are located in the Meerut, Moxuffernuggur, Seharanpoor, and other districts of the Upper Dooab and Delhi Territories under the patronymic name of Bowrees, are the same in origin, caste, and language as those already described, who practise dacoitee under the name of Budhuks, Bagrees, Bagerras, Seear Khowas, &c., &c. They follow the Camps of Governors General, Commanders-in-Chief, and other great personages, European and native, with whose contemplated movements they manage to keep themselves acquainted by means of their emissaries. But they prefer the camps of native chiefs to those of high European functionaries, because native chiefs have much more of readily convertible property with them, in shawls, gold and silver ornaments and jewels, without which they hardly ever travel; while Europeans seldom take with them, on their journeys, any thing valuable that they can conveniently dispense with. A detachment from one or other of these colonies will be found with almost every force that takes the field in Upper India. They assume all manner of disguises; and are perhaps the most expert robbers of camps, and cutters into tents, to be found in the world. They are well known to all the natives and to many of the European Police authorities of their districts as inveterate and irreclaimable robbers by profession, who go out on distant expeditions, and bring home every year great wealth, which they share liberally with the land-holders, on whose estates they are located, and the Native Police Officers of the neighbourhood."

He had personal knowledge of these Boureeahs. Some of them were the most expert thieves and cutters of tents in the world. No matter what guards there might be in front and in rear of a tent, they would contrive to cut into the tent on one side, and steal every article out of it. He had known of cases in which officers had been obliged to lie in bed, till they could send to a neighbouring station for clothes to put on, their own linen having been stolen by these persons during the night; and he had known of the sheet on which a person was lying being stolen off a bed without the sleeper's being awakened. So clever were these men in their depredations!

In 1848, after Colonel Sleeman's Report, an Act was passed, which declared that any person who should be found to have belonged, either before or after the passing of the Act, to any wandering gang of persons associated for the purposes of theft or robbery, not being a gang of thugs or dacoits, should be punished with imprisonment with hard labor for any term not exceeding seven years. The Legislature, therefore, had already recognised the propriety of punishing men who belonged to gangs associated for the purpose of robbery or theft. He wished to go a step farther, and make land-holders who assisted or harbored such persons liable to punishment. Investigations had recently been held in the North Western Provinces, which showed that that there were several gangs of these persons scattered about. The gangs of Boureeahs in the district of Mozuffernuggur was supposed to consist of above 1,300 persons. The Joint Magistrate of the District, in May 1855, had sent a Report, which appeared in No. XXIII of the Selections from the Records of Government, and in which, after a description of the origin and habits of the gang, occurred the following passage:—

"Such are the persons deliberately sheltered by the agricultural and mercantile society of nineteen villages in the district; nor can it be doubted that they profit largely by their thefts. Whether they are entertained as servants, (much as an English gentleman might keep a pack of hounds), or whether they merely pay a certain share of the booty to those who have protected and supported their families during their absence, and conceal their practices from the supreme power, is a question which our present information seems to me scarcely sufficient to solve."

Mr. Allen

Some might deem it questionable whether it was right to impose upon landholders a duty which, at first sight, seemed to belong exclusively to the Police. But it had been the course of our legislation that landholders should be bound to assist the Government in Police and in Revenue matters. Regulation I of 1811, Section X, declared landholders accountable for the early communication to the Magistrate of information respecting the residence of notorious receivers or vendors of stolen property within the limits of their estates or farms. Regulation III of 1812, Section IV, imposed the same duty upon them, as to the resort of criminals, and also as to the commission of offences. On the latter point, it said—

"With the view of affording to the Magistrates more early and punctual information of public offences committed within the limits of their respective jurisdiction, all zemindars, talookdars, and other proprietors of land, &c., are hereby declared especially accountable for the early and punctual communication to the Magistrates or Police Darogahs, of all information which they may obtain respecting the commission of robberies, and likewise regarding the offence of breaking into houses, tents, or boats, or other places of habitation, perpetrated within the limits of the estate or farm held by them."

And Regulation VIII declared Zemindars and others accountable for early and punctual information of the commission of murders, arson, and theft within the limits of their estates or farms.

Zemindars were also bound to afford Government information respecting breaches of the Abkaree and Salt Regulations. Regulation XIII of 1816, Section XXXI, provided that landholders of every denomination should give the earliest information of all poppy illicitly cultivated within the limits of their estates or farms. The Salt Regulations for Bengal and the North-Western-Provinces—XXIX of 1838 and XIV of 1843—declared that any Zemindar or other landholder who omitted to give notice of certain breaches of the Salt Regulations upon their estates or farms should be liable to punishment.

Consequently, it had been recognised to be the duty of the landholders of this country to assist the Government in both Police and Revenue matters; and he therefore thought that the Council would be justified in saying that those Zemindars should be liable to punishment who did not report to the Police the resort to their estates of professional thieves who might reasonably be supposed to give them a portion of their plunder for the protection which they received.

With these observations, he begged to move the first reading of the Bill.

The Bill was read a first time.

MARRIAGE OF HINDOO WIDOWS.

On the Order of the Day being read for the Council to resolve itself into a Committee on the Bill "to remove all legal obstacles to the marriage of Hindoo widows"—

MR. GRANT said, since the second reading of the Bill, several Petitions had been received from Hindoos, some in favor and some against the measure. He had taken a note of the places from which the Petitions in favor of the measure had proceeded; for he thought it of great importance that the Council should observe that this was not the movement of one party in some one place, but that in many different parts of the country there was a considerable sprinkling of enlightened Hindoos who were most earnest for the passing of this Law. He believed that there were upwards of 40 Petitions against the Bill, signed by from 50,000 to 60,000 persons: in favor of the Bill, there were upwards of 25 Petitions, signed by more than 5,000 persons. He did not mean to say that the wishes of 60,000 Petitioners should be disregarded, merely because they opposed a measure which he approved; but it was right that the Council should observe that of all that number, there was not one who, unless he changed his opinions, could be said to have, in any fair sense of the term, any individual and personal interest in the measure. On the other hand, of the 5,000 persons who had petitioned in favor of the Bill, there was not one who could not be said to have, in the fairest and truest sense of the term, a strong individual and personal interest in it. There was not one of them who, if the Council should refuse to pass this Bill, might not hereafter have occasion to call it to account for having refused to do that which would have saved the domestic happiness and perhaps the honor of his family.

The objections that had been taken in the Petitions against the Bill had been all carefully considered and discussed by the Select Committee to whom the Bill had been referred. It was unnecessary, therefore, that he should detain the Council by entering at any length into them. They had been very fully considered, and, in his opinion, very conclusively disposed of in the Report of the Select Committee. That Report was in the hands of Honorable Members, and had been publish-

ed ; and any one who desired to make himself master of the question in all its details, had only to consult the Petitions and the Report.

The principal objections advanced against the Bill were two. It was said that this measure would interfere with the Hindoo Religion ; and it was also said that this measure, though in outward appearance merely a permissive Law, was in point of fact a coercive Law.

There was no foundation whatever for the first of these objections. The Bill left every Hindoo free to act in accordance with his own religious views. But it would be an interference with Hindoos in their religious concerns if the Council should refuse to pass this Bill. For what was the case ? Five thousand enlightened Hindoos had asked for this Law—and he thought it might safely be assumed that for one Hindoo who had had the boldness to put his name to a Petition for that purpose, there were a hundred Hindoos who wished well to the cause. He would read to the Council the names of the places from which the Petitions in favor of the Bill had come. As might be expected, the greater number had come from Bengal ; for the Hindoo mind was most alive in Bengal. There were Petitions from Calcutta, Baraset, Santipore, Hooghly, Kishnaghur, Midnapore, Bancoorah, Burdwan, Moorshedabad, Mymensing, Rungpore, and Chittagong. But the Petitions in favor of the Bill were not confined to Bengal. There were similar Petitions from Poona, Vinchoor, Dhoolia, Ruthagherry, Sattara, Ahmednuggur, and Secundrabad. So many independent minds, in so many different places, asking the Council to pass this Law, he must consider to be a fact of great importance. These 5,000 Petitioners told the Council that, according to their convictions, the rule which prohibited the marriage of Hindoo Widows was not in consonance with the true interpretation of their religious books. In addition to this, they said that the restriction against the re-marriage of Widows was absurd, unjust, cruel, and, in its consequences, immoral. The Council did not know, and did not pretend to discuss, whether these Petitioners were right or wrong in their interpretation of their own books ; but the Council did know that the Petitioners were right in this—that the restriction was absurd, unjust, cruel, and, in its consequences, immoral. If, when 5,000 Hindoos came forward and asked to be relieved from the operation of a Municipal Law which prevented their acting in this matter according to their convictions, the Council allowed that Municipal Law to remain in its present state, then indeed would it be interfering with the religion of a large body of Hindoos ; but if it did relieve the Petitioners, and all who think with them, from the restriction of the Municipal Law of which they complain, he denied that this would be an interference with the religion of any human being.

The next objection was, if possible, still more fallacious. It was alleged that this Law, though professing to be merely a permissive measure, was in reality a measure of coercion. In support of this position, it was said that, if certain Widows were to marry, they might have children ; and if they have children, then some hungry heir might be disappointed in his hope of succession. Was there ever a more ludicrous argument gravely advanced against any Law ? He gave those who had advanced it some credit for the art with which, by the help of many irrelevant texts, and ingenious suppositions, they had wrapped up their objection so as to give it an outward appearance of gravity.

Besides the Petitions for and against the Bill, the Select Committee had received some very valuable papers regarding it from the Lieutenant Governor of Agra. After consulting the Judges of the Sudder Court and the Commissioners of Divisions and Provinces under his Government, the Lieutenant Governor of Agra had pronounced himself to be strongly in favor of passing the proposed Law. Those were Mr. Colvin's words. It would, he confessed, have been gratifying to him (Mr. Grant) if his Bill had had direct support of this nature from the other local Governments also ; but no communications from the Governments of Bengal, Madras, or Bombay had been received by the Council. He thought, however, that he could claim a certain degree of negative support from their silence. He could claim the Lieutenant Governor of Agra as a cordial and active supporter of the measure ; and he inferred from the silence of the other Governments that they were, at least, not aware of any political or other serious objection to it.

Mr. Colvin, in recording his cordial approval, had said that he did not expect that the measure would have much early and large practical effect ; and this, he (Mr. Grant) was aware, was also the opinion of many other European gentlemen with whom he was acquainted. But he was happy to say that, amongst the 5,000 native Petitioners who had given their support to the Bill, he did not think there was one who

had taken this discouragiug view. His own expectations were certainly more sanguine. The measure, as was alleged on one side, and admitted on the other, was a measure of innovation. When he remembered what a creature of habit the Hindoo was—what a willing slave he made himself to the Society to which he belongs, the fact of 5,000 Hindoos, acting independently, and scattered over many different parts of India, coming forward to ask for such a measure, was, to his mind, of strong moral significance. And then, when he remembered how often before the same attempt had been made by Hindoos themselves at various times and in various places, and how nearly some of those attempts had succeeded, wanting only something like what this Council was to give them success, he saw no reason to doubt that the pressure of the same evils which had induced large parties of Hindoos to make the struggle, would induce them to use their victory now that it was won. But, although he considered this to be a matter of very interesting speculation, he maintained that it was not, practically, an argument for the Council to consider now. If he knew certainly that but one little girl would be saved from the horrors of *Brahmacharia* by the passing of this Act, he would pass it for her sake: if he believed, as firmly as he believed the contrary, that the Act would be wholly a dead letter, he would pass it for the sake of the English name.

The Honorable Member concluded by moving that the Council resolve itself into a Committee upon the Bill.

Agreed to.

Section I was agreed to, after a verbal amendment.

Section II provided that the rights of a widow in her deceased husband's property, and her rights of guardianship over his infant children, should cease upon her second marriage.

After a verbal amendment, introduced on the motion of Mr. Currie—

MR. GRANT moved an amendment by which a widow's right to her deceased husband's property would be protected on her re-marriage, if express permission had been given to her to re-marry.

The amendment was agreed to.

After another verbal amendment—

MR. GRANT moved that the words "relating to guardianship of infant children" at the end of the Section, be left out. If they were omitted, he would move a new Section on the subject.

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

MR. GRANT said, some objections had been taken to the absolute forfeiture of a widow's right of guardianship over her deceased husband's children on her re-marriage. Upon consideration, the objections appeared to him to be valid. He had accordingly prepared an amended Section, and his colleagues in the Select Committee, whom he had consulted, entirely agreed in it. Its effect would be that, in the case of a widow re-marrying, unless she should have been by the Will of her deceased husband appointed guardian of her children, any male relative of the deceased husband might move the highest local Court of Civil Jurisdiction to appoint a guardian, and the Court, after due enquiry, would, at its discretion, appoint a guardian to one or more of the children during their minority.

The following was the new Section:—

"On the re-marriage of a Hindoo widow, if neither the widow nor any other person has been expressly constituted by the Will or testamentary disposition of the deceased husband the guardian of his children, the father or paternal grand-father, or the mother or paternal grand-mother of the deceased husband, or any male relative of the deceased husband, may petition the highest Court having original jurisdiction in civil cases in the place where the deceased husband was domiciled at the time of his death, for the appointment of some proper person to be guardian of the said children; and thereupon, it shall be lawful for the said Court, if it shall think fit, to appoint such guardian, who, when appointed, shall be entitled to have the care and custody of the said children, or of any of them, during their minority, in the place of their mother; and in making such appointment, the Court shall be guided, so far as may be, by the laws and rules in force touching the guardianship of children who have neither father nor mother. Provided that, when the said children have not property of their own sufficient for their support and proper education whilst minors, no such appointment shall be made otherwise than with the consent of the mother, unless the proposed guardian shall have given security for the support and proper education of the children whilst minors."

MR. ALLEN asked if the effect of the Section would be that, in case the mother had been left the guardian by Will, no relative or friend of the deceased husband would be able, on her re-marriage, to take the children out of her custody?

MR. GRANT said, that would be the effect of the Section. Under the Bill, the widow's right of guardianship would depend upon the same principle as her right of inheritance. If property were left to her by her deceased husband without any qualification, condition,

or limitation, she would retain it upon re-marriage: it was only when property was left to her with certain limitations, after the manner of a life interest, that she would forfeit her right to it upon re-marriage. If a deceased husband had appointed his widow the guardian of his children, without qualification, that would be a case analogous to the case of a deceased husband having made his widow a legatee, without qualification.

SIR JAMES COLVILE said, the Bill, as originally framed, did not propose to interfere with the mother's right of guardianship, whether she derived that right as a guardian by nurture or by direct appointment from the father of the children. In consequence of a suggestion made by Sir Robert Hamilton, the Agent of the Governor General for Central India, it had appeared to the Select Committee that there might be cases in which the re-marriage of widows who were guardians by nurture of the children of their deceased husbands, would introduce an element of discord into the family, and that it might therefore be desirable to interfere with such right of guardianship. Accordingly, the words at the end of the Section had been introduced. But they had the effect of taking away the right absolutely upon re-marriage. That had appeared to the Honorable Member to his right (Mr. Grant) to go too far, as there might be many cases in which the mischiefs suggested by Sir Robert Hamilton might not arise; and in these, the taking away of the right might, without any cause, do serious injury to infants, besides doing that which every Member of the Council must agree in regarding as at best a necessary evil—interfering, namely, with the relations between mother and child, and taking away the right of custody which the Law of Nature gives to the parent over her offspring. The limitation which the Honorable Member (Mr. Grant) proposed to put upon that right, was simply this—that it might be interfered with only where the deceased father had not, in the exercise of his judgment, expressly by Will appointed his widow the guardian. Every body knew that, in England, the right which was vested in a father of appointing a guardian by Will, depended upon a particular Statute, and this, no doubt, gave the guardian appointed a title to the care and custody of the infant hardly less strong than that of the father himself. There was no Statute which recognised that right in this country; yet, such appointments were not unfrequently made by Will, and effect was given to them when made. This, however, and the exception to which the Honorable Member opposite seemed to object, applied almost exclusively to Bengal; because in those parts of India in which the testamentary power was not recognised, the right of appointing a guardian by Will could not be exercised. He himself did not think that it would be desirable to go farther in this Bill than the new Section in question proposed to go, in depriving the mother of the custody of her child; and he was, therefore, disposed to vote for the Section as it stood.

The Section was then put, and agreed to.

Sections III and IV were agreed to, after verbal amendments.

Section V provided that whatever ceremonies now constituted a valid marriage, should have the same effect on the marriage of a widow.

MR. CURRIE said, this Section appeared to him to be hardly necessary; and if it was not necessary, he thought it should be omitted, as being open to question on the ground that it touched on the religious part of the question, which it was very desirable to avoid doing. It was one thing to enact that a person, who was convinced that the re-marriage of widows was consistent with the doctrines of the Hindoo religion, should be relieved from any civil disabilities to which, from the practice of the Courts, he might be subject in the event of his acting on that conviction; and another thing to prescribe what rites and ceremonies of the Hindoo religion should constitute a valid marriage. If it were necessary to declare what should constitute a valid marriage under the Act, he should greatly prefer recognizing the validity of marriage by civil contract, without any reference to rites and ceremonies. But it did not appear that there was any such necessity. In the Draft Act, there was no provision of this kind; and the Select Committee to whom that Act had been referred, stated in their Report—

"The Petitioners at whose instance the Bill was introduced, do not feel the want of any special provision of this nature. They are of opinion that all the usual texts recited, and ceremonies employed, at the first marriage of a female, are applicable in the case of any subsequent marriage. And if this is so, as we are inclined to believe it is, whatever would constitute a valid marriage in the one case, would equally constitute a valid marriage in the other."

He thought, therefore, that the Section was not necessary, and that, if not necessary, it ought to be omitted.

SIR JAMES COLVILE said, he apprehended that this or some corresponding

Section was really necessary in the Bill. He would gladly avoid having anything to do with any question of *Muntras*, or ceremonies, if it could be avoided; but it appeared to him that there actually was but one alternative. The Bill could not safely be left without some such provision as this. In the absence of such a provision, what would be the consequence? As the Hindoo Law was now understood, some ceremonies were necessary to render a marriage valid. This Bill would declare that a Hindoo widow had a legal right to re-marry: it would also declare that the issue proceeding from such re-marriage must be held to be legitimate. But if, while declaring this, it made no provision for the form in which the widow was to contract the marriage, there would be nothing by which to distinguish between the marriage and concubinage; and it would be open to any one who had an interest in contesting the validity of the marriage, to raise the question in any local Court of civil jurisdiction. Now, the Law of marriage, as understood by Hindoos, required the performance of certain ceremonies. Suppose that the Section in question were left out of the Bill, and that the question of the validity of a Hindoo widow's marriage came to be tried in the Court of a Principal Sudder Ameen, who was a Hindoo opposed to the marriage of Hindoo Widows, and strongly and conscientiously of opinion that the *Muntras* were applicable only to the case of a virgin contracting a first marriage—what would his decision be? He would decide that the widow had a right to re-marry under the new law, but that she had not contracted a valid marriage, inasmuch as the *Muntras* pronounced over her were, according to his interpretation, wholly inapplicable to her case. Consequently, if the question of the validity of the ceremonies to be performed at the marriage of widows were not settled by law, it would, in all probability, have to be settled by the Courts, and the effect of that might be such as to render this Act altogether nugatory. It was impossible to say how even the highest Court might decide the question, for there was no doubt that, among learned Hindoos, there were two opinions on the subject; one class considered the *Muntras* to be inapplicable to the case of any female not a virgin contracting her first marriage; the other considered them to be equally applicable to the case of widows, and wished the Bill to be passed in its present form, being perfectly sure that no practical difficulty would be experienced in the celebration of widow marriages, or in getting a Bramin to pronounce these *Muntras*. All that this Section did was, to prevent the validity of a widow marriage from being questioned in Courts of Justice upon the ground of the inapplicability of the ceremonies observed.

The only alternative was to make this Bill go beyond its proper object and scope—which was to legitimatize the Marriage of Hindoo widows—and alter the Hindoo Law of Marriage generally, by providing that such marriages should be made by civil contract, and prescribing the machinery by which a legal marriage between persons desirous to marry, should be effected. The Report of the Select Committee had given at length the reasons for which the Committee thought it would be better not to enlarge the objects of the Bill; and he was disposed to adhere to them.

MR. GRANT said, he wished to add only one remark to the observations of the Honorable and learned Chief Justice. The Honorable Member for Bengal seemed to think that this Section touched rather too closely on the religious part of the question. But, on referring to the Bill, it would be seen that the Section relates only to the legal effect of what is done at the marriage, and has no reference to the religious element. The Honorable Member would see that the clause provides as to words spoken and engagements made, as well as ceremonies performed.

MR. CURRIE said, he had no wish to press the objection. He had thought it right to state it for the satisfaction of others as well as his own. After the explanations he had just heard, he had no hesitation in saying that he was entirely satisfied with the Section as it stood.

The Section was then put, and agreed to.

Section VI provided that the consent of certain male relatives should be necessary to render valid the marriage of a widow who was a minor.

MR. GRANT proposed to strike out this Section, and introduce another in its place, of modified effect. By this Section as worded, if a widow who was a minor contracted a marriage without the required consent of any of her male relatives, that marriage would, *ipso facto*, be invalid; and, consequently, although the couple might cohabit for years, and bring up children and grand-children, it might be disputed and set aside. This would be going too

far. He proposed an alteration which would be more consistent both with the ideas which Hindoos had on the subject of marriage, and with our own. He moved that Section VI be left out of the Bill, and that another Section, which had the concurrence of the other Members of the Select Committee, be substituted for it.

The proposed Section, after some verbal amendments, was passed in the following form:—

"If the widow re-marrying is a minor, whose marriage has not been consummated, she shall not re-marry without the consent of her father, or, if she has no father, of her paternal grand-father, or, if she has no such grand-father, of her mother, or, failing all these, of her elder brother, or, failing also brothers, of her next male relative. All persons knowingly abetting a marriage made contrary to the provisions of this Section, shall be liable to imprisonment for any term not exceeding one year, or to fine, or to both. And all marriages made contrary to the provisions of this Section, may be declared void by a Court of Law. Provided that, in any question regarding the validity of a marriage made contrary to the provisions of this Section, such consent as is aforesaid shall be presumed until the contrary is proved; and that no such marriage shall be declared void after it has been consummated. In the case of a widow who is of full age, or whose marriage has been consummated, her own consent shall be sufficient consent to constitute her re-marriage lawful and valid."

The Preamble and Title were then severally agreed to.

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

ABKAREE REVENUE (BENGAL).

MR. CURRIE moved that a communication which he had received from the Government of Bengal relative to the Bill "to consolidate and amend the law relating to the Abkaree Revenue in the Presidency of Fort William in Bengal" be laid upon the table and referred to the Select Committee on the Bill.

Agreed to.

NOTICES OF MOTIONS.

MR. GRANT gave notice that, on Saturday next, he would move the third reading of the Bill "to remove all legal obstacles to the marriage of Hindoo widows."

MR. ELIOTT gave notice that, on Saturday next, he would move the first reading of a Bill to prevent the over-crowding of vessels carrying native passengers in the Bay of Bengal.

The Council adjourned.

Saturday, July 19, 1856.

PRESENT:

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

Hon. Sir J. W. Colvile,	C. Allen, Esq.,
Hon. J. P. Grant,	E. Currie, Esq.,
Hon. B. Peacock,	and
D. Eliott, Esq.,	Hon. Sir A. W. Buller.

HINDOO POLYGAMY.

THE CLERK presented a Petition from Ranee Soornomoy of Cossim Bazar, praying for the abolition of Hindoo Polygamy.

Also a Petition from Hindoo Inhabitants of Baranagur with the same prayer.

MR. GRANT moved that these Petitions be printed.

Agreed to.

ARTICLES OF WAR FOR THE NATIVE ARMY.

THE CLERK reported that he had received, by transfer from the Secretary to the Government of India in the Military Department, a letter enclosing a communication from the Judge Advocate General at Bombay, recommending the repeal of the 144th Article of War for the Native Army.

MR. PEACOCK moved that the communication be printed.

Agreed to.

EXECUTION OF CRIMINAL PROCESS.

MR. CURRIE presented the Report of the Select Committee on the Bill "to provide for the execution of Criminal process in places out of the jurisdiction of the authority issuing the same."

NATIVE PASSENGER VESSELS.

MR. ELIOTT moved the first reading of a Bill "to prevent the over-crowding of vessels carrying native passengers in the Bay of Bengal."

In doing so, he said this Bill was intended to give legal sanction and effect to certain rules which had been established by the Government of Madras for the control of vessels carrying native passengers from ports in the Presidency of Madras to places in the opposite Coast of the Bay of Bengal, and in the Straits of Malacca, and the Island of Ceylon, and to extend them to vessels carrying such passengers from Ceylon, the Eastern Coast, and the