

Saturday, 17th November, 1855

PROCEEDINGS

OF THE

LEGISLATIVE COUNCIL

OF INDIA

Vol. I

(1854-1855)

Act passed by this Council was formally repealed, it remained in force, it appeared to him that no difficulty could ensue if Act VIII of 1855 were allowed to continue to be treated as law pending the result of the course which the honorable and learned Member proposed to take. The Administrator General would not have to fall back upon the old Act, nor upon a mutilated Act such as the existing one would be, were portions of it struck out and their place not supplied by the provisions which the Court desired should be substituted, but which the Legislative Council might be unwilling to pass. He would only add that he should be extremely glad to serve on the Committee proposed by his honorable and learned friend.

The question was then put and carried.

LANDS FOR PUBLIC PURPOSES.

MR. LEGEYT moved that a Select Committee, consisting of Mr. Peacock, Mr. Elliott, Mr. Allen, Mr. Currie, and the Mover be appointed to consider and report on the present state of the law for the acquisition of lands needed for public purposes in the several Presidencies, with a view to framing one general Bill for that purpose.

Agreed to.

INSPECTOR OF PRISONS (BOMBAY).

MR. LEGEYT moved that the Bill "to relieve the Court of Sudder Foujdarry Adawlut at Bombay from the supervision of the Gaols in that Presidency" be referred to a Select Committee, consisting of Mr. Elliott, Mr. Currie, and the Mover.

Agreed to.

The Council adjourned.

Saturday, November 17, 1855.

PRESENT :

The Honorable J. A. Dorin, Senior Member of the Council of India, *Presiding*.

Hon. J. P. Grant, D. Elliott, Esq.,
Hon. B. Peacock, P. W. Legeyt, Esq. and
Hon. Sir J. W. Colville, E. Currie, Esq.

TRIAL OF CAPTAIN HAINES.

THE CLERK reported that he had received, by transfer from the Officiating Secretary to the Government of India in the Home Department, papers relative to the trials by the Supreme Court at Bombay of Captain Haines of the Indian Navy, late

Sir James Colville

Political Agent at Aden, for Embezzlement of Public Money.

MARRIAGES IN INDIA.

Also papers relating to the celebration of Marriages between Christians in India, in the absence of a Marriage Registrar under Act V of 1852.

MR. PEACOCK moved that the above papers be printed.

Agreed to.

DESERTION OF EUROPEAN SOLDIERS.

THE CLERK also reported that he had received, by transfer from the Officiating Secretary to the Government of India in the Military Department, a copy of a letter from the Government of Bombay on the subject of passing an Act giving the same powers for apprehending deserters from the Army and for punishing those who aid or encourage them as are given with reference to deserters from the Indian Navy by Act III of 1855.

Also a copy of a letter from Major General Steel, Commanding the Pegu Division of the Army, relating to the want of a law for the punishment of persons harboring European deserters.

MR. LEGEYT moved that the above papers be printed.

Agreed to.

ARTICLES OF WAR FOR THE NATIVE ARMY.

THE CLERK also reported that he had received from the Officiating Secretary to the Government of India in the Military Department copies of papers relative to a proposed amendment of the 122nd Article of War for the Native Army (Act XIX of 1847) so as to make it extend to every attempt to commit murder.

MR. LEGEYT moved that the above papers be printed.

Agreed to.

MESSAGES FROM THE GOVERNOR GENERAL.

The following Messages from the Most Noble the Governor General, were brought by MR. GRANT, and read :—

MESSAGE No. 55.

The Governor General informs the Legislative Council that he has given his assent to the Bill passed by them on the 8th of

September 1855, entitled "a Bill for amending Act No. VI of 1844."

By Order of the Most Noble the Governor General.

G. F. EDMONSTONE,
*Secy. to the Govt. of India,
With the Govr. Genl.*

OOTACAMUND, }
The 23rd October, 1855. }

MESSAGE No. 56.

The Governor General informs the Legislative Council that he has given his assent to the Bill passed by them on the 29th day of September 1855, entitled "a Bill to repeal Section VII of Act No. XXVIII of 1839."

By Order of the Most Noble the Governor General.

G. F. EDMONSTONE,
*Secy. to the Govt. of India,
With the Govr. Genl.*

OOTACAMUND, }
The 25th October, 1855. }

ENFORCEMENT OF JUDGMENTS.

MR. LEGGITT presented the Report of the Select Committee on the Bill "to explain and amend Act No. XXXIII of 1852."

MARRIAGE OF HINDU WIDOWS.

On the Order of the Day for the first reading of the Bill to remove all legal obstacles to the Marriage of Hindu Widows being read—

MR. GRANT said, before he approached the subject of this important Bill, he desired to explain, in a few words, how its introduction had fallen into his hands. After his Honorable and learned Friend to his right (Sir James Colville) had left Calcutta, Pundit Eshwar Chunder Vidynasagar, the learned and eminent Principal of the Sanscrit College, who was the chief mover in the agitation out of which the Bill had arisen, and was one of the subscribers to the Petition which had been presented to the Council a few weeks ago praying for the measure, called upon him and consulted him on the propriety of asking the Council for such a law as the Bill now brought in. He (Mr. Grant) was not then

aware that the Pundit had previously consulted any other Member of the Council ; and, to fortify his own opinion respecting the enactment of such a law, he consulted two or three Honorable Members more competent than himself to give an opinion on the question. Such of the Honorable Members whom he consulted as were present, would have an opportunity of expressing their own sentiments ; but he might mention the name of one of them who was not present (Sir Lawrence Peel) who had since retired from the Council, and whose retirement he could not regard otherwise than as a national misfortune. Sir Lawrence Peel agreed entirely in the principle of the measure proposed. Fortified by these opinions, he (Mr. Grant) promised Pundit Eshwar Chunder that, if the Petitioners presented their petition, he would bring in a Bill such as they asked for. After he had given his notice for the first reading, his Honorable and learned Friend to his right returned from Madras ; and he then learned that his Honorable and learned Friend had been consulted before his departure on the same subject ; and had interested himself greatly in it. He (Mr. Grant) much regretted that he had not been aware of this fact before, because had he been aware of it, he should certainly have left this Bill to abler hands. He had been ready to make it over to those abler hands ; but it was thought better that he should make the motion of which he had given notice. To this arrangement, he the more readily acceded from the consideration that, as this was a motion affecting the religious usages of Hindus, it required to be seconded, and was open to discussion on the first reading. His Honorable and learned Friend had promised to second him, and therefore all his own deficiencies would be amply compensated by the speaker who would address the Council after him.

He did not move this question without having carefully and earnestly considered it ; for it was one of a class of questions which, in his opinion at least, ought never to be approached without great deliberation and caution. The questions which generally came under the attention of the Council were, more or less, of a technical nature ; and the official training and experience of Honorable Members enabled them to feel a just confidence that, with ordinary care, their legislation upon such questions would be suitable to the people to whom it was applied. But this was a question of a different kind. It was a question which affect-

ed the most important social institution of the people, and went home to the bosom of every man and every woman of the Hindu persuasion in this immense Empire. Not only therefore had he not thought it right to propose the present measure until he had satisfied himself of the abstract propriety of his principle : he had not thought it right to propose the measure until after he had endeavored to regard it from that point of view which would be taken by those to whom it was intended to apply. Regarding it as best he could from that point of view, he felt convinced that, prepared as the Bill was, no candid Hindu, whatever his own opinion as to the interpretation of the Shastras upon the question involved might be, would say that it was either offensive or unjust to any class.

The petition on which the Bill was founded, made certain allegations of fact. It said that, by a long-established custom, the marriage of Hindu widows is prohibited ; that the Civil Law of this country, as administered both by Her Majesty's and the Company's Courts, incapacitates Hindu widows from contracting second marriages, by pronouncing such marriages to be invalid, and making their issue illegitimate. It proceeded to say that this compels Hindu widows, whatever their own opinions or the opinions of their families in this matter may be, to continue widows all their lives, in some cases from the age of five years. It further said that this state of the law inflicts great cruelty upon the widows, who, being now unable to burn as Suttees with their deceased husbands, have no alternative left, and must lead a life of severe mortification—in fact, a life of the most painful asceticism. It said that this custom, cruel and unnatural in itself, is highly injurious to the interests of morals, and is otherwise most mischievous to society. From these premises, it argued that a law having such effects ought not to be forced upon any one who disapproves of it ; and it prayed that, as the petitioners are of opinion that the custom is not in accordance with a true interpretation of the Hindu Shastras, they and those who agree with them might be relieved from the legal restriction of which they complain.

Now, if the premises could be proved, this argument was conclusive. The Legislative Council could not stand in the way of the removal of a municipal Law enforcing upon unwilling people a prohibition which, so far from being for the public interests, was in the highest degree mischievous. He would speak

of these premises in their order. He believed there was no legal decision affording a precedent which positively established the point that the marriage of Hindu widows is invalid under the Law as it is now administered in British India ; and an intelligent native gentleman who had spoken to him on the subject of this measure, had expressed an opinion that, in the absence of such a precedent, it would be premature to legislate, because we do not know whether the Courts will enforce the interpretation of the Hindu doctrine which the petitioners presume that they will. But even if this question of law were really a doubtful point, he could not think the objection valid. He could not think that it would be right to sacrifice even a single Hindu family to such an objection. But it appeared to him that it was very certain that the Courts would decide in the manner alleged by the petitioners. The custom of the country was universally against the marriage of Hindu widows amongst the higher castes ; and all modern English text books affirmed that the law was as the petitioners allege. Indeed, the text-writers spoke on this point with less qualification perhaps than they might have done, if they had given more attention to it. But the custom prohibiting re-marriage was followed so universally in practice, that the point did not appear to have been very deeply studied by any of the English writers on Hindu Law. However that might be, he would quote enough from received authorities to show that the petitioners were correct in saying that our Courts would disallow the marriage of a Hindu widow. Sir Thomas Strange, a former Chief Justice of the Supreme Court at Madras, in his work on the "Elements of Hindu Law referable to British Judicature in India," in a chapter on "Widowhood," wrote thus :—

"To this tyrannic instance of marital selfishness, must be added the prohibition to women of second marriages ; and that this should apply, as it does, even to virgin widows, is an abomination surpassed only, if at all, by the custom that has just been denounced"—

the custom, namely, of Suttee. That was the statement of a learned Judge of a Supreme Court who was most sensible of the evil of the custom ; of whose wish, therefore, to open the law for the benefit of widows we might be sure ; but who entertained no doubt of the existence of the prohibition as a legal impediment. He would now quote a high authority of the Company's Courts, Sir W. Macnaghten, from a work written when he

was Registrar of the Calcutta Sudder Court. Sir W. Macnaghten, in his "Principles of Hindu Law," writes :—

"It is well known that women are betrothed at a very early period of life, and it is this betrothment, in fact, which constitutes marriage. The contract is then valid and binding to all intents and purposes. It is complete and irrevocable immediately on the performance of certain ceremonies, without consummation. Second marriages, after the death of the husband first espoused, are wholly unknown to the Hindu Law ; though in practice, among the inferior castes, nothing is so common."

The practice amongst the inferior castes had, of course, nothing whatever to do with the practice amongst Brahmins and other higher castes of Hindus. He thought he had said enough to convince the Council that, if they wished to make it possible for a Hindu widow to marry with the reasonable expectation of having her marriage held valid, and her children pronounced legitimate, they must pass some such law as that which he had the honor to propose.

The next point to which the petitioners referred was the extreme cruelty to widows of the prohibition against re-marriage. He would not trouble the Council with quotations of what the Shastras required of widows who may not burn with their deceased husbands ; because all that they did require was not strictly practised ; and his object in introducing this Bill was entirely practical. Of the mortifications which the Shastras enjoined, it was difficult to say whether they were more remarkable for their cruelty or for their fantastic absurdity. But he would read to the Council a paper which had been partly supplied to him by a Hindu gentleman of great knowledge, and partly taken down from that gentleman's mouth, which described the mode of life which a Hindu widow of respectability is now actually required to adopt, until the latest day of her life :—

"A widow is required to live a life of austerity, the only alternative being to ascend the funeral pile of her husband. Her manner of life is minutely prescribed. Not only must she see no man, she must also avoid every approach to ease, luxury, or pleasure : she must neglect the care of her person : she must wear no ornaments : her hair must be shaved, or at least must be worn dishevelled : she must not see her face in a mirror, nor use perfumes or flowers : she must not freely anoint her body ; and her dress must be plain, coarse, and dirty. The use of any kind of conveyance is prohibited, and she must not rest on a bed. Her food is limited as to quantity as well as quality. She must not take more than a single coarse meal a day, and the betel leaf, which terminates every repast in India, and is often substituted for a meal, is denied her. Besides other fasts, per-

haps a dozen in the year, the Hindu widow is required to abstain absolutely from food and drink twice a month, one day and night, during every bright and dark period of the moon, on the 11th and 26th day of her age, from which fasts not even severe sickness can give her a dispensation."

Sometimes, he believed, if one of the moveable fasts, of which there were he understood about a dozen in the year, happened to fall the day before or the day after the eleventh day of the waxing, or of the waning moon, this state of strict fasting lasted for forty-eight hours. During these fasts, these unhappy victims, although a fever might be consuming them, and the hot winds might be blowing, were allowed not one drop of water, not one drop of medicine, though it should be necessary to save their lives. The paper from which he was quoting proceeded to say :—

"All amusements are strictly prohibited to her. She is not to be present where there is singing or dancing, or at any family rejoicing : she is not even to witness any festive procession."

This was the life to which a little prattling girl of five years old, taken from her dolls and her toys, and pronounced to be a widow, was condemned for the whole remainder of her existence upon earth.

He now came to the immorality which the petition stated the prohibition engendered. He did not wish to dwell on this point longer than was absolutely necessary ; for it was one which could be agreeable to nobody, and must be peculiarly distasteful to those for whose benefit this Bill was intended. But it was impossible to shirk the point altogether ; for, in truth, it was the strongest argument in support of the Bill. The Hindu practice of *Brummacharia* was an attempt to struggle against Nature ; and, like all other attempts to struggle against Nature, was entirely unsuccessful. Every candid Hindu would admit that, in the majority of cases, young Hindu widows fall into vice ; that in comparatively few cases are these severe rules for a life of mortification virtuously observed ; that, in many cases, a licentious and profligate life is entered upon in secret ; and that, in many other cases, the wretched widows are impelled to desert their homes, and to live a life that brings open disgrace upon their families. He would read to the Council a very short passage on this subject from Ward's description of the manners and customs of the Hindus :—

"Early marriages also give rise to another dreadful evil : almost all these girls, after

marriage, remain at home one, two, or three years; and during this time, numbers are left widows, without having enjoyed the company of their husbands a single day. These young widows, being forbidden to marry, almost without exception, become prostitutes."

This was the evidence of an English witness. He would now quote the evidence of a native witness, a learned Mahratta Brahmin, who it might be presumed was also a man of the world, as he was the son of the minister of a late Rajah of Nagpore. Eighteen or twenty years ago, this Brahmin wrote an essay on the second marriages of widows, in which he argued that the prohibition of such marriages was contrary to the Shastras, and urged the general adoption of a contrary custom. Major Wilkinson, when Resident of Nagpore, published the essay, with an "Introduction" by himself, in which he gave this abstract of the Brahmin's statements upon this point :—

"To revert to our author, he maintains that the present prohibition against the second marriages of widows, especially these infant widows, is highly impolitic and unwise, because, in the first place, it disappoints the palpable purpose of the Creator in having sent them into the world; secondly, because it inevitably leads to great moral depravity and vice on the part of these widows; thirdly, because it inevitably causes a frightful amount of infanticide and of abortions; fourthly, because the maintenance of these widows in an honorable and virtuous course of life causes a ceaseless, though fruitless, anxiety to their parents, and parents-in-law, &c.; fifthly, because these widows, inevitably rendered corrupt and vicious themselves by the hard and unnatural laws operating on them, cannot be prevented from corrupting and destroying the honor and virtue of all other females with whom they associate."

It was a Brahmin who was speaking. To show that here was no exaggeration of the forms of evil which resulted from the system, Major Wilkinson specified several cases that had come within his own official knowledge within a very few months between the receipt by him of the Brahmin's essay, and the publication of his own work. Major Wilkinson specified no less than nine cases, of which three had occurred in ten days. He (Mr. Grant) would not trouble the Council by going through these cases; they were of considerable length; but Major Wilkinson's work was at the service of any Honorable Member who might desire to refer to it. He would only say that these cases were proved instances of frightful murders, incests, and, in short, of every abomination which it was possible to conceive, caused by the prohibition of the re-marriage of widows,

Mr. Grant

He thought he had proved the premises set out in the petition; and he was sure that, being convinced of their truth, it was the bounden duty of the Legislature to abolish a law which could force this cruel and demoralising prohibition upon one single human being who disbelieved the doctrine upon which it proceeded. The Legislature had no more right to prevent a single Hindu who believed that the existing prohibition was not in accordance with a true interpretation of the Shastras, and who, from a wish to preserve his widow-daughter from lifelong misery or vice, desired that she should marry again, from acting in accordance with his humane motive, than it had to force a Mahomedan or a Christian, because he happened to live amongst people of another creed, to sacrifice his daughter in the same manner. But this the Council would do, if it refused to pass some such law as that which he held in his hand. This was a law which, while it would set the petitioners and all who concurred with them free to follow the dictates of their own consciences, would leave all other Hindus precisely as they were now. It did not pretend to say what was the right interpretation of the directions for conduct in respect to marriage in the text-books, or which of the conflicting authorities ought to be followed by a Hindu. It would interfere with the tenets of no class of people, it would offend the religious feelings of no human being.

The law the petitioners proposed was not now proposed for the first time. The terrible consequences of the prohibition had induced many wise and good Hindus, at many times, and in many places, to attempt to remove it. There was perhaps no part of India where some distinguished Member of the Hindu community had not, within the last few hundred years, made this attempt. He had taken a note of a few instances in which such attempts had been made. Between three and four hundred years ago, in Bengal, Raghunundana, a very learned and celebrated Pundit, who had written a Digest of the Hindu Law, which formed he believed in Bengal a text-book to this day, made a resolute attempt of this kind. He had at one time firmly resolved that his own widowed daughter should re-marry; but the attempt failed. Rajah Rajbullub, of Dacca, about the middle of the last century, made a similar attempt which seems to have been almost successful. He obtained a Vyavasta or law opinion of a large body of learned Pundits; but finally his attempt also failed.

About the same time, the Chief of Kotah made a similar attempt, with no better success. Sir Thomas Strange, in his work on Hindu Law, alludes to an instance in which a large assembly of Pundits at Poonah actually gave permission to the widow daughter of a Hindu of high caste to re-marry, and the permission was acted upon. Several similar attempts by Hindus to alter this inveterate custom had been made of late years. He had observed, amongst the papers of the Law Commission, a paper written by a learned Brahmin of Madras nearly twenty years ago, praying that a law to the effect of the present Bill might be passed. He had already mentioned the essay of a Mahratta Brahmin of Nagpore, published about the same time. In Calcutta, there was a great agitation on the subject about ten years ago, which was repeated two years ago. It was in consequence of the failure of this last attempt that Eswar Chundra had taken up the subject; and the petition lately presented was the result.

It was true that all these attempts had failed. But why had they failed? We know that a caste or any number of castes can introduce any such change of custom if they please. But to do so, there must be a great majority in favor of the change. Now, we know that it is the nature of all reforms of this sort to be gradual; to begin with a minority, who, by argument and example, in the course of time, win the majority over to their views. For this reason, heretofore, the minority have been powerless in the hands of the majority who hold to the ancient custom which rules the administration of the law to all. But the question comes up to day under happier circumstances. The Legislative Council has it in their power to give to the minority, even if that minority consist but of a single family, liberty to act according to their own consciences and feelings of humanity.

The very question now before the Council—

the question of a law making Hindu widows legally capable of contracting a second valid Marriage—had been discussed officially in the late Indian Law Commission; and he took some shame to himself for not having had that discussion in mind before he gave notice of his motion, because he found that he was Secretary to the Law Commission when the question first arose, though not at the time when the full discussion of it took place. He would read one paragraph of a letter issued under his signature, dated the 4th July, 1837, which the Commissioners of the day had caused to be written, on a proposition (to which they objected) that, for

the prevention of infanticide, the concealment of pregnancy should be made a specific offence:—

"The Law Commissioners observe with deep regret that the Western Sudder Court believe child murder to be a prevalent crime in the Provinces under their jurisdiction. The Law Commissioners think that much of this crime may be owing to the cruel law which prevents Hindu Widows from contracting a second legal marriage. The Law Commissioners are sensible that a mere alteration in the law will immediately and directly effect little towards remedying the evil. But they are not without expectation that an alteration of the law would induce an alteration of feeling in this matter; and, if that could be effected, more would be done towards repressing child murder than could be done by the most severe laws. They are now collecting information on this point, the result of which will duly be laid before the Government of India."

At the same time, the Commissioners addressed a Circular calling for information on the subject, and for the opinions of the Sudder Courts at all the four Presidencies. The returns to that Circular were entirely unfavorable to the views of the Law Commission. He had appended them to his Statement of Objects and Reasons, and would not trouble the Council with reading them now; but if Honorable Members would refer to them when they were printed, they would find that the objections of the Sudder Courts resolved themselves into these:—First, that an Act removing legal obstacles to the Marriage of Hindu Widows would be an interference with Hindus in the matter of their own law and religion; secondly, that it would entirely dislocate the frame-work of the Hindu Law of inheritance; and thirdly, (an objection which came from the Sudder Court at Madras) that it would be entirely a dead letter. Now, if the Act would be entirely a dead letter, it was very clear that it could not be any interference with Hindus in the matter of their Law or religion, and could not dislocate the frame-work of the Hindu Law of inheritance. He might, therefore, fairly claim the authority of the Madras Sudder Court as being against the authority of the other Sudder Courts upon the first and second points of objection.

He would say a very few words with reference to these two points of objection. He had said before that the Act, as framed, did not pronounce any opinion whatever as to what should be the proper interpretation of the *Shastras* on the question of Marriage. Of the conflicting authorities who had written on the subject, it did not say which authority ought to be followed. It left every Hindu

to be guided, in his conduct, by the direction of any text-book to which his own judgment and conscience inclined. He denied, therefore, that there could be the slightest color of reason for saying that the Act would be an interference with the religious opinions or feelings of any one Hindu. He said that this Bill would interfere with the religious feelings of no Hindu. He was not sure that it might not interfere with the sports of some Hindus. In every country, there were too many who made it their sport to tyrannise over the conduct and the consciences of others. He could not be sure that his Bill might not be displeasing to some upon this ground. He did not know whether any remonstrance would be actually submitted to the Council against this measure, though he understood that the question of submitting such a remonstrance had been agitated. But of this he was quite sure, that, whatever remonstrances against this just law might be laid upon the table, this feeling would be at the bottom of them; and remonstrances springing from such a feeling, this Council might well disregard.

If the law which was now proposed were fairly looked at, he believed it would be seen to be the natural and necessary complement of the law for the abolition of the rite of Suttee. The object of the law for the abolition of the rite of Suttee was to save innocent Hindu Widows from a cruel death: the object of the law which he now proposed was to save innocent Hindu Widows from a life which in his conscience he believed to be worse than death. He did not mean to say that, taking a general view of the case, the custom of *Brummacharia* was so dreadful as the custom of *Suttee*. An innocent young girl taken to a funeral pile, and there, in the broad light of day, burnt to death according to law, before the eyes of a multitude—the officers of the law, armed with all the powers of the law, standing by calm witnesses of the spectacle—was such a horrible and demoralizing practice as was never exceeded in any country. In a general or national view, he could not of course compare this Bill with the law which abolished that open abomination. But confining the view merely to the unfortunate widow who is the victim in either case; when he considered the personal consequences which the custom of *Brummacharia* forced upon the unfortunate females who were made its victims; when he considered the misery—the certain life-long misery—the probable profligacy and sin which it caused, he did believe that it

would be better for a woman to ascend the funeral pile of her husband, and burn with him as a Suttee, than to be condemned to the slow torment of such a life as he had described.

The law prohibiting Suttee was a compulsory law. From the day it was past, every Hindu, whatever his own feelings on the subject might be, was compelled to obey it. All the glory, therefore, of that law belonged to Lord William Bentinck and his Council who passed it. But the present law would afford Hindu gentlemen of station and influence a rare opportunity of illustrating their own names. The present was not a compulsory law, and could not be made a compulsory law. It was merely a permissive law, which could have effect only when those for whose benefit it was intended, should choose to avail themselves of it. Under this Law, Hindu gentlemen who, from their rank and their education, may stand forward as the leaders of their nation, have it in their power to register their names in History as the names of those who shall have effected the greatest social reform ever effected in their country. The Legislative Council will have done all it can do when it shall have struck the shackles from their limbs: it will be for them, when they shall gain their freedom, to make use of it like men.

The Honorable Member concluded by moving the first reading of the Bill.

SIR JAMES COLVILLE seconded the motion. In doing so, he said he could not but express his sincere satisfaction that, owing to the circumstances to which his honorable friend had adverted, the charge of this measure had passed from his hands to those of his Honorable and learned Friend; for not only, as the clear and forcible statement which the Council had just heard demonstrated, it had thus fallen into abler hands; but, as he had often said to the Native gentlemen who had done him the honor to consult him on the subject, the position that was held by his Honorable Friend afforded an answer as it were by anticipation to objections which might have been made to the measure if it had been left in his (Sir James Colville's) charge. To him, it might have been plausibly objected that being one who when he first came to this country was already "*nel mezzo del cammin di nostra vita*," and being one who, from his position, had slender opportunities of becoming acquainted with the usages and feelings of natives living beyond the limits of the Presidency town, he had somewhat audaciously undertaken to

effect a great social innovation. No such objection could be made to his Honorable Friend, who was one of the most eminent and not the least cautious members of a Service which had always been remarkable for caution—some might think for over-caution—in attempting social reforms to which native feelings, or native prejudices ran counter; of a Service respecting which it must be owned that, yielding to that feeling, it had permitted for half a century, in Provinces completely subject to its rule, the existence of the monstrous rite of Suttee. He (Sir James Colville) did not quarrel with that feeling when kept within legitimate bounds. Nay, he would go further and say that, on such questions, it was better that the Government of this country should err, if it erred at all, on the safer side of over-caution. There were doubtless cases, and Suttee was one of them, in which it was the positive duty of Government to put down a practice every instance of which necessarily involved a crime. Of the custom which was now under consideration, crime and immorality were not the necessary, but merely the probable consequences. If, therefore, the measure now proposed originated with any Honorable Member of this Council acting simply on his own views of the barbarity or impolicy of the custom, or of the pernicious character of its consequences, he (Sir James Colville) could understand objections being made to such an interference with the usages of the country. But that was not the way in which the question came before the Council. His Honorable friend had cited several instances in which Hindus of rank, learning, and character had protested against this custom. Ten years ago, when he (Sir James Colville) arrived in this country, he recollected hearing that the question of the re-marriage of Hindu widows was matter of discussion amongst Hindus, and that one, a very wealthy inhabitant of this city, who was certainly not of the party known as Young Bengal, had offered a large sum to the first person who should brave opinion and marry a Hindu widow. The question may have slept for a time, but it was now pressed upon the attention of the Legislative Council by a numerous and respectable body of Hindu gentlemen. The particular measure before the Council was prompted by one who, in reputation for learning, yielded to no Pundit in this city, or in this part of India, but who, not suffering his antiquarian lore to contract his mind, as it is too apt to do, by fixing it too constantly on the past, was conspicuous

amongst the more liberal of his countrymen for enlarged views, and a desire for social progress. If, then, the Council was thus asked to pass a Law of the kind proposed,—a law of which its own reason approved—how could it refuse its assent? The Law would be essentially permissive, and permissive only. It would compel no human being to do that from which his or her conscience revolted. Widows who felt that widows ought to live as the Hindu law prescribed, would live so still. But to those who felt that they were living under a cruel bondage, from which their feelings and consciences revolted, this Act would be a merciful relief. It would not prevent such Hindus as believed the Law to be in accordance with a true interpretation of the Shastras, from acting on their own belief; but it would prevent any legal consequences, any diminution of their civil rights from affecting other Hindus who, differing in opinion from these, might follow the dictates of their own consciences and wills. It might prevent the monstrous fact of a virgin widow condemned against her will to a life of mortification, by way of showing duty and respect to a deceased husband whose face she might never have seen, except at the hour of betrothal. It might prevent a vast deal of immorality, which, admitting the passages cited from Ward and others by his Honorable Friend to be highly colored, every reasonable man must see was the natural consequence of enforced celibacy, and of violence done to nature; and those domestic scandals which, he feared, were not unfrequently concealed by darker and graver crimes.

His Honorable friend had not gone into the details of the Law, nor did he (Sir James Colville) intend at any length to do so. But he would remark that the second Section of the Bill removed the only plausible objection that could be made against the measure.* Some indeed who were in favor

* The 2nd Section was as follows:—"All rights and interests which any widow may have by Law in her deceased husband's estate, either by way of maintenance or by inheritance, shall, upon her second marriage, cease and determine, as if she had then died; and the next heirs of such deceased husband then living shall thereupon succeed to such estate. Provided that nothing in this Section shall affect the rights of any widow in any estate or other property to which she may have succeeded otherwise than through her deceased husband; or to which she may have become entitled under the will of her deceased husband; or in any estate or other property which she may possess as a *stridhan*, or which she may have herself acquired either during the life-time of her deceased husband, or after his death."

of the Bill might hastily conclude that this Section was too much in restraint of second marriages. He was not of that opinion. On the contrary, he believed that no one who attentively considered the conditions under which a Hindu widow took property by succession on the death of her husband, would fail to see the justice of this provision. He had always thought that the canon of inheritance which made the wife the heiress of her husband when he died without sons, was the part of the Hindu law of inheritance—a law generally wise and just—which operated most mischievously. As far as his experience went, it was the most frequent cause of the disruption of Hindu families, and of the wasting of Hindu estates by litigation. But the right thus taken by the widow in her husband's estate was a very peculiar one, and very limited in enjoyment. She had not full dominion over the property, for she could not alienate any part of it except for purposes of strict necessity, or for such pious uses as contributed to the spiritual benefit of her husband. In fact, the law gave it to her not for her own benefit, but from the notion that her prayers and sacrifices, and the employment of his wealth in religious and charitable acts, would be beneficial to her deceased husband in another state of existence. If then this Bill had enabled her to carry into the arms of another man, or into another family, the property which she had so acquired, its opponents might reasonably have objected to it, that it would aggravate those mischievous consequences which often flow from the law as it exists; and that, contrary to Hindu law and Hindu feeling, it enabled the widow to enjoy her deceased husband's estate freed from the conditions and the trusts upon which alone the law gave it to her.

Therefore, he believed his Honorable friend had, by the 2nd Section, removed from the measure any possible objection which a reasonable man could advance against it; without doing any injustice to widows.

There would be so many future opportunities for discussing the merits of the Bill, that he should now conclude, apologising to the Council for having trespassed so long upon its attention in performing the formal act of seconding a motion.

MR. LE GEYT said, as the Standing Orders allowed, in respect of such a Bill as was now before the Council, a departure from the usual course prescribed on motions for first

readings, and it was open to Members to express their sentiments upon the Bill at the present stage, he could not let the opportunity pass of saying that he was persuaded the great measure of social reform which it proposed would be hailed in Western India with great joy by all classes of Hindus who, by education and experience, had learnt to see the mischievous consequences of the custom which it was intended to remove. For several years past, the subject of the marriage of Hindu widows had engaged the attention of intelligent and influential Hindu gentlemen in Bombay. Some had written papers regarding it, several of which were distinguished for their ability. He regretted that he had not those papers with him now, or he should have taken this opportunity of reading passages from them to the Council. But he had collected enough, from what the Honorable Mover of the Bill had said, to feel assured that a large majority of the higher class of Hindus would receive with gratitude the relief which this Bill would afford them of releasing the females of their families from a cruel and miserable thralldom which had produced the same lamentable results in Western India that the Honorable Mover of the Bill had stated it had done in Bengal. He had seen in Hindu families of no mean rank in Bombay the pitiable condition of women suffering under the effects of this social tyranny. As one instance, he might mention the case of a lady nearly ninety years old, the member of the family of a judicial officer in the Southern Mahratta country. This gentleman was of high position and consideration, and on an occasion of a family festivity at which he (Mr. LeGeyt) was a visitor, had pointed out the lady to him, in that state of separation from the other members of her own family which had been described; and he had stated that what he saw his mother (for she was in that relation to him) suffer daily, was an eternal thorn in his side. In Western India, the prohibition against the marriage of Hindu widows was principally confined to Brahmins, and those sects which chose to imitate the practices of that class. Amongst other classes, the prohibition was not strictly regarded, and he had heard it frequently asserted that the state of higher morality which prevailed amongst the inferior grades of the Hindu community in that Presidency was fully accounted for by that fact. He could not, therefore, but feel assured that the measure now proposed would be cordially received in Western India, if not unanimously,

Sir James Colville

certainly by a very large majority of the class for whose benefit it was designed.

Mr. GRANT'S motion was then carried, and the Bill was read a first time accordingly.

SALE OF UNDER-TENURES.

Mr. CURRIE moved the first reading of a Bill "to amend the Law relating to the sale of under-tenures." He said, it would be in the recollection of Honorable Members that, when the Council was about to go into Committee upon the Bill for the repeal of the Usury Laws, a petition was read at the table from certain Zemindars of Dacca objecting to the measure. The ground of the objection taken by the petitioners was, that they would have to pay an increased rate of interest for money which they were obliged of necessity to borrow in order to meet their periodical payments of revenue, because, under the existing state of the law, they were unable to enforce prompt payment of arrears of rent due to them from their under-tenants.

The Zemindars in that part of the country seldom derived their rents direct from the cultivators. The villages were, for the most part, held by dependent Talookdars, who had a permanent transferable interest in the land. The law under which Zemindars enforced payment of rent from these Talookdars, was contained in Regulation VII of 1799. Under that Regulation, Zemindars might proceed by distraint or by personal arrest, and in the latter case a summary inquiry was to be made into the merits of the claim. Then Section XV, Clause 7, of the Regulation provided as follows:—

"If the arrear be not liquidated within the current Bengal Fussyil, or Willaity year (according as the place may be situated in the province of Bengal, Behar, or Orissa) either by the payments of the defaulter or his surety, or by the attachment of his tenure, the Zemindar or other proprietor of the land, or the farmer in whose farm the defaulter's tenure may be included (if such farmer's lease extend beyond the current year) is at liberty, at the commencement of the ensuing year, to make such provision for the future receipt of the rents payable to him from the land tenanted by the defaulter as he may judge proper, and may be consistent with the rights of all other persons concerned. * * * If the defaulter be a dependent talookdar, or the holder of any other tenure which, by the title-deeds or established usage of the country, is transferable by sale or otherwise, it may be brought to sale, by application to the Deputy Adawlut, in satisfaction of the arrear of rent, and the purchaser will become the tenant for the new year."

It would be seen that, under this law, under-tenures could be brought to sale for

arrears of rent only at the end of the year. Section XXIII of the Regulation prescribed a corresponding process for the realisation of arrears of Government revenue from Zemindars. Under that Section, their estates, like the under-tenures of Talookdars, could be brought to sale only at the end of the year. But in 1822, the estates of Zemindars were made liable to sale at all periods of the year, whenever an instalment of the annual Government revenue might be overdue. Other changes had been subsequently made; and, under the law as it now stood, revenue sales were held four times in the year, when the lands of defaulting Zemindars were brought to peremptory sale. In the meantime, the law regarding the sale of under-tenures had remained substantially unchanged; the correspondence between the process for the realisation of the Government revenue, and the process for the recovery of the Zemindars' rents, had thus ceased to exist; and Zemindars were now subjected to a disadvantage which was not contemplated in the law of 1799. It was from this disadvantage that the Zemindars of the Eastern districts now asked to be relieved. It appeared to him that their request was only reasonable. In fact, two years before it was preferred, a proposition, having the same object in view, had been submitted by the Board of Revenue to Government. That proposition formed the principal provision of the present Bill. It was simply to the effect that under-tenures should be liable to sales in satisfaction of summary decrees for arrears of rent at all periods of the year. He could see no objection to such a proposition. It was but reasonable that, when arrears had been adjudged to be due from an under-tenant, the holder of the decrae should be allowed to have recourse at once to the most effective means of recovering his claim, without waiting for the end of the year.

Indeed, it seemed strange that this question had not been pressed earlier upon the attention of the Legislature; and he believed that one reason why it had not been so, was that the legal restriction to the end of the year had not always been observed. It appeared from certain returns that had been sent in to the Board of Revenue that, in many districts, it had been the practice to hold sales of under-tenures at all periods of the year. It would not be advisable to leave such sales liable to be disturbed merely for an informality; and it was therefore proposed that the change in the law should have retrospective effect with respect to them.

These were the main provisions of the Bill ; but he had thought it right to take the opportunity of revising the process prescribed by law for conducting sales of under-tenures. The present law was scattered through a number of Regulations and Acts, and was, after all, very defective and vague. He had endeavored, in this Bill, to frame a comprehensive rule of procedure, with additions which he had taken for the most part from the law relating to sales of estates for the recovery of arrears of Government Revenue.

He thought it might be advisable that there should be certain days for holding sales, to be fixed by the Board of Revenue, which might be so adjusted as to fall a short time previous to the day fixed for the payment by Zemindars of their revenue instalments. It appeared to him that there would be many advantages in such an arrangement ; and he had therefore introduced a Section in the Bill authorizing but not enjoining it.

It was not necessary that he should trouble the Council with any further remarks upon the details of the Bill ; but he must not omit to mention that there had been a proposition for another and a more summary mode of procedure with regard to sales of under-tenures—a proposition, in fact, that the Legislature should extend to all under-tenures indiscriminately the special process which had been prescribed (by Regulation VIII of 1819), for special reasons, for one particular class of under-tenures. This proposition had the sanction of names of considerable authority in Revenue matters ; but as, after the best consideration that he was able to give to it, he had not thought it proper to adopt it, he would not now detain the Council by entering upon a discussion of its merits. The Bill which he had the honor to present, had received generally the approval of the Lieutenant Governor, and the proposition to which he alluded, with his own views respecting it, would be found in the annexures.

The Bill was read a first time.

EMBANKMENTS (BENGAL).

The Order of the Day for the adjourned Committee of the whole Council on the Bill “relating to Embankments” having been read, the Council resolved itself into a Committee for the consideration of Clause 1 Section VII of the Bill. The Clause related to claims for compensation for damages sustained under the Act.

Mr. Currie

MR. CURRIE to-day having moved certain amendments which were carried, the clause stood thus :—

“ When the Superintendent of Embankments shall enlarge or change the line of any embankment, or make a new embankment, or cause an embankment to be removed, any person sustaining damages thereby, who, but for the passing of this Act, would be entitled to compensation, may prefer his claim for such compensation to the Collector of the District at any time within twelve months after the execution of the works by which he is endamaged ; and the Collector thereupon shall report the case for the orders of the superior Revenue Authorities. If the claim be rejected, the claimant shall not be deprived, by reason of this Act, of any right which he might otherwise have had, to recover such compensation by a civil action ; but such action shall not lie unless the claimant shall have first preferred his claim to the Collector within the period above-mentioned, nor unless the suit be brought within a period of one year after notice to the claimant of its rejection. If the claim for compensation be admitted by the Revenue Authorities, and the amount of compensation cannot be agreed upon, the same shall be settled by arbitration, in the manner hereinafter provided and in no other manner, unless by the consent of the claimant and of the superior Revenue Authorities.”

The Council then resumed its sitting, and the President reported the Bill with amendments.

EXPORT OF SALTPETRE.

MR. PEACOCK said, he proposed to move that the Standing Orders be suspended for the purpose of bringing in and passing a Bill “to prohibit the exportation of Saltpetre, except in British vessels bound to the Ports of London or Liverpool.” His object was to carry out the wishes of the Home Authorities, who were desirous that measures should be taken immediately for preventing, during the continuance of the war with Russia, the exportation of saltpetre from India in any other manner. He had no doubt that the Government at home had sufficient reasons for expressing such a desire, and he did not believe that any Member of the Council would object to the motion ; for he was quite sure that every Honorable Member would be anxious not to throw any obstacle in the way of a measure which was considered by the Government at home to be necessary, and which could have any tendency to limit the resources of Russia, and to bring the present war to a successful and honorable conclusion.

The 1st Section of the Bill which he had to propose, provided that, until the Governor General of India in Council should other-

wise order, it should not be lawful for any person to export saltpetre from any part of the territories in the possession and under the Government of the East India Company, except in a British vessel bound either to the port of London or to the port of Liverpool.

The 2nd Section followed a Section in Act XXIX of 1854, which was passed for the purpose of prohibiting the exportation of saltpetre to any port on the Continent of Europe north of Dunkirk. It provided that, if any person should attempt to export saltpetre contrary to the provisions of this Act, the same shall be confiscated.

Section III rendered any person who should export or attempt to export saltpetre contrary to the provisions of the Act, or who should assist in such exportation or attempt, liable, upon conviction before a Magistrate or a Justice of Peace, to a fine not exceeding the rate of 20 Rupees for every ton of saltpetre so exported or attempted to be exported.

Section IV provided that no Collector or other Officer of Customs should, on or after the 17th November 1855, grant a pass or permit for the exportation or shipment for exportation of saltpetre from any part of the Company's territories, except in a British vessel bound for London or Liverpool; and it indemnified every Collector or other Officer of Customs for anything heretofore done or hereafter to be done according to the provisions of the Act:—so that, if the Act should pass, every Collector or other Officer of Customs would be justified in refusing to give a pass or permit for saltpetre intended to be exported contrary to the provisions of the Act.

But it had been thought right and fair not to interfere with any saltpetre which had already been shipped, or for the exportation or shipment of which passes had already been given; and accordingly, Section V provided that nothing in the Act should extend to any saltpetre shipped prior to the 17th November 1855, nor to any saltpetre for the exportation or shipment for exportation of which, otherwise than according to the Act, a permit or pass had been granted on or before that day.

Section VI provided that any Custom House Officer might, without a warrant, seize saltpetre liable to confiscation under the Act.

Section VII provided that, if any saltpetre should be seized as liable to confiscation, the Collector of Customs should investigate the case, and, according to his judgment, either release it, or subject it to confiscation; and

that, whenever he should declare it to be confiscated, he should report his proceeding for confirmation and final adjudication to the Superior Revenue Authorities. This Section very nearly followed one contained in the Bengal Customs Act, which provided for the confiscation of goods attempted to be imported without payment of duty.

With these observations, he begged to move that the Standing Orders be suspended for the purpose of enabling him to bring in the Bill, and carry it through the subsequent stages.

Mr. GRANT seconded the motion, which was then carried.

Mr. PEACOCK then moved the first reading of the Bill.

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

Mr. PEACOCK next moved the second reading of the Bill. In doing so, he said it was not his intention to carry the Bill further than that stage at the present Meeting of the Council. He thought it right to allow, as far as possible, those whom the measure might affect an opportunity of stating any objections which they might have to the passing of the Bill. If the motion for the second reading should be carried, he proposed that the Bill should be published immediately, in order that the public might have notice that such a Bill would probably be passed at the next Meeting of the Council. He said "probably," because nothing that was done to-day could bind the Council to pass the Bill at the next Meeting if Honorable Members saw any valid objection to it. He should move the third reading on Saturday next; and it would be competent to Honorable Members to state on that occasion any objections which they might have to any part of the Bill.

Sir JAMES COLVILLE said, what his Honorable and learned Friend had just stated, removed an objection which he should otherwise have felt to the course he proposed. It was but fair that, unless a measure was one of the most pressing emergency, there should be at least a week's notice, to enable Members to bring forward any objection which they might see against it. He merely threw out this remark for his honorable and learned friend's consideration. The 5th Section of the Bill excepted any saltpetre actually shipped before the 17th of November, or any saltpetre in respect of which a pass had actually been granted before that date, from the operation of the Act. But did that go far enough? Might not there

be *bonâ fide* shipping orders granted already to export saltpetre in foreign vessels to foreign ports, and contracts made to reserve space on board for the reception of such saltpetre?

Mr. PEACOCK said, if there should be any such contracts, the parties who had entered into them might send in their objections to the Council; but he had not thought it necessary to introduce into the Bill a clause to meet such cases.

The Honorable Member's motion for the second reading was then carried; and the Bill was read a second time accordingly.

Mr. PEACOCK then moved that the Bill be published forthwith in the *Gazette*. Agreed to.

PORTS AND PORT-DUES ACT.

Mr. ELIOTT said, he desired to call the attention of the Council to a Section of Act XXII of 1855 "for the regulation of Ports and Port-dues." The Section he referred to was Section XLI of the Act, which provided as follows:—

"The dues and fees now usually collected at the several Ports within the said territories, may, during the period of one year from the time of the passing of this Act, be collected at such Ports respectively. No Port-dues or fees shall hereafter be levied in any such Port except under the authority of this Act, or of an Act hereafter to be passed for fixing the amount thereof."

This Section had been passed after considerable discussion. His Honorable and learned Friend to his right (Mr. Peacock,) in moving the Section, had made the following observations:—

"The effect of this amendment would be, that the port-dues which had been levied for many years past would continue for one year longer; but they would cease at the end of that period. This would afford sufficient time to enable the several local Governments to prepare and submit to the Legislative Council their respective estimates of the dues required to be collected at each port subject to their Governments with a statement of the average annual expenses of each port for the last three years, its average collections, and the average amount of tonnage that resorted to it. With these data before it, each Member of the Legislative Council would be in a position to form his own judgment whether the scale recommended was a proper one or not, and to determine what the rate ought to be. The amount fixed would then be published in the *Gazette*. The public would have an opportunity of urging any objections to the proposed rates which they might consider necessary: these objections would be considered first by a Select Committee, and afterwards by a Committee of the whole Council; and the scale would be revised and altered,

if necessary, before the dues could be collected."

He (Mr. Elliott) believed that it was understood or expected that the Executive Government would direct the attention of the several local Governments to this limitation of the period within which port-dues might be levied at the existing rates, and call for the necessary information to enable the Legislative Council to pass a supplementary Act. But he had received from the Madras Government a letter in which it was stated that they were not aware of there being any immediate intention of passing a supplemental Act, or of the views of the Supreme Government on the question.

He drew the attention of the Council to this communication to-day with the intention of submitting a motion on Saturday next that the Clerk be directed to address a letter to the Secretary to the Government of India, requesting that instructions might be sent to the several local Governments to furnish the information requisite for the Honorable the Legislative Council to pass an Act for the regulation of the port-dues after the expiration of the period limited in Act XXII of 1855, or, if it should be thought more expedient, to address the several local Governments directly on the subject.

Mr. GRANT said, if it was the intention of the Honorable Member to ask a question on the subject, he could make the necessary inquiries, and be prepared with a full answer.

Mr. ELIOTT said, that course would entirely meet his views.

NOTICES OF MOTION.

Mr. LEGEYNT gave notice that he would, on Saturday next, move the first reading of a Bill to amend Act XIX of 1847.

Also of a Bill for the better prevention of desertion from the Army.

Sir JAMES COLVILLE gave notice that he would, on the same day, move the first reading of a Bill "to amend the law relating to Bills of Lading."

Also of a Bill to facilitate the remedies on Bills of Exchange and Promissory Notes, by the prevention of frivolous or fictitious defences to actions thereon.

Mr. CURRIE gave notice that he would, on the same day, move that the Bill "relating to Embankments" be read a third time and passed.

Mr. PEACOCK gave notice that he would, on the same day, move for a Com-

Sir James Colville

mittee of the whole Council on the Bill "to prohibit the exportation of Saltpetre except in British Vessels bound to the Ports of London or Liverpool."

The Council adjourned.

Saturday, November 24, 1855.

PRESENT :

The Honorable J. A. Dorin, Senior Member of the Council of India, *Presiding*.

Hon. J. P. Grant,	P. W. LeGeyt, Esq.
Hon. B. Peacock,	C. Allen, Esq.
Hon. Sir James Colville,	and
D. Elliott, Esq.,	E. Currie, Esq.

MARRIAGE OF HINDU WIDOWS.

THE CLERK presented a Petition from certain Brahmins resident at Poonah, expressing their cordial approval of the principle upon which the proposed Bill to remove all legal obstacles to the Marriage of Hindu Widows, is based.

MR. LEGEYT moved that the Petition be printed.

Agreed to.

PROTECTION OF UNDER-TENANTS.

THE CLERK presented a Petition from Captain Henry William Craufurd, of Mulnauth, Zillah Nuddea, in Lower Bengal, praying for the relief of under-tenants from the consequences of the sale of estates for arrears of revenue.

SIR JAMES COLVILLE moved that the Petition be read.

Agreed to.

The Petition, which was as follows, was then read :—

" TO THE HONORABLE THE LEGISLATIVE COUNCIL OF INDIA.

The Humble Petition of Henry William Craufurd, of Mulnauth, in the Zillah of Nuddea, in the Province of Lower Bengal, sheweth :—

1. That your Petitioner is the manager of, and the largest proprietor in, a joint-stock company holding under-tenures of land to the value of some lakhs of rupees.

2. That your Petitioner, finding portions of this valuable property frequently exposed to the risk of forfeiture under the action of the law for the sale of estates for arrears of revenue, which permits the purchase of the estate free from all encumbrances created since the perpetual settlement, though the holders of said encumbrances may have punctually liquidated all the claims of the superior Talookhdar against them—and further that this risk was frequently made use of as an engine against him

by the superior Talookhdar to extract loans from him under the threat of a default as to the revenue for the due payment of which he was in no way responsible, was struck by the gross injustice of such a state of things, and by the grave injury done to all landed property by its continuance, and began to exert himself by both public and private representations to procure relief.

3. That your Petitioner was met on the threshold of his exertions now more than two years ago, by assurances that the Government, aware of the injustice inflicted on under-tenants by the sale law, was prepared *proprio motu* to grant the relief required, and had actually drafted a law for that purpose, which had, at that date, and after long continued communications with the most experienced and enlightened of the East India Company's servants, received the approval of the Most Noble the Governor General.

4. That your Petitioner too glad, instead of meeting obstacles in his path, to find matters so advanced, and that the reform of the sale law generally and the condemnation of its abuses was concurred in by His Honor the present Lieutenant Governor of Bengal, by the Honorable J. P. Grant, now Member of the Executive and Legislative Councils, and by the Honorable E. Currie, now Member of the Legislative Council, readily withdrew from the task which he had undertaken, in full confidence that Government having satisfied itself after long years of inquiry of the evils of the present law, and that the relief from them could be granted without endangering the punctual payment of the revenue, would hasten to free itself from the imputation of allowing the continuance of an acknowledged injury to those living under its rule.

5. That your Petitioner only yesterday perceived, by the report in the public prints of the proceedings of your Honorable Council, that you were about to legislate regarding under-tenures without granting the long promised relief to under-tenants, which forms the subject of this humble petition ; and that being aware that one of your most distinguished Members has been engaged, ever since the constitution of your Honorable Council, in the arduous task of preparing such a thorough reform of the present law for the sale of estates for arrears of revenue, as shall remove all the unjust responsibilities that affect owners of landed property, depreciate its value, and obstruct its transfer and improvement, and trusting speedily to obtain the result of those labors, has confined himself strictly to the part of that great reform which is embodied in his humble prayer that your Honorable Council, now legislating on the subject of under-tenures, will enact—

1. That Section XXVI of Act No. I of 1845, and so much of Section XXVIII of the same Act as relates to the permanently settled districts of Bengal, Behar, Orissa, and Benares, be repealed.

2. That the purchaser of an estate sold under Act I of 1845, for the recovery of arrears of revenue due on account of the same in the permanently settled districts of Bengal, Behar, Orissa, and Benares, shall acquire the estate subject to all encumbrances which may have been imposed upon it either before or after the