Saturday, 22nd December, 1855

PROCEEDINGS

OF THE

LEGISLATIVE COUNCIL OF INDIA

Vol. I

(1854-1855)

Straits' Settlement, relating to the Bill "for regulating the Police of Calcutta, Madras, and Bombay, and the Settlement of Prince of Wales' Island, Singapore, and Malacca," be laid on the table and referred to the Select Committee on the Bill.

Agreed to.

CONSERVANCY.

Moved by the same that a communication received by him from the Governor of the Straits' Settlement, relating to the Bill "for the Conservancy and improvement of the towns of Calcutta, Madras, and Bombay, and the several stations of the Settlement of Prince of Wales' Island, Singapore, and Malacca," be laid on the table and referred to the Select Committee on the Bill.

Agreed to.

MR. LEGEYT moved that a communication received by him from the Secretary to the Government of Bombay, concerning Act XI of 1853, "to facilitate the removal of nuisances and encroachments below high-water mark in the Islands of Bombay and Colaba," be laid upon the table and referred to the Select Committee on the above Bill.

Agreed to.

LIMITATION OF SUITS.

SIR JAMES COLVILE moved that Sir Arthur Buller be added to the Select Committee on the Bill "to provide for the acquirement and extinction of rights by prescription, and for the limitation of suits."

Agreed to.

CATTLE TRESPASS.

MR. CURRIE moved that Mr. LeGeyt be added to the Select Committee on the Projects of Law relating to Cattle Trespass.

Agreed to.

LICENSES FOR THE SALE OF INTOXICATING LIQUORS (BOMBAY).

MR. LEGEYT moved that a communication received by him from the Secretary to the Government of Bombay, relative to the repeal of the existing law under which charges of breach of license for the sale of intoxicating liquors are now referred to Her Majesty's Bench of Justices, be laid upon the table and printed.

Agreed to.

NOTICES OF MOTION.

MR. GRANT gave notice that he would, on Saturday the 22nd instant, move the first reading of a Bill "to amend the law respecting sales of Land for arrears of Revenue in the Bengal Presidency."

MR. CURRIE gave notice that he would, on the same day, move for a Committee of the whole Council on the Bill "for incorporating the Oriental Gas Company."

The Council adjourned.

Saturday, December 22, 1855.

PRESENT:

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

Hon. Sir J. W. Colvile,	D. Eliott, Esq.,
Hon. Maj. Genl. J. Low,	C. Allen, Esq.,
Hon. J. P. Grant,	P. W. LeGeyt, Esq. and
Hon. B. Peacock,	Hon. Sir Arthur Buller.

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

MESSAGE No. 62.

The Governor General informs the Legislative Council that he has given his assent to the Bill passed by them on the 15th December 1855, entitled "A Bill to empower Officers of Customs and Land Revenue to search houses and other enclosed places for Contraband Salt in the North-Western Provinces."

By Order of the Most Noble the Governor General.

CECIL BEADON,
Secy. to the Govt. of India,

FORT WILLIAM,
The 21st December, 1855.

THE CLERK presented the following Petitions:—

MOCHULKAS OR PENAL RECOGNIZANCES.

A Petition of the British Indian Association relative to the Bill "for the better prevention of offences against the public tranquillity, and to amend the law regarding the taking of bonds for keeping the Peace."

MR. ELIOTT moved that the above Petition be printed and referred to the Select Committee on the Bill.

Agreed to.

MARRIAGE OF HINDU WIDOWS.

Also a Petition signed by the Reverend E. Storrow as Chairman, and the Reverend D. Ewart as Secretary, on behalf of the Calcutta Missionary Conference, in favor of the Bill "to remove all legal obstacles to the Marriage of Hindu Widows."

MR. GRANT moved that the above Petition be printed.

Agreed to.

SALES OF LAND FOR ARREARS OF REVENUE (BENGAL).

MR. GRANT moved the first reading of a Bill "to improve the Law relating to sales of Land for arrears of Revenue in the Bengal Presidency." He said, in presenting his Bill on this important subject, he would not attempt to discuss the difficulties of the question, for he thought that they could not be discussed with much advantage until Honorable Members should have the printed papers in their hands. He intended simply to draw the attention of the Council to the chief points in which he proposed to amend the present Law.

The first important point in which it was proposed to amend the present Law, was the dispensing with that provision which requires the previous sanction of the Board of Revenue to the sale of every estate which it is necessary to put up to sale for arrears of revenue in the Province of Cuttack. Honorable Members were aware that there were two systems in force for the recovery of arrears of revenue. In Bengal, where the districts were permanently settled, the only process was the process of sale. It was the first and the last process; and the revenue was collected under it without vexation or difficulty. In the Provinces not permanently settled, it was different. There, the revenue was collected by a system of dustuks, tullubana, arrest of person, sale of personal property, and attachment of land. This process, under which sale was the last coercive measure resorted to, was supposed to be peculiarly adapted to those Provinces; whilst in Bengal, as he had observed, the process of sale as the first and the last process was found to work most satisfactorily, and rarely in practice to require to be resorted to. Cuttack was the only Regulation Province not permanently settled under the jurisdiction of the Bengal Board of Revenue, and the only one in which any part of the North-Western process of enforcing payment of Revenue was in force by law. Within the last few years, there had been a great deal of discussion between the Bengal Government, the Board, and the local authorities in the Cuttack districts, regarding the process that should be adopted there. The weight of authority greatly preponderated in favor of placing Cuttack—that is to say, the whole of that portion of Orissa not permanently settled—on the same footing in this respect as the permanently settled districts. The Bengal Government recommended this measure, and he had adopted it in his Bill. But he thought, if this change were made, it would be quite necessary altogether to rescind Regulation X of 1818, which, accordingly, he proposed to do. The Preamble of that Regulation said—

"Whereas it is deemed expedient, with the view to ensure for the future the more punctual collection of the public revenue from zemindars, talookdars, and other actual proprietors of land, and farmers of land in the district of Cuttack, the pergunnah of Puttaspore, and the several places dependent on it, to assimilate the system of collection in the said district and pergunnah and places more nearly to that pursued in the Western Provinces, the following rules have been accordingly enacted."

As the avowed object of the alteration of the law to which he was now adverting, namely the dispensing with the previous sanction of the Board of Revenue, was to assimilate the system of collection in Cuttack to the system of collection in Bengal, which was entirely different from that pursued in the Western Provinces, he thought it would not be right to leave upon the Statute book a Regulation intended to enforce the opposite system.

The next point in which it was proposed to alter the present law, was not suggested in any of the papers which he had seen, but had occurred to himself as apparently an improvement in the law. By the present law, the holder of a lien on an estate, if he fears that the estate may be sold for arrears of revenue, is entitled to deposit the amount of the arrears with the Collector, and if, before sunset of the latest day of payment, the arrears are not paid up by the proprietor, the deposit of the mortgagee is carried to the credit of the estate in liquidation of the arrears, and so the estate, with the lien upon it, is saved. But when this is done, the mortgagee has nothing more to look to for the recovery of the money he deposited than the personal security of the defaulting proprietor. He (Mr. Grant) thought that this was hard and unjust; and he had therefore provided in the Bill, that the mortgagee should have the same security

over the estate for his deposit, that he had by his orginal lien. If, in the discussion of this Bill by the Council hereafter, any valid objection should be found to exist to the giving of this new security to mortgagees, of course the plan could not be carried out. At present, he was not aware that any such objection existed ; and if so, he could not doubt that the new security ought to be given.

The next proposed important alteration in the law had been recommended by the Board of Revenue. It was that each sharer in an estate, whether a sharer in a joint estate held in common tenancy, or the holder of a specific portion of the land of an entire estate, should have the means of acquiring the privilege of protecting his share by paying up his own portion of the Government revenue, whether the other sharers paid up theirs or not. He believed that nobody had doubted—he thought that nobody could doubt—that, if this privilege could be given, it was a simple act of justice to the honest and solvent sharer to give it to him, and so to secure him from being made the victim of the fraud or neglect of his co-sharers. He had therefore adopted, in the main, provisions which had been prepared by the Board of Revenue for this purpose, and formed part of a draft Act for the improvement of the law of Butwarrah or partition of estates, proposed by that authority. It was unnecessary to explain how such a provision had found place in a Butwarrah law ; the proper place for it undoubtedly was the Sale law, and therefore it had been adopted in this Bill. The Bill provided that, when a recorded co-sharer desires to pay his portion of the Government Revenue separately, he may submit to the Collector a written application specifying the nature and extent of his interest in the estate. The Collector will cause the application to be published ; and if, within six weeks from the date of the publication, no objection is made by any other recorded sharer, the Collector will open a separate account with the applicant, and will credit separately to his share all payments made by him on account of it. If any recorded proprietor of the estate, whether the estate is held in common tenancy or not, objects to the application, the Collector will institute a summary inquiry, and will, after such inquiry, reject or admit the application. The award of the Collector will be subject to the usual appeal to the higher Revenue authorities, and to reversal by a regular suit in the Civil Court, provided such suit be brought within one year from the date of the final award of the Revenue Authorities.

If a sharer whose share has been separated as above, should fall into arrears of revenue, and his share should be put up for sale, it might happen that no bid would be offered equal to the amount of the arrears. In such a case, the Board of Revenue proposed that ten days should be allowed to make good the arrear ; and that, if the money were not paid on the expiration of that time, the whole estate should be put up for sale. Now, he thought it was quite necessary for the security of the public Revenue that the whole estate should continue liable, and should be put up for sale, whenever any portion of the revenue due upon it continued unpaid ; but he did not think it was necessary to do what the Board of Revenue recommended. In the first place, he did not think it expedient to allow the defaulter a second period for the payment of the arrears due from him, after the latest day of payment had passed. By universal admission, one of the most excellent provisions of the Sale law of 1841, which was followed in the Sale law of 1845, was that which insisted upon the payment of arrears of revenue before a certain fixed date, and allowed no subsequent payment to stop a sale. He should be sorry in any way to break in upon that principle. In the second place, he thought the requisite security of the revenue could be ensured in a manner more fair to the co-sharers whose shares of the revenue had been duly paid. He had provided in his Bill that, where the highest offer for a share exposed to sale for arrears of revenue should not be equal to the amount due upon it, the Collector should stop the sale, and should allow ten days to the other sharers, within which time they should be at liberty to purchase the defaulter's share by paying to Government the whole amount due upon it. This would inflict no injustice upon the defaulting sharer, for he would obtain more than the market value of his share, as that market value had been tested by public auction ; and it would be doing no more than justice to the innocent co-sharers, who, without loss, would thus be able to preserve their own property. This provision would also prevent the not uncommon fraud of a wealthy sharer wilfully making default, in order that the whole estate may be put up for sale, and that he may purchase it all himself.

The Bengal Government had proposed that the benefit of separate payment should not be extended to any share the revenue of which does not exceed 50 Rupees. He had not thought it right to adopt that proposal. The object was the security of the sharer in his just rights, by the protection of his pro-

perty when there is no default on his part. This is but justice, whatever the value of the share may be. A share paying 40 Rupees might be of as much concern to a poor man as the estate of the Rajah of Burdwan, paying 40 lakhs, is to the Rajah. The property of both should be justly protected.

The next proposed change in the law was another point which had not been suggested in the papers, but which had struck him as a material improvement. It occasionally might happen, especially in the case of an absent proprietor, that a man's property might be sold for arrears of revenue which accrued from no intentional default, and no negligence on his part, but from some accident, or from the neglect of an agent. Now, the property might be very valuable, and, if put up for sale, it might sell for a sum very disproportionate to its value to its proprietor. To enable proprietors to secure themselves if they choose from any such risk, he had provided that every Zemindar paying revenue directly to Government on an entire estate, should have the power of lodging with the Collector a sum of money, or Company's Paper, for the purpose of being applied to the payment of any arrear of revenue that might remain due upon his estate, after sunset of the latest day of payment. This, if the deposit were made equal to one or two instalments of Revenue, would secure the estate from the possibility of being sold, even if the proprietor were living in England. The deposit might be made in Government securities sufficient in amount to pay the revenue from the interest, whereby the estate might be permanently secured from sale for arrears of revenue ;—a provision which might be of use for peculiar properties which, from buildings having been erected upon them, gardens or orchards having been planted upon them, or from other like causes, were of great value in proportion to the revenue assessed upon them.

He now came to the most important question of all—the question of under-tenures. The Bill, as he had prepared it, would enforce the registration of under-tenures. There were two classes of under-tenures—under-tenures which existed before the Permanent Settlement was made, and under-tenures which were created after it. Those that existed before the Permanent Settlement was made, continued to hold good after the sale of the parent estate for arrears of revenue. But the contrary, as Honorable Members were well aware, was the case with under-tenures created subsequently. Under this Bill, as it was now prepared, holders of under-tenures of either description would be obliged to register them. The time allowed for the application to register was three years from the date of the passing of the Act. Within that period, the Bill provided that the holder of an ante-Settlement under-tenure, who desired to secure it against all risk whatever, should petition the Collector for registration : and the Collector, if he should be satisfied that the tenure was truly an ante-Settlement tenure, would allow the registration. The award of the Collector for registration might be contested by a civil suit, if such suit should be brought within one year from the date of the award, otherwise the tenure would stand for ever freed from being subject to any question as to its validity.

The question of the propriety of enforcing the registration of old under-tenures was one which was, doubtless, open to much discussion. He had prepared the Bill in this manner partly with the view of inviting such discussion. But he apprehended that, as to the propriety of enabling the holders of old under-tenures to register, and so to secure themselves against all possible suits to destroy their titles, there could be no difference of opinion. The absence of anything like effectual registration in all our districts, was the cause of constant litigation ; for every holder of an under-tenure was liable to answer to the regular suit of every successive purchaser of the parent estate ; because every successive purchaser of the parent estate enters with all the rights of the person with whom the Settlement was originally made, and, by the force of those rights, can put the holder of the oldest under-tenure to the proof.

He now came to the case of new under-tenures. This had been admitted by all who had taken any part in it, to be a question of great difficulty ; and certainly he, who had given a great deal of thought to it, was entirely of opinion that its difficulty had not been exaggerated. It had been under discussion for twelve years between persons who were of all the most competent to determine any such question. A project had been sent up by the Bengal Government in connection with it, which he, at one time, had strongly approved as being a great step in advance. It was that all under-tenures in an estate, without exception or inquiry, should be allowed to hold as good against an auction purchaser as they were against the former proprietor, as long as the parent estate should be saleable at a price that would cover the arrears of revenue due from it ; but that, as soon as the parent estate should fail to be saleable at such

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a price, it should be forfeited to Government, and the whole of the past settlement under-tenures should be annulled; whereupon Government should proceed to form a new settlement of the land.

Upon this plan, he would remark that the forfeiture could not be carried out, because whatever sum was offered at the sale for the estate, though it might be less than the amount due for revenue, was the due of the Zemindar, who would have a right to insist that it should be carried to his credit, and that the amount of the arrears payable by him should be reduced *pro tanto*. That, however, was not a substantial objection to the main feature of the plan. But there were other objections to the plan which he thought were substantial. In the first place, the plan did not profess to give complete security to under-tenants holding under honest titles at fair rents. It did not, therefore, profess to do what it ought certainly to be the object of the Legislature to do. The object of the Legislature ought to be to give security to the under-tenant with the view of encouraging him to lay out capital in the improvement of his land; and certainly so long as his tenure was liable to be taken from him for no default of his own, on the forfeiture of the parent estate, so long would he be discouraged from laying out his good money upon that land. The discouragement would, doubtless, be lessened by the adoption of the ingenious plan proposed by the Bengal Government; but it would by no means be removed altogether. For example, suppose that there were two talookdars, or holders of under-tenures, in one estate; one of whom having increased the value of his talook by a large expenditure of capital, had raised his rents to double their original amount; and the other, having allowed his talook to deteriorate, had reduced his rents by one-half; suppose that, in this state of things, the entire estate is put up for sale for arrears of revenue, and that no one comes forward to bid to the amount of the arrears:—the estate would thereupon be forfeited; the Government would enter into possession, and the Collector would make a ryotwarry settlement under Regulation VII of 1822. Now, the Collector would make a perfectly fair settlement for the land of the estate, for he would make it with reference to the assets of the estate as he should then find them; but he could not make, and could not pretend to make, a fair settlement for the talookdars. He could not pretend to ascertain how much money any one talookdar had spent upon his talook in the course of the last sixty years. He must fix the revenue of every beegah according to its existing value; and thus the consequence would be that the meritorious talookdar would be fined by an enhancement of his jumma for having improved the value of his share at his own expense, whilst the talookdar who had allowed the value of his land to deteriorate, would be rewarded by a reduction of his jumma. There was another objection to this plan, which he believed to be a sound one, and which he knew was felt strongly by the Zemindars themselves. If this measure were introduced, there was no doubt that it would open a door to fraud. There was no doubt that many Zemindars would create benamee and other talooks on their estates at inadequate rents, or would pretend to have created such talooks. Their estates might be purchased by persons in ignorance of the fraud, who would ultimately discover that they had bought a losing concern, or a bag of lawsuits; and the consequence of frequent bad bargains of this sort would be that the auction value of all Zemindarees, even of those in which no such frauds had been really committed, would be diminished. He had no doubt that such fictitious tenures would be created in many cases, and he believed that a general reduction of the value of Zemindaree property would be the consequence.

On the whole, therefore, he had come to the conclusion that this plan, which would be a half-measure at best, must be abandoned; and that the difficulties of the question must be fairly met in an endeavor to attain the object completely. He had been told on good authority, that two-thirds of the land in Bengal were held under talookdaree tenure. If so large, or anything like so large a proportion of land in this Presidency was held under that description of tenure, surely it was worth the while of this Council to make the tenure as secure as it was possible to make it. This is what he had attempted to do. He proposed that, when the holder of a new under-tenure—that is to say, of any tenure created since the Settlement—should apply for the registration of his tenure, the Collector should immediately cause the talook to be measured and surveyed, at the expense of the talookdar; provided that, in the case of tenures created after the passing of the Act, no such application should be received unless it was submitted within one month from the date of the deed constituting the tenure. If the revenue authorities should be satisfied that the rent of the talook is fully sufficient to afford its share of the jumma of the estate, the tenure should be registered in complete

detail, and this registry should secure it in all time coming, whatever might become of the parent estate. It would be an easy thing after the survey of the talook, where the Revenue survey had been passed over a district, for the Collector to satisfy himself whether its rent were or were not such as would *pro tanto* risk the public revenue: for the Revenue survey showed the precise area of every entire estate: the only difficulty was, to get at the assets of the particular talook, and to ascertain approximately the value of the rent of the land of the entire estate, which last point, when the area is known, would not, he hoped, be very difficult for all practical purposes. He believed that the cost of a special survey of the talook would not be large. It would not exceed, he was led to suppose, 4 Rs. per 100 biggahs. A person, therefore, having a talook of 1,000 biggahs might have to pay 40 Rs. for a special survey; and if the talook was worth anything at all, it was surely worth that to secure the property for ever. Where the revenue survey had not passed over a district, the process would be more expensive, but this was unavoidable. When the rent of the talook was ample, it ought not to be very difficult, after the survey of the talook, to prove the fact to the satisfaction of the Revenue authorities.

He had now explained how he proposed to amend the sale law. He had given his best attention to the subject, but he did not pretend to have prepared anything like a perfect measure. He was sensible that his Bill would be found far otherwise. All he hoped was, that it might be found to be such as the united wisdom of the Council, with the aid which they would be sure to derive from the Revenue authorities, and from the public, might work up into a law which would completely carry out the important objects contemplated; these objects being the security of honest titles, and the general encouragement of agricultural improvement.

The Bill was read a first time.

BILLS OF EXCHANGE, &c.

SIR JAMES COLVILE moved the first reading of a Bill "to facilitate the remedies on Bills of exchange, Hoondies, and Promissory Notes by the prevention of frivolous or fictitious defences to actions thereon in Her Majesty's Supreme Courts." He said, the subject to which this Bill related was one of very secondary importance to that which had just been so ably discussed by the Honorable Member to his right. The Bill, however, was one which he was anxious that the Council should adopt. Its object was, to extend to Her Majesty's Courts in British India, with some slight modification, the provisions of a Statute passed in the last session of Parliament,—the Statute 18 and 19 Vic. c. 67. That measure appeared to have been the result of a compromise between Lord Brougham and certain other law Reformers. Both parties desired to check the use of false and frivolous defences to actions upon negotiable instruments for the mere purpose of gaining time. But they differed as to the mode of doing this; and, their respective Bills having been referred to a Select Committee, the Statute in question was ultimately passed. The mischief complained of, and which it was the object of this Bill to remedy, was certainly of as frequent occurrence in this country as it was in England, not of course absolutely, but in proportion to the number of transactions of that kind to the amount of negotiable papers current in the two countries. In the Court in which he had the honor to sit, there was rarely a Term or Sitting in which he did not find on the Cause Board some four, or five, or six cases in which persons, sued on their Bills of Exchange or Promissory Notes, put forward, for the mere purpose of gaining time, pleas denying the making or endorsing of the instruments. The effect of such pleas was that the plaintiff was necessarily put to the proof of his claim, and, though the defendant was pretty sure not to appear when the case came on for trial, was carried through all the stages of a regular action at the cost of some three hundred rupees. That sum, of course, went to swell the amount of the debt if the defendant was solvent, or if he was insolvent, which was the more probable event, to increase the loss of the creditor.

He believed it had been thought by some that the Statute in England was somewhat too summary; and he had introduced some few modifications into the Bill before the Council —modifications which were requisite partly because, by reason of the limited jurisdiction of the Supreme Courts, it was necessary to provide that the remedy given should be used against such persons only as were subject to that jurisdiction: and partly because it was expedient to take care that the remedy should not be used as the means of enforcing false and fraudulent demands. The latter was a risk against which, he feared he must admit, it was more necessary to provide in this country than it was in England. The adoption of the English Statute had been felt to be necessary not only in this Presidency, but it

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had recently been very strongly pressed on his attention by the learned Chief Justice of Madras, where the evil against which the Statute was directed was found also to exist.

He did not think it necessary to go at any length into the provisions of the Bill. With a few modifications, they were the same as the provisions of the Statute 18 and 19 Vic. c. 67.

He had, however, felt considerable doubt whether, instead of adopting the machinery of the English Statute, it might not be more expedient to adopt a course more nearly resembling that recommended by the Indian Law Commissioners in their recent Report as that to be followed in every action. The principle of the English Statute was to enable the plaintiff to obtain a writ of summons calling, if he pleased, on all the parties to the Bill on which he sued to obtain from a Judge leave to appear, and to appear to the action within a limited time. The defendants could not enter an appearance without the leave of the Judge first obtained, and an affidavit showing that they had a reasonable ground of defence; and if they did not obtain leave to appear, and did not enter an appearance, within the time fixed, the plaintiff was entitled to enter upon judgment. But both the proceedings of the plaintiff in suing out his writ and obtaining his judgment, and the proceedings of the defendant in obtaining a Judge's leave to appear, were to be taken *ex parte*. His doubt was whether it might not be better to bring the parties on a fixed day before the Judge. But, upon the whole, he considered that that course was less desirable than the one provided by the English Statute. It was not unlikely that, on bringing the parties together before the Judge in the first instance, there might be a contest carried on at a considerable expense, and thus, in cases which were ultimately defended, there would be almost the costs of a double trial. Therefore, while the general procedure of the Courts remained unaltered, he preferred to follow the system provided by the English Statute.

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

The Bill was read a first time accordingly.

ARTICLES OF WAR (NATIVE ARMY).

GENERAL LOW postponed his motion for the first reading of a Bill "to amend the articles of War for the Native Army relating to the forfeiture of pay and service in certain cases."

DAMUN-I-KOH AND OTHER DISTRICTS.

MR. PEACOCK moved the second reading of the Bill "to remove from the operation of the general Laws and Regulations certain Districts inhabited by Sonthals and others, and to place the same under the superintendence of an Officer to be specially appointed for that purpose."

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

SUPPRESSION OF REBELLION IN BEERBHOOM, &c.

MR. PEACOCK moved the second reading of the Bill "to provide for the trial and punishment of rebellion and other offences committed within certain Districts in which Martial Law has lately been proclaimed."

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

OFFENCES AGAINST THE STATE.

MR. PEACOCK moved the second reading of the Bill "for the trial and punishment of offences against the State."

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

DAMUN-I-KOH AND OTHER DISTRICTS.

MR. PEACOCK moved that the Council resolve itself into a Committee on the Bill "to remove from the operation of the general Laws and Regulations certain Districts inhabited by Sonthals and others, and to place the same under the superintendence of an Officer to be specially appointed for that purpose,"—the Standing Orders having been suspended with respect to it.

Agreed to.

Section 1 Clause 1, after stating what districts should be taken out of the general Regulations, provided that the Act should not affect, among certain other specified matters, "any Law relating to the recovery of Revenue."

MR. PEACOCK said, it had been suggested to him by Mr. Currie, (who, he regretted to say, was unable to attend to-day) that the language of the Section would be clearer, if for the word "revenue," the words "permanently settled land revenue" were substituted. He begged to move that the amendment suggested, be adopted.

Agreed to.

Clause 2 was carried as it stood; and the Section, as amended, was passed.

Section II was passed after an amendment similar to that inserted in Clause 1 of Section I.

MR. PEACOCK then moved, also at the suggestion of Mr. Currie, that the following proviso be added to the Section:—

"Provided also that all permanently-settled land Revenue be collected in the same manner as if this Act had not been passed."

The proviso was agreed to, and the Section, as amended, was passed.

Section III was passed as it stood.

Section IV provided that all sentences in criminal cases which shall be passed by the officer appointed, shall be final: provided that no sentence of death passed by any such officer shall be carried into effect until it shall have been confirmed by the Sudder Court.

MR. ALLEN said, he objected to the unrestricted power here given. By the latter portion of the Section, the Lieutenant Governor of Bengal might, indeed, direct the officer to refer to the Sudder Court any class of criminal trials; but the officers appointed under it might have unrestricted power of sentencing offenders to transportation for life, or to imprisonment with hard labour for 14 years, if it so pleased the Lieutenant Governor. Now, in none of the non-Regulation provinces, except the province of Mysore, was this power exercised by the officers entrusted with the administration of criminal justice within them; and even in Mysore, the larger powers were exercised by an officer not of first jurisdiction, but of second or appellate jurisdiction. He did not know what class of officers were to be appointed under this Act, or what it was intended their salaries should be; but he perceived that Section II of the Bill, which vested the administration of civil and criminal justice in the officer or officers to be so appointed, limited the civil jurisdiction to 1,000 Rupees. He therefore presumed that the officer would not be an experienced man, since the limit of his civil jurisdiction was that of a very subordinate civil officer. Now, was it right, when taking so much care of the civil rights of the inhabitants of these provinces, to take so little care of their personal liberty? The special reason which had induced him to agree to this law was, that he thought the accounts received from the disturbed districts showed that one great cause of the insurrection was the inappropriateness of our civil law to this barbarous people. In that particular, the Bill limited the jurisdiction to 1,000 Rupees; but in criminal cases, it gave a jurisdiction extending to every degree of punishment short of death. He thought that it would be better if the proviso at the end of the Section was so altered as to run thus:—

"Provided that no sentence passed by such officer for imprisonment for a term exceeding three years, shall be carried into effect, unless it has been affirmed by the Sessions Judge."

He did not press the adoption of the particular words of his amendment; but he did think that some words taking away the unlimited power of transportation and imprisonment which was given by the Section in its present form, ought to be introduced.

MR. PEACOCK said, the Honorable Member had called attention to the fact that the 2nd Section of the Bill, which gave a civil and criminal jurisdiction, limited the civil jurisdiction to 1,000 Rupees. The reason for that limitation was that, among the class of persons on whose account principally it was intended to take the disturbed districts out of the general Regulations, no civil suit could by any chance arise involving more than 1,000 Rupees. Therefore it was that the Section provided that all civil suits in which the matter in dispute should exceed the value of 1,000 Rupees should be tried and determined according to the general Laws and Regulations, in the same manner as if the Act had not been passed. But with respect to criminal trials, the object of the Lieutenant Governor was to appoint a Commissioner who should be in relation to the district officer what the Commissioner of Chota Nagpore was to the district officers of that Agency or Commissionership. The Honorable Member would not allow the Commissioner to have the same power as the Sessions Judge. He would refer all sentences under the Act awarding a greater degree of punishment than imprisonment for three years, to the Sessions Judge for sanction. He (Mr. Peacock) understood that the intention was to appoint a district officer or officers who should be under the control of a Commissioner; and the object of the Bill was to make the decisions of the Commissioner final except in capital cases, subject to such appeals to the Sudder Court as the Lieutenant Governor might think fit to give. Now, that being the intention, he thought that the Council might fairly assume that the Executive Government would take care that the person appointed to the office of Commissioner would be competent to the discharge of the duties of the office. The

question was, would it be expedient to allow generally an appeal from the Commissioner to the Sudder Court in cases in which the punishment awarded should exceed three years' imprisonment. One great object of this special measure was to get rid of the delay consequent upon references and appeals to the Sudder Court. Under the 4th Section, no sentence of death could be carried into execution, even if passed by the Commissioner, until it should be confirmed by the Sudder Court; and the latter part of the Section provided that

"it shall be lawful for the said Lieutenant Governor to direct that an appeal shall lie in any class of civil suits or criminal trials from any officer appointed under this Act" (that is, the district officer) "to any other officer appointed under the same" (that is, the Commissioner), "and also to direct the officer or officers appointed under this Act, to refer to the Sudder Court for sentence any class of criminal trials."

Thus, there was to be a district officer, who would be subject to the control of a superior officer, and that superior officer would be subject to the control of the Sudder Court, in the case of sentences of death, or of sentences in any particular class of criminal trials which the Lieutenant Governor might direct.

MR. GRANT asked if the law provided that there should be a district officer under a controlling officer? If it did, he thought the objection urged against the Section would be taken away. But he did not see that it did. He thought it left it to the option of the Lieutenant Governor to appoint more than one officer, but did not make it binding on him to do so.

SIR JAMES COLVILE said, he objected strongly to the amendment proposed by the Honorable Member opposite. He thought there was no analogy between the limitation of the civil jurisdiction of these Courts, and the limitation of their criminal jurisdiction. If the limitation of the civil jurisdiction was merely one of value, he should have thought the Section providing it was defective; but he had from the first understood that Section in the sense in which it had just been explained by the Honorable and learned Mover of the Bill. He had understood it as intending to take out of the general Regulations merely those civil suits which presumably would arise among the particular class of persons for whom this special Act was designed. From all one could hear of the causes of this Sonthal insurrection, one must admit that the ordinary tribunal, both civil and criminal, in the districts inhabited by that race, had lamentably failed. The civil Courts had failed to satisfy the people that they did justice, from the natural incapacity of a barbarous community to understand the refinements and technicalities which prevail even in the Courts of the East India Company, and which must necessarily prevail more or less in all Courts in which a regular procedure and the system of appeals from one tribunal to another obtain. The criminal Courts had also failed, he believed for this reason—that there had not been that amount of European superintendence, and those facilities for bringing the Sonthals in direct communication with European officers, which, in such a case, were desirable. No doubt, it was expedient as a general rule to confer upon the natives of the country judicial appointments both civil and criminal; but the consideration which made this expedient as a general rule, wholly failed where we were employing the people of one race to administer Justice to the people of another, speaking a different language, and influenced by totally different feelings and habits. From all he had heard, he had come to the conclusion that the Sonthals had too much reason to complain of the extortions of the Police and subordinate ministers of justice; and of the difficulty which they experienced in bringing their grievances before what they called a Hakim or European officer. He, therefore, believed that what was required was a system which, with as much of European superintendence as could be given, would administer justice, both civil and criminal, in as simple and summary a way as possible; which should act in the spirit, without being bound by the letter of the Regulations; and which should be kept distinct and separate from the ordinary local Courts. The amendment proposed by the Honorable Member was, therefore, in his opinion, very objectionable; inasmuch as it would cause sentences passed under this Act to be reviewed by the Sessions Judge, who, from habit and from the ordinary course of his duties, would be apt to test their correctness by the strict letter of the Regulations; and thus had a direct tendency to mix up the Regulation and the non-Regulation systems. He (Sir James Colvile) would concede that no very young officer—perhaps that no officer exercising original jurisdiction, should have the power of passing without appeal such a sentence as that of imprisonment for life. But he certainly had never understood that it was intended, in passing this Act, to provide that all the powers which

it gave should be exercised by a single officer. On a liberal construction of Clause 2 of Section I, he thought it would be seen that the intention was to appoint a certain number of officers, who should be subject to the control of a superior officer; and the superior officer would probably be a gentleman of the same rank as a Commissioner, and therefore presumably as competent to control the subordinate officers as a gentleman of the Civil Service holding the rank of Sessions Judge. Perhaps, it would have been better if Clause 2 of Section I had indicated more clearly what the constitution was to be. He did not mean to blame the Honorable and learned Mover of the Bill because the Clause as it stood did not do this. There was an obvious necessity for getting the Bill speedily passed;-and it might be unadvisable to tie the hands of the Lieutenant Governor in regard to the number or nature of the appointments, since he might not, at this moment, be able to see how many officers would be required. If any amendment should be proposed to make the Bill more distinct upon this point, he should not oppose it; but to the amendment now proposed by the Honorable Member opposite, he entertained an insuperable objection.

MR. ELIOTT said, the Honorable Mover of the amendment was in error in saying that there was no precedent for dealing, under similar circumstances, with similar cases, in the manner proposed by this Bill. In Act XXIV of 1839 there was a provision precisely the same as the 4th Section of this Bill. The Act was designed for the suppression of disturbances in the districts of Ganjam and Vizagapatam, and the 4th Section provided as follows:—

"And it is hereby enacted that it shall be competent to the Governor in Council of Fort St George, by an order in Council, to prescribe such rules as he may deem proper for the guidance of such Agents, and of all the officers subordinate to their control and authority, and to determine to what extent the decision of the Agents in civil suits shall be final, and in what suits an appeal shall lie to the Sudder Adawlut, and to define the authority to be exercised by the Agents in criminal trials, and what cases he shall submit for the decision of the Fouzdaree Adawlut."

MR. ALLEN said, he was aware that the Law did authorize the Executive Government to prescribe the Rules according to which the decisions in civil and criminal matters within districts taken out of the general Regulations should be passed; but what he had meant to say was that, in point of fact, in no one non-Regulation Province was the Commissioner vested with such unlimited power over the liberty of the subject as this Bill proposed to give. This Bill, contrary to the practice in other cases, limited the jurisdiction in Civil suits to 1,000 Rupees, but authorized transportation for life or imprisonment with hard labor for 14 years in criminal trials. The wording of the Bill had this peculiarity—that it took more than ordinary care of the civil liability of the Sonthals, while it took no care of their personal liberty.

MR. LEGEYT said, in 1846 an Act was passed very similar to the one now proposed, under very similar circumstances, for the Province of Candeish and the Zillah Ahmednugger. The 3rd Section of that Act provided as follows:—

"That it shall be competent to the said Governor in Council, by an order in Council, to prescribe such rules as he may deem proper for the guidance of the Agent aforesaid."

That is to say, the officer in whom the administration of civil and criminal justice should be vested under the Act by the Governor of Bombay in Council—

"And of all the officers subordinate to his control and authority; and to determine to what extent the decision of the Agent in civil suits shall be final, and in what suits an appeal shall lie to the Sudder Dewanny Adawlut; and to define the authority to be exercised by the Agent in criminal trials, and what cases he shall submit to the decision of the Sudder Foujdaree Adawlut."

And then Section IV provided as follows:—

"That, upon the receipt of any criminal trials referred by the Agent under the rules which may be hereafter prescribed by the Governor in Council, the Sudder Foujdaree Adawlut shall proceed to pass a final judgment, or such other order as may, after mature consideration, seem to the Court requisite and proper, in the same manner as if the trial had been sent up in ordinary course from a Sessions Judge."

The amendment proposed by the Honorable Member opposite, that no sentence under the proposed Act awarding a greater degree of punishment than imprisonment for three years should be carried into effect unless it was confirmed by the Sessions Judge, would be an anomaly, because it would put things back to the position from which this special Act was intended to remove them. Act XI of 1846 had been found very beneficial in Bombay. Before the passing of that Act, disturbances were constantly taking place amongst the wild tribes inhabiting the province of Candeish and the Zillah of Ahmednuggur, who

resembled the Sonthals very much in their habits. The passing of the Act was proposed by the Revenue Authorities in Candeish; and since its introduction, there had been none of the disturbances or complaints which used formerly to harass the Government. With respect to the limitation of the civil jurisdiction under this Act to 1,000 Rupees, it would be found that, among the class for whom the Act was intended, no suits involving a sum so large as 1,000 Rupees ever occurred.

MR. PEACOCK said, the Council must assume that the Executive Government, in appointing the officer who should have the controlling power, would appoint one who was qualified for the duties of the office; they had the same security that the Executive Government would not appoint a young and inexperienced officer to discharge those duties as they had for the appointment of an experienced officer to the office of Sessions Judge. The Statute 33 Geo. III, c. 52 provided that offices of which the salaries exceeded certain specified amounts, should not be given to officers who had not been a certain number of years in the Service; but beyond that, there was nothing that required any particular degree of standing in the Service for particular appointments. Therefore, if the Act were to require that a Sessions or even a Sudder Judge should be the controlling officer under this Bill, the Council would have no greater security than the confidence which they must repose in the Executive Government that it would not appoint an incompetent Sudder or Sessions Judge. The Executive Government was responsible for every appointment which it made. In proposing that the civil and criminal jurisdiction under the Bill should be vested in an officer to be appointed by the Lieuteuant Governor, the Council was asked to place only the same reliance in this, as in other cases, upon the Executive Government for appointing an officer equal to the proper discharge of his duties. The Council could not point out in the Bill what the particular qualifications of the officer were to be; nor had any similar attempt been made in the whole of the Regulations existing in these Provinces. In none of the Acts under which districts had been taken out of the general Regulations, could he find any provision prescribing the standing, age, or salary of the officer to be appointed under it.

For these reasons, he could not agree to the amendment proposed by the Honorable Member to his left, and should vote that the Clause be passed as it stood.

MR. ALLEN'S amendment was negatived, and the Clause in the Bill was passed as it stood.

Clause 2 of Section IV provided that, upon any reference of a criminal trial under Clause 1, the Sudder Court should proceed to dispose of it

"in the same manner, with the exception of submitting the proceedings for a futwa, as if the trial had been referred in the ordinary course by a Sessions Judge."

MR. PEACOCK moved that the words "with the exception of submitting the proceedings for a futwa" be omitted from the Clause. He said, he moved this amendment at the suggestion of his Honorable friend Mr. Currie. Mr. Currie said that it was not the practice of the Sudder Court, in cases referred to it, to take the futwa of the Law Officer. By a former Regulation the Court was required to do so; but by Regulation VI of 1832, it was provided that the Court should have the option to do so or not; and the practice now adopted was not to take a futwa. Still, the Court had the power to call for a futwa, and the object of this Bill was to take away that power, as the cases that would be referred under it would not be of a class in which futwas would be necessary. Mr. Currie did not propose that the Court should be bound, or that it should have the option, to take futwas in cases arising under the Bill, as he (Mr. Peacock) understood the suggestion. Mr. Currie only thought that the clause, as it was now worded, might imply that it was the practice of the Court to take futwas when cases were referred to it. He (Mr. Peacock) did not think that the point was very material; but as the amendment suggested would not alter the substance of the clause, he should move it.

The motion was carried, and the Clause, so amended, was passed.

The remaining Sections of the Bill were carried as they stood.

The Schedule, describing the districts to be removed from the operation of the general Regulations, was then proposed.

MR. PEACOCK said, the Schedule had been prepared originally in the Secretary's office of the Lieutenant Governor of Bengal; but it was forwarded to him with an intimation that it might be necessary to amend it after consulting the officers of the different districts. He had since received a letter from Mr. Grey, suggesting certain alterations, which he should move *seriatim*.

The amendments were severally put and

carried, and the Schedule so amended, was passed.

The Preamble and Title were severally passed as they stood.

TRIAL AND PUNISHMENT OF REBELLION IN BEERBHOOM, &c.

MR. PEACOCK moved that the Council resolve itself into a Committee on the Bill "to provide for the trial and punishment of rebellion and other offences committed within certain districts in which Martial Law has lately been proclaimed."

Agreed to.

Section I was passed after verbal amendments in Clause 1.

Sections II, III, and IV were severally passed.

Section V provided that persons convicted of treason or rebellion within the proclaimed districts after the passing of this Act, should be liable to the punishment of death, or transportation for life, or of imprisonment and hard labor for a term not exceeding 14 years.

MR. ALLEN said, he wished to omit this Section altogether. He did not rest his objection to it on the ground that he thought rebellion when accompanied with murder or other capital crime should not be punished with death, but on the ground that he did not think it right *hurriedly* to make an offence capital which had not hitherto been capital. In a celebrated speech by Sir James Mackintosh on the criminal Law of England, that enlightened man had held up to the reprobation of the world the facility with which Parliaments had made offences capital at the wish of any proposer. In the course of his speech, he mentioned this anecdote. Mr. Burke was once leaving the House of Commons, when the whipper-in hastened up and begged him to return. Mr. Burke said he could not, as he was required by urgent business to be elsewhere; on which the whipper-in replied—"Oh! it will not keep you a single moment: it is only to create a felony without benefit of Clergy!"

Was it necessary to pass so hurriedly the measure proposed by this Bill? Already, persons guilty of treason or rebellion were punishable with tranportation for life, or with imprisonment and hard labor for a term not exceeding 14 years; and if their offence had been accompanied with murder, they were punishable with death. It might be said that this Bill applied only to one district; but if the Legislature should pass the measure for one district, it would be bound to pass a similar measure for every other district in India. If this Bill was passed, he did not believe that the Lieutenant Governor would ever sanction the execution of a Sonthal rebel who had not committed murder. He believed it was as impossible to execute at the present day an ignorant Sonthal whose acts of treason had not been accompanied with murder, as it was found impossible six years ago to execute the educated Smith O'Brien. Smith O'Brien declined to accept any mitigation of his punishment: nevertheless, the public feeling was so strong against execution where no murder had been committed, that a special Act was brought in, declaring that Her Majesty might substitute transportation for capital punishment. Did any one now regret that Smith O'Brien was not executed? The passing of the present Bill would be the passing of almost an *ex post facto* Law; for it was not possible that any of the rude people for whom the measure was proposed should know that they would be liable to the punishment of death for acts of treason or rebellion, committed after the day on which the Act might be published in the *Gazette*; for be it remembered that the Bill had not been published for general information. On the whole, therefore, he thought it right to vote against the insertion of this Section.

MR. PEACOCK said, the Hononable Member had used no argument to show that rebellion and treason ought not to be made punishable with death. The Honorable Member complained that the Council was "hurriedly" about to authorize capital punishment for such offences. He (Mr. Peacock) thought that one week was ample time to enable every Honorable Member to make up his mind whether rebellion and treason should be punishable or not, with death in the disturbed districts of Bengal, as they were punishable in the other Presidencies. In Bombay, there was a definition of treason which included the offences contemplated by this Bill, and these were punishable in that Presidency with death. In Madras, under Regulation I of 1834, all persons guilty of treason or rebellion were also punishable with death, whether they were convicted by the ordinary Courts of Judicature or before a Special Commission appointed under Regulation XX of 1802 of the Madras Code. In Bengal, persons guilty of treason or rebellion were punishable with death in districts in which Martial Law was proclaimed, provided they were taken in the actual com-

mission of the act, and were convicted by a Court Martial; but if they were convicted by any of the ordinary Courts of criminal judicature, they were not punishable with death. The question, therefore, was simply this:—should a person guilty of the offence of treason or rebellion, who would be liable to the punishment of death in the Presidency of Madras or Bombay, even if convicted by the ordinary Courts of Justice, be in Bengal liable to the same punishment only when he was convicted in a proclaimed district by a Court Martial, and not when he was convicted by one of the ordinary Courts of Justice? If the Hon'ble Mover of the amendment had contended that treason or rebellion ought not to be punished with death under any circumstances, he could have understood him; but when he argued that a week was not sufficient time to enable the Council to determine whether treason or rebellion should be made subject to that punishment or not, he (Mr. Peacock) could not feel the force of the objection. At present, the districts in question were under Martial Law. He did not know how long it would be necessary to keep them under it: he hoped it would not be long: but directly they were relieved from that law, the crime of rebellion committed within them would not be punishable with death. Would the Honorable Mover of the amendment render it necessary to retain the district under Martial Law merely for the purpose of subjecting rebellion to the punishment of death? For his (Mr. Peacock's) part, he saw no reason why, if a man was subject to the punishment of death for treason or rebellion when he was convicted by a Court Martial, he should not be subject to the same punishment when he was convicted by an ordinary Court of Justice. The Section provided that all persons who, after the promulgation of the Act, shall be guilty of treason or rebellion within the district, shall be liable, upon conviction either before the ordinary criminal Courts of competent jurisdiction, or before a Court held under the provisions of Act No. V of 1841, or of this Act, to the punishment of death, or to transportation for life, or to imprisonment with hard labor, not commutable to fine, for any term not exceeding fourteen years; and shall forfeit all their property and effects of every description. Upon conviction of rebellion by a Court Martial under Regulation X of 1804, sentence of death must be passed upon the offender; but by Section V of this Bill, the offender might be sentenced to death, or to transportation for life, or to imprisonment with hard labor for a term not exceeding 14 years; and by Section XIV the Lieutenant Governor was empowered to commute any sentence of death for either of the secondary degrees of punishment.

For his own part, he had had ample time to make up his mind on this question, and was prepared to vote for the Section as it stood. If any Honorable Member could show that it was wrong to make treason and rebellion liable to the punishment of death, he (Mr. Peacock) was open to conviction; but he certainly thought that there was no ground for the objection that the Council, if it passed the Section in question, would be acting "hurriedly" in making those offences capital.

SIR JAMES COLVILE said, the Honorable Member for the North-Western Provinces had invoked the authority of very great names in support of his amendment; but he could not satisfy himself that the authority had much bearing on the case. He could not satisfy himself that either Sir James Mackintosh or Mr. Burke, however reasonably they might have been moved to indignation by the practice of lightly affixing the punishment of death to trivial offences, would have required time to make up their minds on the question now before the Council. The Honorable Member was in error in saying that the 5th Section would introduce an *ex post facto* law; because that and the subsequent Section clearly distinguished between treasonable offences committed after the promulgation of the Act, and treasonable offences committed before the promulgation of the Act. Section VI would leave offenders of the latter class punishable as now, and under the law at present in force, by transportation for life, or by imprisonment with hard labor for any term not exceeding fourteen years. Section V would make any future offenders punishable capitally. When it was brought to his attention in what an anomalous state the law of treason and offences against the State according to the Regulations was, he required scarcely an hour to make up his mind that those anomalies ought to be removed, and the occurrence of such a case as he was about to put be made impossible. He would suppose that the Sonthal rebellion, which he hoped was now almost extinguished, again broke out. Such an event was possible, if it was not probable. He would suppose that the second rebellion was instigated and directed by a person distinguished from the mass of his race by a somewhat greater degree of knowledge, or a more acute

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intellect, and consequently possessing power and influence over his more ignorant fellow-countrymen. If the law were left unaltered, then, if this person, this leader of the people, were to contrive to keep himself so far aloof from the commission of any particular murder that his actual participation in it could not be proved against him, and he were not taken in arms, or in the very act of abetting the rebellion,—he, the moving mind, would, even though Martial Law were again proclaimed, escape with a secondary punishment; whilst the ignorant wretches whom he had misled would, if taken in arms, have to answer for the crimes committed at his instigation with their lives. Now, he could not think that that was a just and proper state of things; nor was there any sound reason for saying why there should not be the same punishment in this country for proved acts of treason or rebellion as there was in almost every other country in the world. No doubt, there should be a power of commutation in the Executive Government; but it was impossible not to see that there might be some cases in which the soundest and most humane policy would require capital punishment to be enforced. He could see no necessity for delaying the introduction into the disturbed districts of that wholesome change of the law which in three months would, he hoped, under the Bill which had that day been read for the second time, become general.

The Section was then put, and carried by a majority.

Sections VI, VII, and VIII were passed as they stood.

Section IX provided that the Lieutenant Governor may, whenever he deems it necessary for the public safety, issue a proclamation, prohibiting any person, or any specified class of persons, to carry or have in their possession any arms or instruments used for warlike purposes.

MR. ALLEN said, at the risk of being considered captious, he must say that he objected to this Section. So far as we had any knowledge on the subject, the arms in use amongst the Sonthals were bows and arrows, and hatchets. The bow and arrows were necessary to the men for their preservation from the wild beasts of the jungles; their hatchets were necessary to them for the cutting of wood with which to build their huts. Act XXIV of 1854 was to a certain extent, a precedent for the Section now before the Council; but that Act had been passed under circumstances which were very different, and was much more limited in its operation. It prohibited the use by the Moplahs of one particular weapon, which was used by that people as a war-knife, and not for purposes of self-preservation. The Moplahs, too, were a very different race from the Sonthals. They set at nought the native police and the native soldiers of the country when excited, and it had generally been found necessary to send European troops to quell them. The Sonthals, on the other hand, were the most cowardly race in Asia. Tens of native soldiers had put to flight thousands of Sonthals. The only other precedent that he was aware of was the proclamation disarming the inhabitants of the Punjaub. But if the Sonthals would not bear a comparison with the Moplahs, much less could they do so with the stalwart Seikhs of the Punjaub. The Seikhs were the most warlike nation of Asia. They had driven the Rajpoots, the military caste of India, from the plains to the hills; they had conquered Peshawur from the Afghans; and we might as well compare the battle of Chillianwallah with the affair in which poor Toulmin had been killed, as compare the Seikhs with the Sonthals. He should therefore vote against the insertion of the disarming clauses of the Bill, as being unnecessary and inexpedient.

MR. PEACOCK said, the Hon'ble Member had observed that, as far as we had any knowledge on the subject, the only arms in use amongst these miserable savages were bows and arrows, and hatchets. But we had also this knowledge, that, with such arms, these people had committed in our villages the most cruel and barbarous murders; and those who were most competent to form an opinion on the subject were of opinion that the use of arms by them ought not to be permitted. The effect of this clause would not be to prevent the use of any arms whatever by the inhabitants of the proclaimed districts; but merely that, whenever the Lieutenant Governor considered it necessary for the public safety, he might issue a proclamation, prohibiting all persons, or any specified class of persons, to carry or have in their possession any arms or instruments used for warlike purposes. It was necessary to give some discretion to the Lieutenant Governor in this matter, for the Council could not specify in this Act what particular arms should not be carried or what particular persons or particular classes of persons should be prohibited to carry them. We knew that helpless and unoffending women and innocent children had been

massacred in our villages: he had seen a a letter from General Lloyd urging that the Sonthals should be disarmed: and he thought that the Government was bound to take care, as far as it could, that such barbarous murders as had recently been committed by the people of this tribe should not be committed again; and that, therefore, it was right to vest in the Lieutenant Governor the power conferred by the 9th Section of the Bill.

The Section was then put, and carried by a majority.

Section X was passed, after a slight verbal amendment.

SIR JAMES COLVILE here suggested the addition of another Section to the Bill. He said his Hon'ble and learned friend opposite (Mr. Peacock) would believe he made the suggestion in no spirit of hostility to this measure, which, he had already intimated, he considered was amply justified by circumstances. But it had occurred to him that this Act, being a suspension of the general law, should by analogy to what had been done in like cases, be passed only for a limited period. He thought there could be no necessity for this Act so soon as the general Bill for the trial and punishment of offences against the State should have become law even though the disturbances in the particular districts to which this Act related should then continue; since all the powers which were given by this Bill to the Lieutenant Governor of Bengal either for the punishment or for the prevention of offences against the State, were substantially included in the other Bill, and might thereunder be again called into action as occasion required. He begged, therefore, to suggest to his Hon'ble and learned friend the propriety of limiting the operation of this Act in point of time; and, with that view, he would move the insertion of a Section providing that the Act should not continue to be in force after the 31st of December 1858. That would be in accordance with the course taken in the first Moplah Act, and with the practice which, he believed, was always followed at home on the passing of what were called Coercion Acts.

MR. PEACOCK said, he thought it very right that the Section proposed by the Hon'ble and learned Chief Justice should be added to the Bill. There was no doubt that the Bill "for the trial and punishment of offences against the State" would come into operation long before the 31st of December 1858; and then the present Bill, which was intended only as a temporary measure, would not be necessary.

SIR JAMES COLVILE then moved that the following new Section be added to the Bill, namely—

"The provisions of this Act shall continue in force until the 31st day of December 1858."

Agreed to.

The Preamble and Title were severally agreed to.

The Council having resumed its sitting, the Bills which had passed through Committee were reported with amendments.

MR. PEACOCK moved that these Bills be now read a third time and passed.

The motions were carried, and the Bills were severally read a third time accordingly.

MR. PEACOCK then moved that Mr. Grant be requested to carry the Bills to the Most Noble the Governor General for his assent.

Agreed to.

OBSCENE PUBLICATIONS.

MR. ALLEN moved that the Bill "to prevent the sale or exposure of obscene books and pictures" be now read a third time and passed.

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

MR. ALLEN moved that Mr. Peacock be requested to carry the above Bill to the Most Noble the Governor General for his assent.

Agreed to.

ORIENTAL GAS COMPANY.

MR. CURRIE being absent, the motion (which stood in the Orders of this Day) for a Committee of the whole Council on the Bill "for incorporating the Oriental Gas Company" was postponed.

NOTICE OF MOTION.

SIR JAMES COLVILE gave notice that he would, on Saturday the 19th of January next, move the second reading of the Bill "to facilitate the remedies on Bills of Exchange, Hoondies, and Promissory Notes by the prevention of frivolous or fictitious defences to actions thereon in Her Majesty's Supreme Courts."

OFFENCES AGAINST THE STATE.

MR. PEACOCK moved that the Bill "for the trial and punishment of offences against the State" be referred to a Select Committee consisting of Mr. Allen, Sir Arthur Buller, and the Mover.

Agreed to.

MESSAGES.

THE PRESIDENT announced that the Governor General had signified his assent to the Bills taken by Mr. Grant.

ADJOURNMENT OF COUNCIL.

The Council then adjourned until Saturday the 19th proximo, on the motion of Sir James Colvile.

END OF VOL. I.

APPENDIX.

STANDING ORDER, ADOPTED BY THE COUNCIL ON THE 15TH DECEMBER 1855, FOR THE ASSIGNMENT OF SEATS IN THE COUNCIL CHAMBER TO THE SEVERAL MEMBERS, ACCORDING TO PRECEDENCE.

Seats of Members in the Council Chamber.

CXXXV. A seat is appropriated to each Member. The first chair on the right hand of the President shall be appropriated to the Chief Justice, and the first chair on the left hand of the President shall be appropriated to the Commander-iu-Chief in India when a Member of Council, except when there is a President of the Council of India, not being the Vice-President of the Legislative Council; in which case the first chair on the right hand of the President shall be appropriated to the President of the Council of India. the first chair on the left hand of the President to the Chief Justice, when not Vice-President of the Legislative Council; and the second chair on the right hand of the President to the Commander in-Chief when not Vice-President. The remaining chairs, in the order indicated above, shall be appropriated to the ordinary Members of the Council of India, according to their position therein, and after them to the Legislative Councillors, according to priority of appointment.

ERRATA TO THE INDEX.

Under the head of "CATTLE TRESPASS," add—
Mr. LeGoyt added to Select Committee, ... 849

Under the head of "CLERK OF COUNCIL," add—
To inform Subbaputty Pillay that his Petition cannot be entertained, ... 198

Under the head of "DIVISIONS OF THE COUNCIL," add—
On motion for third reading of Straits Copper Currency Bill, ... 327

Under the head of "POINTS OF ORDER," add—
Subbaputty Pillay's Petition, ... 184

Under the head of "SUSPENSION OF STANDING ORDERS," add—
" " ——— 802

Under the head of "POSTPONED MOTIONS, ORDERS, &c."
For "Compensation for Accidental Death's Bill" in the 4th line of page 915, read "Administrator's Bill."

Under the head of "RE-COMMITTALS," add—
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Under the head of "REPORTS BY THE CLERK"—
For "*Bombay* Government's communication" in the 4th last entry (page 918), read "*Bengal* Government's communication."

Under the head of "SALT SEARCH BILL (N. W. P.)," add—
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