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ABSTRACT OF THE PROCEEDINGS

OF

THE COUNCIL OF THE GOVERNOR GENERAL OF INDIA,

ASSEMBLED FOR THE PURPOSE OF MAKING

LAWS AND REGULATIONS,

1896,

WITH INDEX.

VOLUME XXXV.

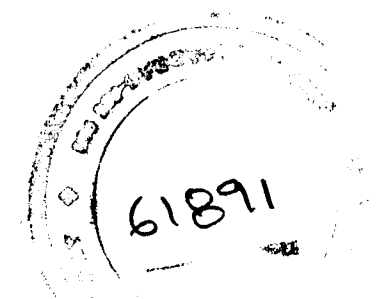
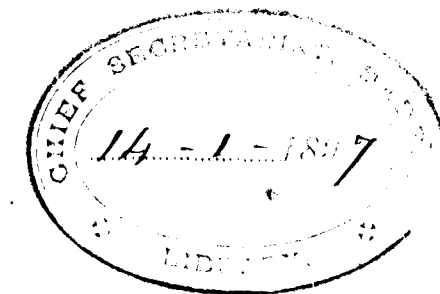


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2 **AMENDMENT OF INDIAN PORTS ACT, 1889; INLAND BONDED WAREHOUSES AND SALT BONDING; AMENDMENT OF FOREIGN JURISDICTION AND EXTRADITION ACT, 1879.**

[*Sir James Westland; Sir Alexander Miller.*] [2ND JANUARY

INDIAN PORTS ACT, 1889, AMENDMENT BILL.

The Hon'ble SIR JAMES WESTLAND moved that the Bill to amend the Indian Ports Act, 1889, be referred to a Select Committee. He said:—"This Bill was introduced on the 21st February 1895. It was referred in the usual course to the Maritime Governments and the papers have now all been collected. The object of the Bill is the provision of certain protection for seamen during the stay of ships in Indian ports. The Select Committee which I propose consists of the Hon'ble Sir Alexander Miller, the Hon'ble Dr. Lethbridge, the Hon'ble Mr. Glendinning, the Hon'ble Mr. Playfair, and myself."

The motion was put and agreed to.

INLAND BONDED WAREHOUSES AND SALT BONDING BILL.

The Hon'ble SIR JAMES WESTLAND moved that the Bill to provide for the establishment of bonded warehouses at places other than customs-ports and to afford facilities for the bonding of salt in such warehouses be referred to a Select Committee consisting of the Hon'ble Sir Alexander Miller, the Hon'ble Sir Charles Pritchard, the Hon'ble Mr. Stevens, the Hon'ble Mr. Playfair and the Mover. He said:—"This Bill was introduced on the 14th March last, and the papers were referred at that time to the various Governments. They have since been collected, and they are now ready for discussion by the Select Committee."

The motion was put and agreed to.

FOREIGN JURISDICTION AND EXTRADITION ACT, 1879, AMENDMENT BILL.

The Hon'ble SIR ALEXANDER MILLER moved that the Bill to amend the Foreign Jurisdiction and Extradition Act, 1879, be referred to a Select Committee consisting of the Hon'ble Lieutenant-General Sir Henry Brackenbury, the Hon'ble A. S. Lethbridge, the Hon'ble Prince Sir Jahan Kadr Meerza, the Hon'ble Sir Griffith Evans, the Hon'ble J. D. Rees, the Hon'ble Nawab Amiruddin Ahmad Khan and the Mover. He said:—"It will be noticed that I have added two names to my motion which are not to be found on the notice paper, the reason being that since I gave notice of this motion a file reached me whereby it appears that it is proposed to introduce by way of amendment into this Bill certain amendments of the Act as affecting

3 **AMENDMENT OF FOREIGN JURISDICTION AND EXTRADITION ACT, 1879; AMENDMENT OF INDIAN PENAL CODE; AMENDMENT OF LEGAL PRACTITIONERS ACT, 1879.**

1896.] [*Sir Alexander Miller; Sir James Westland.*]

thagi and dakaiti, and, under these circumstances, I have thought it desirable that Dr. Lethbridge, who, as we all know, has more authority in the matter of thagi and dakaiti than any other man in India, and Mr. Rees, who has had a great deal of experience of the same kind in Southern India, should be added to the Select Committee on the Bill for the purpose of getting the benefit of their assistance."

The motion was put and agreed to.

INDIAN PENAL CODE AMENDMENT BILL.

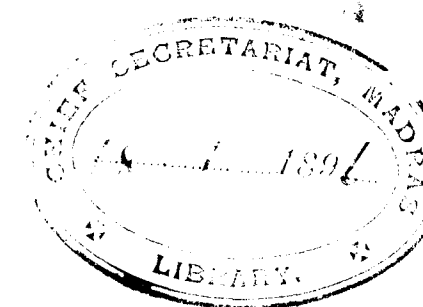
The Hon'ble SIR JAMES WESTLAND moved that the Bill to amend the Indian Penal Code be referred to a Select Committee consisting of the Hon'ble Sir Alexander Miller, the Hon'ble Mr. Woodburn, the Hon'ble Babu Mohiny Mohun Roy, the Hon'ble Mr. Mehta and the Mover. He said:—"This Bill was introduced during the Simla session. Its object is to extend the provisions of the Penal Code which relate to counterfeiting coinage to a class of coin as to which it is at least doubtful whether it is included in the definition as it stands, but in respect of which the same kind of fraud may be committed by counterfeiting as may be committed in respect of the ordinary current rupees."

The motion was put and agreed to.

LEGAL PRACTITIONERS ACT, 1879, AMENDMENT BILL.

The Hon'ble SIR ALEXANDER MILLER moved that the Bill to amend the Legal Practitioners Act, 1879, be referred to a Select Committee consisting of the Hon'ble Mr. Woodburn, the Hon'ble Babu Mohiny Mohun Roy, the Hon'ble Sir Griffith Evans, the Hon'ble Mr. Mehta and the Mover. He said:—"It is not usual to go at any great length on this particular occasion into the details of a Bill before the Council, but, under the particular circumstances of this Bill, I shall be obliged to trouble the Council with a few observations. The Bill has been subjected to a good deal of criticism, parts of it more or less mutually destructive, but still there is some of it with regard to which I think it necessary to make some explanation.

"The first objection which seems to be pretty generally taken is that the Bill will not effect the object desired. I am afraid that, to a very great extent, that objection is sound. I do not expect myself that the particular evil which the Bill is aimed against can be destroyed by legislation, or in any other way



Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892 (24 & 25 Vict., cap. 67, and 55 & 56 Vict., cap. 14).

The Council met at Government House on Thursday, the 2nd January 1896.

PRESENT :

The Hon'ble Sir A. E. Miller, KT., C.S.I., Q.C., *presiding*.
His Honour the Lieutenant-Governor of Bengal, K.C.S.I.
His Excellency the Commander-in-Chief, G.C.I.E., K.C.B., V.C.
The Hon'ble Lieutenant-General Sir H. Brackenbury, K.C.B., K.C.S.I., R.A.
The Hon'ble Sir C. B. Pritchard, K.C.I.E., C.S.I.
The Hon'ble Sir J. Westland, K.C.S.I.
The Hon'ble J. Woodburn, C.S.I.
The Hon'ble Prince Sir Jahan Kadr Meerza Muhammad Wahid Ali Bahádur, K.C.I.E.
The Hon'ble Mohiny Mohun Roy.
The Hon'ble C. C. Stevens, C.S.I.
The Hon'ble A. S. Lethbridge, C.S.I., M.D.
The Hon'ble Sir G. H. P. Evans, K.C.I.E.
The Hon'ble Alan Cadell, C.S.I.
The Hon'ble J. D. Rees, C.I.E.
The Hon'ble G. P. Glendinning.
The Hon'ble Sir Lakshmishwar Singh, K.C.I.E., Mahárájá Bahádur of Durbhanga.
The Hon'ble P. Playfair, C.I.E.

NEW MEMBERS.

The Hon'ble SIR G. H. P. EVANS, the Hon'ble ALAN CADELL, the Hon'ble J. D. REES, the Hon'ble G. P. GLENDINNING, the Hon'ble SIR LAKSHMISHWAR SINGH, Mahárájá Bahádur of Durbhanga, and the Hon'ble P. PLAYFAIR took their seats as Additional Members of Council.

MERCHANT SHIPPING BILL.

The Hon'ble MR. CADELL moved that the Hon'ble Mr. Playfair be added to the Select Committee on the Bill to consolidate and amend certain Indian enactments relating to Merchant Shipping and the carriage of passengers by sea.

The motion was put and agreed to.

than by the education of the legal profession in India up to a higher standard of professional morality than it appears yet to have attained. At the same time I do consider that it is the duty of the Legislature to assist, as far as it reasonably can; and although the probability is that the Bill, if passed, will not have any great effect in the direction desired, still, if it does even moderately assist in that direction, I think it is the duty of the Legislature of this country to pass a measure calculated to have that effect.

“ The original proposition out of which this Bill has grown was one which, although not without precedent in India, struck me as being very far contrary to the usual principles on which such legislation is founded, because the proposal was to make the business of a litigation broker a criminal one, and to subject any man who carried on business as a law-tout, or legal broker, to fine and imprisonment. Now, the point of view I take of this matter is that the profession of a legal broker, if honestly conducted, is as honest a calling as the profession of a ship-broker, or estate agent, and I have not the slightest desire to interfere—although there is a clause in the existing Act which does interfere—with the conduct by such a broker of his business, which would be to go to a client who wanted to be recommended to a proper and efficient legal adviser, and tell the client, for a remuneration coming from the client, who would be a proper man for him to go to. But when you look at it from the other side of the question I consider that the giving of any commission or pecuniary inducement by a legal practitioner to a third person for the purpose of attracting business to himself is, though not precisely a crime against the law of the land, so decidedly improper and unprofessional conduct on the part of that legal practitioner that it is impossible to punish it too highly, so far as professional reprobation or suspension from practice may be considered as a punishment. Therefore, the Bill is entirely aimed, not at the punishment of the law-tout or broker at all, but at the prevention of the giving of any inducement to these law brokers, as I prefer to call them, to violate their duty to their employers, that is to say, the clients, by illegal bribes in the nature of commission given to them by legal practitioners. I am afraid there are some expressions in the Bill which are not sufficiently clear on that point, but I hope in Committee to make it perfectly clear that there is no offence whatever on the part either of the lay client or of the law broker—except of course in the case of fraudulent conduct on the part of the latter, which would be punishable under the ordinary law of fraud—in the law broker advising the lay client what practitioner he should go to; but the offence entirely consists in the legal practitioner accepting on any inducement emanating from him the services of such a broker, the position being exactly the same as

if a stock jobber were to give to a stock broker a secret commission to induce him to purchase on behalf of outside clients stocks above their market price, or which he knew not to be properly marketable. I admit that the Bill is not perhaps as clear on this point as it ought to be, but, as I have said, I hope in Committee to be able to set that right.

“The next point on which objection is taken is that it is said that the Bill entirely violates the ordinary principles of presumption of evidence, inasmuch as, in a certain case, it throws upon the pleader the duty of proving a negative; but if the thing comes really to be examined it will be seen that the negative which he is called upon to prove is one which he only could prove, and therefore it is not unreasonable that the duty should be thrown upon him; because all that the Bill says is this, that when it is already established that a particular person is a law broker, that is to say, a person who, for commission, or a part of the fees, introduces lay clients to practitioners, it shall be presumed, unless the contrary is proved, that the legal practitioner taking business from the law broker knew that he was such a person. If the business comes honestly and if there is no reason to suspect—I will not use the word ‘suspect,’ I withdraw it—if there is no reason to presume that any improper dealings in the shape of commission, or otherwise, have passed between the law broker and the legal practitioner, the fact that the man by whom the business is brought in is a law broker, will have done no harm; and all that the Bill does is, if there be a transaction between two parties, one of whom is a lawyer and the other is notoriously a law broker, to obviate the necessity of giving affirmative evidence that the lawyer knew him to be such. On the other hand, it is left open to the practitioner to prove that he did not know this, and I presume that if there was no evidence to the contrary his own oath would be sufficient, and I know of no other proof which could be so clearly directed to that particular point.

“The third objection of any consequence, which has been taken to this Bill, is one regarding which I admit there is a good deal to be said, and it is possible that it may be necessary to make some alteration or modification in the present provisions of the Bill, which I hope the skill of the Committee will enable them to reach. The objection is that at present the legal practitioners throughout the country can only be suspended or dismissed by the High Court. It is proposed in this Bill that, subject to an appeal to the High Court, the legal practitioners in the mufassal generally shall be subject to suspension or dismissal by the District Judges. The first observation I will make on that point is that the proposal comes from the High Court of Calcutta, which itself

[Sir Alexander Miller; Sir Griffith Evans.] [2ND JANUARY

may, I think, be taken as fairly representative of the interests both of the Bar and the public in this country, and it may be assumed that a proposal which comes backed with the authority of the Judges of the High Court is not one which (as it has been represented to be) is insiduously intended to take away the liberty of the legal practitioner. But beyond that I admit that there is a great deal to be said for the objection that this is applied only to one class of practitioners, and that the advocates and vakils of the High Court are not proposed to be subjected to the same power of the District Judges. As far as advocates are concerned, I do not see how an advocate enrolled in the High Court can possibly be disbarred or suspended by any other authority than that of the High Court on whose roll his name is found. As regards practitioners not on the roll of the High Court, it would seem on the same principle that they might *primâ facie* be removable by the Court under whose authority they were practising. That I believe to be the authority of the District Judges, and in the case of revenue agents the Commissioners, who now have the power of suspending them temporarily while sending the case up to the High Court; and after all the difference between that power and the power of suspending them, which is intended to be given by this Bill, does not appear to be very great. However, I admit that that is a question for consideration. It is a question which I myself should not have raised, but when proposed by so eminent an authority as the High Court of Calcutta, it was the duty of the Government in bringing this Bill forward at all to give weight to that proposal, and to put it forward for discussion and consideration by the Committee."

The Hon'ble SIR GRIFFITH EVANS said:—"I desire to make a very few remarks at this stage of the Bill. I share the apprehension of the Hon'ble Mover that the Bill will not be able to effect the object for which it is intended. But, although that seems to be so, it may be that amendments may be introduced in Select Committee which will make it more effectual for the purpose for which it is intended. At any rate, there is no doubt that the evil aimed against is one which, as the Hon'ble Mover has said, it is desirable to deal with as far as possible. It will be for the Council to say whether, after consideration in Select Committee, it is desirable to pass it, but I should wish to reserve to myself the right of dealing with the matter as may appear to me expedient after the discussion has taken place in the Select Committee. I say this, because it is usual, on the reference of a Bill to a Select Committee, to take it for granted that the principle of the Bill is accepted, and that merely the question of details has to be settled. It may be that in a Bill of this kind, if it is found on reconsideration in Committee that the difficulties

of turning out a working measure are insuperable, it might be necessary to drop it, though I hope that that will not be the case, and that it will be possible to pass it.

"There is one other remark which I wish to make. No doubt, as the Hon'ble Mover has said, if there were law brokers in the sense that there are stock brokers, who really deal with clients, and for remuneration recommend them to competent persons to do their work, what the Hon'ble Member has said would be perfectly right. It may be that there are such people in the country, but I have not discovered them in this part of the world; what we do meet here is a class of persons who get their living by entering into arrangements with legal practitioners to bring clients to them—an arrangement under which they share the fees or get a commission; and it seems to me to be a mistake to talk of a profession or trade of that character as if it were a legitimate trade like that of a stock broker; such a trade, so far as I know, does not exist in Calcutta, at least I have never met with an instance. If we find that in practice the only form in which the law-tout exists is as a person who makes a corrupt agreement with the legal practitioner, to whom he brings clients for a share of the fees or for commission, then I think no steps we can take can be too strong to put the practice down, provided that we can really make them effectual without doing injustice; but, on the other hand, I am aware of the enormous difficulties that there are in the way, and that touting will never be put down until the opinion of legal practitioners over the country has set in against it; but it will be our duty to do anything we can to pass a measure which will be workable, and to put a check on this evil, which we admit to be a very great one."

The Hon'ble BABU MOHINY MOHUN ROY said:—"I am glad that the President, who was the mover of the Bill, has thought fit to make a further statement. I had no opportunity of stating my views at the introduction of the Bill, which took place at Simla. The Bill is now being referred to a Select Committee, of which I am to be a member. I crave permission to offer a few observations upon the principle and general scope of the Bill without entering into details.

"By section 36 of the Legal Practitioners Act, 1879, tender or payment of any gratification by a legal practitioner for procuring his employment in any legal business is made an offence punishable with six months' imprisonment. It would also be 'grossly improper conduct in the discharge of his professional duty or other reasonable cause,' under sections 13 and 14 of the Act, for which

the legal practitioner might be suspended or dismissed. I presume the detention in jail would necessarily cause his suspension from practice for the period of such detention. The same section 36 is similarly rough on touts and makes solicitation, receipt or retention of any gratification from a legal practitioner an offence punishable with six months' imprisonment. In the face of the existing law, the chief provisions of sections 1 and 3 of the Bill seem to be unnecessary and somewhat illogical. The hon'ble and learned mover of the Bill stated as follows when introducing it:

'Great complaints have been made from time to time of the practice known as dalali, or touting, under which clients are induced to go to particular pleaders, not because they are proper persons to employ, nor because the clients have for any reason selected them, but because they have given a commission to the tout for getting them the business; and a very strong proposal was made last year by a leading practitioner in this province to make this a criminal offence. However, on consideration, we thought that would be going much too far.'

"The Legislature had, in fact, gone too far when it enacted section 36 and made professional misconduct of legal practitioners and touting highly penal offences, differing in nothing from criminal offences. It is always a mistake to overdo a thing, and to it is largely owing the failure that has overtaken all efforts hitherto made for putting down the practice of touting. Sir Frederick Fryer, Chief Commissioner of Burma, in giving his opinion on the Bill, says that he 'adheres to the views expressed in a previous letter of treating the employment of law-touts not as a criminal offence, but as an act to be dealt with by the High Courts as a matter of discipline.' These views are quite in accordance with mine.

"It seems to me that we must repeal section 36 of the old Act in order to render our present action intelligible and logical. It would greatly simplify the proposed legislation in other respects. We might empower the District Judges and authorities to prepare and hang up lists of habitual touts in their Courts or offices. This would be a straightforward course, and far more consonant to our notions of fair play than the devious and round-about course of leaving it to legal practitioners to find out who are touts by general repute and subjecting them to serious liability for mistakes and oversights. So long as section 36 of the old Act remains in force, we cannot well ask the District Judges and authorities to prepare lists of habitual touts by general repute. It would be making lists of habitual offenders liable to be punished with six months' imprisonment.

[Lieutenant-General Sir Henry Brackenbury.] [27TH FEBRUARY,

of many different kinds were made. Some of these proposals were to the effect that the volunteers, if called out on actual military service, should receive from the Government the salary or income which they derive from their ordinary avocations as shown in the books of the Income Tax Collector. Other proposals were that a volunteer when called out should receive nothing beyond his rations and actual expenses, and that no provision should be made for pensions as regards the rank and file. Others were to the effect that wound pensions and gratuities and pensions to widows and families should be apportioned according to social status, and not according to volunteer rank. My Lord, the Government of India are unable to accept any of these suggestions. It is absolutely out of the question that they should undertake to pay volunteers, when called out on actual military service, the salaries which they were earning in their ordinary avocations. It is out of the question that they should make any difference between one volunteer and another on account of their relative social status. It is out of the question that, in the event of wounds or death, the pension to be awarded should be judged by the social status of the volunteer. The Government of India can only look to the military position in which the volunteer serves when on actual military service. This is the law in Great Britain; and I am not aware that it has ever been proposed by the great artists who have served in the Artist corps of volunteers, or by those distinguished lawyers who have served in the Inns of Court corps, that in the event of their being called out on service they should receive the incomes which they were deriving from the practice of their professions. The volunteer force in Great Britain serves willingly and cheerfully on exactly similar conditions to those contained in the rules which Your Excellency in Council proposes to make if this Bill is passed into law. And I own that I have seen with feelings of some regret these proposals that the volunteers, if called out for duty, should be paid and receive pensions at rates immeasurably exceeding the rates of pay and pension granted to the officers, non-commissioned officers and men of Her Majesty's Army, side by side with whom they would be serving, and whose comrades in the field, should occasion arise, they would be. I cannot but think too that there is a mistaken idea in the minds of those who make these proposals. It seems to be assumed in these proposals, which, I am bound to say, do not come from any large number of volunteer corps, that in enrolling himself as a volunteer a man is conferring a great favour upon the State, and that he is gaining nothing for himself. I think that this is a grave delusion. Such an idea might possibly be to some extent applicable to the volunteers at home, who are only liable to be called out in case of the actual or apprehended invasion of

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Great Britain by a foreign enemy, whose service is not limited in area, who may be taken from their homes in the north of Scotland to defend a seaport in the south of England, as was contemplated and arranged under the mobilisation scheme as it existed when I left England less than five years ago. But in India the conditions are very different. The volunteers cannot be called upon to serve across the frontier or to serve against a foreign enemy unless that enemy has actually invaded the district in which their corps is enrolled. The dangers which the volunteers may be required to combat in India are internal dangers, such dangers as this country has seen in the past, but which we all fervently hope it may never see again. In case of such danger arising, the old story of the bundle of sticks is applicable. Each stick taken by itself is easily snapped; the bundle of sticks bound together is unbreakable by human force. There can be no greater mistake on the part of men in this country than to suppose that by holding aloof from the volunteers they can better defend their individual hearths and homes. The lesson of the great Mutiny teaches the contrary doctrine. It is only when men are banded together, instructed in arms and disciplined, that they can show a firm front to revolt or riots due to religious fanaticism or other causes. It is only by such banding together that they can protect their own families and homes; and I for one must always hold that in banding themselves together the volunteers are not only conferring a benefit upon the State, but that, having, in the words of the Act under which they serve, volunteered their services for the protection of life and property and the preservation of the peace, they are acting in their own interests as well. It must be admitted that, to quote the words of the Secretary to the Government of Bengal, it is an 'extreme improbability that volunteers will be called out for any prolonged and serious military service,' and in the words of the Secretary to the Government of the Punjab, that, 'instances of volunteers being disabled or killed in action, would in any case be of very rare occurrence.' And I think it can scarcely be doubted that, in the words of the Secretary to the Chief Commissioner of the Central Provinces, the 'occasions on which volunteers are called out are occasions which would justify a conscription.'

"I cannot conceive anything more unlikely than that the Governor General of India should declare in Council that actual or apprehended emergency has arisen, unless that emergency were of the gravest nature. When we consider what the effect of such a declaration would be upon exchange, upon trade and commerce and upon revenue, and upon the minds of those Europeans who are scattered in isolated positions throughout this widely extended Empire, it seems impossible to believe that such a declaration should ever be made except

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[*The Commander-in-Chief; Sir James Westland.*] [27TH FEBRUARY, 1896.]

citizen soldiers would, if thought about at all, be condemned by them as not only a slur upon their manhood but as a useless one.

"I only know the reception I would expect to receive from, say, the Calcutta Light Horse if I were to tell them that the Government of India considered that it would be asking too much of them to treat cowardice amongst them in the presence of an enemy as it is treated in every army in the world. The matter for wonder is to me how such a provision ever crept into the Statute-book. It must have been framed under a misapprehension of the feelings of the volunteers themselves and in total ignorance of the moral standard which should be maintained in every fighting force; and I congratulate the volunteers and the Hon'ble Mover of the Bill on the truer appreciation of the spirit of our volunteers which has led to its removal.

"There is one very special concession made to the volunteers in this country. They are only made amenable to the Army Act as officers. This entails the necessity of trial under the Army Act being by general court-martial only, and under this concession they become exempt from minor punishments.

"If there was any prospect that it would be necessary to have recourse often to courts-martial, the machinery thus created would be cumbersome and troublesome, and as Commander-in-Chief I would have considered it my duty to press for its abolition; but we have now the experience of many years to guide us in which the conduct of our volunteers has justified the privilege, and I am quite ready to concur in its continuance.

"In conclusion, my Lord, I will only say that the volunteer force in this country has now reached a strength of some 28,000 men, that I look upon that force as a most valuable addition to our armed strength in India, and that I consider any measure passed for its better government as of the highest importance to the State."

INLAND BONDED WAREHOUSES AND SALT-BONDING BILL.

The Hon'ble SIR JAMES WESTLAND presented the Report of the Select Committee on the Bill to provide for the establishment of bonded warehouses at places other than Customs-ports, and to afford facilities for the bonding of salt in such warehouses. He said:—"In presenting this Report I desire to offer some remarks on certain matters which came before the Committee in the course of their discussions over the Bill. There has been a rather curious

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development of the circumstances under which the Bill was brought before the Council. It will be remembered that I explained at the time of introducing it that certain European firms interested in the salt trade had found that the provisions of the Inland Bonded Warehouses Act of 1887 were not conveniently adapted for their use, and they desired that certain amendments should be made and greater facilities should be given to them for the purposes for which that Inland Bonded Warehouses Bill was passed. However, immediately after the introduction of the Bill, their attention seems to have been more closely drawn to that particular Act, and they discovered that they would much sooner carry out their trading operations under that Act of 1887 than receive the greater facilities which they themselves had asked for. The proposal was accordingly made that the Bill as drawn on their suggestion should be now entirely withdrawn; but on my conferring with certain Native merchants interested in the salt trade, and who do not carry on their trading operations on such a large scale as the firms to which I refer, I found that they were opposed to the entire cancelment of the Bill, and desired that the facilities which the European merchants had in the first instance asked for should not be withheld.

"The Bill, in the original form in which it was introduced, and in the form in which it is now before the Council, sets up two alternative systems, both intended for the same purpose, and it is intended that these two systems should be continually worked side by side, neither being intended to exclude the other, and both Native and European merchants having the choice of either one system or the other. Under the first system the salt is subject to all the restrictions which are provided in the Customs Act; we do not allow it to be in any way removed from our control; it is shipped under the supervision of our officers; it is sealed up under the supervision of our officers; it is afterwards taken out of the ship under the same supervision and kept in the inland warehouses, again under the supervision of our officers. Under these circumstances we look to the salt itself as a security for the duty which is due upon it, and we do not demand the same further security which is necessary under the second system.

"Under the second system we allow the salt to be under the control of the owner. It is intended for the case of removal of salt in ordinary Native ships; there it cannot be sealed up; as a matter of fact it is stowed away in a manner in which it remains open to the four winds; it is stamped all over to prevent dishonesty, but it is perfectly possible for the owner, either by carelessness or in any other way, to lose part of the salt in transit, and so the salt may partly at least disappear. Under these circumstances we have

no security in the salt itself for the duty which is leviable, and we therefore require a bond to be given beforehand by the owner that he will pay the amount of duty due within a certain time. I regret to find from certain representations made to the Select Committee by the Native Chamber of Commerce that they are under the impression that there is some intention of allowing by means of the Bill a certain laxity in the administration of the salt-revenue. Their letters are at least conceived upon that principle, and I desire to make it perfectly clear that on the part of the Government there is no intention of the kind. It must be clearly understood that in the carrying into operation of the provisions of the Bill, and the levying of the salt-duty under the Bill, there is no intention that any laxity whatever should be allowed. There is a very peculiar feature in the salt trade which must be always borne in mind, and that is that the duty due on the salt is many times the value of the salt itself. The inducement, therefore, to fraud on the part of persons who are capable of committing fraud is infinitely greater than in the case of any other article on which a duty is to be levied, and by so much more is it necessary for us to take stringent measures to protect the revenue from any possibility of fraud.

"The Bombay Government in giving us advice in this matter tells us that 'the prepayment of duty on all salt removed from salt-works either in cash or by the deposit of Government securities been considered essential for the protection of revenue in this Presidency'; and I believe that in Madras exactly the same system is in force, and that the Government will not release the salt unless it has the security of either its own public securities or some other kind of public securities for the subsequent realization of the duty. Now, our intention in affording the facilities which this Bill gave us was solely this, that whereas, at present, the merchants are obliged to pay the duty before they can remove the salt to an inland warehouse whence it may be afterwards issued for consumption, we desire to give them the option of taking the salt away on their giving security under a bond for the payment of the duty, and that this bond should come under realization only when the salt itself comes into consumption. We do not intend to depart from that principle, and when the Native Chamber tells us that it 'would be an anomaly and would defeat the object of the Bill if persons of known means and position were to be called upon to furnish security before being allowed to take away salt to the interior without prepayment of duty,' I can only say that the object of the Bill as understood by them must be something different from what is intended by us. When we allow persons to take away salt without prepayment of duty, it is a transaction of exactly the same nature as if we were lending them for the time

the amount of the duty which they would under the present system have to pay. It may seem to them rather hard that we are unable to give them this time to pay up the duty without taking sufficient security for it, but, as I say, we are really giving them a loan out of the Government pocket, and, so far from its being an anomaly to demand Government securities as the only sufficient pledge for this loan, I am afraid that if they were to go to the Bank of Bengal and seek to borrow on the same terms, they would find that the Bank of Bengal would equally refuse to look at their applications unless they were prepared to deposit proper security.

"There is another matter in which the Native Chamber of Commerce have overlooked the provisions of the Bill. In talking to me they certainly imagined that when a merchant takes away his salt in one of the Native ships, he will be at liberty to sell it as he finds the opportunity. The Bill never gave that permission. The object was to provide for the removal of salt to inland warehouses. If a man wants to take away salt from Calcutta for immediate sale, he must pay the duty beforehand; no part of the Bill is wanted in his case; his intention is to realize the salt at once, and under these circumstances he ought to pay the duty beforehand. It is only when the salt is taken away and is afterwards to be held for a time in a warehouse that the facilities intended by the Bill are in any way required. For the same reason—that of looking after the salt and seeing that it does not pass into consumption before we have an opportunity of realising the bond—we intend that the warehouses shall be in only those places where they can be inspected; they will be for the most part what are called in this country 'kutcha warehouses'; we do not prescribe any particular class of warehouses, and therefore the salt may be open to deterioration and waste as the owner pleases. This affords another reason why we should look for the ultimate payment of the revenue not to the salt itself but to the security which we hold.

"Another part of the representations received is that referring to the wastage of salt, and I here must also distinctly point out that the Bill intends to make it perfectly clear that no wastage whatever can be allowed. When the salt remains in the custody of our Customs Department and under our supervision, and in well-built vessels or godowns, then, under the operation of the Customs Act, a certain allowance for wastage is given; but that allowance is guarded by the weighments made under the supervision of our own officers. But when we allow salt to be taken away on Native ships and in such a form that it is practically accessible to any person on board the ship, and allow it afterwards to be stored in a warehouse of any description which the owner may set up,

[*Sir James Westland ; Mr. Playfair.*] [27TH FEBRUARY, 1896.]

then it is obvious that we cannot be responsible for the wastage which will occur ; we do not look to the salt in that case, but to the security, and therefore it is very carefully provided in the bond—and I wish that the attention of these Native gentlemen should be drawn to this—that the payment of ‘the full amount of all Customs duties and other lawful charges, penalties and interest demandable as aforesaid shall have been first paid on the whole of the said salt.’ The necessity for this provision will be very obvious, if we consider the kind of transaction that might take place. I will suppose that one of these merchants takes away 100 maunds of salt and gives a bond for the duty leviable on this salt, say, ₹250. The 100 maunds of salt are worth in the market about ₹50. He might therefore at the price at which salt can be supplied sell his 100 maunds of salt for ₹50 *plus* the duty. He would afterwards come back to us, and demand permission to pay duty not upon the 100 maunds but upon the 100 maunds less the wastage. The consequence is that he makes by the pure allowance of wastage a profit of ₹6 or ₹7 upon a transaction of ₹50 ; and it is obvious that a transaction of that sort carried on at the cost of Government would not be permissible under any proper revenue system. If these Native merchants desire to have the advantage of the wastage allowance given under the Customs Act, they can have it ; that is to say, they can have their salt removed under the same supervision and kept in the same way as the European merchants propose to do it. But, if they desire to take advantage of the greater facilities which the other system of removal gives,—that is to say, the advantage which the removal in Native ships and the keeping in kutchas warehouses will give them,—then they must be content to go without the wastage which under these circumstances might probably be excessive, but in regard to which the Government and the Salt Department can obviously accept no responsibility.”

The Hon'ble MR. PLAYFAIR said :—“My Lord, with Your Excellency's permission, I should like to observe, with reference to certain remarks that have fallen from the Hon'ble Member, that the European salt merchants made the request for better legislation in connection with the bonding of salt in the mofussil, before the rules under Act XXI of 1887 were published. Eighteen months elapsed before these rules were framed. These rules have been found to work satisfactorily. When this Bill appeared, it was thought to be required to legalise some of these rules, and, when this was found to be incorrect, the European salt merchants suggested that the Bill was unnecessary. As section 4 of the Bill provides for a continuance of the provisions of Act XXI of 1887, I think the European merchants will elect to conduct their business

[*Mr. Playfair ; Sir Alexander Miller.*] 27TH FEBRUARY, 1896.]

under this section as formerly. With regard to the requests made by the Native merchants and provided for under section 5 of the Bill, I fear they may consider that they have asked for bread and received a stone, as I do not think the new provision will be of much use to them.”

FOREIGN JURISDICTION AND EXTRADITION ACT, 1879, AMENDMENT BILL.

The Hon'ble SIR ALEXANDER MILLER moved that the Report of the Select Committee on the Bill to amend the Foreign Jurisdiction and Extradition Act, 1879, be taken into consideration. He said :—“When I asked leave to introduce this Bill I pointed out that it had two objects—one to deal with an act of desertion from the Imperial Service Troops, and the other to provide for the taking of bail in certain cases of extradition where the Political Agent requiring the extradition thought bail could properly be taken. In these respects the Bill has not been practically altered by the Select Committee. They have provided for making more definite the reference to the Code of Criminal Procedure introduced into the original Bill, but they have not made any difference in substance, and in that respect the Bill remains precisely as it was when introduced. But two somewhat important additions have been made by the Select Committee at the instance of the Thagi and Dakaiti Department—one that in section 3 of the Act, which enables an ‘officer in British India’ to be appointed Political Agent in certain cases, for the words ‘officer in British India’ the words ‘an officer of the Government of India or of any Local Government’ should be substituted. This is in order to enable the Government to appoint to act for the Political Agent officers who might not be resident in British India. It is obvious that an officer who is resident in the Native State in respect to which he is intended to act as a Political Agent must often be a more convenient officer to appoint than an officer resident over the border in British India, and I believe that the difficulty has been greatly felt with regard to officers in the Berars, and that the alteration has been asked for mainly for the purpose of meeting cases arising there.

“The other alteration made is to add a clause to section 17 of the Act. By an alteration made in the Code of Criminal Procedure two years ago the Magistrate may under certain circumstances authorise the arrest in British India of persons who have been charged with committing offences outside the limits of British India, but it was not perceived at the time that the processes following

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DITION ACT, 1879.

[*Sir Alexander Miller; Nawab Amir-ud-Din Ahmad, [27TH FEBRUARY
Khan Bahádur.]*

subsequently upon such an arrest would not be quite the same as those which would have followed if the offence had been committed in British India, and the object of this section, 17A, is merely to put such arrests in the same position as they would be in if the offence, instead of being committed near the frontier, had been committed in British India. Obviously that was the original intention of the alteration made in the Procedure Code by the Act of 1894, and this is simply supplementary to that alteration for the purpose of giving full effect to it.

"Several other proposals were made in Select Committee for additions to this Bill, but the Committee came to the conclusion that it was better not to accept any of the proposals—not that they were rejected on the merits: in fact, one at least of them was accepted on the merits—but because they felt that inasmuch as no previous notice had been given about these proposals, their adoption by the Committee would necessarily involve a republication of the Bill and cause considerable delay in passing it; and as the particular point which I have already mentioned was not controversial and was practically accepted by every one, it was thought better to confine the Bill to these points, leaving any gentleman who desires to do so to introduce a separate Bill of his own on any of the other points if he feels so disposed."

The Hon'ble NAWAB AMIR-UD-DIN AHMAD, KHAN BAHÁDUR, said:—"My Lord, I had the opportunity of taking part in the discussions of the Select Committee on the Bill now under consideration, and I may say at once that the Bill as amended by the Committee may confidently be recommended to Your Excellency's Council as one that should be passed into law.

"Speaking for myself, I may be permitted to say that I regret that the Bill does not, in the matter of giving power to release accused persons on furnishing security, except deserters from any body of Imperial Service Troops. It is in my view of great importance that there should not be any distinction between deserters from such troops and troops of Her Majesty's army, and that, although the power to release on security may never be exercised in the case of the former, it would be better in every respect that it should not exist. I have, however, not deemed it expedient to move an amendment in the matter, and content myself with the opportunity I now have of giving expression to my personal feeling.

"The Bill, as it has now been presented to Your Excellency's Council, is calculated to promote the objects for which the Extradition Act was framed, and as an instalment of the reforms that are not only desirable but necessary

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DITION ACT, 1879.

1896.] [*Nawab Amir-ud-Din Ahmad, Khan Bahádur; Mr. Rees.*]

may be regarded with satisfaction, and the new provisions which it is proposed to enact looked forward to as in the interests both of Government and of Native States.

"It could hardly have been expected that the Local Governments to whom the Bill as introduced was forwarded for opinion would miss the opportunity of making suggestions for further amendments in the existing law which appear to them to be desirable or which past experience has shown to be necessary.

"The Chief Commissioner of Coorg, for example, has proposed an addition to the schedule to the Foreign Jurisdiction and Extradition Act, and the Government of the Punjab, whose opinions are necessarily always of great value, has among its proposals recommended that offences under the Criminal Tribes Act should be included in the schedule. It is not necessary, nor would it be fitting, for me to urge at the present time anything in particular in regard to such proposals, and I merely refer to them as showing clearly that it has been found that the law stands in need of still further amendment. I would only wish to say that while all Native States are, I am convinced, most ready and anxious to do all in their power to afford and secure the fullest reciprocity in the matter of the arrest and punishment of criminals, it seems specially desirable that Native States should be permitted to authorise officers of their respective States to pursue and arrest in British territory accused persons who escape from the limits of their States into such territory. The matter is in my opinion one of the highest importance to all Native States, and, in the words of Sir Dennis Fitzpatrick, 'it is most desirable that all the reciprocity possible should be given to Native States, and claimed from them in order to secure real co-operation in the suppression and detection of crime.' While, therefore, the Bill before Your Excellency's Council may receive cordial support, I would venture to express the hope that the matters to which I have briefly referred will be considered at an early date in view to the enactment of the further necessary provisions."

The Hon'ble MR. REES said:—"The Hon'ble Member, the Nawab of Loharu, has referred to several matters outside the scope of the Bill as presented. It is understood, however, that the presentation of the Report only indicates that the members of Your Excellency's Council serving on the Select Committee consider that the Report, as presented, adequately deals with the matters to which the Bill relates. A member of the Select Committee does not commit himself by signing the Report to the position that further amendments or addi-

“ There is another provision in the Bill regarding the expediency of which I entertain very grave doubts. The Bill proposes to empower District Judges and Commissioners to suspend or dismiss legal practitioners, subject to appeal to the High Court. Now they can only report the offence to the High Court, which alone has the power of dealing with it. It is not stated that the cases under the Legal Practitioners Act are so numerous that they may not conveniently be dealt with by the High Court. There is apparently no necessity for extending the power to suspend or dismiss to District Judges and Commissioners and the power to report to inferior Judges and officers. The probable effects of such extension will be to lower the status of the legal practitioners, to produce in them a general feeling of insecurity and to impair their independence and usefulness. All Judges, Magistrates and Revenue-officers may now have a fling at them. It is a very serious thing to have to ‘ run the gauntlet ’ of so many persons.”

The Hon’ble SIR ALEXANDER MILLER said :—“ I would only say a few words in the way of reply. I was myself originally under the impression that the expression ‘ law-tout ’ would only apply to such persons as the Hon’ble Sir Griffith Evans has mentioned, and therefore the Bill was drawn in the terms in which it is ; but the comments upon it, which have come in since the Bill was published, show that there are in some parts of the country men whose business it is to introduce clients to legal practitioners for a consideration coming not from the lawyer but from the lay client. I am not desirous of interfering with that, which seems to me in many cases very beneficial, and, at any rate, it is in no way open to the objections which apply to cases in which remuneration is given in fees or otherwise by the legal practitioner.

“ The other observations of the Hon’ble Mohiny Mohun Roy can only be answered in this way : section 36 of the Act, as it stands, is one to which I personally should never have been a party, but as I found it law, passed years before I had anything to do with it, I do not feel, nor does the Government of India feel, any necessity for interfering with existing law which no one has complained of, merely because it may not be such as we would originally have thought fit to pass.”

The motion was put and agreed to.

The Hon’ble Sir ALEXANDER MILLER said :—“ The next item of business on the list is a motion of mine which I am not in a position to make. I see that it has been removed from the paper, I don’t know by what authority. I think such a course is irregular and that no one has any right to expunge a notice of

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DITION ACT, 1879; AMENDMENT OF INDIAN PENAL
CODE.

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tions to the law may not in future become, or are not at present, necessary or desirable. Indeed, it may happen that proposals, in which great interests are involved, are not for the moment ripe for the full and careful treatment they require or that they can with greater advantage be brought forward on another occasion. I had not intended, and do not now intend, to refer to matters which for reasons good and sufficient in the opinion of the Select Committee are not included in the Bill as presented, because I believe that some inconvenience may result from mere passing references in Council to matters which may be of as great or even greater importance than those included in the Bill for the moment before the Council. As, however, the Hon'ble Member has referred to proposals and suggestions outside the Bill, I think these few remarks may not be superfluous. And, with reference to what fell from him with regard to the desire of Native States to afford and secure the fullest reciprocity with regard to the arrest and punishment of criminals, it may certainly be said that the Native States in South India have shown every desire to co-operate with the British police, in order to the suppression of crime, and that they take every step that can possibly be taken with the agency at their command to bring about this very desirable consummation."

The motion was put and agreed to.

The Hon'ble SIR ALEXANDER MILLER also moved that the Bill, as amended, be passed.

The motion was put and agreed to.

INDIAN PENAL CODE AMENDMENT BILL.

The Hon'ble SIR JAMES WESTLAND moved that the Report of the Select Committee on the Bill to amend the Indian Penal Code be taken into consideration. The Council would, he said, remember that this Bill embodied an amendment of the definition of "Queen's coin".

The Hon'ble RAO SAHIB BALWANT RAO BHUSKUTE said:—"My Lord, after carefully going through the papers, I find that learned authorities, like Mr. Obbard and Mr. Henderson, consider the Bill unnecessary, and the offence it aims at punishing already provided for. Other learned authorities regard the amendment as expedient and necessary. When there is such a vast difference of opinion as to the necessity of the Bill, it is but necessary that it

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should be embodied in clear unmistakable language. In such cases the best way to decide the question is to try it by definite prosecution and thus obtain the distinct ruling of the highest judicial authority. But High Courts may take different views, and it cannot be ascertained as to what interpretation may be put on the words 'used for the time being as money.' It is also doubtful if the coins, after being called in by the Government, can be considered as being in use for the time being as money. There is every possibility of the Judges not agreeing. It is not advisable then to let the defect go without further legislation. It is, therefore, advisable to have the amendment embodied in the sure unerring words of laws. It also serves a useful purpose, as the tendency to counterfeit coins is a recurring one.

"As regards the illustration (e) to be appended to section 230, it is clear that though the Farukhabad rupee is not considerably used as current coin and accepted as such, it is melted for the purposes of art and manufacture. The metal of the genuine coin is of rare purity. There is a demand for it in the market for this reason. In proportion as the coin is disappearing, wicked people are tempted to throw a spurious kind of it on the markets. The inscription on the coin has thus come to be regarded as a test of its genuineness, and hence the purity of its metal is no further questioned. This illustration too is necessary for preventing the counterfeiting of such coins for sale like other market commodities.

"It is suggested that counterfeiting obsolete coins for sale would appear to be cheating and ought not to be specially provided for in Chapter XII of the Indian Penal Code. But for cheating a direct and an utter misrepresentation by actual words is necessary. The offence dealt with in the proposed Bill cannot come under the head of cheating, namely, under Chapter XVII of the Indian Penal Code. It must fall under the offences grouped in Chapter XII.

"Considering all these facts I approve of the Bill."

The motion was put and agreed to.

The Hon'ble SIR JAMES WESTLAND moved that the Bill, as amended, be passed.

The motion was put and agreed to.

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PRESIDENCY SMALL CAUSE COURTS ACT, 1882, AMENDMENT
BILL.

The Hon'ble SIR ALEXANDER MILLER moved that the Bill to amend the Presidency Small Cause Courts Act, 1882, be taken into consideration. He said :—" When I moved for leave to introduce this Bill a fortnight ago I thought I had sufficiently explained the object of the Bill, which is a very small one. I find, however that in at least one quarter the Bill has not been entirely understood, and therefore I take this opportunity of going a little more into detail as to what has actually passed.

" By the Presidency Small Cause Courts Act of 1882 as it stood before its amendment by Act I of 1895, the provision for applications for retrials in the Small Cause Courts themselves was contained in section 37. Section 38 provided for applications to the High Court in the nature of appeals from decisions of the Small Cause Court. Section 71 provided that applications under section 38, that is, appeals to the High Court, or section 42, which is a totally different matter with which we have nothing to do, should be liable to the *ad valorem* fees laid down in the Act. But applications under section 37, which were applications in the Small Cause Court itself, were not liable to *ad valorem* fees, but merely to the ordinary fee for applications by way of petition. In the alteration of the Act made by Act I of 1895, section 38 was swept away altogether, and a totally new provision dealing with the High Court, with which we have nothing to do, and with which the provisions as to taxation are contained in the subsequent sections of the Act itself, was substituted for the application by way of appeal to the High Court ; but in the renumbering of the sections the old section 37, which provided for applications in the Small Cause Court itself, became section 38, and consequently it has since been argued—I believe some ingenious gentleman has been able to insist on payment of the fee—that by the operation of the mere change of the numbers of the sections, these applications, which for thirteen years had been made under section 37 without any special taxation, became suddenly liable to pay an *ad valorem* fee. Obviously that never was intended. I do not think myself that on the true construction of the Act as amended that result arises even as it stands ; but inasmuch as the question has been raised it has been thought desirable to set it finally at rest, and to leave these applications now made under section 38, which do not differ in the least degree on the merits with those which used to be made under section 37, in the position they were in when they were made before the late Act was passed ; and that is the entire operation of this Bill."

1896.] [Sir Griffith Evans ; Rao Sahib Balwant Rao Bhuskute ; Sir James Westland.]

The Hon'ble SIR GRIFFITH EVANS :—" I entirely agree with what has been said by the Hon'ble Legal Member, that the words proposed to be expunged were left in by mere inadvertence and that this Act is necessary to correct the error."

The Hon'ble RAO SAHIB BALWANT RAO BHUSKUTE said :—" My Lord, if we were to go back to the time when the limit of the pecuniary jurisdiction of the Presidency Small Cause Courts was raised from Rs. 1,000 to Rs. 2,000, the extension of the limit was evidently necessitated by the expediency of relieving the High Courts of a portion of their work. Thus the public were deprived of a right to adjudication in the Supreme Courts and were required to have their disputes settled in the Presidency Small Cause Courts. The proceedings of the latter Courts are summary, and the Government have wisely provided for the public, in section 38 of Act XV of 1882, a right to apply to the High Court for a re-hearing, if it thinks that it has not obtained a reasonable hearing from the other Court.

" The Presidency Small Cause Court does administer justice in suits exceeding one thousand rupees virtually on behalf of the High Court, and is, so to say, an authorised agent of that Court, when the party applies for re-hearing and makes affidavits. The High Court makes an order *ex parte* for such re-hearing if it be of opinion that there are grounds for such re-hearing.

" My hon'ble friend Rai Bahádúr Ananda Churlu has told us of cases in which a second fee has been extorted from litigants. The Hon'ble Sir Alexander Miller himself has observed that a second fee has been charged on the same action. We cannot but admire the rare goodness with which he admits ' and by an oversight for which I suppose I was responsible the words "section 38 or" in section 71 were left standing.'

" My Lord, no one can possibly be more informed about the original intention of any section or law than the hon'ble mover himself. The present Bill only aims at the rectification of an error, and it is but just that the measure should be supported."

The Hon'ble SIR JAMES WESTLAND said :—" I took the opportunity in conference with my hon'ble colleague very carefully to examine this Bill with all the suspicion which the Department over which I preside is bound to bring to bear when a proposal for the abandonment of revenue, however small,

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ACT, 1882; AMENDMENT OF INDIAN CONTRACT ACT,
1872.

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is put forward. I satisfied myself independently that what has been stated by him is perfectly correct, and that it was entirely by an inadvertence that the words which he proposes to remove from the Act were allowed to stand in section 71. I perfectly agree in the Bill which it is now proposed to pass in Your Excellency's Council."

The motion was put and agreed to.

The Hon'ble SIR ALEXANDER MILLER moved that the Bill be passed.

The motion was put and agreed to.

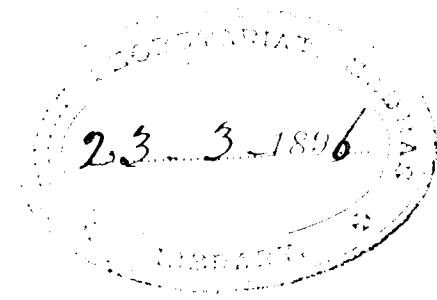
INDIAN CONTRACT ACT, 1872, AMENDMENT BILL.

The Hon'ble SIR ALEXANDER MILLER asked for leave to postpone his motion that the Bill to amend the Indian Contract Act, 1872, be referred to a Select Committee consisting of the Hon'ble Mr. Woodburn, the Hon'ble Babu Mohiny Mohun Roy, the Hon'ble Rai P. Ananda Charlu Bahádur, the Hon'ble Mr. Glendinning and the Mover, with instructions to report in a week. He said:—"I would like to take the opportunity of saying a few words on this motion. The Bill in question is one which has been the subject of a great deal of discussion and which I thought had been finally settled after consideration by Local Governments and Administrations in a form which would be acceptable. I find, however, that there is at least a desire for some further consideration, and certainly that is not a matter in which I feel at all inclined to disagree. I understand that some of the persons interested think that in some way the passing of the Act may affect the Government revenue. I should like to put that at once aside. The Bill only deals with charges on the interest of the defaulter and interests paravail to his. The interest of the Government must always be paramount to that of the defaulter. It cannot possibly be touched by any charge created under this Bill. At the same time I have been asked to give some more time for the consideration of the Bill, and therefore, with Your Excellency's permission, I beg to postpone for the present the motion which stands in my name on the paper."

Leave was granted.

The Council adjourned to Thursday, the 5th March, 1896.

CALCUTTA; }
 The 28th February, 1896. }
 S. HARVEY JAMES,
 Secretary to the Government of India,
 Legislative Department.



Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892 (24 & 25 Vict., cap. 67, and 55 & 56 Vict., cap. 14).

The Council met at Government House on Thursday, the 5th March, 1896.

PRESENT:

His Excellency the Viceroy and Governor General of India, P.C., G.M.S.I.,
 G.M.I.E., LL.D., *presiding*.
 His Excellency the Commander-in-Chief, G.C.I.E., K.C.B., V.C.
 The Hon'ble Sir A. E. Miller, K.T., C.S.I., Q.C.
 The Hon'ble Lieutenant-General Sir H. Brackenbury, K.C.B., K.C.S.I., R.A.
 The Hon'ble Sir J. Westland, K.C.S.I.
 The Hon'ble J. Woodburn, C.S.I.
 The Hon'ble Alan Cadell, C.S.I.
 The Hon'ble Prince Sir Jahan Kadr Meerza Muhammad Wahid Ali
 Bahádur, K.C.I.E.
 The Hon'ble Mohiny Mohun Roy.
 The Hon'ble C. C. Stevens, C.S.I.
 The Hon'ble A. S. Lethbridge, C.S.I., M.D.
 The Hon'ble M. R. Ry. P. Ananda Charlu, Rai Bahádur.
 The Hon'ble Sir G. H. P. Evans, K.C.I.E.
 The Hon'ble J. D. Rees, C.I.E.
 The Hon'ble G. P. Glendinning.
 The Hon'ble Nawab Amir-ud-Din Ahmad Khan, C.I.E., Bahádur,
 Fakharuddoulah, Chief of Loharu.
 The Hon'ble Rao Sahib Balwant Rao Bhuskute.
 The Hon'ble P. Playfair, C.I.E.

QUESTIONS AND ANSWERS.

The Hon'ble RAO SAHIB BALWANT RAO BHUSKUTE asked:—

- “(a) Will the Government be pleased to state whether any final order has been received with reference to the term of the new settlement now in progress in the Central Provinces?
- “(b) If so, will they publish the final order of the Secretary of State on the subject?

176 **QUESTIONS AND ANSWERS; BONDED WAREHOUSES AND BONDING OF SALT.**

[*Rao Sahib Balwant Rao Bhuskute; Mr. Woodburn; Sir James Westland.*] [5TH MARCH,

"(c) Will the Government be pleased to state whether, after the expiry of the current short-term settlements in the Raipur and the Bilaspur Districts of the Central Provinces, it is in contemplation to have another settlement of the land-revenue demands and others auxiliary thereto?"

The Hon'ble MR. WOODBURN replied :—

"1. The final orders of the Secretary of State have recently been received upon certain general questions connected with the terms for which settlements should be made in India.

"2. Those orders, which are subject to exceptions under special circumstances, have been communicated to the Chief Commissioner, so far as they concern the Central Provinces, in the following words :—

'In the Central Provinces twenty years will be the normal term for future settlements; but the roster which has been framed so as to suit this term and has been acted upon throughout the revision of settlements now current is to be adhered to, as regards both settlements that have already been announced and those which still remain to be completed.'

"3. Under existing rules, when the term of any settlement in the Central Provinces is about to expire, the Chief Commissioner reports to the Government of India upon the question whether the assessment should be revised or not, and the Government of India then pass orders on the point. It is impossible to state before the Government are in possession of the facts what their decision will be in any particular case; but there is at present no reason to doubt that the assessments in question will be revised on the expiry of the current terms, in conformity with the above-mentioned roster."

BONDED WAREHOUSES AND SALT-BONDING BILL.

The Hon'ble SIR JAMES WESTLAND moved that the Report of the Select Committee on the Bill to provide for the establishment of bonded warehouses at places other than Customs-ports, and to afford facilities for the bonding of salt in such warehouses, be taken into consideration. He said that he had explained the purport of the Bill and the Select Committee's Report at some length at the last sitting, and it was unnecessary for him to make any further remarks on the subject.

The motion was put and agreed to.

BONDED WAREHOUSES AND BONDING OF SALT; AMENDMENT OF LEGAL PRACTITIONERS ACT, 1879. 177

[*Sir James Westland; Sir Alexander Miller.*] 1896.]

The Hon'ble SIR JAMES WESTLAND also moved that the Bill, as amended, be passed.

The motion was put and agreed to.

LEGAL PRACTITIONERS ACT, 1879, AMENDMENT BILL.

The Hon'ble SIR ALEXANDER MILLER presented the Report of the Select Committee on the Bill to amend the Legal Practitioners Act, 1879. He said :—"I do not intend on the present occasion to go at any length into the details of the measure as now presented to the Council, because I think that can be done better when I move that the Report be taken into consideration. But I wish to explain the result of what has been a very large revision of the measure originally presented to the Council. The original proposal, as I told the Council at the time when I asked for leave to introduce this measure, was one increasing the penalties upon persons who acted as touts, and persons who accepted business from touts. The Government did not see its way to increasing the application of the provisions of the criminal law to matters of this kind, but they endeavoured with such assistance as they could get from the High Courts, and particularly from the High Court of Calcutta, to prepare a Bill which, without increasing the stringency of the criminal law, might in some way mitigate an evil the existence of which was admitted by everybody. When, however, a Bill came to be drafted on these lines and subjected to careful criticism, not only various outside bodies whose opinions are entitled to respect, but the very High Court itself on whose opinion and advice the Bill had been undertaken, came to the conclusion that those were not the best lines on which legislation might be undertaken, and they advised that a totally different course, and one much more in consonance with the feelings of the Government itself had they felt themselves untrammelled by the opinion of the Court, should be taken instead. The result was that the Select Committee were unanimously of opinion that the new course proposed was the better of the two, and the Bill has been so completely recast as to withdraw the matter altogether from the purview of the criminal law, to increase considerably the power of domestic discipline over the legal practitioners, to remove the principal objections which were taken to entrusting the Courts with a supervision over persons who exercised the business of touts, and to enable, I hope, the Courts to exercise such supervision in a manner which will tend, without unduly interfering with the reasonable business of any man outside the Courts, to prevent the nuisance which there has been so much animadversion upon. I will

[*Sir Alexander Miller.*] [5TH MARCH, 1896.]

explain at greater length on another occasion the various steps which have been taken for this purpose: but I wish to explain now that, if it had not been that there was a sufficient consensus of opinion to enable us to propose the repeal of the criminal clause of the existing Act, it would have been impossible to provide for the class of supervision now proposed, because, as pointed out by an Hon'ble Member of this Council on a former occasion, it would be impossible to entrust any person or any body of persons other than a duly constituted Criminal Court with the power of declaring that a man, particularly an untried and unheard man, was acting in a manner which according to a provision then actually on the Statute-book would subject him to fine and imprisonment. That obstacle being removed and the requisite powers of supervision being given, the disciplinary action of the Courts can be given free scope to, and I have reason to hope that that disciplinary action will be more effective than any criminal action that could be imposed in its place."

INDIAN RAILWAYS ACT, 1890, AMENDMENT BILL.

The Hon'ble SIR ALEXANDER MILLER moved that the Bill to amend the Indian Railways Act, 1890, be taken into consideration. He said:—"The Bill is a very short one and, with one exception, will require very little explanation indeed.

"The first section of the Bill deals with section 7 of the Railways Act. Section 7 provides that the Government may, for the use of railway administrations, make or construct in, upon, across, under or over any lands, roads, or streets, etc., such embankments and other works of various kinds as the railway administration thinks proper; and it has been suggested that after the word 'roads' the words 'lines of railway' should be added. I do not know whether any difficulty has been found in constructing proper works on behalf of one railway across another railway, but no doubt such a case might occur, and therefore it is as well to provide for it if possible before it does.

"Then there is a perfectly formal amendment in section 10, with which I do not think I need trouble the Council at any length, and the correction of an accidental misprint in section 59; and then comes section 73, as to which I mentioned something on a former occasion. Section 73 is a section which limits the responsibility of a railway administration for the loss or destruction of certain animals, and it says that the limit should be in the case of elephants or horses Rs. 500 a head, in the case of camels and horned cattle Rs. 50 a

head, and in the case of sheep, goats, dogs or other animals Rs. 10 a head. The section does not mention either mules or donkeys, and a very nice question might have arisen which would probably have exercised all the Courts, from the Munsifs' Courts up to the High Courts, as to whether a Commissariat mule worth say Rs. 150 which had been killed on a railway was to be treated as a horse with a liability up to a limit of Rs. 500, or was to be considered as 'another animal' and the liability of the Company limited to Rs. 10. We propose now to insert the word 'mule' in the category with camels and horned cattle, making the limit of responsibility for a mule Rs. 50, and to make it clear that the responsibility for donkeys is to be limited, as far as the railway is concerned, to a value of Rs. 10.

"Then, in section 136, where the property of the railway is excluded from being distrained or taken in execution, except under certain circumstances, it was found that the section was so worded as not to prevent local authorities from having the power to attach such property, and it has been considered that, on the same principle on which the rolling stock of a Railway Company is not to be taken in execution under the decree of a Court without the sanction of the Governor General in Council, it ought not to be distrained or attached by municipal or other local authorities.

"The remaining portion of the Bill which I intentionally passed over for the moment relates to section 81 and is really a matter of some consequence.

"By the English Acts, where a Railway Company owns or charters a steamer working in connection with the Company, that steamer is subjected to the same liabilities in respect of through rates, reasonable conditions, etc., as the Railway Company itself. The effect of those enactments is to increase the responsibility of the steamer, not to diminish it, the object being no doubt more or less to penalize the Railway Company for entering into a line of business which is outside its own proper business; and accordingly steamers, as the law stands in England, working in connection with Railway Companies are subject to certain restrictive provisions that they would not be subject to in working independently.

"Now, section 81 of the Act was, I think, intended to follow those lines, though I am not in a position to assert that as a fact.

"It says that—

'Where a railway administration under contract to carry animals or goods by any inland water procures the same to be carried in a vessel which is not a railway as defined

in this Act, the responsibility of the railway administration for the loss, destruction or deterioration of the animals or goods during their carriage in the vessel shall be the same as if the vessel were such a railway.'

"The effect of that clause is of course the exact contrary of the effect of the clauses which I have been just describing. It has the effect of diminishing the liability of the vessels and placing them in the same position as regards limitation of liability as the railway itself is. Now, a railway in India is not liable as a common carrier, but only liable to the extent of a bailee for hire, which is a very greatly more limited responsibility. A railway in England is liable as a common carrier subject to certain restrictions contained in, I think, three public Acts—the well-known Carriers Act of William IV, the Railway and Canal Traffic Act of 1854, and, I think, certain provisions of the Act of 1873. Consequently the position in India is that a steamer carrying animals or goods, unless it happens to be a mere ferry, in which case it is part of the railway, is now exempted by law from all the liabilities which the law of India imposes upon ordinary inland carriers, and that has been felt, and I think rightly, to be a very great hardship not only on the other competing inland carriers but on the public, who may have to send their goods and who may find it convenient to send them through the operation of the railway, and yet whose right of recovery in case the goods are lost at sea ought not to be in that manner diminished. That such a provision, once it was seen what its effect was, should have existed for five years shows, I think, the extreme slowness and caution with which legislation is conducted in this country. Of course I can quite understand that, a thing once passed, the Legislature is very careful not hastily to retrace its steps; but I think it is rather a matter for wonder that, even with the amount of care and caution with which one would ordinarily expect the Legislature to deal with large Acts of this kind, such a provision should have been permitted to remain on the Statute-book for such a long period as five years. At any rate the attention of the Government of India was called to the matter. They proceeded not only to examine the matter themselves but to call the attention of the Secretary of State to it, and the Secretary of State was of opinion also that such a clause ought not to be allowed to stand; and I now have to ask this Council to co-operate with both Governments, Home and Indian, in removing the section from the Statute-book."

The Hon'ble MR. PLAYFAIR said:—"The Bill before Your Excellency's Council will place all carriers by inland waters on a common level. This is a result greatly to be desired. The Bill will remove a fair ground of complaint

which the inland Steamer Companies now have, but I do not expect it will satisfy them, as they have striven to be relieved altogether from the operation of the existing carriers law. Personally I do not support their claim to the extent it has been preferred. With, however, such an extension of the railway system as would give the public an alternative route for the transport of their goods and with the hulls of the vessels built to a specification acceptable to those who might be asked to insure the cargoes carried in those vessels for the public, it may, I hope, become possible, without injury to the Native and casual shipper, to relax somewhat the provisions of the existing law."

The Hon'ble SIR GRIFFITH EVANS said:—"This Bill has a very long history. It arises in this way. By the Inland Carriers Act of 1865 the common carriers on inland waters and by road are subject to the full insurer's liability placed upon them by the common law of England, *i.e.*, liability for all loss except that caused by the act of God or the Queen's enemies, and further, whereas the common law of England allows them to relieve themselves of liability of any kind by contracting themselves out of it, the Carriers Act, following in that respect very nearly the Railways and Canals Act of 1854, provides that they should not be at liberty to relieve themselves of this full insurer's liability except by a special contract. Now, this special contract by the English Act may be signed by the consignor or the person delivering the goods, but by the Indian Act it must be signed by the owner of the goods or a person duly authorised by him. The consequence is that in the upward journey, where the goods start from Calcutta, the carriers are able to get what is called a forwarding note; that is to say, a note of the terms on which the goods are to be carried, signed by the owners or responsible agents, and that forwarding note is given, and it acts to relieve them from responsibility other than responsibility caused by their own negligence or the criminal acts of their servants. This responsibility by virtue of the Carriers Act they cannot relieve themselves of at all; and further the Carriers Act provides that it shall not be necessary for the shipper who is claiming damages for the loss of his goods to prove negligence, but only for him to prove that the goods have not been delivered; and thereupon the onus is upon the carrier to show that the loss was not caused by his negligence or the criminal acts of his servants. But on the downward voyage they are often unable to protect themselves against losses arising from unavoidable accident, such as snags and the various dangers of navigation which cannot be prevented by any ordinary skill or precaution, seeing that tea and other products are generally brought down by manjis, illiterate boatmen and other persons of that sort who cannot

be held to be agents of the owners duly empowered in that behalf to sign a contract. The consequence is that the carriers cannot very often get these contracts or forwarding notes signed for the downward journey and they are liable for unavoidable accidents. That is one of the grievances which they formulated a great many years ago. They have other grievances, one of them being the grievance that the period of limitation in which they are allowed to sue is too long; ordinarily speaking, you give a plaintiff a fair period of limitation to bring his suit, and the longer he delays bringing it the worse is his chance of being successful with it, for he has to prove his case, and the loss of evidence caused by time is his loss; but with regard to these plaintiffs, the shippers, the longer they can keep the thing quiet the better it is for them, because they have to prove nothing except the undisputed fact that the goods were not delivered to them. Thus the longer they delay proceedings the better it is for them and the worse for the carriers, on whom is the onus to prove that the loss was not occasioned by their negligence or any criminal act on the part of their servants; and the result is that the carriers suffer, their servants may have died or left the place in the interval, and at the end of the period—three years is the usual term—they very often find it impossible to prove anything at all; not only that, but, if their servants still happen to be there, it frequently occurs that their recollection is so hazy and so confused that a little cross-examination will very often induce the Judge before whom the case is heard to disbelieve everything they say. This then is one of the other grievances which the carriers have. Besides asking for the rectification of this grievance they ask for many other things, amongst them they request to be relieved of the onus of proving that there was no negligence and that every reasonable precaution was taken. It is very doubtful if that could be allowed to them. Then they ask to be placed in the position of the railways or of the ocean steamers. As regards placing them in the position of ocean steamers there is great difficulty, as our ocean steamers are in a better position as regards contracting themselves out of negligence than many people think they ought to be, and it is doubtful whether it would be wise to place these carriers in that position. As regards placing them in the position of the railways they have a very strong case, and it is this. They say that in England the railways and canals are all governed by the same rules, and that there is no reason here, because the State is very much interested in railways, why the railway should be placed in a better position as regards competing for carriage than other common carriers. Railways do compete we know with the river traffic, and in the case of the River Companies they compete now very largely in many cases as regards

wheat, jute, seeds, etc. They are not able to compete as regards tea, but when the new Assam-Bengal Railway is finished, — and I understand that part of it will be open this year, — there will be a strong competition as regards tea and other products coming from those parts, and the Railway Companies have only the liability which is placed upon the ordinary private carrier. We know that the common country boat is generally under that liability only, as it is generally speaking not the property of a common carrier, and therefore it stands that the River Companies are really the only people who have this excessive liability upon them. They can therefore make a strong case for being treated in the same way as railways; but what particular relief should be given to them is not a question now before the Council. The reason why I make these remarks is this, that I believe it has been the opinion of every Legal Member of this Council for the last fifteen years or so that something ought to be done. I believe it was the opinion of Sir Courtenay Ilbert when he was Legal Member of Council, but the matter stood over in order to obtain the opinion of the Chamber of Commerce. The Chamber of Commerce has given various opinions at various times, and there is a want of unanimity in the opinions of that body as you might expect from the composition of it. Then came Sir Andrew Scoble, and he was strongly of opinion that these carriers ought to be placed on the same footing as the railways, and, as far as I understand the matter, the placing of these steamers in the position in which they were placed by the section now repealed was done with the intention of following it up by placing the river steamers in the same position also by subsequent legislation. The River Steamer Companies on this Act being passed in 1890 renewed their representations to the Government of India, and they used this section and the observations of Sir Andrew Scoble at the time as a strong argument for being placed on the same footing as the railways; but the matter went up and was very fully discussed in a Despatch sent by the Government of India to the Secretary of State, and the Secretary of State decided on those materials that it was not right to give them any relief whatever, but that the best course was to reverse the legislation of 1890, to repeal the section and keep up the distinction between railways and other common carriers. But I expect this will be only a temporary measure, because the Steamer Companies have again brought the matter before the attention of the Government of India. The Government of India has again sent down for reports to the Governments of Bengal, Assam and Burma. The Bengal Government has already reported that some relief should be given, though not anything like the full relief which the Steamer Companies ask for. Of course, Steamer Companies like other people are very apt to follow the old Native proverb, 'if you want eight annas you ought to ask for sixteen';

and probably they have asked for a great deal more than they are likely to get. The Government of Burma has also recommended that something should be done under the circumstances. The reason why I make these observations is that I desire to place it on record that I regard this as a temporary measure. It is a position of affairs which cannot be allowed to remain as it is, and I apprehend that in all probability something will have to be done with regard to the position of the carriers, and when you remember that the words restricting their right of special contract, as I have already stated, restricting them to a special contract signed by the owner or person duly authorised by the owner, is far in excess of the restriction under the English Act, and when you remember also that the railways here have a right of restricting the very limited liability placed upon them in the first instance by a special contract in a form approved by the Governor General in Council, and that the special contract may be signed by the consignor or deliverer of the goods as in England, then I think it is evident that the situation cannot remain as it is, for what possible defence is there for saying that in the case of a railway a special contract may be signed by the person delivering the goods, but where it is a steamer you must have the signature of the owner or of his duly authorised agent? But behind all this matter of detail there is the broad question whether it is wise as a matter of policy to handicap the steamer traffic on the great rivers of India which were then the natural highways of the country. I think the public will be sufficiently protected if the Steamer Companies are made liable for negligence and criminal acts of their servants and if the onus of proof is left on them as at present. It does not seem right or necessary to compel them by statute to insure the consignor against all perils of a dangerous navigation in these days when insurance is so easy for the shipper."

The Hon'ble SIR ALEXANDER MILLER said:—"I do not wish to enter at the present stage on any discussion of the position as regards the general law of these carriers by inland water, although I am not thereby to be understood as in any way dissenting or otherwise from what has fallen from the Hon'ble Member; but it is perfectly clear that whatever the rights of these carriers may be, and whatever propriety there may be in making some alteration in the law, it would be quite irrelevant to the Bill now before the Council, which is a Bill the object of which is to take away a privilege which has been, inadvertently I think, given to the railways, and not with a view of altering the legal position of carriers who are not railways."

The motion was put and agreed to.

The Hon'ble SIR ALEXANDER MILLER moved that the Bill be passed.

The motion was put and agreed to.

INDIAN CONTRACT ACT, 1872, AMENDMENT BILL.

The Hon'ble SIR ALEXANDER MILLER moved that the Bill to amend the Indian Contract Act, 1872, be referred to a Select Committee consisting of the Hon'ble Mr. Woodburn, the Hon'ble Mr. Cadell, the Hon'ble Babu Mohiny Mohun Roy, the Hon'ble Rai P. Ananda Charlu Bahádur, the Hon'ble Sir Griffith Evans, the Hon'ble Mr. Glendinning and the Mover, with instructions to report in a week. He said:—"This is a Bill which really deals with a very short and small point. By the Indian Contract Act, where a man under compulsion of law pays a debt for which he is only partially liable, or for which he is only liable in the second degree, he has a right of action against the person liable to contribution, or the person who is primarily liable, as the case may be; but, although the result of his paying it may be to save valuable immoveable property from being alienated from both parties, he is not thereby given any right of lien or charge upon the property thus saved. Under the law as administered in England he would not at common law have had any right either, except the ordinary right of action against the person on whose behalf the money was paid; but the Courts of Equity have always recognised in proper cases that a charge was thereby obtained on the property preserved. The Courts in this country have not been by any means unanimous in the view taken of this case. Two of the four Chartered High Courts have come to the conclusion that, inasmuch as the written law gives no such charge, no such charge exists under the law of India. The other two Chartered High Courts are of opinion that they being Courts of Equity are entitled to administer the equitable rule, and that in proper cases they can grant such a charge as I have mentioned. The object of this Bill is, under certain very careful limitations, and with a view to preventing unexpected charges being made, and to taking care that no person who is not really benefitted by the payment shall in any way be affected by it, to give legislatively the power to the Courts to create such a charge and to entitle the person who has paid the money under the circumstances I have described to come to the Court to get a declaration that he is entitled to such a charge.

"The Bill has been very carefully considered; it has been subjected to three Departmental examinations; it has been circulated for opinion to Local

[Sir Alexander Miller.]

[5TH MARCH, 1896.]

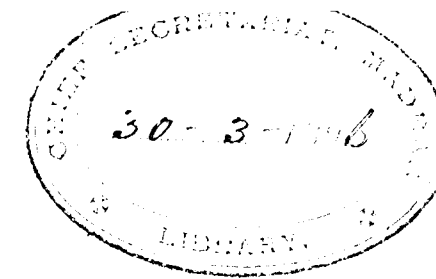
Governments and Administrations ; it has been twice considered by the Government of India as a body, and it has also been considered by Her Majesty's Government at home ; and I hope that, if notwithstanding all these examinations any loophole is still left in the Bill,—and it is impossible ever to say that in any human work there may not be a loophole that may not escape the observation of every one,—that the Committee which I have the honour to name will be able to hit the blot and mend it. I ask to have instructions to have the report in a week, and it may be for the convenience of Hon'ble Members that I should mention that, if this motion is now carried, I intend to propose that the Committee should meet on Saturday ; nearly all the same persons who are members of this Committee are members of a Committee which has to meet on Saturday at any rate, and I do not think the work of the Committee will occupy more than a very short time."

The motion was put and agreed to.

The Council adjourned to Thursday, the 12th March, 1896.

CALCUTTA ;
The 6th March, 1896. }

S. HARVEY JAMES,
*Secretary to the Government of India,
Legislative Department.*



Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892 (24 & 25 Vict., cap. 67, and 55 & 56 Vict., cap. 14).

The Council met at Government House on Thursday, the 12th March, 1896.

PRESENT :

His Excellency the Viceroy and Governor General of India, P.C., G.M.S.I., G.M.I.E., LL.D., *presiding*,
His Honour the Lieutenant-Governor of Bengal, K.C.S.I.
His Excellency the Commander-in-Chief, G.C.I.E., K.C.B., V.C.
The Hon'ble Sir A. E. Miller, K.T., C.S.I., Q.C.
The Hon'ble Lieutenant-General Sir H. Brackenbury, K.C.B., K.C.S.I., R.A.
The Hon'ble Sir J. Westland, K.C.S.I.
The Hon'ble J. Woodburn, C.S.I.
The Hon'ble Alan Cadell, C.S.I.
The Hon'ble Mohiny Mohun Roy.
The Hon'ble C. C. Stevens, C.S.I.
The Hon'ble A. S. Lethbridge, C.S.I., M.D.
The Hon'ble M. R. Ry. P. Ananda Charlu, Rai Bahádur.
The Hon'ble Sir G. H. P. Evans, K.C.I.E.
The Hon'ble J. D. Rees, C.I.E.
The Hon'ble G. P. Glendinning.
The Hon'ble Nawab Amir-ud-Deen Ahmad Khan, C.I.E., Bahádur, Fakharuddoulah, Chief of Loharu.
The Hon'ble Rao Sahib Balwant Rao Bhuskute.
The Hon'ble P. Playfair, C.I.E.

QUESTIONS AND ANSWERS.

The Hon'ble RAO SAHIB BALWANT RAO BHUSKUTE asked:—

" 1. Are the Government of India aware that the work of the Judicial Commissioner in the Central Provinces is steadily increasing ?

" 2. Do they consider that the time has come either for appointing an additional Commissioner to assist him or for creating a Chief Court for the Provinces ? "

The Hon'ble MR. WOODBURN replied:—" The attention of the Government of India has been called by the Hon'ble Member's question to the statis-

188 *QUESTIONS AND ANSWERS; AMENDMENT OF INDIAN VOLUNTEERS ACT, 1869.*

[*Mr. Woodburn; Lieutenant-General Sir Henry Brackenbury.*] [12TH MARCH,

tics of the Judicial Commissioner's Court in the Central Provinces. It does not appear that there has been any material increase of recent years in the business before the Court, nor has any representation been ever made by the Chief Commissioner that the Court requires to be strengthened."

INDIAN VOLUNTEERS ACT, 1869, AMENDMENT BILL.

The Hon'ble LIEUTENANT-GENERAL SIR HENRY BRACKENBURY moved that the Report of the Select Committee on the Bill to amend the Indian Volunteers Act, 1869, be taken into consideration. He said:—"When I presented the Report of the Select Committee upon this Bill I spoke very fully and explained both the effect of the amendments in the original Bill and the general effect of the Bill as amended on the position of the volunteers. The Bill as amended, the Report of the Select Committee, and the draft Rules which it is proposed to make under the Bill, were published in the Gazette of India a fortnight ago, and my remarks made at that time have been very fully reproduced in the European Press throughout India. The Government of India has received no protest against the Bill, no representations against it have been made, and the remarks of the Press on the Bill have been on the whole favourable. I think that under these circumstances it is unnecessary for me to make any further remarks on this occasion."

The Hon'ble MR. WOODBURN said:—"As nobody has made any remarks on the motion I should like as an old volunteer to congratulate the Hon'ble Member on the success of his Bill. He has widened considerably the field of the volunteers' employment; he has tightened considerably the discipline to which they are subject and he has offered the volunteer no compensation, or privileges or concessions of any kind whatsoever; but, as the Hon'ble General Brackenbury has himself said, I have not heard a single objection to the Bill. The Bill has been loyally accepted. And I think I may also congratulate the Government of India on possessing in the volunteers a body of men who are not behind their compatriots elsewhere in honest, faithful and ungrudging service."

The motion was put and agreed to.

The Hon'ble LIEUTENANT-GENERAL SIR HENRY BRACKENBURY moved that the Bill, as amended, be passed. He said:—"There is one remark which I should like to make. There is a clause in the Bill which says that nothing in

AMENDMENT OF INDIAN VOLUNTEERS ACT, 1869; AMENDMENT OF LEGAL PRACTITIONERS ACT, 1879. 189

1896.] [*Lieutenant-General Sir Henry Brackenbury; Sir Alexander Miller.*]

certain sections (that is those sections which extend the area in which a volunteer is liable to serve and which enable him to be called out on occasions of actual emergency for active military service) shall apply to any volunteer who was enrolled before the commencement of this Act unless he consents in writing to be bound by those sections.

"If this Bill is now passed, volunteers will be requested to give in their adhesion to the terms of the new Act, and I wish to express my earnest hope that they will, almost without exception, give in that adhesion. India stands almost alone in having absolutely no compulsory service of any kind. Even in Australia and in the Dominion of Canada there is compulsory service for the militia. In Great Britain the Militia Ballot Act authorises the compulsory service of all citizens within a certain limit of age, and that Act is only suspended year by year by Act of Parliament because it is not considered necessary to put it into force. In this Bill the Government of India has laid down the very lowest—the minimum 'which it must require from the volunteers if they are to be a force upon which it can really depend in the time of need—a force which is not to be a broken reed under its hand in time of great emergency. I think it is a hopeful and significant sign that since this Bill was introduced by me a year ago the number of volunteers in India has considerably increased. I earnestly trust that the volunteers of India will recognize that we have asked from them as little as possible, that they will willingly and cheerfully place themselves under these conditions, which will make the volunteer force a real strength to this Government, and that it may never be necessary in consequence of any holding back on their part that India should be compelled to have recourse, in any form whatever, to compulsory service."

The motion was put and agreed to.

LEGAL PRACTITIONERS ACT, 1879, AMENDMENT BILL.

The Hon'ble SIR ALEXANDER MILLER moved that the Report of the Select Committee on the Bill to amend the Legal Practitioners Act, 1879, be taken into consideration. He said:—"When I presented this Report a week ago I stated that the Select Committee had made very extensive alterations in the Bill as originally presented, alterations which really amounted to a recasting of the Bill. The position, if I may say so, was this—I am going at once to the question which is the keynote of the whole of the alterations of the Bill,

10 AMENDMENT OF LEGAL PRACTITIONERS ACT, 1879;
 AMENDMENT OF CRIMINAL TRIBES ACT, 1871;
 AMENDMENT OF INDIAN EMIGRATION ACT, 1883.

[Sir Alexander Miller; Mr. Cadell; Mr. Woodburn.] [2ND JANUARY 1896.]

motion except the Member in whose name the motion stands. I do not know why it was removed, but in the present instance it is of no consequence, because all I had intended to do, had the notice remained on the paper, was to explain that I am not at present prepared to proceed with the motion."

CRIMINAL TRIBES ACT, 1871, AMENDMENT BILL.

The Hon'ble MR. CADELL moved for leave to introduce a Bill to amend the Criminal Tribes Act, 1871.

The motion was put and agreed to.

The Hon'ble MR. CADELL also introduced the Bill.

The Hon'ble MR. CADELL also moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English and in the Calcutta Gazette, the North-Western Provinces and Oudh Government Gazette and the Punjab Government Gazette in English and in such other languages as the Local Governments think fit.

The motion was put and agreed to.

INDIAN EMIGRATION ACT, 1883, AMENDMENT BILL.

The Hon'ble MR. WOODBURN moved for leave to introduce a Bill to amend the Indian Emigration Act, 1883. He said:—"This is a very short Bill consisting of two sections, the object of which is clearly explained in the Statement of Objects and Reasons. The first section is intended to prevent the evasion of the Emigration Act, and the rules and regulations under it, by recruiters, who recruit emigrants and coolies in British territory but remove them from India to a foreign port.

"The other section is intended to give the Governor General in Council power to relax the regulations under the Emigration Act in certain cases in which emigrants are wanted as labourers for special employment abroad, as, for instance, on the Uganda Railway. It is thought that the restrictions imposed by Act XXI of 1883 may well be removed, when the employer abroad is Her Majesty's Government, and the Government of India can readily satisfy themselves that fair treatment will be secured for the employés. Both these proposals seem to me to be reasonable."

The motion was put and agreed to.

AMENDMENT OF INDIAN EMIGRATION ACT, 1883. 11
 2ND JANUARY 1896.] [Mr. Woodburn.]

The Hon'ble MR. WOODBURN also introduced the Bill.

The Hon'ble MR. WOODBURN also moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English, and in the local official Gazettes in English and in such other languages as the Local Governments think fit.

The motion was put and agreed to.

The Council adjourned to Thursday, the 9th January 1896.

S. HARVEY JAMES,

CALCUTTA;
 The 4th January 1896. }

Secretary to the Government of India,
 Legislative Department.

namely, the question embodied in section 36 of the Act as it stands at present. When the proposals out of which this Bill has grown were originally made to the Government of India, the proposal was considerably to increase the stringency of that section. The Government declined to take that course, but they were anxious, if they could, to alleviate the evils which admittedly existed and against which that section was originally directed. They felt, as I stated here on a previous occasion, that, although that section was one with which in principle the Government as at present constituted was not in accord, still, as they found it on the Statute-book, and as no objection had been made to it and no attempt seemed to have been made by any part of the public to get rid of it, they did not feel that as practical men it was any part of their business to interfere with the existing law, which seemed, if it was doing no good, to be doing no harm.

"Since that time the situation has entirely changed. From every part of the country we find that the objections to the existing system, and the suggestions which are made for its improvement, all turn on the removal of this particular section from the Statute-book. The Select Committee found that, in order to apply the special remedy which seemed to them most likely to be of any use in this matter, it was absolutely necessary to get rid of this particular provision, and the High Court, on whose suggestion the previous provisions of the Bill were framed and introduced, made in their comments on the Bill as circulated the repeal of this particular section a condition precedent to their approbation of the measure at all. Under these circumstances we have thought ourselves justified in proposing that the section, which, as I have said before, is one to which, had it not been existing law, probably no one here present would have given his adhesion, should be repealed. So long as it remained on the Statute-book it was impossible to give anything like a real supervision over this question to a domestic tribunal of any kind; because so long as the profession of a tout was by law declared to be a criminal offence for which a man would be liable to fine and imprisonment, so long to assert that such and such a man was a tout would be to expose yourself to an action for defamation, and to do as we proposed to do—to make lists of persons who were known as touts—would simply have been to expose every District Judge in India to litigation of the most indefensible character. But, if the Council consents to our proposal to repeal that section, to remove altogether from the cognisance of the criminal law any question as between law brokers or touts and those who employ them, to recognise, as I submit we ought always to recognise, that it is as much for the benefit of a lay client who does not know to what practitioner he ought to take his case when he finds himself involved in litigation, to find some

one who can advise him as to who is the best man he should go to, as it is to the interests of a man, for instance, who wishes to send his goods to Europe to have a shipping agent who will take charge of his goods and tell him to what company to apply and give him all the advice in his power as to the goods, while on the other hand, it is a gross dereliction of duty on the part of any person entrusted with the duty of the advocacy of others in the Courts to give any remuneration coming from himself or given on his behalf for the purpose of inducing an intermediary in the nature of a tout or pleader to bring him business which otherwise would not have come to him on his merits, then the difficulty of dealing with the case will be greatly diminished. The object of the Bill, as now framed, is to render it as difficult as it can be rendered by law for any legal practitioner to indulge in any improper practice of that kind. It also has endeavoured as now framed to leave outside altogether any attempt to control such legitimate business as I have mentioned, that is to say, that no arrangement which may hereafter be made when this Bill is passed between the outside lay client and the broker or tout, who is to introduce him to an advocate for the purpose of having his litigation conducted by him, will be affected in any way by the provisions of the Bill. The provisions of the Bill are entirely aimed at the improper relations between the legal practitioners and the persons who act as intermediaries between them and the ultimate clients prepared to bring them business. But, as it has been well established that although such business as I have described is not in itself improper, and is even in many instances a beneficial one, still there is a large class of people who at present live by a form of this business which is highly objectionable, and who have been rightly described in many of the papers before me as 'pests of the Court,' it has been thought desirable to enable the Judges and others at the head of the Civil Courts to take means for minimising the nuisance produced by the existence of these pests, by excluding them from the precincts of the Courts and by giving public notice to all the world that such and such persons are pests of the kind I have described, and by rendering it an act which will subject the pleader or legal practitioner to domestic discipline if he thereafter deals with a man who has been so publicly proclaimed. By being enabled to authorise such lists as I have mentioned to be framed we have also been enabled to get rid of what was one of the points of objection most strongly urged to our original proposal. I do not myself think that the objections which were taken to that proposal as originally put forward were well-founded. I do not think that there was anything unreasonable in throwing upon the practitioner or any other person the duty of saying, when he was acting with a man whose character was generally well known and reprehensible, that he was personally ignorant of the fact.

But from the moment that you are enabled to authorise the production of lists of persons who are known and described to be acting in this illegal manner, it became unnecessary to provide either that the onus should or should not be thrown upon a practitioner of proving ignorance, because inasmuch as these lists are proposed to be public property and to be kept constantly exposed in all the Courts, it will be impossible for any practitioner to accept business from a man whose name is in one of these lists, and at the same time to assert that he was ignorant of the character of the man from whom he accepted such business. Therefore the Committee have found themselves justified in inserting in the Act a provision absolutely prohibiting the acceptance of business on the part of a practitioner from any person whose name is in any one of these proclaimed lists, and it has not been thought necessary to introduce any provision authorising the practitioner in question to prove his ignorance or to throw upon him the responsibility of proving that ignorance. In point of fact, if the Bill passes in its present form, the fact that a practitioner accepts business from a tout whose name is on the list in the Court in which the business has been accepted will of itself be conclusive proof that the practitioner has been guilty of an act in contravention of the Act. Of course, such a power as that requires to be surrounded with sufficient safeguards, and the Committee have made it the first condition of enabling any such lists to be made and published as I have mentioned, that the name of no man shall be included in any such list until he has had an opportunity of showing cause against it, and of providing for the exclusion of his name from the list. Of course it would be absolutely intolerable if a man were to wake up some morning to find his name in a black list of this kind without having any knowledge of the circumstances under which he was charged with acting improperly, or any opportunity of explaining the circumstances of, or showing that there was no foundation for, the charge. We have, moreover, in order to make it perfectly clear that the Bill is only aimed at the particular illegal practices I have mentioned, and is not intended to interfere with the legitimate business of an intermediary, as between the lay client and the intermediary himself, inserted a definition of the word 'tout,' as used in this Bill. The definition is one which shows that the procurement of employment in legal business is not in itself an act of touting within the meaning of this Bill, it is only when it is done in consideration of any remuneration coming from such practitioner. That at once lays down on the face of it the principle I have been endeavouring to enforce, that the objection to the practice is not the introduction of the legal practitioner to a client on the action of an intermediary, but to the procurement by the legal practitioner himself of the introduc-

tion as the reward of some remuneration given by or moving from him instead of its being a recommendation on the merits. In order to emphasise this somewhat more fully than the Bill originally did, and at the suggestion of one of the High Courts, we have introduced into section 13 a further clause which did not exist as the Bill was originally introduced, making it objectionable for any pleader—and if for a pleader, I may state in passing, then for all classes of legal practitioners—'who, directly or indirectly, procures or attempts to procure the employment of himself as such pleader or mukhtar through, or by the intervention of, any person to whom any remuneration for obtaining such employment has been given by him, or agreed or promised to be so given.' So that we aim very directly not merely at the introduction by a tout to whom a remuneration has been given, but at the attempt, direct or indirect, on the part of the legal practitioner to obtain such an introduction by means of what is practically a bribe to the tout.

"We have in the other direction and in the interests of the lay client rather extended the class of persons by whom instructions may be given on behalf of a client to a pleader. As the law stands at present instructions on behalf of a client must be given direct to the pleader either by the person himself or some person who is his recognised agent under the Code of Civil Procedure—this is a very limited class of legal agents—or some private servant of the client authorised to do so. Private servants seemed to involve some difficulty, for if, as is probably the case, it means domestic servants, they are a class of persons to whom it is not the most desirable to entrust the power to give instructions. Then there was a provision which was introduced by the amending Act, that in the case of *pardanashin* women, or of persons who were for any reason unable to be present themselves, instructions might be given by any relative or friend authorised by the party. It appeared to the Select Committee that there was no reason for limiting that last provision to the case of *pardanashin* ladies or persons who were physically prevented from giving instructions themselves, and there was no reason why these instructions should not be given through the agency of any confidential servant, relative or friend, or any party whom the party chose to authorise for the purpose, and therefore, if the Bill should pass as it has now been altered by the Committee, there will be no special reference to *pardanashin* women or disabled persons at all, but the pleader will be entitled to take instructions from any confidential servant, relative or friend authorised by the party to give such instructions. That will cover the case of a tout or broker duly authorised by the party to give such instructions,

provided always that he has not been paid anything by, or offered anything from, the pleader; but there is nothing in that section which will protect the pleader in case he is guilty of any of the practices prohibited in the subsequent clauses, as, for instance, if he himself gives, or consents to the retention out of any fee payable to him, anything for the man who has given the instructions or suggested his name to the person who actually gave them, or otherwise procures the giving of them by reason of any remuneration; or in the particular case, which will be perhaps the most frequently applicable, if the person through whom the instruction comes is a tout who has been proclaimed in one of the lists I have described. Under any other circumstances the party is to be at liberty to employ any agent he pleases who is perfectly independent of the pleader for the purpose of giving instructions to the legal practitioner.

"The rest of the Bill has been practically altered so as to bring the case of revenue-agents into line with the case as I have described it as regards pleaders, the difference being of course that the Chief Controlling Revenue-authority is substituted for the High Court. That is the condition of the existing law and it is obviously a reasonable condition as regards revenue-agents.

"Another result of the alterations recommended by the Select Committee is that it has become entirely unnecessary to strengthen the hands of the subordinate Courts in the manner which was proposed by enabling them to take direct action against the pleaders enrolled in their Courts. The only objection taken to that which appeared to be at all valid, though I myself could not see that there was any point in that objection, was that it raised a purely invidious distinction between advocates of the High Court and other pleaders. Now, it is perfectly clear that it would have been not only unreasonable but unworkable to authorise within the jurisdiction of any chartered High Court that any Court subordinate to that Court should have the power of disbarring any advocate on the rolls of that Court. And yet there was nothing obviously unreasonable in saying that, in the case of a pleader who was not enrolled on the roll of the High Court, the Court on whose rolls he was should have the same power over him that the High Courts have over the advocates on their rolls. But the distinction was one which nevertheless appeared to be more or less invidious, and as the new alteration which has been made entirely alters the position of the profession, and as it is no longer a question of enforcing the provisions of the criminal law, but merely one of strengthening the domestic discipline of the profession, it has been thought unnecessary to proceed further with the proposal than I have mentioned. The High Courts in this country are the natural heads of the legal profession in the country, and it has been thought

unnecessary to alter the provisions of the law by which the enforcement of internal discipline has been left, subject to recommendations and reports on the part of the inferior Courts, to the action of the High Courts alone.

"I think I have now explained all the principal alterations which the Select Committee propose to make in this Bill. The practical effect of it, I am afraid, as I have said before, will not be as great as we could desire, because, in a matter of this kind, I believe that until any particular practice is reprobated by the common feeling of the persons who are exposed to temptations to adopt it, no outside force either of law, or even domestic tribunals such as I have described, will be sufficient to put the practice down. But every step that can be taken to render the practice in question either less reputable or more dangerous than it otherwise would be is, I think, a step in the right direction, and even although it may not go so far as many of us would desire if we only saw our way to do it, nevertheless I hope that the Bill, as now modified, if passed into law, will strengthen the hands not only of the Courts, but, what is of much more consequence for this purpose, of the honest practitioners, who are desirous of conducting their business in an honourable and upright way, and that they will be able to hold their own against those who are desirous of pushing themselves into practice by underhand means to a greater extent than by the law as it stands, and certainly to a much greater extent than it ever could have been done by any strengthening of the powers of a merely criminal prosecution."

The Hon'ble RAO SAHIB BALWANT RAO BHUSKUTE said:—"I shall simply be doing injustice to myself if I do not take this opportunity of conveying to Your Excellency the universal satisfaction with which the Bill as now amended by the Select Committee has been received all over the land, and especially in the Central Provinces. My countrymen have distinctly asked me to express their gratitude to the Hon'ble Sir Alexander Miller and to the Select Committee, and I thought I could not better accede to their wishes than by thus addressing myself to Your Excellency's Council. The present Bill is free from all objection. The section 36 of the original Act—that slur on an honourable profession—has been repealed. No power is given to District Judges and Revenue Commissioners to punish any unprofessional transactions on the part of a legal practitioner. The burden of proof, shifted contrary to the sound principles of any law, to the practitioner charged with misconduct, has been directed to its proper sphere. The Bill takes a more practical shape in the discouragement of touting. Responsible judicial functionaries are to make a list of touts, and any person put on the list is allowed to show cause why he should not be so dealt with. This is an important alteration in itself. It saves the

tout from an arbitrary enrolment, and enables the authorities to register the names of doubtful persons. I am sure the Bill can now have no single voice against it. Let me again express the deep gratitude of my countrymen and of myself to the Select Committee in general, and to the Hon'ble Sir Alexander Miller in particular, for having so sympathetically dealt with a measure which had so justly caused universal uneasiness."

The Hon'ble NAWAB AMIR-UD-DEEN AHMAD, KHAN BAHADUR, said:—
"My Lord, I was unfortunately unable, owing to my unavoidable absence from the meeting of the Council at which the Bill now under consideration was referred to a Select Committee, to submit any observations in regard to it at that time.

"It is not my desire, nor do I consider it necessary, to make any lengthy remarks in regard to the measure, but I am glad to have this opportunity of stating briefly my views, as the matter, besides dealing with the rights and privileges of a profession, affects a large section of the general community, and must be one of deep interest to every member of Your Excellency's Council.

"The Bill as introduced has been subjected to a great deal of criticism, and has given rise to several protests from members of the profession affected by it, and the various opinions which have been received show very clearly that there is not by any means a consensus of opinion as to the necessity for the proposed legislation, or in regard to the provisions that should be enacted. For myself, I am free to admit that I have grave doubts as to the necessity for, or the desirability of, legislation in the matter, and have been forced to the conclusion that it would have been better, instead of making the alterations that are now proposed, to have left the Act of 1879 as it stands. It was stated by the Hon'ble the Law Member, when he moved for the reference of the Bill to a Select Committee, that he did not expect that the particular evil which the Bill is aimed against could be destroyed by legislation or in any other way than by the education of the legal profession in India up to a higher standard of professional morality than it appears yet to have attained. He also stated that he considered it the duty of the Legislature to assist, as far as it reasonably can, and that although the Bill if passed would not have any great effect in the direction desired, still if it did even moderately assist in that direction, it was the duty of the Legislature of the country to pass a measure calculated to have that effect. The legislation proposed must be regarded more or less as an experiment, although this is not so much the case with the Bill as amended by the Select Committee as

it was with the Bill as introduced, and it is highly desirable that any undue discontent among the members of the profession whom it will touch should be avoided. As stated by the Government of Madras, 'the only complete remedy for the evils of law-touting is the gradual growth among the Native Bar of a higher professional standard and a purer public opinion.' As, however, it has been determined that legislation in the matter is called for, there are only two points on which I would wish to say a few words.

"The first is that the distinction drawn between barristers or advocates and pleaders or vakils is both uncalled for and undesirable. Among the members of each class in the profession it is unquestionable that men of the same stamp will, and must be, found, and it is in my opinion neither in accordance with what the existing state of things requires, nor proper to declare, as the proposed legislation practically does, that men who require to be controlled and dealt with under the law are to be found in one class and not in another and thus to cast a slur on all the members of one branch. I am naturally most interested in what is the case in the Punjab, and I take the liberty of quoting the following words from the opinion of the Government of that Province:—

'The mass of the barristers now practising in this Province is of the same stuff as the mass of the pleaders, neither better nor worse from an intellectual, educational or moral point of view, and it is absurd to make any distinction between them in this or indeed in any other respect. Theoretically, of course, a barrister is subject to the jurisdiction of his Inn, but it would be practically impossible to invoke that jurisdiction in a case of touting, which it is almost impossible to bring home to any one, even before a Court on the spot in this country. In the presidency-towns there is no doubt this practical distinction between a barrister and a pleader or vakil, that the former is subject to some control on the spot by some sort of association established among the advocates of the High Court Bar, but the association which might seem to correspond to this at Lahore is utterly powerless to exercise any control over its members.'

"This expression of opinion will not be questioned, and it is not by any means difficult to imagine that the state of things above described exists in other places. It cannot be said that the evils aimed at do not exist among barristers or advocates, and having regard to the great increase in their numbers, and the consequent struggle for existence, it is probable that the need for a remedy is now at all events as great in their case as it has been held to be in the case of pleaders or vakils; and, in any case, there is not, so far as I can see, any ground for making an honourable exception in the case of the former at the expense of the latter. The net, if it is to be spread at all, should embrace good and bad alike in the legal profession generally,

[*Nawab Amir-ud-Deen Ahmad, Khan Bahadur; Mr. Rees.*] [12TH MARCH,

especially as those among the barristers or advocates who would scorn the idea of employing a tout—and I am glad to be able to say that there are many such—would not be affected by the law if it applied to them. Under these circumstances I deem it to be my duty to express my regret that the distinction to which I have alluded has been allowed to stand in the Bill as now presented to the Council.

“The second point to which I desire to refer is the omission in the Bill as amended of the proposed provision giving power to suspend or dismiss pleaders or mukhtars to District and Sessions Judges and Commissioners. I cannot but think that, even admitting that the proposed legislation is desirable, the power in question should have formed part of the measure, the more especially as under the Bill as it now stands the repeal of the existing provisions in regard to the application of the criminal law in the matter is provided for. The discipline over legal practitioners, which it is considered necessary to exercise, could, I venture to think, be better exercised, both in the interests of legal practitioners and of those affected by their alleged misconduct, in the Courts where the practitioners carry on their calling, where they and the circumstances of each case are known, and where prompt enquiry and disposal of a complaint are possible. The remedy for the evils in question would thus have been more effectual, and the officers on whom it was proposed to confer the power referred to are, as a rule, officers to whom the power might safely have been entrusted. The provision that was proposed for an appeal to the High Court, which might reverse or vary any order appealed from, would have afforded a safeguard against the possibility of any abuse, and under the circumstances it is only left to me to express my regret that the question is not now open to reconsideration.”

The Hon'ble MR. REES said:—“This Bill as it emerges from Select Committee differs very considerably from that which was originally published in order to elicit public and professional opinion upon its provisions. The alterations are in every case, I think, such as will render the Bill more acceptable and more suitable to the conditions obtaining in Southern India, where the rapid spread of education and the almost universal use of the English language in the Courts has greatly raised the standard of the Bar and has induced, so far as one may judge from without, a disposition to work up towards an English standard of professional conduct. Twenty years ago, in the districts Your Excellency's Government is now opening out by the construction of the East Coast Railway, the vakil of the old school, who had little law and no English, was a well-known character and one of a fairly numerous class. In the present day,

[*Mr. Rees; Sir Griffith Evans.*]

highly educated graduates sit in the Courts of the District Munsifs, and of the Subordinate Magistrates, to whom English is as another mother tongue, and the bar of these, the lowest classes of Civil and Criminal Courts saving and excepting those of the village-officers, has undergone corresponding improvement. It is not likely, I think, that the circumstances obtaining in the Madras Presidency would have given birth to a Bill of this character, and, though unfortunately it cannot be said that touting does not exist therein, it is apparently carried on to a less extent and manifests itself in a less objectionable manner than in some other provinces. The decision of the Select Committee to deal only with the legal practitioner who out of the client's fees remunerates the intermediary who introduced the client will, I am sure, commend itself to public and professional opinion in Southern India. Any one who has sufficient time and sufficient Tamil may see when journeying on the Southern Indian Railway, which provides the former requirement, how artistic a practitioner is the person with whom the Bill might, if another principle were adopted, have to deal. Every train contains litigants from the villages, whose affairs, even if they were not known in the town before they started, which is unlikely, are public property before they arrive at their destination. The litigants' friends would scorn a sort of Dutch auction on the platform at which individual parties are knocked down to the lowest bidder, and it would be, I believe, impossible to deal with plausible persons who happen to be on the spot and happen to make a recommendation in such cases, or to give information which often may really be of help. I have overheard the clerk of a young English barrister secure for his master the conduct of a case in a manner to which no exception could possibly be taken, and of course wholly without the cognisance or countenance of the principal who paid him a fixed salary as clerk.

“I cannot help thinking that the touts' lists hung up in the Southern India Courts will be very short ones, but section 36 will be a valuable weapon in the hands of those empowered to use it, and the provisions of the Bill generally, seeing that they have the support of eminent barristers and vakils, should not only command the confidence of the lawyers, but of the public, and of those who serve the public, who as a body and not only in high places, I think, would hasten to acknowledge the great help they receive in the performance of their duties from the different grades of the legal profession.”

The Hon'ble SIR GRIFFITH EVANS said:—“The Bill as amended will, I think, meet with scarcely any opposition. Whether, as the Hon'ble Mover has said, the effect of it will be great or not is very doubtful; but it does seem to

me to be a step in the right direction. The direction that we have to proceed is this. From the time when the English Bar first appeared in India, they brought with them certain traditions and certain rules, written and unwritten, both in regard to their own independence, the integrity of their profession and various other matters; and I think all will admit that the great change which has taken place in the Native Bar—I am not speaking of the Native members of my own profession, but of the Native Bar other than barristers, the vakils and the pleaders in various parts of the country—that the enormous change which has taken place in their status, their independence, the manner in which they exercise their functions and the way in which they are able to conduct their cases before the Courts, is very different now from what it was when the English Bar first appeared on the scene. But the English Bar have brought with them as one of its cardinal points, as a thing necessary to the integrity of the profession as they understood it and the honour of it—they have brought with them this principle, that its members were not to tout, not to give commission, and that they were not to pay the agents who brought them briefs for bringing them; that it was from the point of view of the profession an unpardonable offence against the honour and integrity of the profession to return a portion of the fee sent in one's name, and to say that one had received so much when practically one-third or the half of it perhaps had gone to the agent or intermediary. Now in the endeavour to carry out this principle a step was taken in the Act of 1879 to make it a criminal offence to deviate from it either on the part of the practitioner or on the part of the person offering the commission. But it was found in practice that this criminal section has been an absolute dead-letter, and one of the reasons is that both the giver and receiver being guilty of the criminal offence it was impossible for either of them to give evidence against the other.

“This then having been found to be a dead-letter the conclusion arrived at was that it would be better in furtherance of the object to be attained to leave it to the Courts to administer domestic discipline as regards this matter, and it has been made clear in this Bill that while the matter ceases to be a criminal offence, it having been found useless for the reasons explained by the Hon'ble Mover, we have made it clear that doing any of these things is a matter which the Court which has the power to suspend or to remove the practitioner should take due notice of and punish him in the manner thought fit when he is discovered. Now it is quite evident that the chances of discovery under the present Bill are not greater than under the old one. They are still small I admit; but we have now the principle enunciated as strongly as before and the

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 machinery is more likely to result in at least an occasional detection and punishment of the delinquent, and I hold that there is something in it that there should be a machinery, which we hope will not be an absolutely dead-letter like the old one, but which may result in the occasional punishment of the delinquent. It will be an example to others and will have an educative value, for there is no doubt that especially in some parts of the country the views of many of the practitioners do require to be educated by some machinery of this kind. It may—it certainly will I think—be more likely to conduce to the desired result than the Act did as it stood before. That is the most we can say about it; but it is something, and it is the furthest that we have been able to go in this direction without landing ourselves in some impracticable scheme or in difficulties too great to be safely encountered. Therefore I entirely approve of the Bill as it is at present drawn.

“But there is one criticism which has been made upon it by the Hon'ble the Nawab of Loharu, and which I have seen made in the papers, and that is that barristers and advocates are exempted from the provisions of the Bill. Now I am not going to trench on a matter which can be dealt with by the Legal Member of Council—the Hon'ble Member will no doubt be able to dispose of that—I am going to answer it in a different way. The High Court has the power of enrolling barristers as advocates, and on being enrolled they have the power to practise within the jurisdiction of the High Court; the High Court has under clause 10 of the Letters Patent of 1865 in the case of the Calcutta High Court, and of other clauses in the case of other High Courts—I say that the High Courts have, under their Letters Patent, together with the power of admitting the advocates, the power to suspend or remove them for reasonable cause. It has been suggested by nobody, nor could it be suggested, that it would not be a reasonable cause for removing or suspending an advocate if found guilty of practices of this kind. Of course up to the present time it has not only been a professional misconduct, but it has also been a criminal offence. We have now taken away the criminal offence, but have in other sections emphasised the fact that it is so gross a professional misconduct that even the lowest and most ignorant practitioners ought to be dealt with, as a matter of domestic discipline, by suspension or removal by the Court whenever they are found doing these things; and I do not suppose for a moment it can be contended that for grave professional misconduct even the most ignorant of mufassal practitioners would not be liable to be dealt with for having committed this offence; or that it can be doubted for a moment that, if a sufficiently reasonable cause could be shown, the High

[Sir Giffith Evans; Rai Ananda Charlu Bahádur; Babu Mohiny Mohun Roy; Mr. Woodburn.]

Court would not similarly deal with a barrister or advocate. As a matter of fact there does not appear to be anything in the criticism at all, and Hon'ble Members will understand that, when there is this provision in the Letters Patent, this Council ought to be very chary about meddling with the Letters Patent at all. No one has even doubted that the words 'reasonable cause' are quite sufficient to cover the whole of this class of offence."

The Hon'ble P. ANANDA CHARLU, RAI BAHÁDUR, said:—"Against the Bill, as it originally stood, I had a great deal to urge. Against it as it has come out of the hands of the Select Committee I have nothing to say except to move the small amendment of which I gave notice and which I shall submit to the Hon'ble Members later on. For the many radical changes that were capable of being introduced by the Select Committee, the thanks of the country at large are due to Your Excellency's Government for having given that Committee a free hand, as also to my colleagues on that Committee for having worked in a harmonious and considerate manner, regarding all suggestions that were placed before them. I am sure that the Select Committee have succeeded in suggesting a piece of legislation such as is possible and may be beneficial under the circumstances."

The Hon'ble BABU MOHINY MOHUN ROY said:—"When the original Bill was referred to a Select Committee I pointed out certain defects and objectionable features in it. The Bill which is now before the Council is very different from the original Bill. I had some little hand in the framing of the amended Bill. I see nothing in it but what is good. All the objectionable provisions have disappeared."

The Hon'ble MR. WOODBURN said:—"As I was the only lay member of the Select Committee, I think perhaps it is as well that I should say in a few words that I heartily agree with the conclusions arrived at. In matters of this kind we are naturally guided by the opinions and views of the judicial authorities, who, as the Hon'ble Sir Alexander Miller has said, are at the head of the legal profession. In this case the Select Committee followed very closely the advice given by the High Court of Calcutta, advice which, with all deference to my friend the Nawab of Loharu, I think was right. The ultimate object of the Bill was to raise the tone of the lower grades of the legal profession, and in the Bill, as it originally stood, jurisdiction was given to a lower tribunal than formerly existed for the punishment of professional offences. If that lowering of the jurisdiction of the tribunal lowered the status of the ranks

of the profession in the eyes of the public, I think with the High Court that it was most desirable that it should not be carried out. The immediate object of the Bill was to lessen the notorious evil of touting, and, in spite of what the Hon'ble Mr. Rees has said about his experience of Madras, I confess I have no very confident hope myself that the effect of this measure will be an immediate success, because at the bottom of it all is the fact that in many parts of the country, from the crowded state of the profession, where there are ten candidates for business, which will only give a living to five, there is strong temptation to struggling practitioners to obtain a share by means which the sense of the profession will not approve. I do, however, think that the system which the Select Committee has adopted in the present Bill is the most practical and the most sensible of all the suggestions made to it, and I do entertain a hope that the evils of touting will at all events be lessened, and that by the exclusion of the more notorious and more determined touters from the Court that there will be material relief to the litigants and a lessening of temptation to struggling practitioners."

The Hon'ble SIR ALEXANDER MILLER said:—"I do not know that, in view of the general consensus of approval of these proposals, I need say much further in reply. I would only say that, on the point raised by the Hon'ble Nawab, that it was not with reference to that point at all, and that I had no part of that point in my mind, when I said that the use of the word 'pleader' would extend to the vakils and barristers, but merely as pointing out that what was an improper act on the part of the lower branch of the profession would necessarily be, *à fortiori*, improper on the part of the higher branch. But I entirely agree with what has fallen from the Hon'ble Sir Griffith Evans that it is only reasonable that the provisions of this particular Bill should deal with pleaders and mukhtars alone; in the Legal Practitioners Act itself advocates and vakils are left to the control of the High Court under its unwritten law and with reference to the powers given to the High Courts by the Charter. Chapter III, which is the one which in this Bill is amended, deals with pleaders and mukhtars alone, and is intended for the protection of pleaders and mukhtars from what might otherwise be too arbitrary action against them; and so far from its being the case that the non-mention of advocates in this particular amending Bill leaves them in a freer position than the pleaders in these respects, the very contrary is the fact: the liabilities of the pleaders are defined in the Act, while the advocates are left as completely as before to the unwritten constitutional jurisdiction of the High Court, which, as the Hon'ble Sir Griffith Evans has said, is quite strong

[Sir Alexander Miller; Babu Mohiny Mohun Roy.] [12TH MARCH,

enough to take care that what the Legislature will have pronounced to be an improper act on the part of a pleader will never be considered to be a proper act on the part of a barrister or vakil."

The motion was put and agreed to.

The Hon'ble BABU MOHINY MOHUN ROY moved that to the definition of "tout" proposed to be inserted in the Act by section 1 of the Bill, as amended by the Select Committee, the following be added, namely:—

"or proposes to a legal practitioner to procure his employment in any legal business in consideration of such remuneration."

He said:—"The object of this amendment is to enable the Courts to deal more effectually with the class of gentlemen called touts. The original definition was—

"'Tout' means a person who procures the employment in any legal business of any legal practitioner in consideration of any remuneration moving from such practitioner."

"Under this definition it would be difficult to obtain evidence that the person had received any remuneration from a legal practitioner. For the legal practitioner would be chary of making any disclosures which might implicate himself. The amendment would have the effect of rendering ample evidence available against persons who habitually practise touting.

"A tout is a tempter who gets hold of a suitor or case and goes about making proposals to legal practitioners to give him something out of their fees. Such proposals are an insult and sometimes resented as such. I am sure many legal practitioners would be glad to see him excluded from the precincts of the Court. There would be no lack of evidence against him."

The Hon'ble SIR ALEXANDER MILLER said:—"I think that this proposed amendment is a very good one. The Bill as drawn might be so interpreted—I do not think it was so intended, but it might be so interpreted—as to mean that a tout must be proved to have actually succeeded in his attempt to procure employment for an illegal consideration; and no doubt it ought to be just the same, he should equally come within the definition whether his attempt has succeeded or failed; and the proposed amendment will make it quite clear that the attempt to procure employment for an illegal consideration is as much within the Act as if it had been successful, and I think it will be an improvement to the definition."

The Hon'ble P. ANANDA CHARLU, RAI BAHADUR: "I consider, my Lord, the suggestion an excellent one."

The motion was put and agreed to.

The Hon'ble P. ANANDA CHARLU, RAI BAHADUR, moved that the following be added as an *explanation* to clause (a) of the new section proposed by section 2 of the Bill, as amended by the Select Committee, to be substituted for section 13 of the Act, namely:—

"*Explanation.*—The term 'instructions' in clause (a) shall not include information obtained by a pleader already duly employed in a suit or criminal proceeding, during the course of such suit or criminal proceeding, from any other person not being a person proclaimed as a tout, though such person may not have been authorized by the client to give such information."

He said:—"In submitting the amendment to the Hon'ble Members I shall first read the section to show that a pleader is permitted to take instructions (1) from the party, (2) from a recognised agent as defined in the Civil Procedure Code, (3) a servant, (4) a friend, and (5) a relative. The recognised agents, as has been already pointed out, are a very limited class. As regards servants, friends and relations, the words that follow 'authorised,' etc., attach themselves to each of them. Those words therefore determine the right to give instructions. The words 'taking instructions' are nowhere defined, so far as I am aware. There is a well-recognised traditional signification of it which is clear to men having a large experience of the legal profession. But there are persons who are misled into construing the words of the Act too literally. One such case did occur. A suit was brought on behalf of a minor by his next friend, his widowed and illiterate mother. According to the habits of Hindu women she did not stand by the elbow of her pleader to give instructions at the trial. At the trial it transpired that there had been an earlier litigation in which persons who represented the parties, then before the Court, were arrayed against each other. The pleader in the second case desired the pleader in the earlier case to tell him all about the former litigation. This has been viewed as a professional misconduct, as the former was not authorised by the party.

"A second case is this. Between a Bombay man and a Madras man a contract was settled by a broker. The contracting parties had not come face to face with each other. At the trial of a suit, which arose out of that transaction, the Bombay man figured as a witness, and it was of the utmost importance whether he was to be believed or not. The Madras man knew very little

[*Rai Ananda Charlu Bahádur ; Sir Alexander Miller.*] [12TH MARCH,

of him. But it so happened that there was in Court an attorney who had been engaged in a prior litigation, and who knew a lot about the witness, who was also connected with that previous suit. The pleader in the latter case got his facts from that attorney. That attorney would certainly not come under any of the classes named in the section, if literally interpreted.

"The explanation I have suggested will safeguard cases such as these, as against cantankerous officers taking into their heads to do mischief. With these remarks I leave the amendment in the hands of the Hon'ble Members."

The Hon'ble SIR ALEXANDER MILLER said :—"To the principle of this amendment I have no objection whatever. The only doubt I have in the matter is as to its necessity. 'Instructions' is a well-known legal expression, and means the first instructions given in that respect authorising the counsel to take up the case and directing him what the case he is to take up may be. 'Instructions' as introduced into the Act of 1879 I have no doubt whatever—although I was not a party to the Act—was intended to have that meaning, and that restricted meaning only. If it has been so misinterpreted as to apply to evidence or information or anything else which, after the advocate has undertaken the case, he would only require merely for the purpose of enabling him better to conduct the cause, I may say that I think the word has been misconstrued and misapplied, and anything which would tend to prevent such misconstruction would, I think, be an improvement. But I have a little doubt as to whether the attempt to define a well-known technical word in popular language is not likely to produce cases of misunderstanding which will probably be as bad as those to which the Hon'ble Member has referred. And, although I am not to be understood as opposing this explanation, it having been stated by the Hon'ble Member that the word 'instructions' has actually, as a matter of fact, been misinterpreted in the way he describes in at least one Court in the country, still I should myself be more inclined to rely on the knowledge of the Judges generally as to the technical meaning of the word than on any definition which could be given in popular language for the purpose of preventing them from going astray. I do not wish to be understood as opposing, but, if I myself were to give my individual opinion on the matter, I should prefer to rely on the technical meaning of the word, and I should hope that the Judges generally would understand, when a case came before them, that the technical meaning of the word, and that alone, was intended in the Act. I find that the words in question are copied directly from the Act, which has been in existence now for some sixteen years, and with the exception

1896.] [*Sir Alexander Miller ; Rao Sahib Balwant Rao Bhuskute ; Sir Griffith Evans ; Rai Ananda Charlu Bahádur ; Babu Mohiny Mohun Roy.*]

of the Munsif mentioned by the Hon'ble Member, I have not heard that any Judge has misinterpreted them, or that any difficulty has arisen in connection with them."

The Hon'ble RAO SAHIB BALWANT RAO BHUSKUTE : "I thoroughly approve of the amendment."

The Hon'ble SIR GRIFFITH EVANS said :—"I agree with what has been said by the Hon'ble Legal Member. The expression 'technical instructions' has a special significance, as is well-known, and I apprehend that although I entirely accept the statement of the Hon'ble Mr. Charlu that once a Munsif had reported a man to the High Court for listening to information in Court for the purpose of cross-examining a witness, still I think that the High Court would inform him that he did not know what the technical meaning of the word was, and there would be an end of the matter, and I therefore think that it might be left to the High Courts to understand and construe properly the words 'technical instructions.' There is always some danger in making a definition and in introducing any matters of this sort, but, apart from that, the explanation, although I should doubt its necessity, is not likely to do any harm, unless it leads to the Courts taking a different view of the meaning of the word 'instructions' from what would have been taken if this explanation had not been inserted."

The Hon'ble P. ANANDA CHARLU, RAI BAHÁDUR, replied :—"I should indeed be perfectly satisfied with the expression of opinion that I have been able to elicit from the Hon'ble Legal Member and other eminent Hon'ble Members who have spoken, if their speeches could only be taken into consideration in the interpretation of the wording of the Act. But it has been over and over again ruled that they are inadmissible for the purpose. So much so, that even the Statement of Objects and Reasons was held to be irrelevant if I remember right. In this view alone would I ask the Hon'ble Members to reconsider the question."

The Hon'ble BABU MOHINY MOHUN ROY said :—"I wish it to be distinctly understood that I don't oppose this amendment. At the same time I have no doubt that the 'information' described in the amendment does not come within the meaning of the term 'instructions' as used in the Bill. The same term was in the Act of 1879. But, as my hon'ble friend says that a

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[*Babu Mohiny Mohun Roy; Mr. Woodburn; Rai Ananda Charlu Bahádur; Sir Alexander Miller.*] [12TH MARCH, 1896.]

Munsif in the Province of Madras had construed the term differently and made a reference to the High Court, I cannot say that the proposed amendment is uncalled for. At the same time I should venture to think the High Court of Madras must have set the Munsif right, and that he would not make any more references of the kind."

The Hon'ble MR. WOODBURN said that he thought there was much danger in a plan by which a pleader could take instructions from people of whom his client had no knowledge.

The Hon'ble P. ANANDA CHARLU, RAI BAHÁDUR, said:—"I do not wish to press the proposition any further. One of my objects in bringing forward this motion was that there should be a clear expression of opinion on the part of those who were entitled to give an opinion in the matter. Now that we have had that expression of opinion, I do not propose to trouble Your Lordship to put the amendment to the vote."

The motion was consequently withdrawn.

The Hon'ble SIR ALEXANDER MILLER moved that the Bill, as now amended, be passed.

The motion was put and agreed to.

CIVIL PROCEDURE CODE AMENDMENT BILL.

The Hon'ble BABU MOHINY MOHUN ROY moved that the Bill to amend the Code of Civil Procedure be circulated for the purpose of eliciting opinions thereon. He said:—"I introduced this Bill on the 9th January and obtained an order for its publication in the official Gazettes on the 16th January. It seems that under section 18 (c) of the Rules another motion for its circulation for opinion is necessary. I accordingly make this motion."

The motion was put and agreed to.

INDIAN REGISTRATION ACT, 1877, AND INDIAN EVIDENCE ACT, 1872, AMENDMENT BILL.

The Hon'ble BABU MOHINY MOHUN ROY moved that the Bill to amend the Indian Registration Act, 1877, and the Indian Evidence Act, 1872,

AMENDMENT OF INDIAN REGISTRATION ACT, 1877, AND INDIAN EVIDENCE ACT, 1872; AMENDMENT OF EXCISE ACT, 1881. 209

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be circulated for the purpose of eliciting opinions thereon. He said:—"This Bill was also introduced on the 9th January and ordered to be published in the official Gazettes on the 16th January. It now requires to be circulated for opinion."

The motion was put and agreed to.

EXCISE ACT, 1881, AMENDMENT BILL.

The Hon'ble SIR JAMES WESTLAND presented the Report of the Select Committee on the Bill to amend the Excise Act, 1881. He said:—"I do not propose to go in detail through the recommendations which the Committee have made for the emendation of the Bill as it passed into their hands. They are fully stated in the Report of the Committee and they have been confined to the usual work of a Select Committee in making more precise and more careful the wording of the sections as they were first drawn. The object and operation of the Bill have not been in any way modified by the amendments introduced. One or two very useful additions to the Bill have been made, inasmuch as in establishing warehouses it had omitted to provide for certain necessary duties which would fall upon the Collector once a warehouse is established. For the carrying out of these duties two or three sections have been added to the Bill. If the Committee had left the Bill in this stage, they would have added one to the nine amending Acts which have already been passed by this Council, and which are all in the direction of declaring that certain words or certain sections have to be omitted or that certain words or certain sections have to be added to the original Excise Act of 1881. The result is that this Excise Act of 1881 as it now stands with these ten amending Acts is something like one of those map puzzles which children have to work out, and it has become impossible to make out the various sections without piecing together the words and sections brought together from ten different sources in the various Acts of the Statute-book. There is obviously great inconvenience in this to the numerous Excise-officers who have to work the Act and to the still more numerous license-holders and farmers who come within its operation. When I introduced the Bill I stated that I intended to make the proposal to the Select Committee that in revising the Bill laid before them they should report to the Council not only the Bill thus revised but the original Excise Act of 1881 as amended by the Bill they themselves passed and all the intermediate Acts now upon the Statute-book. This proposal, I am glad

Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892 (24 & 25 Vict., cap. 67, and 55 & 56 Vict., cap. 14).

The Council met at Government House on Thursday, the 9th January 1896.

PRESENT:

The Hon'ble Sir A. E. Miller, K.T., C.S.I., Q.C., *presiding*.
His Honour the Lieutenant-Governor of Bengal, K.C.S.I.
His Excellency the Commander-in-Chief, G.C.I.E., K.C.B., V.C.
The Hon'ble Lieutenant-General Sir H. Brackenbury, K.C.B., K.C.S.I., R.A.
The Hon'ble Sir C. B. Pritchard, K.C.I.E., C.S.I.
The Hon'ble Sir J. Westland, K.C.S.I.
The Hon'ble J. Woodburn, C.S.I.
The Hon'ble Prince Sir Jahan Kadr Meerza Muhammad Wahid Ali Bahádur, K.C.I.E.
The Hon'ble Mohiny Mohun Roy.
The Hon'ble C. C. Stevens, C.S.I.
The Hon'ble A. S. Lethbridge, C.S.I., M.D.
The Hon'ble Sir G. H. P. Evans, K.C.I.E.
The Hon'ble Alan Cadell, C.S.I.
The Hon'ble J. D. Rees, C.I.E.
The Hon'ble G. P. Glendinning.
The Hon'ble Nawab Amir-ud-Din Ahmad Khan, C.I.E., Bahádur, Fakharuddoulah.
The Hon'ble P. Playfair, C.I.E.

NEW MEMBER.

The Hon'ble NAWAB AMIR-UD-DIN AHMAD KHAN, BAHADUR, took his seat as an Additional Member of Council.

INDIAN EMIGRATION ACT, 1883, AMENDMENT BILL.

The Hon'ble MR. WOODBURN moved that the Bill to amend the Indian Emigration Act, 1883, be taken into consideration.

The motion was put and agreed to.

The Hon'ble MR. WOODBURN also moved that the Bill be passed.

The motion was put and agreed to.

to say, the Select Committee have adopted; and it will be seen therefore that the Select Committee have sent two annexures to their Report. The first is the revision of the Bill committed to their charge. This Bill they do not recommend the Council to pass. The second annexure is the Excise Act of 1881 brought up to date by leaving out from it all the passages which the intermediate amending Acts have directed to be left out and inserting in it all the passages which these amending Acts have ordered to be inserted. With respect to this, which is a pure consolidation Bill, I am going to ask the Council to intermit their undoubted right of proposing any amendments or of making any criticisms. My hon'ble friend Sir Alexander Miller will point out that in doing this I am only adhering to the practice of a higher Legislature than our own in dealing with purely consolidating Acts. I am, on the part of the Select Committee, proposing this consolidated Excise Bill, because it is a matter of great convenience to the officers who have to work it and to the persons who come within its operation to have the law before them in a single Act rather than to be obliged to piece it together in the manner I have stated. That obviously is an improvement in itself. I do not pretend to say that the Excise Act is a perfect Act in every respect. Indeed, it is extremely probable that we shall have to revise it in a short time. But even for purposes of revision it is desirable that we should have the whole of the Act brought up to date rather than that we should have to operate upon a large number of Acts scattered through fifteen years of the Statute-book.

"In making this proposal that the Legislative Council should not exercise its right in the matter of the criticism of the Bill as we propose it, otherwise than in respect of the particular amendments which the Bill as laid before the Select Committee introduced, I think it is necessary that I should satisfy them that in consolidating it we have made nothing but the most formal and literal changes in the Bill. I shall mention the whole of the changes which have been made, apart of course from the amendments which have been introduced in respect of intoxicating drugs. These are matters I am not talking of, because they are matters which belong to the essence of the business now before the Council. I will enumerate therefore the alterations which in the consolidation the Select Committee have made.

"The first of them is that in the beginning of the Act the Lieutenant-Governor of the North-Western Provinces and the Chief Commissioner of Oudh is specified as if they were two distinct individuals. As a matter of fact the same high officer exercises both powers, and therefore, instead of enumerating the Lieutenant-Governor of the North-Western Provinces among the Lieutenants-

Governors and the Chief Commissioner of Oudh among the Chief Commissioners, we have called the single officer the Lieutenant-Governor of the North-Western Provinces and Chief Commissioner of Oudh.

"The next alteration made in the consolidation is the omission in one place of the indefinite article 'a.' It arises from the fact that in two sections which are adjacent to each other, one is taken from the original Act and mentions *a duty*, and the second is taken from an amending Act and only talks of *duty*. We have amended the first, so that the two sections may run in the same grammatical form.

"In section 9 we have left out the two simple words 'as to.' That is merely a grammatical correction.

"Another correction we have made is that, instead of using the words 'Collector's order in writing,' the ordinary form adopted in similar cases is employed, namely, 'the order in writing of the Collector.'

"We have brought together Chapters IV and V of the original Act, the reason of that being that in Chapter IV, which originally consisted of two sections, one section has been intermediately repealed; so that we have one Chapter which contains one section only. We have combined that Chapter with the Chapter which follows it and which deals with a cognate subject.

"In two or three cases we have followed the method of drafting now largely adopted, and have split up a section into two sub-sections; and in doing this there are two cases in which grammar requires a verbal alteration. In sections 35 and 36 of the original Act we have had to alter the initial words of the second sub-section from, in the first case, 'and all spirit,' by leaving out the word 'and,' and, in the second case, by altering the words 'and the spirit' into the words 'all such spirit.'

"These are all the alterations made in the process of consolidation, and I trust Hon'ble Members will be satisfied that in asking them not to propose further amendments in the Excise Act, and to accept the consolidated Act as it stands without making any amendments in it, I am not adopting any unusual course of procedure."

The Hon'ble SIR ALEXANDER MILLER said :—"I more or less suggested the course now taken. I need hardly say that I hope the Council will accept it. At the same time I am not desirous of its being accepted under false pretences, and I do not think I should be doing my duty towards my learned friends Lord

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Hobhouse and Mr. Whitley Stokes, who introduced the present system of amendment, if I did not point out that it is not necessary really, as the Act now stands, to wade through the eight or nine Acts and piece them together for yourself, because that is the duty of the Legislative Department, which from time to time issues editions of the Acts as consolidated, and that this particular Act has been issued by the Legislative Department as modified up to the year 1893, and no amendment has been made in it since 1892."

The Hon'ble SIR JAMES WESTLAND: "But it has not been published in the local Gazettes and in the Vernacular in the amended form. There the difficulty arises."

The Hon'ble SIR ALEXANDER MILLER continued:—"At any rate, even if that were not so, there is a very great advantage and convenience in from time to time re-enacting the Act in its finally amended form. It has two advantages over publication by the Legislative Department: first, it is authoritative—there can be no question raised by anybody as to whether the amendments have been rightly printed or properly incorporated; it bears upon it the stamp of the Legislature, and it is itself the last appeal upon any question of form; and, secondly, there is much greater convenience. It finds its way into the current volumes of Acts instead of a supplement to another volume which cannot be very conveniently incorporated into that other volume, and the number of these scattered Acts now brought together in supplements makes that not a very convenient form for reference. So I entirely agree that there is a great advantage that when an Act has been amended frequently it should be re-enacted *ab initio*, the old Act repealed and the new one put in its place. The ordinary way in which this is done now would be the manner which was adopted lately with reference to the Merchant Shipping Acts, where a Bill of, I think, 700 and odd clauses was introduced bringing together all the various Merchant Shipping Acts. It has been gone very carefully through clause by clause in Select Committee at I forget how many various sittings, with the result that the law, which it is hoped will some day or other pass, has been got into a definite shape.

"But another way which on a former occasion was found very convenient—I am speaking now of the Land Acquisition Act, in which the Hon'ble Home Member took so active a part, and in the case of which, after we had made in Select Committee the various alterations and improvements in the Act of 1870 which were thought desirable, the Select Committee proceeded to withdraw the amending Bill altogether and to introduce a new Bill containing the

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Act of 1870, as it would stand when amended and altered by the Bill then before the Council. That was accepted by the Council and the present Land Acquisition Act (1 of 1894) is the result, and I hope I may say that it is a very useful and beneficial result.

"What you are now asked to do is to go one step further, which is, I think, a perfectly harmless one. Supposing the proposition that is now about to be made not to be accepted and annexure 1 merely to be passed: the result would be that you would have a new edition of the Excise Act published by the Legislative Department which would take the form of the old Act with the various alterations proposed in annexure 1 and which would have precisely the same effect as the Act which is embodied in annexure 2 which you are about to be asked to pass. No greater opportunity would be given for investigating the parts of the old Act not touched by the existing Bill than you will have got if the proposal that the parts which are not proposed to be touched and which are irrelevant to the Bill be now passed uninvestigated. You will be in exactly the same position as if the Bill which has been investigated were passed and then a new edition of the Act brought out by the Legislative Department, but you will have the advantage already pointed out, and the extra advantage pointed out by the Hon'ble Sir James Westland, that you will get an Act in the best form published in the local Gazettes and translated where necessary, and you will not really be giving up any power of control or supervision or amendment inherent in this Council, because you are only asked to take on trust from those who have investigated it that which in the ordinary form you would take on trust from the officials of the Legislative Department. Under these circumstances I do not think it too much to ask the Council to do that without which it would be extremely difficult to get this Act re-published in its best and most convenient form and which, as I pointed out, does not involve any derogation of the powers of this Council."

INDIAN CONTRACT ACT, 1872, AMENDMENT BILL.

The Hon'ble SIR ALEXANDER MILLER presented the Report of the Select Committee on the Bill to amend the Indian Contract Act, 1872. He said:—"I confess I present this Report with a certain feeling of disappointment.

"In so far as the merits of the Bill are concerned, the Select Committee have, I think, improved the draft Bill very decidedly. They have put it into a

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form which I think is absolutely free from any possibility of criticism and which I hope will at no very distant period be accepted as law, but they have come to the conclusion—and I am not in a position to contravene the wisdom of their conclusion—that the public, as apart from the official bodies already consulted on the Bill, ought to have an opportunity of expressing their opinion as to the effect of the Bill before it is passed into law. And, therefore, instead of advising that the Bill as amended be passed, they have thought it their duty to recommend the re-publication of the Bill in order that the mercantile public and others not consulted should have an opportunity of expressing their opinions, the Bill never having been submitted to the public at large for the purpose of criticism from them. The practical effect of this course will be that I shall be obliged to hand over the future conduct of this Bill to the favourable consideration of my successor in office. I have the satisfaction of knowing that it is a subject with which he is extremely familiar, and therefore I have still a strong hope that the passing of the Bill into law will not be greatly delayed by the present proposal."

UNITED KINGDOM PROBATES BILL.

The Hon'ble SIR ALEXANDER MILLER moved for leave to introduce a Bill to provide for the recognition in British India of Probates and Letters of Administration granted by Courts in the United Kingdom. He said:—"The object of this Bill is a very simple one and will commend itself to everybody on their hearing what it is. Where a man dies having property in the United Kingdom and also in any British possession, it was until a late period necessary that his will should be proved or letters of administration taken out in every British possession in which he had any property which his administrator or executor desired to get possession of. An Act was passed—55 & 56 Vict., c. 6—some years ago in Parliament, by which it was provided that letters of administration granted in any British possession might be sealed in a Court of probate in the United Kingdom and should thereupon have the same effect as if granted by that Court. Similarly, Her Majesty was empowered to direct by order in Council that Probates and letters of administration granted in the United Kingdom might be sealed without further probate in any British possession when the Legislature of the British possession had passed the necessary legislative enactment for the purpose of making 'adequate provision for the recognition in that possession' of such probates and letters of administration. On that being done, an Order in Council can be issued which will have the effect of enabling the probates and letters of administration granted in one part of the

empire simply to be sealed by the Courts in the other part, and thereupon to have full effect as if they had been, as has hitherto been necessary, granted separately in each. I may say that for some five and thirty years this practice has been in full operation as between the Courts in England and Ireland, and that no practical inconvenience has arisen from the practice, but that a very great saving of expense and trouble to executors and administrators has been the result, and I have no reason to doubt that the result of the adoption of the process as between the United Kingdom and India will be as beneficial as it has been found in the different parts of the United Kingdom itself.

The motion was put and agreed to.

The Hon'ble SIR ALEXANDER MILLER introduced the Bill.

The Hon'ble SIR ALEXANDER MILLER moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India and in the local official Gazettes in English.

The motion was put and agreed to.

MERCHANT SHIPPING BILL.

His Excellency THE PRESIDENT: "There is one other matter which is not on the list of business for to-day. The Hon'ble Mr. Cadell desires to make a statement on the subject of the Merchant Shipping Bill."

The Hon'ble MR. CADELL said:—"My Lord, I am anxious to make a short statement in explanation of the fact that no mention of the Merchant Shipping Bill is made in to-day's list of business.

"When the Report of the Select Committee on the Bill to consolidate and amend certain Indian enactments relating to Merchant Shipping and the carriage of passengers by sea was submitted nearly a month ago, I expressed the hope that it might be possible to take the Bill into consideration at the present sitting of this Council.

"But since then we have been informed that questions have been raised by the Board of Trade with reference to the working of the proposed law in relation to the existing English law on the subject; and as there is not time during the present session to receive and discuss the papers which may be expected, and which are evidently of an important nature, it has been decided to postpone the consideration of the Bill for the present.

MERCHANT SHIPPING.

[Mr. Cadell.]

[12TH MARCH, 1896.]

"But, much as this delay is to be regretted, I trust and believe that the protracted labours of the Select Committee have not been in vain, and that it will be possible to pass the Bill with such amendments as may be found to be necessary at an early meeting of the Council next session."

The Council adjourned to Thursday, the 19th March, 1896.

CALCUTTA ;
The 13th March, 1896. }

S. HARVEY JAMES,
Secretary to the Government of India,
Legislative Department.



Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892 (24 & 25 Vict., cap. 67, and 55 & 56 Vict., cap. 14).

The Council met at Government House on Thursday, the 19th March, 1896.

PRESENT:

His Excellency the Viceroy and Governor General of India, P.C., G.M.S.I., G.M.I.E., LL.D., *presiding*.
The Hon'ble Sir A. E. Miller, K.T., C.S.I., Q.C.
The Hon'ble Lieutenant-General Sir H. Brackenbury, K.C.B., K.C.S.I., R.A.
The Hon'ble Sir J. Westland, K.C.S.I.
The Hon'ble J. Woodburn, C.S.I.
The Hon'ble Alan Cadell, C.S.I.
The Hon'ble Mohiny Mohun Roy.
The Hon'ble A. S. Lethbridge, C.S.I., M.D.
The Hon'ble M. K. Ry. P. Ananda Charlu, Rai Bahádúr.
The Hon'ble J. D. Rees, C.I.E.
The Hon'ble G. P. Glendinning.
The Hon'ble Nawab Amir-ud-Din Ahmad Khan, C.I.E., Bahádúr, Fakharuddoulah, Chief of Loharu.
The Hon'ble Rao Sahib Balwant Rao Bhuskute.
The Hon'ble P. Playfair, C.I.E.

QUESTIONS AND ANSWERS.

The Hon'ble RAO SAHIB BALWANT RAO BHUSKUTE asked:—

"(1) Are the Government of India aware of a restriction of age imposed on students seeking admission into the High Schools of the Hyderabad Assigned Districts?

"(2) If so, do they not think such a restriction not obtaining in any other province highly prejudicial to the cause of higher education in a non-regulation province considerably backward in education?"

The Hon'ble MR. WOODBURN replied:—

"1. The only information which the Government of India have on the subject is contained in the Review by the Resident, Hyderabad, of the Report of Public Instruction in the Hyderabad Assigned Districts during the year 1892-93. In commenting on the average number of students in the Akola and Amraoti High Schools respectively, the Resident observed that the two schools appeared

[Mr. Woodburn; Babu Mohiny Mohun Roy; Sir Alexander [19TH MARCH, Miller.]]

to be worked on different lines as regards conditions on which boys were admitted or re-admitted; and, while conceding to head masters a reasonable discretion, he expressed the opinion that a maximum age should be prescribed for each class, and that a boy who has exceeded this age should be regarded as disqualified.

"2. The Government of India not having seen the rule, if any, referred to, are not able to express an opinion on it, but they will make enquiry on the subject."

The Hon'ble BABU MOHINY MOHUN ROY, on behalf of the Hon'ble SIR GRIFFITH EVANS, asked :—

"I beg to draw the attention of the Government of India to a letter from the Incorporated Law Society, Bombay, to the Government of Bombay, dated the 18th May, 1893, urging the necessity for amending section 136 of the Transfer of Property Act, and to ask whether the subject of the letter has been referred by the Government of India to any, and what, Local Governments or High Courts for opinion; whether any, and what, opinions have been received by the Government on this subject or on the desirability of amending the chapter of the Transfer of Property Act relating to 'actionable claims,' whether the opinions (if any) received, or the majority of them, were that some amendment was desirable; whether the Government of India have considered the above-mentioned letter and opinions, and also a case on the subject of 'actionable claims' decided by a Full Bench of the Calcutta High Court on the 2nd April, 1894, and reported in the Indian Law Reports, Calcutta Series, Volume XXI, page 568; whether they have come to any conclusion as to the desirability or otherwise of legislation on the subject; and whether the Government of India are prepared to make any statement as to whether they intend to deal with the matter or not."

The Hon'ble SIR ALEXANDER MILLER replied :—

"The subject-matter of the letter mentioned by the Hon'ble Member was referred to all the Local Governments and High Courts for opinion, and replies have been received from all the authorities referred to. There is a general agreement that some amendment of the chapter of the Transfer of Property Act relating to actionable claims is required though there is considerable difference of opinion as to the form which the amendment should take. The Government of India have these opinions as well as the judgment in the case of *Muchiram Barik v. Ishan Chunder Chuckerbutty*, reported in the Indian Law Reports, Calcutta Series, Volume XXI, page 568, and referred to by the Hon'ble Member, under their consideration, but have not arrived at any conclusion on the subject as yet."

[Sir James Westland.]

1896.]

FINANCIAL STATEMENT FOR 1896-97.

The Hon'ble SIR JAMES WESTLAND introduced and explained the Financial Statement for 1896-97. He said :—

"Famine Insurance Grant.

"I desire to begin my Statement by referring to the often-discussed subject of the Famine Insurance Grant. The policy which underlay this grant may for present purposes be described as a determination, as far as possible, to raise not merely so much revenue as was necessary for the needs of the current year, but an amount of Rx. 1,500,000 besides, which could be devoted either to the actual relief of famine when it occurred, or to measures calculated to prevent the recurrence of famine or to facilitate measures of relief on its occurrence.

"2. The following are the actual figures of the account during the fifteen years for which it has been running :—

YEARS.	Famine Relief.	Construction of Protective Irrigation Works.	CONSTRUCTION OF PROTECTIVE RAILWAYS.		Reduction or avoidance of Debt.	TOTAL.	Declared Surplus (+) or Deficit (−) in accounts.
			Charged under Famine Relief and Insurance.	Charged under Railway Revenue Account.			
	Rx.	Rx.	Rx.	Rx.	Rx.	Rx.	Rx.
1881-82	34,883	135,449	682,403	...	715,151	1,567,886	+ 3,595,451
1882-83	22,103	263,443	—133,129	...	1,343,555	1,495,972	+ 674,837
1883-84	9,205	283,223	649,248	...	581,137	1,522,813	+ 1,879,707
1884-85	7,350	253,046	946,457	...	341,504	1,548,357	—386,446
1885-86	40,695	186,807	589,000	29,271	683,498	1,529,271	—2,801,726
1886-87	1,041	107,979	200,000	151,812	...	460,832	+ 178,427
1887-88	402	91,006	...	285,199	...	376,607	—2,028,832
1888-89	7,799	70,537	...	430,182	...	508,518	+ 37,018
1889-90	68,288	71,457	...	462,009	460,255	1,062,009	+ 2,612,033
1890-91	5,579	74,392	...	482,351	520,029	1,082,351	+ 3,688,171
1891-92	23,423	77,931	484,795	231,681	682,170	1,500,000	+ 467,535
1892-93	70,841	60,793	984,469	383,897	...	1,500,000	—833,412
1893-94	496	56,351	1,060,954	371,768	...	1,489,569	—1,546,998
1894-95	10,258	43,110	556,867	389,765	...	1,000,000	+ 693,110
Total of 14 years	302,363	1,775,524	6,021,064	3,217,935	5,327,299	16,644,185	+ 6,228,875
1895-96 (Revised Estimate)	10,500	40,200	534,800	414,500	...	1,000,000	+ 951,400
Total of 15 years	312,863	1,815,724	6,555,864	3,632,435	5,327,299	17,644,185	7,180,275

[*Sir James Westland.*]

[19TH MARCH,

"3. It will be seen that the exigencies of finance have occasionally prevented the Government from completely fulfilling its self-imposed obligation. It has sometimes, as in 1893-94, set aside the required sum as famine insurance, without actually possessing it in the form of a realized surplus of revenue, and it has occasionally, as in 1886-87 and the succeeding years, practically given up the obligation as too onerous, and postponed its fulfilment until the financial crisis was over. But, taking the fifteen years as a whole, the Government has set aside Rx. 17,644,185 of its revenue for the purposes of famine relief and insurance (almost entirely the latter), and has over and above this realized a surplus of revenue of Rx. 7,180,275.

"4. What, then, have we done during this time in the way of carrying out the original policy? Besides spending Rx. 312,863 upon actual famine relief, we have spent out of the Famine Insurance Grant, that is, out of our revenue, Rx. 1,815,724 upon the construction of Irrigation Works, and Rx. 6,555,864 upon the construction of Railways designed as a protection against famines; and we have upon the guarantee of this Insurance Grant raised capital for the construction of two large Railway systems—the Bengal-Nagpur and the Indian Midland. We have, moreover, charged off against our Revenue account and set aside an amount of Rx. 5,327,299 in the form of reduction or avoidance of debt, that is, we possess this sum as a sort of accumulated surplus of Revenue over and above the forward total of our ordinary surpluses.

"5. I need not say that this is a far better position than what was considered in any way probable when the famine insurance policy was initiated, for the anticipation then was that we would actually spend about Rx. 15,000,000 upon Famine Relief in ten years and not have any part of it in hand in the shape either of completed works or of money unspent. The improvement is due for the most part to the fact that we have during these fifteen years been much more free from famines than we in any way anticipated. To what extent famines may be awaiting us in the future it would be rash to speculate; one thing we do know is, that our financial and our protective preparation for them is infinitely superior to what it was at the time when the famine insurance policy was laid down.

"6. While therefore we continue to regard famine insurance as an essential portion of our financial policy, we consider ourselves fully justified, for the present at any rate, in measuring it by a lower standard than was applied in 1880; and we consider that we will in the present state of our finances meet all the necessary obligations of famine insurance if we set aside in each of the years under consideration, not Rx. 1,500,000, but Rx. 1,000,000 out of our revenue for the purpose; or, to state the operation more exactly, if we aim at establishing a standard of revenue sufficient to provide Rx. 1,000,000 instead of Rx. 1,500,000 for famine insurance.

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[*Sir James Westland.*]

"7. When I presented the estimates of March, 1894, the Government had determined that the new revenue required to meet the serious fall in exchange was enough for the country to bear at the time, and that it was not expedient to raise the further sum required to meet the obligation of famine insurance. But a year later, that is, in March of last year, I was able to report that the revenue realized had been actually enough to provide a considerable amount on account of our famine obligations. I left the matter at that point, stating that it was not much more than a difference in the manner of stating the facts, whether we said that we had a surplus of Rx. 990,000 without providing for famine insurance, or a smaller surplus, say Rx. 440,000, after providing in part for that insurance. But the obligation of Famine Insurance is an obligation upon us whether we actually meet it or not, and it follows that any surplus that we declare, without meeting it, is not a true surplus. When, therefore, in December last, we came to making up our actual accounts for 1894-95 and forecasting our revised estimates for 1895-96, finding as we did that we had enough of revenue to meet this obligation, we considered that the time had come when we should set aside our determination, of March, 1894, to suspend the Famine Insurance Grant; and that we should duly provide for it in our accounts, and should declare as the actual surplus of the year only so much revenue as remained over after we had duly charged off the Famine Grant. That grant therefore has now resumed its position in our accounts; only for the reasons I have already given, we measure the obligation for the present at Rx. 1,000,000 instead of the higher figure hitherto adopted as its limit.

"Accounts of 1894-95.

"8. The accounts of 1894-95, as I presented them this time last year, were estimated to work out to a surplus of Rx. 990,500. As they now stand when actually closed they are better, under the ordinary Revenue and Expenditure heads, by Rx. 259,477; but then, as we have, in pursuance of the policy I have just explained, charged off an additional amount of Rx. 556,867 on account of Famine Insurance, the result is on the whole worse by Rx. 297,390, and the declared surplus for the year is Rx. 693,110.

"9. On the Revenue side, the total difference is only Rx. 33,329 made up of about 20 lakhs short collections of Land Revenue (both ordinary and irrigation) more than compensated by petty improvements under almost all the other heads. On the Expenditure side, excluding consideration of the Famine Grant, there were small savings under almost all the heads, and the total difference was Rx. 226,148 to the good. The Revised Estimates, as I presented them in last

year's Financial Statement, may therefore be said to have been more than justified by the actual making up of the accounts.

“Revised Estimates of 1895-96.

“10. The result of the Revised Estimates of the year still current may shortly be set forth thus: We have paid for the Chitral Expedition, we have restored the Famine Insurance Grant to the extent just mentioned, we have restored the contributions we levied, in 1894-95, from the Provincial Governments, and we have a surplus, over and above, of Rx. 951,400.

“11. To take up these subjects in their order: the Chitral Expedition has cost us Rx. 67,200 in the accounts of 1894-95, Rx. 1,647,500 in the Revised Estimate of 1895-96, and a further sum of Rx. 20,000 will come under payment in 1896-97, giving a total of Rx. 1,734,700 in India, besides a sterling expenditure in replacement of stores of £16,000. It has left us a legacy of permanent expenditure in the occupation of Chitral and of its communications, which has involved in 1895-96 an expenditure of Rx. 102,200, and will involve in 1896-97 an expenditure of Rx. 231,700. It is expected that it will be possible to reduce this figure when we pass beyond the initial stages of the occupation.*

“The Financial Statement is not the place in which to defend the policy of the expedition or the occupation which has followed it; and I have here merely to note the fact that against a Budget provision of Rx. 150,000 which was announced as intended to meet the cost of preparations which it was hoped might not eventuate in war, we have expended Rx. 1,749,700 plus £16,000, being an excess (omitting exchange) of Rx. 1,615,700.

“12. The contributions which we took from the Provincial Governments in 1894-95 amounted to Rx. 405,000. We expressed at the time the reluctance with which we called in to our aid balances which the Local Governments might legitimately claim as pledged to them for the purpose of administrative improvement, and we indicated that we would restore them, if happily the financial position of the Government should sufficiently improve to warrant our doing so. We think that it has done so, and even were this not fully the case there are some circum-

* The figures in this paragraph are irrespective of the “Political” Expenditure, which comes to Rx. 20,000 in 1895-96 and Rx. 22,000 in 1896-97, and includes enrolment of levies to hold the road; also of Military Works Expenditure, Rx. 21,600 in 1896-97.

stances which would in one or two of the cases make it necessary or advisable for us to make the repayments.*

“13. The Provincial finances of the North-Western Provinces suffered very severely in 1895-96 by reason of the failure of Irrigation Revenue. So much and such seasonable rain fell during the cold weather of 1894-95 that the cultivators were able very largely to dispense with their usual drafts on the irrigation canals, and the revenue dropped from its ordinary standard of 56 or 57 lakhs to only 36½. However beneficial this was to the cultivators, it obviously involved a severe strain on Provincial resources, and although every economy has been enforced, the Provincial balance has been reduced to a figure which, especially in view of the scarcity impending in some parts of the province, cannot be regarded as safe. Here, therefore, a necessity for restoration arises which we would have to face even were our own position less strong than it is.

“14. The Central Provinces Administration has also been unfortunate. For three successive years the crops in the Jabalpur Division have been so scanty that the Government has been obliged in some measure to forego its claims for Land Revenue, and in that and other ways the Provincial balance has there also been depleted. The circumstances under which we took from that Administration a contribution of Rx. 43,000 are now reversed, and we there also would be obliged to restore this year what we obtained last year.

“15. Burma, from which we obtained 18 lakhs, gave us a contribution out of all proportion to its size and importance as compared with other Provinces. Owing to special circumstances, it was able at the time to afford it, and in a sense may still be said to be so. But Burma is a young and expanding province, where the Local Administration can beyond a doubt make most excellent use of any funds it possesses, and where local needs press more heavily than in older and better equipped provinces. Moreover, when the provincial contract comes under revision, as it will before next year, we shall have to include Upper Burma, of which the finance is at present entirely Imperial, in the contract; and this addition

* These contributions pass into our accounts by a redistribution of the Imperial and Provincial shares Land Revenue. The figures are as follow:—

	1894-95 (ACCOUNTS).		1895-96 (REVISED).	
	Imperial column.	Provincial column.	Imperial column.	Provincial column.
	Rx.	Rx.	Rx.	Rx.
Distribution according to Provincial Contract Contribution	16,171,796 +405,000	9,236,476 —405,000	16,647,800 —405,000	9,544,700 +405,000
Figures entered in the Accounts or Estimate	16,576,796	8,831,476	16,242,800	9,949,700

will render it expedient that the provincial balance should be higher than the amount at which it is at present maintained. The 18 lakhs which we restore will be only partly spent during the approaching year and the bulk of it will remain in hand as a useful and almost necessary equipment for the undertaking by the Provincial Government of the financial management of the newest province of India.

"16. Bengal, Madras, Bombay and Assam are well enough off, I am glad to say, to do without the money we propose to restore to them; but the repayment of the money to them, and its ultimate expenditure by them upon provincial or local necessities, only makes up to them and to the interests they administer for the severe economy which was forced upon them by the recent financial stress.

"17. The total improvement in our financial position involved in our ability to provide the few items I have mentioned may be thus tabulated:—

	Rx.
Chitral Expedition paid for out of Revenue Account	1,615,700
Famine Insurance Grant restored	534,800
Provincial contributions repaid	405,000
Surplus Rx. 951,400, as against Budget Rx. 46,200	905,200
	3,460,700

"18. We have now to enquire from what main sources we have obtained this large improvement.

"19. The first of these is in Exchange. Our Budget Estimates were built upon an exchange of 13·09 pence, but the amount we have actually realized (or will have realized when the year closes) is 13·68 pence. The difference which this imports into the account in the item of English expenditure alone is as follows:—

	Net expenditure in England.	Exchange at 13·09d.	Exchange at 13·68d.
Budget figure, 1895-96	£15,739,600	Rx. 13,116,300	...
Revised Estimate, 1895-96	£15,490,700	...	Rx. 11,680,000
Difference	£248,900	Rx. 207,400	

so that the improvement in Exchange gives us a benefit of Rx. 1,436,300, of which Rx. 207,400 is due to the smaller net expenditure, and Rx. 1,228,900 is due to improvement in the rate of remittance. To this, moreover, we have to add the additional saving under the head of Exchange Compensation Allowance,

which enters the Indian figures of the Estimates and amounts, in the Imperial section, to about Rx. 76,000. This, however, will be taken into account in the comparisons we have to make between the totals of the expenditure in the Revised Estimates and the original Budget figures, and therefore is not separately mentioned here.

"20. The second considerable advantage comes to us in the Opium account, in which I regret to say that our payments have been diminished by another season of short crop. The Budget and the Revised Estimates compare thus:—

	Budget. Rx.	Revised. Rx.
Revenue	6,860,600	7,057,100
Expenditure in India	2,753,900	2,077,300
Net	4,106,700	4,979,800

showing a better result upon our accounts by Rx. 873,100. The extremely precarious nature both of the revenue and of the expenditure under this head compels us to make estimates that are apt to err upon the safe side. Our habit has been to make a fair estimate of revenue and a full estimate of expenditure, so as to avoid putting our expectations at too high a figure.

"I am sorry to say that the coming crop does not promise to be more than an average one, but it is really very difficult to estimate what the produce will be until the actual operation of collection has commenced.

"21. The two heads I have dealt with account for Rx. 2,309,400 (1,436,300 + 873,100) out of the total improvement of Rx. 3,460,700 which presented itself for explanation. The remaining amount Rx. 1,151,300 is mainly accounted for by an improvement of Rx. 243,400 under the principal Revenue heads (excluding Opium), and by savings amounting to Rx. 462,000 in the ordinary Army expenditure in India. These two items, added to the savings in the English account (excluding Chitral) of £264,900, give a total of Rx. 970,300.

"22. Under the principal Revenue heads, excluding Opium which has already been considered, we have obtained on the whole Rx. 58,775,600, against a Budget Estimate of Rx. 58,368,400, giving us an improvement on Imperial account of Rx. 243,400 (as just mentioned) and on Provincial account of Rx. 163,800. Land Revenue is a little less than estimated owing to poor seasons in Northern India, but we have the usual advance in Salt, Stamps, Excise, Customs (notwithstanding the diminished amount of duties on cotton, largely due to short imports) and Forest Revenue.

FINANCIAL STATEMENT.

[Sir James Westland.]

[19TH MARCH,

"23. Under Army expenditure in India, the figures are as follow :—

	Budget. Rx.	Revised. Rx.
Chitral Expenditure in India	150,000	1,749,700
Other Expenditure	16,920,500	16,458,500
TOTAL	17,070,500	18,208,200

so that the net savings (excluding consideration of the Chitral Expedition) amount to Rx. 462,000, of which Rx. 170,000 is due to low prices of food, and Rx. 53,700 due to lower rates of payment of Exchange Compensation allowance. For other details, I refer to Part II of the Statement.

"24. Under other heads I shall note only one or two principal differences, omitting reference to a large number of small increases on the receipt side, and small savings on the estimates of expenditure taken in Budget.

"25. The Post Office and Telegraph Departments in India have given us a net improvement on Imperial Account of Rx. 38,600 and Rx. 66,300 respectively.

"26. The Railway net earnings have been less than were anticipated in the Budget, the comparative figures being as follow :—

	Budget. Rx.	Revised. Rx.
State Railways—		
Gross Earnings*	18,001,900	18,375,100
Working Expenses	8,697,000	9,033,700
Net Earnings	9,304,900	9,341,400
Guaranteed Railways—		
Net Earnings	3,495,000	3,270,000
TOTAL	12,799,900	12,611,400

"The loss is on the whole Rx. 188,500; made up of a gain on Provincial Account of Rx. 55,200 (mostly due to the Eastern Bengal Railway), and a loss on Imperial Account of Rx. 243,700. The Great Indian Peninsula Railway was in this, as in last, year responsible for practically the whole of this loss, having produced only Rx. 1,600,000, against a Budget Estimate of Rx. 2,000,000. The following Railways brought in a gain which has compensated for a part of this loss: North-Western Railway, Rx. 205,000 better than Estimate; Bombay, Baroda and Central India, Rx. 132,500; East Indian, Rx. 100,000.

* Includes £200 in England.

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[Sir James Westland.]

"27. There was also a considerable falling-off in Irrigation Revenue, the comparative figures being as follows :—

	Imperial. Rx.	Provincial. Rx.
Budget	1,716,600	767,700
Revised	1,662,500	662,600
Loss	54,100	105,100

Part of this loss I have already alluded to in connection with the refund of contribution to the North-Western Provinces, and the remainder arises from smaller demands in Madras and in Sindh.

"28. Under Civil Departments, we have the usual savings in expenditure as compared with estimates. The figures are—

	Imperial. Rx.	Provincial. Rx.	Total (excluding exchange). Rx.
Budget	3,813,100	11,102,700	14,915,800
Revised	3,790,300	10,926,300	14,716,600
	22,800	176,400	199,200

It will be seen that it is mostly to Provincial Account that these savings accrue. For the further detail of the figures I refer to Part II of the Statement.

"Cotton Duties Legislation.

"29. The favourable forecast of our financial position which we were able to make in January last induced us to include, in the readjustment which we were then making of the Cotton Duties, a proposal to reduce their standard from 5 to 3½ per cent. So far as imported goods are concerned, we estimate to lose by the reduction in the rate of duty on woven goods and the abolition of it on yarns Rx. 535,000; but against this we estimate that the Excise Duty, by its extension to coarser counts of goods, will give us Rx. 40,000 more than last year's estimates. The net annual reduction of Revenue is, therefore, just under Rx. 500,000; and a small portion of it comes into the current year's accounts.

"Rate of Exchange.

"30. In setting forth the Budget Estimates for 1896-97 the first point to be settled is what rate of exchange is to be taken.

The rate at the beginning of 1895-96 was about 13⁵/₁₆d., and it remained about that figure for the first quarter. During July it slightly fell, but it recovered in August. In September it rose to 13³/₈d., and throughout October 13³/₄d. was firmly established. In November and December it continued to rise, and the first drawings of the Secretary of State in the current year 1896 were over 14d. The rate remained about 14d. throughout January, and during February and March it has gradually strengthened to about 14³/₄d.*

“31. The prospects indicated by these figures are decidedly encouraging; but as last year the Government of India made up their minds to avoid any speculations as to the future, so this year also they have determined in their estimates to take no account of the recent, and perhaps yet unexhausted, rise in the exchange. They consider it very important under present circumstances to be on the safe side, and have fixed the exchange to be taken in the Budget Estimates at a rate which would certainly have been deemed wise and prudent in the beginning of February, though to many persons it may appear in the light of more recent events to err on the safe side. The rate we have taken is 13³/₄d., being only slightly in advance of the realized rate of 1895-96. If we could calculate on a rate approaching the present current rate of 14³/₄d.* the time would have come for a revision of our general financial position; and we believe that no one will consider our position sufficiently assured for any such measures.

“ Budget Estimates, 1896-97.

“32. Taking this rate of Exchange, our Budget Estimates of Revenue and Expenditure for the coming year work out to a surplus of Rx. 463,100.

“33. The English figures, both of Revenue and of Expenditure, differ very little from those of last year's Budget. The differences are noted in detail in Part II of the Statement, and need not be further examined here. In the Exchange upon the net English Expenditure, however, we gain a very great advantage, as will be obvious from the following statement :—

	Budget, 1895-96.	Budget, 1896-97.	Better, 1896-97.
Net Expenditure in England . £	15,739,600	15,735,300	4,300
Net Exchange on the same . Rx.	13,116,300	11,729,900	1,386,400

* Has fallen during the week to 14¹/₂d.

giving a total improvement of Rx. 1,390,700. Our further comparisons therefore are confined to the Indian figures of the Budget Estimates of the two years :—

INDIA ONLY.	Budget, 1895-96.	Budget, 1896-97.	1896-97. Better + Worse —
Revenue—	Rx.	Rx.	Rx.
Imperial share . .	72,430,000	72,787,100	+ 357,100
Provincial share . .	24,180,800	24,529,700	(a)
TOTAL . .	96,610,800	97,316,800	+ 706,000
Expenditure—			
Imperial share . .	43,527,900	44,858,800	—1,330,900
Provincial share . .	24,804,100	25,416,100	(a)
TOTAL . .	68,332,000	70,274,900	—1,942,900

“34. The total improvement in the Budget as compared with last year, that is, the enhancement of the surplus from Rx. 46,200 to Rx. 463,100, is Rx. 416,900, and is the sum of the following improvements just stated :—

	Rx.
In English Expenditure and Exchange . .	1,390,700
In Revenue (Imperial share) in India . .	357,100
In Expenditure (Imperial share) in India . .	—1,330,900

But my explanations relating to Indian Revenue and Expenditure will be clearer if I disregard for the moment the operation of the Provincial Contracts, and explain the total excess of Revenue Rx. 706,000 and the total excess of Expenditure Rx. 1,942,900.

“35. Under the principal heads of Revenue, the chief increases that we count upon, as compared with the estimates of last March are, Stamps, Excise and Forest, Rx. 385,000. We also receive under Tributes from Native States an enhancement of Rx. 102,700, the term having now expired for which the Gov-

(a) Through the operation of the Provincial contracts, these Provincial differences are prevented from affecting the Imperial surplus.

CIVIL PROCEDURE CODE AMENDMENT BILL.

The Hon'ble MOHINY MOHUN ROY moved for leave to introduce a Bill to amend the Code of Civil Procedure. He said :—"The amendments which this Bill proposes to make are not only expedient, but some of them seem to be absolutely necessary.

" I. The first amendment is of section 195 and is an enabling provision. Under that section evidence by affidavit may now be given upon applications. The amendment will enable the Court to receive evidence by affidavit in *ex parte* suits and non-contentious proceedings. In the High Court, evidence by affidavit is received in non-contentious proceedings for the grant of probate or letters of administration. There is no reason why evidence by affidavit may not be given in all *ex parte* suits and non-contentious proceedings, subject always to the discretion of the Court to require the attendance of the declarants for cross-examination. The amendment will greatly simplify procedure and save the recording of a large amount of formal evidence.

" II. The next two amendments may be considered together. At present there is no provision in the Procedure Code for the simultaneous issue of the process of attachment and proclamation as there is in section 163 of the Bengal Tenancy Act. The amendments will enable the decree-holder to apply for the attachment and sale of the debtor's property and for the simultaneous issue of the processes thereof and save the cost and delay of successive service. The reduction of processes in execution, wherever practicable, is certainly desirable.

" The next provision contained in the amendments for the service of proclamation upon the judgment-debtor seems to be absolutely necessary. The framers of the Procedure Code were probably of opinion that proclamation upon the property was a sufficient notice to him. But the service of such proclamation is often a matter of considerable doubt and controversy and, even when *bond fide* made, would not apprise the judgment-debtor of the intended sale, if he did not reside in the neighbourhood. It seems to be perfectly clear that the judgment-debtor ought, in all cases, to have notice in order to enable him to save his property from impending sale or to secure a good price for it by seeking out likely purchasers. Valuable property is often situated in out-of-the-way places. In regard to such property, proclamation upon the spot goes for almost nothing. The Civil Procedure Amendment Act, 1894, renders it almost indispensable that the judgment-debtor should have such notice in order that he might take steps for setting aside the sale within thirty days from its date by depositing the amount due under the decree and 5 per cent. compensation for the purchaser.

" The provision contained in the second paragraph of the amended section 289 is very important. Proclamation upon the spot is, to say the least, a very unsatisfactory mode of advertisement and often amounts to no advertisement at all. The amendment enables the Local Government to provide and make rules for the advertisement of property in a local Gazette, which should be in the language of the district, and advertise all land-sales by public auction whether by order of Civil Courts or Revenue-authorities. Two copies of the Gazette should be sent to each Court, Civil or Criminal, to each revenue-office, to each police thana, and to each post office, under a rule that one copy should, immediately upon arrival, be fixed up for the information of the public, and the other copy preserved as a record to be bound into a book at the end of each year. The Gazette might be allowed to publish private advertisements and would, in all probability, be fully supported by the fees for advertisements of public sales and receipts from private advertisers, without costing the Government a single rupee. If the Local Governments approve of this scheme, they will frame rules after due consideration and enquiry and deal with the above suggestions as they may think fit. The ancient primitive method of proclamation by beat of drum is wholly inadequate and requires to be supplemented by advertisement in a local Gazette always open and available to the land-buying public.

" III. The supplemental provisions contained in the added sections 654 to 656 are the most important of all. The rule of giving notice prior to the institution of suits, like many others borrowed from the English law of procedure, seems to be wholly unsuited to this country, where its tendency is clearly mischievous and to seriously handicap justice. It raises an artificial preliminary issue between the parties, puts the real issues in the background, and holds out a strong temptation to the Judge to throw out a suit upon the preliminary issue, especially if it be a 'hard case' in any sense, that is, either hard for any of the parties or hard to decide upon the merits. It is a lamentable sight to see suits in large numbers thrown out under this rule, not only by the inferior Courts but by the superior Courts in appeal and second appeal. In the case of *Bhubunmoyi Debya v. Ram Kishore Acharjee Choudry* (10 Moore, 279) the judgment of the Privy Council, which was delivered by Lord Kingsdown, says, 'Our system is one of the most artificial character, founded in a great measure on feudal rules, regulated by Acts of Parliament and adjusted by a long course of judicial determinations to the wants of a state of society differing as far as possible from that which prevails amongst Hindus in India.' What we want here is substantial justice with a minimum of procedure and cost, and not strict justice with a highly complex

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ernment of India agreed to remit Rx. 105,000 out of the full amount of tribute due from Mysore.

“Against these increases we have provided for decreases, first, of Land Revenue, Rx. 276,300, due partly to bad seasons in Northern India, and partly to the fact that the estimates of 1895-96 provided for certain arrears due from the previous year; and secondly, of Customs Revenue, Rx. 332,800, being the excess of the loss caused by the recent reduction of Cotton Duties over the better receipts we expect under other heads. Under Salt, we practically repeat last year's figure.

“36. We estimate for an increase of Post Office and of Telegraph Revenue; but under Railway Earnings the figures we take are somewhat less than what we expect to realize in 1895-96, though slightly better than the Budget Estimate of that year. The following figures may be compared with those stated in paragraph 26 above :—

	Budget Estimate, 1896-97.	Revenue side. Better + Worse —	Expenditure side. Worse.
State Railways—	Rx.	Rx.	Rx.
Gross Earnings . .	18,322,100	+ 320,200	
Working Expenses . .	9,010,800		313,800
Net Earnings . .	9,311,300		
Guaranteed Railways—			
Net Earnings . .	3,233,000	—262,000	
TOTAL . .	12,544,300	+ 58,200	313,800

“The reduction in net earnings is greater than appears at first sight, inas-
much as we start, on April 1st, 1896, with 341 miles broad-gauge, and 385 miles
metre-gauge, more of State Railways than were open on April 1st, 1895.

“37. Under the head of Irrigation a large increase of revenue is expected,
namely, Rx. 235,500 on Imperial account and Rx. 163,500 on Provincial account.
The first mostly arises in the Punjab, and second in the North-Western Prov-
inces, both being due to the increased demand for water in consequence of the
present dry season.

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“38. I set forth now the sum of the various differences on the Revenue side,
of which I have given a detailed explanation.

	BUDGET, 1896-97, COMPARED WITH BUDGET, 1895-96.	
	Better. Rx.	Worse. Rx.
Stamps, and other Progressive Revenues .	385,000	
Tributes	102,700	
Land Revenue		276,300
Customs		332,800
Post Office and Telegraph	154,200	
Railways (Revenue side only) . . .	58,200	[313,800] (a)
Irrigation	399,000	
	1,099,100	609,100
Net . .	490,000	

“The total for explanation was Rx. 706,000, so that Rx. 216,000 is explained
by the numerous smaller differences which we have not taken into account.

“39. Passing to the expenditure side where the excess in the present estimates
is Rx. 1,942,900, and remembering that we are dealing only with the Indian figures,
there is little difference in the totals of the direct demands on the revenues. We
have provided a smaller amount than last year, but still what we believe to be
sufficient, for the collection of the opium crop; and we have had to provide a
little more than last year under Salt and Forest.

“40. Under Post Office and Telegraphs we provide Rx. 56,600 more than last
year, all of which comes back to us in increased revenue.

“41. The estimates under Civil Departments, Imperial and Provincial, come to
Rx. 14,483,300 against Rx. 14,359,300, the increase of Rx. 124,000 being entirely
in the Provincial column; it is distributed in small amounts over nearly every
head, and is due to the general expansion of business and of administration.

“42. Almost the only increase under the Miscellaneous group is that of
Rx. 35,300 under superannuations.

“43. Next come two large increases, both of which have been already men-
tioned, *viz.*, the restoration of the Famine Insurance Grant, which adds Rx. 543,500
to the estimates, and this year includes a provision of 7 lakhs for Famine Relief,
the necessity for which may arise in the North-West Provinces; and the increase
of Rx. 313,800 for the working expenses of State Railways.

(a) This item comes on the Expenditure side, and therefore does not enter the present totals.

“ 44. Under Irrigation and Civil and Military Works the provision in the estimates is—

	Imperial. Rx.	Provincial. Rx.
Budget, 1895-96	3,274,200	5,411,500
Budget, 1896-97	3,448,800	5,716,500
Excess in 1896-97	174,600	305,000

giving a total excess of Rx. 479,600, mostly Provincial.

“ This is due in a general way to the fact that our financial position warrants our resiling from the extreme limitation of the grants under these heads, which it has been necessary to enforce in the past two years. The grants under Imperial include an enhancement from 5 to 8 lakhs of the provision made for the restoration of irrigation canals in Upper Burma; and a grant of 6 lakhs for water-supply in Bangalore, which is a charge upon that part of our general revenues which comes to us in consequence of our arrangement with Mysore in respect of the revenue and expenditure of the civil and military station of Bangalore.

“ 45. The grants made under the head of Army Services in India will be better understood if I classify them in this fashion :

	Budget, 1895-96. Rx.	Budget, 1896-97. Rx.	Excess, 1896-97. Rx.
Chitral Expedition	150,000	20,000	— 130,000
Special Mobilization Expen- diture	...	494,900	+ 494,900
Other and ordinary services	16,920,500	16,965,200	+ 44,700
TOTAL	17,070,500	17,480,100	409,600

“ The first of these items has been already explained. The second is a sum which has, with the approval of the Secretary of State, been included in the Estimates for preparations for mobilization of the Field Army. The amount includes the provision of all the material and equipment necessary for the mobilization of the whole Field Army, an addition of about 1,750 mules and 2,350 camels to the present establishment, and a reserve of 1,000 artillery horses. The necessity for this provision has long been recognized, but since 1891, when a sum of 35 lakhs was provided for mobilization preparations, our financial condition has

not allowed us to devote any money to this purpose. The provision made also includes the cost of gear and of establishments for the care of the additional animals for the current year.

“ Under the third head which shows an increase of Rx. 44,700, we have to bear in mind that the increase of pay to the Native Army, which came into effect for only eight months in 1895-96, itself requires an additional provision of Rx. 110,000, as it will operate for twelve months of 1896-97; and if this is left out of account the scale of expenditure for the year is Rx. 65,300 less than that of last year, although it includes the new charge of Rx. 231,700, for occupation of Chitral, mentioned in paragraph 11 above. But for the details of increases and decreases, I refer to Part II of the Statement.

“ 46. I state now the sum of the excesses of expenditure which I have picked out for separate explanation :

	Rx.
Post Office and Telegraphs	56,600
Civil Departments	124,000
Miscellaneous	35,300
Famine Insurance	543,500
Railway Working Expenses	313,800
Irrigation and Public Works	479,600
Army Services	409,600
TOTAL	1,962,400

“ 47. Some smaller differences, not mentioned in detail, reduce this total, as already stated, to Rx. 1,942,900.

“ Capital Expenditure.

“ 48. The Capital Expenditure on Irrigation was taken at Rx. 700,000 in the Budget Estimates of 1895-96, and a little more will be spent. Rx. 750,000 has been provided in the estimates for 1896-97. The details of the grant are specified in one of the appendices to this Statement; about one-third of the whole amount is spent in the development of the Chenab Irrigation Canals, in connection with which the Government of the Punjab are carrying on a remarkably successful colonization scheme. In the remainder of my remarks I shall refer to Railways only.

“ 49. The Budget Estimates provided for Rx. 3,700,000 only, but certain questions were then pending with reference to the Assam-Bengal Railway, and

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both for that Railway and for the East Indian Railway arrangements were made for increased expenditure and for raising money for it by sterling debentures in England. The expenditure, including English as well as Indian, which we anticipate during the year amounts to Rx. 5,378,300, and arrangements have been made for spending a still larger sum, Rx. 7,270,000, in 1896-97.

"50. The principal items in this programme are as follow:—

	1895-96. Rx.	1896-97. Rx.
East Coast Railway, including Bezvada Extension	690,000	197,800
Mu Valley, including extension northward to the Irrawaddy	121,900	100,000
New Railway from Mandalay to the Salween river at Kunlon	50,000	620,000
North-West Frontier lines, Mari-Attock and Muskaf-Bolan	468,000	495,000
Rai Bareli to Benares	60,000	240,000
Kotri-Rohri Chord Line on the east side of the Indus river	675,700	511,000
Bezwada-Madras Railway	140,000	800,000
East Indian Railway, including a new branch, Mogul-Sarai to Gya	555,000	850,000
Assam-Bengal Railway	1,438,300	1,750,000
Rutlam-Ujjain Branch	131,600	47,500
North-Western Railway	199,100	289,900
Eastern Bengal Railway, including doubling of the line Ranaghat to Poradha	141,600	407,500
Tirhoot Railway Extensions	...	400,000

"51. The totals which we have above stated will be thus provided:—

	1895-96. Rx.	1896-97. Rx.
By grant under—		
34—Protective Railways	534,800	473,500
48—State Railways—Construction	3,622,200	5,506,700
Out of sterling Debentures or Capital raised by—		
East Indian Railway Company	245,000	737,800
Assam-Bengal Railway Company	976,300	552,000
TOTAL	5,378,300	7,270,000

"52. Besides the Railways and Railway schemes included in the above figures, arrangements have been made during the year—

(1) For the commencement of work on the following lines, of which the sterling part of the expenditure is to be provided by the Company

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in England, and the Indian portion of the expenditure by money advanced by Government in India:—

(a) Bengal-Nagpur Railway Company's connection with Calcutta. Total cost, Rx. 5,032,754.

(b) Indian-Midland Railway. Saugar-Katni connection. Total cost, Rx. 1,082,232.

(2) For two branch lines to be constructed on behalf of two Branch Line Companies by existing Companies, *viz.*, Ahmedabad-Parantij by the Bombay, Baroda and Central India Railway Company and South Behar by the East Indian Railway Company.

In these last two cases the Government of India have not to find the money, but in the case of the Bengal-Nagpur and Indian-Midland Railway Companies' operations it is estimated that we shall have to advance in India—

	1895-96. Rx.	1896-97. Rx.
Bengal-Nagpur	73,600	750,000
Indian-Midland	30,000	400,000

"53. A Company known as the Southern Punjab Railway Company has been formed during the year for constructing a line from Delhi westward to Samasata (400 miles); and arrangements are being made for some extensions of the Bengal and North-Western Railway, costing about Rx. 2,120,000. The transactions in connection with these do not pass on the Government Accounts.

"54. The following is a statement of the mileage of railways at the several dates mentioned:—

	1st April, 1895.	1st April, 1896.	Further mileage under construction.
Standard Gauge—			
State Lines and Guaranteed Lines	10,155'5	10,504'	1,406'9
Other Lines	720'2	942'5	504'4
Metre Gauge—			
State Lines	6,548'	6,927'3	1,331'9
Other Lines	1,164'	1,224'4	292'2
Special Gauge—			
State Lines	36'	36'	...
Other Lines	239'5	239'1	29'
TOTAL	18,863'2	19,873'3	3,564'4

" 55. A good deal of attention has been given during the year to the question of Railway Finance, that is, of how best to raise the money required for the development and extension of open State Lines and for new construction. It is obvious that such a programme as I have been explaining goes far beyond the capacity, so far as we have as yet ascertained it, of the Indian investment market. The question is still under examination.

" Debt and Remittance.

" 56. Under the head of Debt the Secretary of State had no transactions in 1895-96, except the renewal of £2,000,000 of temporary loan as entered in his original Budget Estimates. In 1896-97 he proposes again to renew or replace this loan when it falls due on 11th May, 1896. His proposals also include the issue of £2,400,000 India Stock in order to discharge £2,000,000 India Debentures falling due in August, and £313,700 South India Railway Debentures falling due in July.

" 57. His estimate of the amount of drawings required to meet his disbursements is £18,300,000 in 1895-96 and £16,500,000 in 1896-97, but the withholding of the allotment of last week will probably decrease the former of these figures, and the deficit will have to be made up by an equivalent increase in the latter.

" 58. The large balances which we have held in our Indian Treasuries since the failure of drawings in 1893 have now been spent, mainly on Railway Capital Expenditure, but we had still in December, which is our month of lowest balances, about two crores in excess of the amount which we reckon as absolutely necessary to carry us over till the period when our revenue again begins to come in. With the large capital outlay before us in 1896-97 which I have been describing in the above paragraphs, we shall now have to resume our practice of borrowing, and we calculate that we shall have, in the course of the current year, to issue a loan of four crores of rupees.

" 59. These figures, both as to borrowing and as to drawing of Council Bills, are given with the usual reservation to the Secretary of State of full power to alter the figures as he may find occasion.

" Provincial Finance.

" 60. The so-called contracts with the Provincial Governments come to an end with the year for which Budget Estimates are now being presented; and the Government of India will have to take up its quinquennial task of examining the

operation of the current contracts with a view of deciding what modifications of them are called for in respect of the next five years' period.

" 61. In view of this approaching revision of contracts I have thought it advisable to draw up a statement which will show, as clearly as the nature of the problem will permit, the real financial relations between the Central Government and the several Provincial Governments. It is curious that nearly every Province in India assumes that it is the possessor of a large surplus of revenue, and that only the necessity of maintaining the expenditure of other and poorer Provinces, or something which is vaguely termed 'Imperial necessities,' prevents its enjoying the full benefit of its own revenues. The figures I present will, I hope, serve to dissipate this notion, by showing what amount of revenue each Province provides after meeting its purely local needs in the way of Civil Administration, and what becomes of these surpluses of revenue, when they are contributed to the common account and used by the Central Government in meeting expenditure incurred upon the common account.

" 62. Part of the revenues, indeed, it is not possible to distribute among Provinces; Customs, Salt and Opium, for example, cannot be put down as revenues of the Provinces in which they happen to be received; and Railway revenues it is also impossible to distribute provincially. These revenues, together with the surpluses of the revenues remaining to each Province after paying the charges connected with Civil Administration, are the funds that are received by the Central Government for expenditure on the combined account. They are used in meeting the charges in respect of Public Debt, the cost of the Army, and the expenses of the Central Administration. The question whether each Province is, or is not, a paying Province is the question whether these several contributions of surplus revenue represent a sufficient or an insufficient share of the burden of the expenditure shown as that of the general account. I do not deny that on this point there may be room for difference of opinion, but I trust these figures will show that there is at least no foundation for the theory, to which expression has certainly been given in more than one place, that the so-called provincial surpluses of revenue are absorbed by the Imperial Government for expenditure on objects that are foreign to the Provinces in which they arise.

" 63. I have to add that the figures reproduced in this Statement are not built upon any theory of distribution but are taken directly from Accounts Nos. 2 and 3 of the General Statements in the Finance and Revenue Accounts. The process of compilation is shown in Annexures A and B, and each figure in these annexures may be traced into its details by means of the Finance and Revenue Accounts.

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TRANSACTIONS OF THE IMPERIAL GOVERNMENT.

NET REVENUES, 1894-95.		NET EXPENDITURE, 1894-95.	
	Rx.		Rx.
Unexpended Revenues of the several Provinces—		Expenditure in India—	
Central Provinces	451,762	Central Administration in India, including (1) Government of India; (2) Baluchistan, Ajmere, Andamans, Coorg, and other minor provinces; (3) Political relations with Native States; (4) Royal Indian Marine	1,301,809
Burma	1,392,081	Army Expenditure (net)	16,331,074
Assam	387,563	Interest, including that payable in respect of Railways and Irrigation	4,221,706
Bengal	4,478,300	Famine Insurance	609,918
North-Western Provinces	5,554,171		22,464,507
Punjab	1,813,823		
Madras	4,922,655		
Bombay	2,712,287		
	21,712,642		
Revenues not distributable by Provinces (net)—		Expenditure in England—	
Opium	5,710,250	(For details see Accounts 2 and 3, Finance and Revenue Accounts)—	
Salt	8,131,094	Army Expenditure (net), including Military Works and Special Defences	24,383,719
Customs	2,709,359	Interest, including that payable in respect of Railways (net). Superannuations and absentee allowances (net)	28,347,232
Post Office, Telegraph and Mint	526,296	Other items (of which the largest are the cost of India Office and Marine charges)	21,694,800
Miscellaneous (Nos. 4, 7 and 8)	548,442		21,138,231
	17,625,441		
Net Earnings of Railways in India	11,661,724	Exchange on the same	215,503,082
			12,899,068
			28,403,050
		Net charged to General Revenues	50,867,557
		Imperial surplus	693,110
		Deduct—Provincial Deficit	560,860
			132,250
		GRAND TOTAL	50,999,807
TOTAL GENERAL REVENUES	50,999,807		

"64. The figures show that the Central Government after all has a very much larger burden of expenditure than all the Provinces put together, and that it cannot consent to be regarded as merely an extraneous claimant for such revenues as each Province may find available after the demands of its Civil Administration are satisfied. On the contrary, it must assert the theory that the first claim on the revenues of the Provinces is the claim of the expenditure which the Central Government has retained in its own charge. I am afraid that there is, in non-official circles at least, a disposition to regard the Provincial Governments rather as surrendering portion of their revenues for 'Imperial' purposes than as receiving an assigned portion of them from the Imperial Government for 'Provincial' uses; and the statement of figures which I have drawn up may serve as a useful preliminary to the discussion of the assignments we may find ourselves able to make in the new Provincial contracts.

FINANCIAL STATEMENT; AMENDMENT OF CRIMINAL PROCEDURE CODE, 1882.

[Sir James Westland; Sir Alexander Miller.]

"Conclusion.

"65. Last year, in presenting the Financial Statement, my final estimate of the position was that though we were as yet far from a complete restoration of our fortunes, we might claim to have made a fair amount of progress towards their restoration. Our prospects are now very much more hopeful. Our revenues are advancing, our expenditure is well in hand; but above all, the rate of exchange shows a tendency to establish itself at a figure, which, if maintained, will remove our most serious anxieties. I refrain from any prophecies as to the future; but it is pleasant to know that the direction in which our financial position is changing, which always contains many elements over which we have practically no control, will have to suffer a considerable reverse before we are again in the difficulties which we had to face two years ago."

The Hon'ble SIR JAMES WESTLAND continued—

"I am authorised by His Excellency to say that the discussion on the Budget will take place at next Thursday's meeting. I wish also on my own part to say that if any Hon'ble Member desires information on any matter of detail which he does not find in these papers, if he will only give me notice beforehand of the points on which he desires to have information, I shall be glad to procure it for him."

CRIMINAL PROCEDURE CODE, 1882, AMENDMENT BILL.

The Hon'ble SIR ALEXANDER MILLER presented the Report of the Select Committee on the Bill to amend the Code of Criminal Procedure, 1882. He said:—"The Select Committee have, as I anticipated, thought that after the alterations which I proposed to make in section 3 of the Bill as introduced, the difference which was left was not worth while making, and it was better to leave the law as it stands at present than to make a minute difference which might probably be misunderstood and was not really in its then form very effective. Accordingly section 3 has been left out entirely. The rest of the Bill has been passed very nearly—I think quite—in the words in which it was presented, except that the Select Committee have added a clause of some consequence for the purpose of relieving special jurors from what might otherwise have operated as an inconvenient burden upon them. Continuing the names of special jurors on the ordinary list, which involved the possibility of their being called upon to serve not only as special jurors but also as common jurors, might act rather harshly against men who had been specially selected for the more difficult and responsible position of special jurors, particularly as it was likely

[Sir Alexander Miller; Sir James Westland; Rao [19TH MARCH, 1896.
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that the cases which they would be called upon to sit upon as such would be long and complicated cases; and accordingly the Committee have introduced a clause authorising the Court before whom any such case is heard to relieve the jurors who sat on that particular case from the obligation of serving again for twelve months instead of the ordinary release for six months, if the Court thinks that the service performed on that particular occasion warrants the privilege. With this difference the Bill remains very much in the position in which it was when it was submitted to the Select Committee, and I do not think it will be necessary for me to enter on any examination of its provisions, which have been already explained more than once in this Council."

EXCISE ACT, 1881, AMENDMENT BILL.

The Hon'ble SIR JAMES WESTLAND moved that the Report of the Select Committee on the Bill to amend the Excise Act, 1881, be taken into consideration. He said:—"In making this motion I desire to offer only one remark, and that is with reference to the dissent which the Hon'ble Mr. Bhuskute has added over his signature to the Select Committee's Report. In Mr. Bhuskute's opinion, so far as the ganja produced out of the hemp cultivation in India is concerned, an acreage duty is preferable to duty on ganja itself. I have to say that the Government are quite unable to accept that view. The question was threshed out at great length by the Hemp Drugs Committee, and the Government of India after fully considering the subject decided to adopt the recommendation of that Committee and to levy a duty on ganja as a quantitative duty and not by means of an acreage tax. The method of taxation which recommends itself to Mr. Bhuskute would really cut at the root of the whole of the recommendations which were made on the subject of ganja, and the control over its cultivation and distribution which formed the principal part of the recommendations of the Hemp Drugs Committee. For these reasons the Government are unable to accept the view of the Hon'ble Mr. Bhuskute on this point Mr. Bhuskute has not given notice of any amendment, and I presume he has no intention of moving one."

The Hon'ble RAO SAHIB BALWANT RAO BHUSKUTE said:—"My Lord, as a member of the Committee to which the present Bill was referred, I am bound to acknowledge the willingness with which the Hon'ble Sir James Westland received the suggestions that were made to him. I go in perfect

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harmony with the Bill as amended. Yet I am anxious to place one point before Your Excellency's Council for consideration.

"In paragraphs 563-569 of the Report of the Hemp Drugs, the Commission regard prohibition as unjustifiable, infeasible and inadvisable, and recommend an effective control on them.

"The following considerations, I hope, are pertinent to the subject:—

- (1) There is no uniform standard of administration and taxation.
- (2) There are great inequalities in them not only between hemp and hemp, but also between hemp drugs in general and other quite different stimulants.
- (3) In most provinces the basis of good administration has been but very recently laid, and there has as yet been no sufficient time for judging of the working of the prevailing systems.

"Referring now to the Central Provinces, I beg to summarise, as cursorily as possible, the working of the excise laws there. Cultivation there is free. There exists even to the present day the system of monopoly of wholesale. Its main feature is that Government interferes at the point where the ganja passes from the wholesale to the retail vendor, to fix the price at Rs. 3 per ser, and that the monopoly of the wholesale vend is given to a small selected number of persons who tender for payment of duty at Rs. 2 per ser plus as much of the difference between Rs. 3 and Rs. 2 as can be got from them. This interference in the natural operation of the laws of supply and demand renders it difficult to ascertain the necessity for increasing the direct duty which has remained stationary. The number of retail licenses and that of population per license have slowly but steadily decreased, showing that the number of consumers is becoming smaller. The proportion of consumers to the entire population, so rapidly growing, has gone very low. This is, indeed, a very satisfactory state of things.

"To raise the limit of taxation, either direct or indirect, with a view to restrict the cultivation of hemp is therefore needless. I have for this reason suggested the inexpediency of raising the limit of taxation.

"A direct duty in most provinces is not only unsuitable but may stimulate smuggling and afford facilities for evasion. It might also create gross inequalities and inadequacies in the license fees. An acreage duty will serve the purpose of the Bill, namely, it will restrict the cultivation of hemp and will

[Rao Sahib Balwant Rao Bhuskute; Rai Ananda Charlu [19TH MARCH, Bahádur.]]

more easily regulate the purchase and sale of the drug like that of the country liquor or opium.

"Thus, my Lord, an acreage duty is more desirable than the direct duty. The Hon'ble Finance Minister himself has been struck with the desirability and advisability of the former. He has therefore made the latter optional and left it to the discretion of the Local Governments. What I would humbly suggest is the former only so far as the home or inland rearing of the plant is concerned. It is therefore desirable to make it clear that there is no alternative to the acreage duty on hemp cultivation in India

"So far as regards ganja imported from foreign countries, as acreage duty is impossible, the second clause proposed must be confined to it only. The clause therefore should take the form of a proviso rather than that of an alternative.

"It may run somewhat as follows:—

'Provided that where the ganja is imported from foreign countries a duty not exceeding twenty rupees per ser shall be levied in lieu of the acreage duty.'

"My Lord, there is one other circumstance indissolubly blended with this tax on cultivation. The restriction proposed must not be so heavy as to divert the consumption of a bad stimulant to a worse one. On comparing the taxation on hemp drugs with that on country liquor we find that the latter is more lightly taxed than the former. To raise the limit of taxation on hemp would confer a further advantage on the liquor. I am sure no Government will levy the tax at the maximum laid down. Yet this raising of the limit, though not meant to be carried out to the letter, might breed discontent. I therefore propose the acreage duty of Rs. 100, as it was in the Bill, be retained."

The Hon'ble P. ANANDA CHARLU, RAI BAHADUR, said:—"I second the Hon'ble Mr. Bhuskute's suggestions if they require a seconding.

"The primary object of this Bill is not to raise a revenue from ganja, but to keep hemp cultivation under a severe check. That object is best attained by imposing a tax on every acre under hemp cultivation in the country. Such a measure must needs comprehend every case, and it will further have the merit of simplicity. I would therefore omit the alternative, so far as local production of ganja is concerned.

[Rai Ananda Charlu Bahádur.]

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"The item of foreign ganja has indeed to be dealt with. This I should deal with by a proviso, as shown by the Hon'ble Member from the Central Provinces. Even if this would result in unequal incidence of the tax, I would not feel sorry. That would keep out opium from the land, and it would be a decided advantage. Free-trade principles cannot have an application to deleterious commodities.

"Next, I object to the raising of the tax so high as Rs. 200 per acre. It has been conclusively established before the Hemp Commission that, to a certain extent, the drug is indispensable and non-injurious. The tendency of legislation should therefore be to minimise and not to destroy its production. The tax to be imposed with this object should be heavy enough to be prohibitive, but not so heavy as to debar the requisite supply. We can therefore well legislate for a maximum limit of Rs. 100 per acre, unless indeed that we are resolved to start with something over Rs. 100 as the minimum tax under the Act now proposed to be passed. If such an initial start is intended, I feel bound to say that it would be an uncalled-for hardship, for inflicting which we have no sort of warrant. My hon'ble friend from the Central Provinces has given facts and figures for this indictment.

"A third point, to which my hon'ble friend has not chosen to allude, deserves Your Lordship's anxious consideration as well. It is the provision in the Act for the enhancement of the duty, brought about by the local executive application and the imperial sanction thereof. I dislike such a recourse in matters of importance, such as taxation. The now historic jury notification of Bengal cannot but make one too chary about safeguarding important interests and rights against this sort of arrangements, which do not take the public—those concerned—into confidence and thus deny to them an opportunity and a voice to show how and where the shoe would pinch. A measure passed after these latter have had their say would ensure contented acceptance, and this it should always be the aim of the Legislature to secure.

"Nothing short of making such changes legislative measures would promote this aim. We are not enacting a law of the Medes and Persians, and we could very well come to reconsider it, if occasion should arise. If I remember right, such an occasion will come somewhat soon, according to the foretelling of the Hon'ble Mover himself. I ask for no division. But I earnestly commend these suggestions to Your Lordship's anxious consideration."

The Hon'ble MR. CADELL said :—" As an old Excise-officer I should like to make one or two remarks with reference to what has just been stated. In the first place, with reference to the alternative, I think that in entering upon a new departure it is very desirable that the Local Government should have as free a hand as possible, and should be empowered to impose an acreage duty, or a duty on the drug when manufactured, as they may find it desirable. With reference to the first point, regarding which very serious objections have been taken, the Hon'ble Members who have spoken have not supported their contentions by any statistics. As far as I can make out, Rs. 200 per acre, the rate which it is proposed to empower Local Governments to impose, is not at all too high. It is necessary in this case to allow of a certain margin, and the report of the Hemp Drugs Commission shows that the production of ganja may be so great that even the full limit of Rs. 200 would not be at all excessive, and in certain parts of Upper India where it is possible to produce charas I have no hesitation in saying that Rs. 200 per acre is not a rate which is too high. I therefore think that section 11 should be passed as it stands. Hon'ble Members may fully trust the Local Governments not to impose excessive duties or to hamper to any extent which is unnecessary or undesirable the cultivation of the hemp plant, from which these drugs are derived."

The Hon'ble SIR JAMES WESTLAND said :—" I am afraid that I must, for the reasons stated by the Hon'ble Mr. Cadell, also oppose any proposal to alter the maximum of the acreage taxation from Rs. 200 to Rs. 100. I was not altogether prepared for this being brought forward in the shape of a formal amendment, but I remember distinctly that when we made the calculation in the Select Committee we ascertained that a taxation of Rs. 200 per acre would, considering the possible outturn per acre, be very much less than the actual rate of taxation which is at present levied on ganja in the Province of Bengal. I perfectly agree with Mr. Bhuskute in his opinion that the administration of ganja as at present conducted in the Central Provinces is capable of very great improvement. This was one of the points brought out by the Hemp Drugs Committee, and there is very little doubt that the Local Government would in the light of the criticisms of the Hemp Drugs Committee be perfectly willing to admit that there was much room for improvement in their system. But I wish to make it clear in the first place that this provision for an acreage duty is not the ordinary method by which it is intended to levy a duty on ganja. I have more than once explained in connection with this Bill that the intention is to levy the duty by quantity, and that all our excise administration both in respect of liquor, and opium as it at present stands, is an endeavour to get as complete a control

as possible over these drugs and liquors at the point from which they start. We attempt to control opium by getting it into our possession when it is cultivated, and then we issue it with a quantitative tax. We attempt the same thing as regards liquor; we establish central distilleries where all the liquors are produced, and we try to get a complete control over the taxation by causing a duty per gallon and per strength to be levied at the point at which it is issued. The Hemp Drugs Committee strongly recommended the same system in respect of ganja. It is that which is the object of the present Bill, and to go back to a system by which we levy the duty on ganja by acreage and afterwards have no control whatever over the drug would be turning back the hands of the clock altogether and going back to the primitive system which for years in respect to other drugs we have been trying to abandon. The intention of the Bill throughout is to provide for the ganja coming into our control immediately after it is cultivated and when the intoxicating drugs are produced from it, and never to allow it to pass out of our control until we have levied the proper duty upon it.

" The Hon'ble Member who represents Madras has intimated that he thinks the Legislature should undertake a duty which up till now has been continually laid upon the Local Governments—that is, the duty of fixing the precise amount of taxation to be levied in respect of ganja, and I presume also in respect of spirits and of opium. The Legislatures—not only the Supreme Legislature in Calcutta but the Local Legislatures—have all given the Local Governments a fairly free hand in this matter, and the Local Governments' habit is to fix the rates of duty very largely with reference to local circumstances. They are also bound to change them with reference to local changes, and these changes are not infrequently taking place. It is impossible for me to admit the comparison which the Hon'ble Member draws between the danger of giving the Local Government powers of effecting alterations in the matter of the administration of justice and the danger of giving it power in the matter of raising the tax upon spirits, opium or ganja by a rupee or eight annas, and levying it according to what it thinks to be the requirements of the place where it is levied. I have to remark also that the Act does not impose upon the Local Government any obligation to levy the duty at the rate fixed as a maximum; but, in order to show that the duty of Rs. 20 per *ser* mentioned in the Act is not an unreasonable amount to be fixed as a maximum, it is sufficient to say that in Bengal the duty already is very nearly half that amount."

The Hon'ble SIR ALEXANDER MILLER said :—" I would like to add one or two words to what has been said in regard to this matter. When the

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question of raising the acreage duty from Rs. 100 to Rs. 200 was originally before the Select Committee I was rather disinclined to adopt it, because I thought Rs. 100 sounded a fairly heavy taxation in the matter; but when figures were produced which showed that, taking an average crop, and making a proper allowance for the expense of cultivation and of bringing the drug to the market, a taxation of even Rs. 200 an acre was distinctly lower than the actual duty levied in Bengal at this moment, and considering that, where you have to substitute the acreage taxation for the more reasonable and regular method of a tax on the drug actually produced, the object is to make one a fair equivalent of the other, it seemed to me that Rs. 200 was on the whole, once the figures were explained, a very small sum to fix. I only mention this fact as showing that it is not by any means an arbitrary or extreme figure, but one which after consideration was felt by the Committee to be about as low as we could reasonably keep it."

The motion was put and agreed to.

The Hon'ble SIR JAMES WESTLAND also moved that the Bill to amend the law relating to the Excise-revenue in force in Northern India, Burma and Coorg submitted by the Select Committee on the Bill to amend the Excise Act, 1881, be passed, as recommended in their Report. He said:—"Hon'ble Members will no doubt see that this motion is worded in a somewhat different form from that in which the final motion on a Bill is usually put. It is ordinarily proposed that the Bill as amended be passed, but I took the opportunity in presenting the Select Committee's Report to point out that the Select Committee had recommended not only that the Bill which they themselves were studying should be passed as amended, but that the Act which that Bill proposed to amend should be passed with all its amendments up to date, so that the Excise Act might be brought upon the Statute-book as one whole instead of being scattered over the past fifteen years of it. As no amendments have been proposed in any part of the Excise Act which does not relate to this matter of ganja, I presume I may take it for granted that Hon'ble Members have listened to the appeal I made to them at the last meeting to abstain from making any recommendations for the amendment of the Excise Act apart from ganja, and are willing at present to perform a task which although not of such a high standard as new legislation is yet of an extremely useful description, namely, that of pure consolidation. I mentioned at the last meeting the verbal alterations—and the only verbal alterations—which the Select Committee had made in the consolidation Bill: I mentioned them in order to show that the alterations were merely grammatical and did not affect

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in any way the scope or operation of the Act. In addition to these purely verbal amendments the proposed Excise Act contains a repealing clause different from that of the original one; namely, it repeals the Excise Act of 1881 and all the intermediate amending Acts. It also contains the usual continuation clause by which we declare that all licenses and farms issued and all rules passed under the Acts now being repealed shall be taken to have been passed under the Act which it is now proposed to place upon the Statute-book. With these explanations I propose that the Bill which forms the second annexure of the Select Committee's Report, namely, the Bill to amend the law relating to the Excise-revenue in force in Northern India, Burma and Coorg, be passed as recommended by the Select Committee."

The motion was put and agreed to.

UNITED KINGDOM PROBATES BILL.

The Hon'ble SIR ALEXANDER MILLER moved that the Bill to provide for the recognition in British India of Probates and Letters of Administration granted by Courts in the United Kingdom be taken into consideration. He said:—"I thought until this morning that the motion was one which might be taken almost as formal, taking into consideration the object of the Bill as described on its introduction. I have had, however, put into my hand a letter addressed, not to me, but to the Hon'ble Sir Griffith Evans, by the Administrator General of Bengal, and I think I ought to read it to the Council. Speaking for myself, I think that this letter entirely misconceives both the object and the action of the Bill, and I do not think that it shows any reason whatever why the Council should hold its hand in passing it. But I think that, coming from the Administrator General, it is right that the Council should have the letter before them, in order that they should consider whether or no there is any reason for hesitating about passing this Bill.

"Before I read the letter I should like to explain exactly what the Bill proposes to do. Under the law as it originally stood within known times in the history of England, when a man died leaving *bond notabilia* in more than one diocese in England, his executor was obliged to prove his right to probate in every diocese separately. That was put an end to many years ago by the high hand of the Archbishop of Canterbury, whose Courts decided for him that where there were *bond notabilia* in any two dioceses of the province the probate granted by the Court of Canterbury should extend over the entire province.

But until 1857, if a man died possessed of *bonâ notabilia* in Canterbury and also in York, and much more if he had *bonâ notabilia* in Scotland or Ireland, it was necessary for the executor to prove the will in due form before each of the provincial tribunals, going through the whole trouble and expense, not only in the Prerogative Court of Canterbury and the Exchequer Court of York but also in the Courts of Scotland or Ireland, as the case might be. That was put an end to as far as England and Wales were concerned in 1857 when the Probate Court was established with jurisdiction over all England and Wales, and since that time an Act has been passed, somewhere in the sixties, I believe, enabling probates and letters of administration granted by the Probate Court in England to be sealed in Ireland, and *vice versâ*, and I believe that the same procedure prevails as regards Scotland; so that it is now only necessary, where a man dies leaving *bonâ notabilia* in different parts of the United Kingdom, for the executor to prove his title before one Court—the Court of the domicile of the deceased—and then without further proof of his title, and merely on the production of the probate, he gets it sealed in the other Courts, and has the same rights as regards the collection and distribution of property—exactly the same, no more and no less—as he would have had if he had gone through all the expense of proving his title over again.

“The Colonial Probates Act of 1892 proposes to extend to the British possessions at large the same privileges with regard to probates and letters of administration as have already been granted as regards different parts of the United Kingdom to the extent which I have described, but it provides naturally enough that they should take this particular form: if the Legislature of any British possession makes proper provision for the recognition in that possession of probates granted in the United Kingdom, then it is to be open to Her Majesty, by an Order in Council, to declare that the Colonial Act shall apply to that British possession, and that probates granted in that possession shall be capable of being sealed and recognised in the United Kingdom. The result, therefore, of passing an Act which has the effect of making due provision for this is that the executor, whether he is an Englishman seeking to recover property in India, or a resident in India whose testator has left property which he wishes to get hold of in England, will only be obliged to prove his title in one Court, and then, by simply producing the probate granted by that Court he will, by a simple application, be enabled to get that sealed in the other Court, and will then have just the same power, and no more, as regards property situated in the other country as he would have had if he had gone to all the expense of a separate probate in that country.

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[Sir Alexander Miller.]

“It will be seen that the only effect of the sealing is to put a man in the same position as if he had got a grant. What Mr. Broughton says is this:—

‘The objects of the measure are I suppose (1) the saving of expense, (2) reciprocity. I think it can be shown that no expense will be saved, and that on the contrary extra charges will be inevitable.’

“He does not attempt to explain how they can be, and I think that it must be manifest to everybody that it must be a much less expensive proceeding to produce before the Court or before the Registrar of the Court a document under the seal of the Court in England which on being sealed simply will have the operation of a grant, and no more than the operation of a grant—and that is an important part of the consideration—than there could be even in the case of an undefended suit brought by a man for the purpose of obtaining a grant. In the first place, in such cases he must at least produce either the original will or a certified copy of it, for the making of which he would have to pay; secondly, he would be bound to produce the witnesses, or at any rate their evidence, at least if either of the witnesses was still alive, and he would be obliged to get an order of a Court instead of a purely ministerial act. I do not see how a grant could possibly be obtained on cheaper terms than by the proceeding proposed.

“Then Mr. Broughton goes on to say that there is no reciprocity.

“I do not think there is a question of reciprocity myself, but the real question is the convenience of the executor or administrator on whom the extra burden of cost and trouble is thrown by the existing system. He says:—

‘And there is no reciprocity; for people who leave property in England and in India almost always have lived in India and made their money here; if they die, their families at once leave the country. The object of their representatives in England then is to get the Indian estate out of India as soon as possible; there are generally no creditors in England, they are all in India. But the object of the Indian representative is to pay the creditors here and remit the balance to England for distribution among the next-of-kin.

‘It is therefore not only a proposal lacking in reciprocity but most prejudicial to the interests of creditors.’

“Now that of course is an entire misapprehension. There cannot be a question of the English representative and the Indian representative as two different persons having different duties. If a man has left a will, his executor

and costly procedure upon the model of the English law. When human judgment and human testimony are both fallible, it may be doubted whether or how far the attempt at meting out strict justice can be successful in any country. But the attempt involves an amount of procedure and expenditure which we may very well do without in India. The principle of compromise, which is wholly ignored by the English law, seems to be best suited for the adjustment of differences between parties in Indian suits and doing substantial justice between them. One should have thought that, instead of dismissing a suit for want or defect of notice, the Court might very well make it up for the defendant in its decree. The Rent Law Commission, of which I was a member, adopted this view for enhancement suits. The Report of the Commission says, 'Such a large percentage of enhancement cases have failed, because it was not found that the notice had been served or because the notice was defective in form, that it has appeared to us highly expedient to do away with a detail, the practical result of which has been to delay and impede a decision of the real question at issue between the parties. We have accordingly made the institution of the enhancement suit to be notice to the tenant' (Volume I, page 34). The Bengal Tenancy Act, which proceeded upon the lines of this Report, safeguarded the interests of the tenants by providing that a decree for enhancement of rent should take effect on the commencement of the agricultural year next following (section 154).

"Several years prior to the passing of the Bengal Tenancy Act, in the case of *Mohamed Rasid Khan Choudhry* in the Calcutta High Court (20 Weekly Reporter, page 401), the Judges (Sir Richard Couch, C. J., and Glover, J.) held upon the broad principles of justice that 'he (defendant) has no right to hold the property except as a tenant-at-will, and the suit which was instituted more than a year ago would be a demand of possession at that time. If, as is now proposed, the decree is only for ejecting him at the commencement of the next Bengali year, he will have had ample notice that he is to quit the premises, and he will not be prejudiced by our making such a decree.' This ruling was followed in 1875 by Macpherson, Officiating C. J., and Morris, J., in the case of *Hemchander Ghose* (23 Weekly Reporter, page 440). But three years later, these decisions were over-ruled by a Full Bench of the Court, chiefly upon the authority of the English case of *Doed Jacobs v. Philips* (1. L. R. 2 Cal. 146). Since then the Calcutta High Court and the subordinate Courts have been strict in applying the rule of notice. But a moment's consideration ought to convince any reasonable man that a rule which arms the defendant with a new weapon for resisting a just claim is not

likely to diminish litigation or to advance the cause of justice. Where he has no defence upon the merits, it furnishes him with an extraneous defence which is often successful and with which he can always harass his adversary through three Courts. Upon the issue thus raised, and raised almost in every case coming under the rule, both sides produce witnesses, one to prove and the other to disprove service. There is necessarily a large amount of hard swearing on one side or the other, and sometimes on both. It is clear, therefore, that a large amount of needless and avoidable perjury is among the evils which directly result from the rule. I may add that technical pleas founded upon it and other similar rules imported from the English law of procedure, by which a claim may be thrown out without trial, were, until lately, wholly unknown to the people of this country and are quite repugnant to their notions of administration of justice. But the rule has now taken root in the statute and case law of British India and cannot well be repealed. The supplemental provisions which it is proposed to add will, however, take off its sting, and will, while giving the defendant every advantage which he has under the rule, save suits from dismissal without trial upon the merits. The Court will now say to him:—'You say you are entitled to six months' notice and such notice has not been given. Well, we will stay the suit for you for six months. All this time the property will remain in your possession, and all this time you will have for considering and maturing your defence, if you think fit to make any. If you have no good defence, you can confess judgment and place the property in the hands of the Court for delivery to the plaintiff, and then there will be no costs against you. In fact, you will have everything that you may fairly claim, short of getting a dismissal of the suit without trial and a field day with witnesses over the question of notice.'

"There is nothing novel in staying proceedings in a suit. The Procedure Code provides for adjournments for longer and less definite periods (section 367 and last paragraph of section 244)."

The Hon'ble SIR GRIFFITH EVANS said:—"This Bill, so far as I have had time to consider it—it has not been circulated and therefore I have not had time to examine it carefully—seems to me reasonable. The first point as regards allowing any person to give evidence on affidavit in *ex parte* suits and non-contentious proceedings seems to be a useful provision. There is a power that the Court may call witnesses for cross-examination, and they may also, if the case turns out to be contentious, think it desirable to have a trial in the ordinary way; but these are matters of detail for the Select Committee.

is entitled as of right to prove that will both in England and in India, and that quite irrespective of whether he is living in England or in India, and, if the man has died intestate, his next-of-kin are entitled to get a grant on giving certain security, from which they are not relieved by this present Bill. The only case in which any question would arise is that occasionally the next-of-kin being resident in England would not take the trouble, if the assets in India are small, to take out letters of administration; and in that case the Administrator General's Act throws upon the Administrator General himself the duty of dealing with the property. It is quite possible that the effect of this Act may be that in many cases the next-of-kin will send their letters over here to be sealed in India when otherwise they would have allowed the estate to be administered in the Administrator General's hands. I do not see that this is any injury to the creditors, and it is a benefit to the estate to save the commission which would have to be charged, and properly charged, in the Administrator General's office. Please do not let any one imagine that I am imputing to the Administrator General any personal object in making this objection for the purpose of bringing business to his office; I do not suppose that any such idea ever entered Mr. Broughton's mind, but I do want to point out that this is the only way in which any such distinction as he suggests between the English and Indian representatives could possibly arise.

"In the only other case which might occur, of a creditor taking out letters of administration in England because none of the next-of-kin chose to do so, the Act will be inoperative; because the Administrator General's Act in India lays down distinctly that no Court is to grant letters of administration to any one except to the executor, the residuary legatee, or one of the next-of-kin, or the Administrator General, and therefore where a creditor had obtained the letters in England he would not be able to get them sealed in India because the Administrator General's Act would forbid it, and the Act has been carefully drawn so as to say that they 'may' be sealed with the seal of the High Court, and that if they are so sealed that should only have the same effect and operation in British India as if they had been granted by the High Court. Now, letters of administration granted by the High Courts in India in direct contravention of the Administrator General's Act—*i.e.*, to a creditor or other disqualified person—would obviously be null and void; and therefore, even if by inadvertence such letters of administration as I have mentioned would be sealed here, they would have no effect as against the law which prevails here and which throws all administrations of that kind on the Administrator General. The Act also goes on to provide in express terms that the

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only case in which any real question might arise—that is, where a creditor resident in India might think it desirable to object to the assets being withdrawn from this country to England before his debts were paid—wherever such a question arises the Court has power to direct not merely the ordinary administration bond which makes the administrator responsible for administering the property, but a special provision with adequate security for the special protection of the creditors before allowing the property to be taken away.

"Under these circumstances I ask the Council whether they think it desirable to postpone what seems to be a useful provision for the purpose of saving expense to the representatives of deceased persons on representations which, I repeat, appear to me to be based on an entire misapprehension of the existing law and on the operation of the Bill, if passed."

The Hon'ble MR. PLAYFAIR said:—"I have also before me a copy of Mr. Broughton's letter to the Hon'ble Sir Griffith Evans, and Mr. Broughton appears to think, as far as I can judge from his letter, that further time should be granted to the legal profession to consider the Bill which was introduced last Thursday. Monday and Tuesday were High Court holidays, and in consequence of this the legal profession may not have had an opportunity of considering the question."

The Hon'ble MR. REES said:—"No doubt the usefulness of this Bill is apparent to Hon'ble Members of Council who have had the advantage of hearing the Hon'ble Legal Member's exposition, but the fact that the Administrator General, as we are informed, has misunderstood it shows that it is liable to misconstruction, and it therefore may appear desirable that the usual course should be followed, to the end that the public and the legal profession may be aware exactly of what is contemplated."

The Hon'ble SIR JAMES WESTLAND said:—"I would suggest that, as this Bill has proved not to be a non-contentious matter, and that as Sir Griffith Evans has not had an opportunity of speaking on the point, it is desirable that we should not hurry legislation in the matter, and that an opportunity should be given to those concerned, and the legal profession particularly, of examining the Bill and expressing their opinions upon it. I therefore think the Bill should be postponed."

The Hon'ble LIEUTENANT-GENERAL SIR HENRY BRACKENBURY said:—"I agree with the Hon'ble Sir James Westland that under the circumstances,

[Lieutenant-General Sir Henry Brackenbury; Mr. [19TH MARCH, 1896.]
Woodburn.]

and especially as Sir Griffith Evans, whose great legal knowledge we should like to have the benefit of on this subject, is absent from the Council, it would be most desirable that the Bill should be postponed."

The consideration of the Bill was therefore postponed.

MEMONS BILL.

The Hon'ble MR. WOODBURN moved for leave to introduce a Bill to render it permissive to members of the Memon community to declare themselves subject to Muhammadan law. He said:—"A very few words by way of explanation will suffice in regard to this Bill. The Memon community in Bombay are persons of Hindu origin whose ancestors embraced Muhammadanism. It has been held by the Courts in Bombay that in certain matters this community is subject not to Muhammadan law but to Hindu custom. Repeated representations have been made to the Government of India by members of that community asking that provision should be made by which they should be enabled to declare themselves Muhammadans and to be subject to Muhammadan law. That desire on the part of the community is not universal, but there are so many members of the community who do desire it that the Government of India have yielded to their prayer and have prepared this Bill, which is a permissive Bill, allowing any members of the community who so desire it to register themselves as Muhammadans and subject to Muhammadan law."

The motion was put and agreed to.

The Hon'ble MR. WOODBURN introduced the Bill.

The Hon'ble MR. WOODBURN moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English, and in the local official Gazettes in English and in such other languages as the Local Governments may think fit.

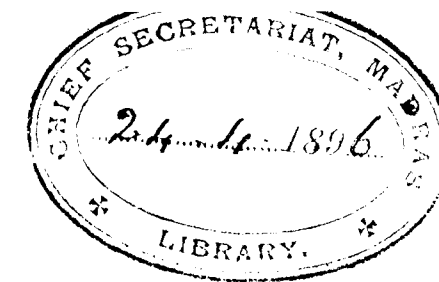
The motion was put and agreed to.

The Council adjourned to Thursday, the 26th March, 1896.

S. HARVEY JAMES,

CALCUTTA;
The 20th March, 1896. }

Secretary to the Government of India,
Legislative Department.



Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892 (24 & 25 Vict., cap. 67, and 55 & 56 Vict., cap. 14).

The Council met at Government House on Thursday, the 26th March, 1896.

PRESENT:

His Excellency the Viceroy and Governor General of India, P.C., G.M.S.I.,
G.M.I.E., LL.D., *presiding*.
His Honour the Lieutenant-Governor of Bengal, K.C.S.I.
The Hon'ble Sir A. E. Miller, Kt., C.S.I., Q.C.
The Hon'ble Lieutenant-General Sir H. Brackenbury, K.C.B., K.C.S.I., R.A.
The Hon'ble Sir J. Westland, K.C.S.I.
The Hon'ble J. Woodburn, C.S.I.
The Hon'ble Alan Cadell, C.S.I.
The Hon'ble M. R. Ry. F. Ananda Charlu, Rai Bahádúr.
The Hon'ble J. D. Rees, C.I.E.
The Hon'ble G. P. Glendinning.
The Hon'ble Nawab Amir-ud-Din Ahmad Khan, C.I.E., Bahádúr,
Fakharuddoulah, Chief of Loharu.
The Hon'ble Rao Sahib Balwant Rao Bhuskute.
The Hon'ble P. Playfair, C.I.E.

QUESTIONS AND ANSWERS.

The Hon'ble NAWAB AMIR-UD-DIN AHMAD KHAN, BAHÁDUR, in the absence of the Hon'ble PRINCE SIR JAHAN KADR MEERZA MUHAMMAD WAHID ALI BAHÁDUR, asked:—"With reference to Sir Charles Pritchard's replies to my questions (1), (3), (4) and (5) on the 7th February, 1895, regarding conveniences for railway passengers, will the Government please state the result of its enquiries and consideration?"

The Hon'ble MR. CADELL replied:—"The attention of Local Governments and Administrations was drawn, in July, 1895, to the importance of the subject, and the various railway administrations were invited to co-operate in the removal of all reasonable causes of complaint. Amongst others, particular attention was invited to the following points:—

- (1) the reduction during the hot weather of the number of passengers carried in each compartment or carriage;

[Mr. Cadell; Nawab Amir-ud-Din Ahmad Khan, Bahádur; [26TH MARCH, Sir James Westland.]]

(2) the removal of delays and difficulties in obtaining third class tickets by the opening of ticket offices for a more prolonged period before the arrival of trains, or, where necessary, for the whole day; the establishment, where the demands of traffic call for it, of agencies for the issue of tickets in the bazars or other convenient places; and the provision at large booking centres of additional ticket-issuing windows, and of additional staff for the issue, checking and collection of tickets, and the employment of female ticket collectors, when possible, for dealing with female passengers;

(3) the improvement, where necessary, of existing latrines by the addition of screens or other means of securing privacy;

(4) the distribution of pure drinking water, especially in the hot weather and during fairs or other large gatherings, with proper precautions to protect it from pollution.

"Having regard to the extreme importance of the matter, no less from the standpoint of the Government and of the railway administrations than from that of the great mass of the travelling public, the Governor General in Council desired that the authorities of the several railways should give their constant attention to the subject by enforcing the rigid observance of the rules already in force and by the introduction from time to time of such further reforms as experience may show to be necessary or desirable.

"Government Inspectors for Railways have also been instructed that in the course of all periodical and other inspections made by them attention should be paid to any improved arrangements that have been found possible for the comfort and convenience of passengers, and that these arrangements, or the necessity for improved arrangements, should be made the subject of report."

The Hon'ble NAWAB AMIR-UD-DIN AHMAD KHAN, BAHÁDUR, in the absence of the Hon'ble PRINCE SIR JAHAN KADR MEERZA MUHAMMAD WAHID ALI BAHÁDUR, asked:—"Will the Government please state whether any, and if so what, communication has been received from the Secretary of State as to the result of the Opium Commission?"

The Hon'ble SIR JAMES WESTLAND replied:—"The Government of India communicated its views to Her Majesty's Secretary of State in a despatch dated the 19th October, 1895, to which the Secretary of State replied on

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[Sir James Westland.]

December 12th. Both despatches were published in full in the Official-Papers Supplement to the Gazette of India of the 18th January last, and are available also in pamphlet form."

FINANCIAL STATEMENT.

The Hon'ble SIR JAMES WESTLAND, in moving that the Financial Statement be taken into consideration, said:—"There are one or two subjects which are of some public interest and which were not referred to in that statement, but in regard to which I should like to take the opportunity of giving some explanation now. The first question to which I wish to allude is the reference which we made in the course of the past year to Commercial and Banking Institutions on the subject of the investment of the currency reserve. The proposal that we laid before them was that, whereas the currency reserve is now invested to the extent of eight crores, we should take legal powers to invest it up to the limit of ten crores. We furnished these bodies with statistics relating to the circulation, and we asked them their opinion as to the measure, and whether, in their opinion, it in any way diminished or endangered the perfect convertibility of the currency note. We have received answers from all the Chambers of Commerce and Presidency Banks, and I may say that there is not one of these bodies which calls in question the proposal to make this investment on the ground that it diminishes the security for the convertibility of the currency note. I may mention that since these papers were circulated to the Banks and to the Chambers of Commerce we have received even additional evidence of the security with which the proposed transactions can be carried out. It will perhaps be remembered that we drew up two statements shewing the variation in the circulation. One of these statements was a statement, month by month, for some time past, of what we call the gross circulation of the currency notes. The other was a statement of what we call the net circulation. The difference between the gross and the net circulations in this case is that the gross circulation includes the currency notes which lie in our Reserve Treasury and also the currency notes held by the Presidency Banks. These notes are certain to come to us for encashment sooner or later; we do not regard them as a permanent part of the currency circulation, and we ought not to regard them as such in discussing any question of the currency reserve. The net circulation is the balance which remains in the hands of the public generally.

"Now, since these papers were sent out this gross circulation has very much diminished. It stood, if I remember rightly, at about 31½ crores when

we sent out the statistics, but now the gross circulation has been reduced to something like 25 crores. That is to say, the demand for money which springs up every cold weather, and which sprang up this cold weather also, has so greatly reduced the amount held in the balance of the Reserve Treasury and in the Presidency Banks, that they have brought forward their notes for encashment, and by that means have reduced very largely—by something like 20 per cent.—what I have been defining as the gross circulation. But notwithstanding this great change in the gross circulation, the net circulation, that is to say, the amount of notes which remains in the hands of the public, and which can be depended upon to a large extent to remain in the hands of the public, has increased by a small amount. When we consulted these bodies whom I have named, we based our proposals entirely upon the statistics of the net circulation, and rightly so, so far as I can see. The evidence that this circumstance has given to us—the circumstance, namely, of the great diminution of the gross circulation, entirely unaccompanied by any diminution in the net circulation—adds considerable strength to the argument that we can increase our currency investment from eight to ten crores without the slightest danger to the convertibility of the note.

“The only objection that has been raised to the proposal which we made was that we might to some extent endanger our currency policy, that is to say, our rupee currency policy, by throwing on the market two crores of rupees. These two crores of rupees would hardly be thrown upon the market in the sense of being suddenly put upon the market, but ultimately and after a long series of intermediate transactions the circulation of rupees in the country would be two crores more than it would otherwise be. Now, this is obviously a theoretical objection, and it is based upon theoretical grounds. I am not prepared to discuss these theoretical grounds now, because it is very difficult indeed to say how far the total amount of the rupee currency in circulation affects the exchange value of the rupee, and I do not wish to discuss a difficult and dangerous question of that kind. But I am a little doubtful whether in discussing the question of the investment of the currency reserve we are at liberty to look at outside considerations of that kind. Of this I am confident that we are not entitled to use the currency reserve for any purpose of producing a certain effect upon the exchange value of the rupee. No person would for a moment allow that if we did that we would be acting within our duty. It is for the same reason arguable that when a measure affecting the currency reserve is proposed, from the point of view of the currency-reserve pure and simple, we ought not perhaps to allow

ourselves to be influenced by the possible effect which a measure desirable from a currency-reserve point of view, may have upon the exchange value of the rupee. However, these are all questions which will no doubt be argued out before the measure which we propose takes any actual form. What I wish to state at present for the information of the Council is what the Government intend to do with regard to the proposal generally. In the first place, we shall publish in the Government Gazette for general information the opinions that we have received upon the subject. We shall also communicate them to the Secretary of State for his information, with a view to any suggestions or orders that he may desire to give. If he sanctions our proposals, it is possible that we may bring forward a legislative measure for carrying them out, but that will not be done until next cold weather; that is to say, that we shall not make any proposals of this kind during the session at Simla, where we do not receive the assistance of our commercial colleagues.

“The other matter to which I desire to make reference was a communication made to me by merchants at Rangoon during my visit to that place. It is a matter which I considered partly at that time and afterwards in Calcutta. The merchants of Rangoon had two requests to make—first, that the Secretary of State might draw his Council Bills upon Rangoon as well as upon Calcutta and Bombay. This is a question which has been before the Government at various times during the past few years, but the Government has never seen its way to allow any drawings of Council Bills on Rangoon. There is more than one reason for this. The drafts of the Secretary of State come at present, for example, to about sixty lakhs a month. If we were to allow the Secretary of State to draw upon Rangoon, it is obvious that we ought to be prepared at any moment to pay sixty lakhs at Rangoon. It is easy for us, at centres like Bombay and Calcutta, to provide ourselves with as large an amount of money as may at any time be necessary to meet the Council Bills of the Secretary of State; but, if we were obliged to provide money for that purpose at Rangoon also, it would make far too serious an inroad upon our cash balances, and we would be able only with great difficulty, and not even so at some times of the year, to provide the necessary funds to meet such Council Bills as might be drawn on Rangoon. I may also point out that the Exchange Banks, through whom most of these Council Bills are passed, are exactly in the same position and circumstances as ourselves. It does not pay them to keep money lying at Rangoon waiting the demands of the merchants. They prefer financing Rangoon entirely from Calcutta. Even if we were to allow Council Bills to be drawn upon Rangoon, the chances are that the Banks through whom they almost entirely

pass would prefer drawing upon Calcutta and holding their funds there ; because in that case the same amount of reserve held in their hands would be available both for the demands made upon them at Calcutta and those made at Rangoon. We have an exact example of this in the Secretary of State's drawings at Madras. The Secretary of State may draw on Madras—and he does so to a small extent—but as a matter of fact the commerce of Madras is financed almost entirely through Calcutta and Bombay. The Banks prefer having their money at these big centres, and sending it thence, from time to time, to where it is actually wanted. I do not think, therefore, in the first place that it would be possible, or desirable, that the Secretary of State should draw upon Rangoon, nor, should he determine to draw upon Rangoon, that much advantage would be taken of the permission by the Exchange Banks.

“The other matter which was brought forward by the same merchants at Rangoon was their demand that the large sums of money, which through currency and commercial operations become available in our hands at Rangoon at the beginning of every cold weather, should be made available for the rice trade at Burma, not only, as at present through the Bank of Bengal, but to the merchants directly. Our present practice is to make an arrangement with the Bank of Bengal that we should hold this money at their disposal and make it available to them at a premium of four annas per cent. The Exchange Banks, I believe, pay another anna per cent. to the Bank of Bengal, and by this means and by any necessary cash remittances made by the Bank of Bengal the whole of the Burma rice trade is financed. The desire of the merchants was that, instead of making this money available through the Bank of Bengal only, we should throw it open to tender in the same way as the Secretary of State throws open his Council Bills to tender ; and the merchants think that by this means they will get rid of part of the present banking charges which they consider fall very heavily upon them. Now it may be impertinent in me to pretend to know more about the business of the merchants of Rangoon than they do themselves, but I confess I have some doubts that when bills are made available in this way the merchants will be able in any way either to reduce their banking and remitting charges or to compete with the Banks for these remittances. However, I perfectly admit that my opinion on this subject is not sufficient to warrant me in withholding from them the permission they ask for to tender for the Bills in competition with the Bank of Bengal.

“I have therefore made an arrangement, and I have communicated it to the Rangoon merchants, that next season we shall advertise at the proper time the amount of funds that we have available at Rangoon, and we shall call for

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[Sir James Westland ; Mr. Playfair.]

tenders for the available amount of money. These tenders can be made either by the Bank of Bengal or by the Exchange Banks or by the merchants direct. That is what the merchants have asked for, and it remains to be seen whether the plan will suit the circumstances of the trade. I myself feel a little doubtful as to whether the merchants will in the end find it profitable to take all these banking transactions upon their own shoulders, but that is a matter for them to consider for themselves. At present even Exchange Banks are unwilling to take upon themselves this burden of keeping money lying idle at Rangoon. They prefer to keep the money here till it is actually wanted at Rangoon, and when it is wanted they can depend upon its being made available through the present system. That is in my opinion the cheapest and most practical system ; but, as I have said, I have not the slightest objection to allowing the merchants of Rangoon to attempt the system of direct tender if they find that it suits them better.

“I thought it desirable to give a public explanation on these two matters because they are matters in which the commercial public have generally some interest. I did not think it worth while to enter upon these subjects in the Financial Statement, and therefore I have taken this opportunity of making the explanations which I have to give the public on the matter.”

The Hon'ble MR. PLAYFAIR said :—“My Lord, the Financial Statement before your Excellency's Council again testifies to the buoyancy and elasticity of the Indian revenue, and it does more, for it manifests in a most satisfactory manner the result of the perseverance in economy which has distinguished your Excellency's administration.

“My Lord, I have little to add to my congratulations to the Hon'ble Member for Finance, that under his guidance the country has emerged from the transition period he was forced to proclaim two years ago and that he is able to state in paragraph 10 of the Financial Statement that he has paid for the Chitral Expedition, restored the Famine Insurance Grant, recouped the contributions levied in 1894-95 from the Provincial Governments, and has a surplus over and above, approximating to a crore of rupees. Unless the value of the rupee again and suddenly alters for the worse and the country is called upon to meet some unforeseen calamity, it is apparent that the surplus of the current year should be considerably larger than the estimate of Rs. 463,000 taken in the Budget. I therefore look forward with most concern to 'l'embarrass des richesses' as likely to invite demands upon the Member for Finance from many directions as the year advances and as the surplus accumulates. I have

lately expressed the hope in this Council and elsewhere that the Government of India will take into earnest consideration those commercial wants of the Empire to attend fully to which it has not had either leisure or opportunity during the recent periods of war and poverty. I would specially refer to the competition from other countries with which the produce and trade of India is now beset, and to the effect which existing inland transport charges, and especially railway rates, tend to restrict traffic. I hope that these important questions will not be forgotten when Government comes to deal with the surplus balances of the year. I do not propose to enlarge upon this question on the present occasion. I hope it may be presented by the commercial community more fully for the deliberate consideration of your Excellency's Government than time at present would permit. In this connection it is encouraging to learn that the Budget contains provision for a more extensive railway programme than India has known for many years. And, while I heartily congratulate the Government on this advance, I would express the hope that more liberal encouragement may attract the private resources of the country and of investors in Europe to the development of the system of communication by the construction of feeder railways and tramways throughout the country.

"Another most satisfactory feature in this Budget is the savings that have been effected under the ordinary army expenditure, amounting to Rx. 462,000. Two years ago the Council listened with keen interest to a carefully prepared and business-like explanation given by the Hon'ble and gallant Military Member of Council with regard to the army expenditure. I may venture to assure the Hon'ble Member that any additional information he can give the public, especially as to whether the Chitral outpost may create a demand for special defence works, will be received with lively interest. Such an explanation, made on the eve of his retirement,—an event which is regarded with general regret,—would be at this juncture of very great importance.

"Turning to the question of income, it is a matter of anxiety, which I am glad to find the Government of India share with the public, that the opium crop continues to yield very much below the quantity gathered during previous years. The total income from this source has fallen from Rx. 8,451,185 in 1880-81 to Rx. 4,979,800 in 1894-95. The decline has been attributed to unfavourable seasons, but it has not been shown that the same influence has affected other crops in like manner. I would invite the Member for Finance to say whether experience satisfies him that the rise in price paid

to the cultivators he announced a year ago has been sufficient to secure the more general cultivation of the crop, and whether it would not be advisable to offer a still further advance to the cultivator to ensure a supply to replenish stocks and bring them up to the requirements of the demand. I would also like to enquire whether the attention of the Government of India has been directed to the remarks appearing in the reports of the British Consuls in China upon the increased adulteration by the Chinese of Indian opium with Tientsin cake, Sesamum seed cake, and other compounds, to the prejudice of the reputation of the Indian drug, before it reaches the consumer, and whether the Government will endeavour to induce the officials in China to protect the Indian trade against this pernicious practice.

"It would also be of interest should the Minister for Finance find himself able to state at what rate of interest he intends raising the new rupee loan of Rx. 4,000,000, contemplated in paragraph 178 of the statement. With regard to the remark that the minimum cash balance required by the Government of India over all the Treasuries in India is between 8 and 9 crores, I desire to enquire whether in view of the increased balances of the Savings Banks—estimated in the Budget of 1896-97 to amount to Rx. 11,862,618—it is not necessary, in the opinion of the Government of India, to retain rather a higher balance in cash than formerly.

"A reply to this question, in view of the remarks that have fallen from the Hon'ble Member in connection with the proposed increase of the Paper Currency Reserve would, I think, be of interest to many. Without entering upon the question raised by the Hon'ble Member, I would desire to say that the mercantile community have every appreciation for the seven lakhs saving in interest that his scheme is designed to afford. When the reserve was raised in 1889-90 from 6 to 8 crores of Government paper, the Savings Bank balances were, if my memory serves me right, about 7 crores. These balances will stand according to the estimate in the Budget of 1896-97 at something like Rs. 11½ crores, and, as I have remarked, it will be of interest if the Hon'ble Member is able to give a reply to the question I have put."

The Hon'ble RAO SAHIB BALWANT RAO BHUSKUTE said:—"My Lord, the Financial Statement is certainly an unmixed gratification for which we were not altogether unprepared. Yet our anticipations were mere conjectures. They have been agreeably realised and the Government of India must be warmly congratulated on the prosperity budget which the Hon'ble Sir James Westland has been able to place before the Council for their consideration. Two years ago,

when our troubles seemed to be at the worst, nobody could have ventured to hope that the Government of India would have been able to tide over their difficulties so successfully as they have done, and your Excellency's Government will receive the congratulations of the country on this happy result. Both the actuals of 1894 and the revised estimates of 1895 have turned out better than were anticipated, and we can now count upon a surplus in the past year's accounts as also in those of the opening year with great confidence. The public will now have their anxieties allayed. A surplus means an implied pledge that public burdens will at least not be augmented if not lightened.

"It is in this connection that the Hon'ble Member for Finance deserves especial felicitations. He took office under the most unfavourable circumstances. An evil star seemed to haunt him. Some nine years ago, when he was in temporary charge of the Finance Department, he was forced to have recourse to the extreme necessities of taxation. It was necessitated by the annexation of Northern Burma, the increase of the army expenditure, the military expenditure on the North-Western frontier, and by the rapid fall of exchange. Some three years ago, when the portfolio of finance was made over to him, the circumstances were equally unfavourable. Talents, which could pre-eminently have relieved the public at large of onerous duties by an inborn mastery over financial problems, were thus employed in struggling with a crisis threatening bankruptcy. Better days appear to smile on him and on your Excellency's Government.

"But to what are we to attribute the present occasion for rejoicing? When this question comes to our mind we find ourselves again left to mere chance and frailty. The opium revenue and the rise in exchange underlie this prosperous outlook.

"The great Roman jurist Paulus had laid down that 'money circulates with a power which it derives not from its substance but from the quantity.' This view has not been contradicted to the present day. This is the principle of the Barbour scheme and it has admirably succeeded. Other circumstances too contributed to its success. Chitral has probably caused a large amount of money to be directed towards itself. Payments on account of railways under construction must have likewise caused a great absorption. The closing of the mints successfully operated on raising the market value of the rupee. Thus a rise in the exchange is due to exceptional circumstances.

"The Chitral expedition is probably, at least we all pray, the last of the projects of our Supreme Government for pushing their conquests in the North-

West. Further circulation of money is therefore retarded. Crops in the North-Western Provinces and in some parts of the Central Provinces are fearfully bad. There will be less advances made than in the preceding year. Doubtless the whole basis of the Budget is the state of exchange. The Finance Member is aware of the difficulties and hence the caution which characterises his Budget (paragraph 31 at Part I of the Statement).

"The vagaries of exchange are almost certain in future. The present triumph is by no means final. To prevent importations of silver a further augmentation of the duty will be necessary. During the last week the exchange was as low as 14½d. And even while the Hon'ble Member was speaking a further fall had taken place.

"The exchange, therefore, my Lord, is not an unfailing indication of the improvement of our financial situation. Our surplus or deficit or equilibrium is solely guided by it. Suppose the rupee had fallen to 13d., what would our position have been? With public works stopped and progress starved it would have been a paramount necessity to find out some means of escape. Whatever it be there are chances enough that exchange may rise, and we all wish it would.

"The other main advantage accruing to the Government during the past year and contributing enormously to the present situation comes from opium. During the past ten years, as I shall show later on, the opium revenue has gone far lower than what it was during the ten years immediately preceding. This item of revenue, though conspicuous some particular year, is as frail as the exchange. A due allowance has even in this case been made for this unstable nature of the revenue. Here we find another proof of the cautiousness of the Finance Minister.

"There are, however, reasons to hope for a time when budgets can be taken for a true forecast of the year. The financial administration will be free from that anxiety which has harassed it during the last decade of years, if an effective control were exercised on it. Without it we cannot be said to have made any progress.

"In adverting to the means of control, I wish to make it clear that I am duly aware of the heavy work of this day. I shall therefore abridge my remarks as much as possible. A non-official Native member is said to be waiting

for this one day in a year to expend his ire. This is a gross injustice to him. Ire he has none, and if he has it he has other times and places to expend it. This is in my opinion a sacred place where we are bound in duty to place before your Excellency such arguments as may conduce to the best interests of the millions whose destinies your Excellency has been called upon to rule. Making light therefore of the insinuations of others, I hasten to offer my remarks. But before proceeding to my task I must state I am no expert in statistics, and the figures I shall quote are taken from an authority at least satisfactory to me.

"The Budget is very reticent with regard to the means of economy either actual or prospective. The Government has during these twelve years endeavoured to meet its extra demands with peculiar indifference to expenditure and revenue. Among the financial expedients resorted to by Government the principal ones are—the frequent curtailment or even suspensions of the Famine Insurance Fund; absorption of the provincial resources and balances; suspensions of useful administrative reforms and expenditure; and taxation. I shall speak of each of these and say how the Budget deals with it.

"(1) *The Famine Insurance Fund, otherwise called the Famine Insurance Grant.*—During the past twelve years the grant appears to have been five times suspended and twice curtailed. The Government could not have done a better thing than taking advantage of the present prosperity to reconstitute the Famine Grant on its own basis. That grant was a sacred trust which ought never to have been diverted to other purposes. It is no use complaining of the past, and in view of the uncertain character of the present season, after the long spent impunity we have enjoyed, the country will breathe more freely when it learns authoritatively that your Excellency's Government is prepared to accept the pledges so solemnly given when the fund was first constituted. The Hon'ble Sir James Westland gives reasons to justify the resolutions of the Government of India to reduce this provision for famine from a crore and a half rupees to one crore. The propriety of the policy which is now announced of reducing this grant by one-third of the amount fixed by Sir John Strachey and Lord Lytton may be questioned, considering that during the last fifteen years the total sums spent on various accounts under this head represent an average expenditure representing one crore and sixteen lakhs. Even if the reasons assigned by Sir James Westland be as cogent as they are represented to be, the further question arises whether this reduction of the grant does not require the Government of India that they should remit those special taxes which were

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imposed for this special purpose when famine insurance was accepted as a State obligation by the Government of India. Sir James Westland's remarks throw no light on this head, although it is a matter on which the provinces affected by this special taxation will naturally claim immediate consideration at the hands of the Government of India.

"(2) *The provincial resources and balances.*—Besides reconstituting the Famine Insurance Fund on partial footing the Government of India has been able, chiefly by reason of rise in exchange, out of its realised surplus of nearly three and a half crores in the revised estimates of the present year, to pay off the whole of the Chitral expenditure of nearly two crores and to return back to the Provincial Government forty lakhs of the balances withdrawn from them two years ago. This latter feature will not fail to inspire greater confidence in the binding force of the Provincial contracts—an arrangement entered into from time to time by the Government of India with the various Local Governments. The appropriation of these balances, during the term of the contracts, has always a very prejudicial effect, and as it now turns out there was no necessity for such interference with existing arrangements. It is to be hoped that, when the next five years' contracts are entered into, guarantees may be given that recourse will not be had to such interference. It necessarily tends to unsettle Provincial arrangements.

"Towards the conclusion of the first part of his statement, the Hon'ble Finance Minister, with his usual ability and clearness, discusses the question how far Provincial revenues are appropriated to Provincial purposes and how far they are diverted to supplement Imperial revenues appropriated mainly to Imperial charges. His position is that, taking the distributable and non-distributable items of revenue and expenditure, the claims of the Provincial administration are not unduly sacrificed to subserve Imperial purposes. He estimates that the non-distributable items of revenue, including Opium, Salt, Customs, Post, Telegraph, Mint, Miscellaneous and Railways, come, to about 28 crores, and the contributions by the provinces from their net receipts come to about 21 crores, making about 50 crores, which represent the non-provincial items of expenditure on the Central Administration, the Army interest and Famine Insurance charges spent in India, making a total of 22 crores, and the English charges, Army interest, Superannuation allowances and other items, which with exchange come to about 28 crores. In other words, the Imperial charges are about 50 crores and the receipts about 28 crores. The

deficit is made up by 22 crores contributed out of their surplus revenues by the provinces. While the Imperial revenues are thus short of Imperial charges by 22 crores, the Provincial revenues under distributive heads are 48 crores and the Provincial charges are 26. The representation is perfectly correct as far as it goes, though it does not cover the whole field of Indian finances. It moreover fails to take account of the main grounds on which the complaint made by the provinces really rests.

“This complaint is not, as the Hon'ble Member puts it, that each province thinks the richer provinces have a surplus which they are made to disgorge for the poorer provinces, but that under the present arrangements the poorer provinces are made to contribute more than their proper shares in order that the richer provinces might not be taxed their full share of the Imperial contribution. On the basis of the figures furnished in the Financial Statement I have tried to prepare statements which bring out this fact more clearly than what I could actually describe:—

PREPARED FROM THE FINANCE REVENUE ACCOUNT, PAGE 24, AND FROM THE FINANCIAL STATEMENT.

Table showing the incidence of taxation per head in the different provinces.

Provinces.	Total.	Land.	Salt.	Excise.	Customs.	Other heads.
	Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.
Central Provinces	1 5 4	0 9 9	0 2 6	0 4 1½	...	0 3 9
Burma . . .	6 0 4	3 3 9	0 3 6	0 7 10	0 10 9	0 15 7
Assam . . .	2 2 3	1 1 9	0 2 4	0 7 10	...	0 4 1
Bengal . . .	1 5 5	0 8 9	0 3 9	0 2 9	0 0 6	0 3 6
North-Western Provinces and Oudh.	2 0 7	1 3 6	0 2 4	3 1 11	...	0 4 5
Punjab . . .	2 3 3	1 2 3	0 3 0	0 1 7	...	0 5 4
Madras . . .	2 11 1	1 7 0	0 3 6	0 6 1	0 0 3	0 5 9
Bombay . . .	4 3 5	2 5 10	0 4 11	0 9 4	0 0 5	0 9 6

REVENUES.

Imperial in crores.			Provincial in crores.		
Rs.			Rs.		
Opium . . .	7		Land . . .	26	
Salt . . .	8½		Stamp . . .	4'5	
Customs . . .	5		Excise . . .	5'5	
Tributes from Native States . . .	8		Provincial Rates . . .	3'5	
Interest . . .	8		Assessed Taxes . . .	1'75	
Post Office . . .	1'6		Forest . . .	1'5	
Telegraph . . .	1'3		Registration . . .	5	
Mint . . .	0		Civil receipts . . .	1'5	
Miscellaneous . . .	5		Miscellaneous . . .	5	
Railways . . .	20		Railways . . .	1	
Irrigation . . .	1'75		Irrigation . . .	7'5	
Military Department . . .	8		Buildings . . .	5	
TOTAL . . .			48'5		

“It appears from these statements that while in the rich Gangetic province of Bengal the land-revenue charged is only eight annas per head, it is as high as Rs. 2-6 in Bombay and even in my poor province the charge is nearly ten annas per head. Under Excise the same story is repeated. The total charged per head of distributive revenue in Bengal is Rs. 1-5-5, the same as in Central Provinces, while in Bombay it is as high as Rs. 4-3-5. It is this unequal distribution of burden involved in the present arrangement which is really the subject of complaint. The poorer provinces are taxed more than their capacities, while the richer provinces pay less than their shares. The charge of net revenue contributions made to the Imperial Government per head of population is ten annas in Bengal, while it is Re. 1-6 in Bombay and Madras, Re. 1-3 annas in North-Western Provinces and Oudh, and 14 annas in the Punjab.

“If the calculations partially made by the Hon'ble Sir James Westland in his statement be extended on the same principles so as to cover all the expenditure and receipt, it would be found that roughly speaking out of 96 crores of rupees raised as revenue in India the purely Imperial receipts (Opium, Salt, Customs, Tribute, Interest, Post, Telegraph, Mint, Irrigation and Railway Works, Miscellaneous) represent a total nearly of 48 crores, which is realised for the Imperial Government through the Local Governments or directly through its own agencies, while Lands, Stamps, Excise, Rates and Taxes, Forest, Regis-

tration, Civil and Miscellaneous Receipts, which may be regarded more or less Provincial, amount to another 48 crores. Out of these 48 crores the Local Governments are permitted to spend about 24 crores on their own responsibility under the system of Provincial contracts, and the remaining 24 crores are paid over to the Imperial Government which spends 33 crores in England, 37 crores in India, making in all nearly 70 crores. The remaining 26 crores are all that are really spent on Provincial purposes. If, instead of Imperial Government assigning at its own sweet will what it thinks a fair share in Provincial charges, the Local Governments were required to pay their fixed proportion on the principle of population or income, to supplement the Imperial receipts, a more healthy state of things would spring up than the present centralising arrangement permits and all cause for local complaints will be removed.

"My Lord, I have only ventured to press these points upon the attention of the Council. The expected fall in exchange and the rise in the rupee price will I am sure establish better relations between income and expenditure and enable your Excellency's Government to remit the heavy additional taxation which has been imposed during the past few years to meet the crisis. When this time arises your Excellency's Government will no doubt weigh the claims of the people of India for relief, though these claims cannot for obvious reasons be pressed with the same urgency as those of the manufacturers of Lancashire in whose interests the Council has already gone so far as circumstances require. Properly speaking, when the finances permitted reduction in taxation, the poor population of India should have been the first to feel the benefit of the remission. I hope when the next opportunity arises your Excellency's Government will redeem its word by granting this promised relief.

"*Administrative reforms and useful expenditure.*—These have been neglected. The department of police, for instance, demands a thorough revision. Time is come for making educational and departmental tests the essential qualifications for higher appointments in the police. There has been a universal cry for the separation of the judicial from the executive. The expenditure on public education is exceedingly meagre and has not kept pace with diffusion of education and rising taste for learning. The pay is inadequate and promotion bad. A general discontent among the schoolmasters is the natural consequence. Men of sound learning and impressive character shrink from the service. Minds entrusted to the care of this body of men are sure to imbibe at a very seasonable period some tincture of their teachers' spirit. Useful public works have been likewise stopped.

"So long as our expenditure abroad is thus increasing there can be no hope of having these requirements satisfied. A proper re-adjustment of revenue expenditure and utmost economy have been axiously called for from every quarter.

"Last year the Hon'ble Finance Member showed a decrease of taxation 4½ millions. No doubt the receipts under taxation in 1883 were 33·678 millions sterling. Those in 1894-95 were 29·528. But he omitted the income of the country. Were it likewise reduced to a sterling basis it too would have shown a corresponding decrease. During the twelve years from 1883 to 1894 taxation has increased 35 per cent., whereas it has increased in the United Kingdom in the same space by only 14 per cent.

"The subject of agriculture may justly be called the burning question of the day. It now demands the immediate attention of those whom it has pleased God to place over us. Further postponement of this matter would amount to the neglect of a solemn trust. The population of India may fairly be estimated at 30 crores. Of this a little above 80 per cent. live on agriculture, and nearly 10 per cent. live or trade on the produce. We admit we have unprecedented blessings of peace and safety. We must acknowledge the rectitude of purpose of our rulers. Our only complaint is that a proper investigation has not been made of the real state of things. The breaking of the ice is only difficult. The rest is smooth enough. None but your Excellency's Government can do this. On account of the security of person and property, on account of peace and tranquility conferred upon us, the Indian races breed rapidly. The increase of mouths has necessarily to be fed. The area of cultivation has not kept pace with the increased needs of an over-increased and ever-increasing population. No agricultural improvements have been introduced. Rude system of agriculture, unmanured cropping, continuous cultivation have all as it were conspired to contribute to the fast proceeding exhaustion of the soil. Crops have begun as a matter of natural consequence to yield diminishing returns. The proverbial indebtedness of the agricultural classes has however kept its just measure and time with the other difficulties. If the Government be the sole proprietor of the soil, as such, and also as a State, it doubly becomes the bounden duty of the Government to put it right.

"The salt duties were enhanced in 1888. In 1886-87, 3,37,35,054 Indian maunds of salt were consumed, whereas in 1894 the consumption was 3,41,50,507 maunds, or only 4,15,453 maunds more than in 1886. The population must have increased by about 23 millions. The normal rate

18 *AMENDMENT OF CODE OF CIVIL PROCEDURE; AMENDMENT OF INDIAN REGISTRATION ACT, 1877; AND INDIAN EVIDENCE ACT, 1872.*

[*Sir Griffith Evans; Babu Mohiny Mohun Roy.*] [9TH JANUARY

"As regards the attachment and sale proclamation issuing together, there is not so much objection to that now as there would have been, since the rule has been introduced of allowing a person whose property is to be sold to set aside the sale within thirty days from its date by payment of the amount due under the decree; and there is not much objection to have the attachment and sale proclamation together, while it lessens expense and delay and removes a source of contention.

"As regards the question of publishing in the local Gazette, that is a matter for Government to consider how far it will be convenient or inconvenient.

"As regards notice prior to institution of a suit, that also seems a good provision. The object of a notice is to give the defendant time to decide whether he should contest the suit or not. The proposed amendment will produce the same result as the present rule that the defendant will have time to consider what he will do, and it will no doubt, as the Hon'ble Member has said, put an end to a large amount of hard swearing as to whether the notice was served or not. It seems to me, therefore, that this Bill might properly be introduced and circulated. As I have said, I have not had an opportunity of examining it carefully, but I think that it deserves the favourable attention of the Council."

The Hon'ble MOHINY MOHUN ROY introduced the Bill.

INDIAN REGISTRATION ACT, 1877, AND INDIAN EVIDENCE ACT, 1872, AMENDMENT BILL.

The Hon'ble MOHINY MOHUN ROY moved for leave to introduce a Bill to amend the Indian Registration Act, 1877, and the Indian Evidence Act, 1872. He said:—"Section 33 (a) of the Indian Registration Act, as it now stands and as it is ordinarily construed, is productive of great inconvenience and hardship.

"It frequently happens that the principal has to execute a power-of-attorney for the registration of a document when he is away from his residence or home and is for a time in another sub-district on business or for other cause. There is no good reason why he may not execute it before the sub-registrar of such sub-district and get it authenticated by him. It is obvious that he would be put to great inconvenience and hardship if he had to go for this purpose to the

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registering office of the sub-district of his residence. Some registering officers construe this section so strictly as to hold that a person who, residing in the suburbs, has to attend office every day in Calcutta, is not entitled to execute a power-of-attorney before the Registrar of Calcutta and obtain his authentication.

"The law makes it incumbent upon the executant to execute his power-of-attorney before a registering officer. He cannot well do this without appearing before him and residing, though it may be for a short time, within his district or sub-district. It seems, therefore, that the provision for executing the power-of-attorney before a registering officer, who will never authenticate without being satisfied of the executant's identity, acts as a sufficient safeguard, and that the further provision which it is proposed to omit is an unnecessary restriction.

"There is no such restriction in the cognate clauses, section 33 (b) and section 33 (c), nor in section 29.

"Section 47A, which it is proposed to add, is a very important and necessary provision. The present law, section 47, leaves a wide door open for the commission of fraud. A executes a transfer of his property to B, and does not immediately register the deed. The law allows four months, which may be extended under certain circumstances to eight months, for its registration, and, if executed out of British India, the registration may be deferred for years at the option of the parties. There is nothing to prevent A from again transferring the property to C within the time allowed for registering the first deed. If C made any enquiry in the registry office, he would obtain no information of the execution of the prior deed, and would be easily taken in. Under the present law, if the transfer in favour of B be afterwards registered, it will take effect against the deed in favour of C. In such cases there is generally some kind of understanding between the vendor and the first transferee. But it is very difficult to prove collusion between them, and the result of litigation between the rival purchasers generally is that the vendor sells his property twice over, and the second purchaser is completely sold. This should not be. The section proposed to be added will, by giving priority to prior registration, prevent the commission of such fraud. There is a similar provision in the English statute law, 7 Anne, c. 20, and 38 & 39 Vict., c. 87, s. 28.

"The proposed rule is not likely to operate with hardship upon anybody. Purchasers or mortgagees seldom pay money before registration, well knowing that the deed is waste paper unless registered. There may be exceptional

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[Rao Sahib Balwant Rao Bhuskute.] [26TH MARCH,

of consumption of salt per head of population is 10 lbs. The consumption per eight heads of population is therefore one maund per annum. The increase of consumption proportioned to population ought to have been nearly 33 lakhs of maunds; but the increase is only 4 lakhs of maunds and a little more. The consumption has thus, it is plain enough, fallen by 25 lakhs of maunds. Such is then the poverty of the masses that a slight increase in duty has caused a diminution in the consumption of an indispensable necessary of life such as salt.

"Numerous other proofs may be given of the strains on the poor. It would be impossible to produce all. I have tried to avoid as far as possible arguments requiring a deal of reasoning. For instance, there is a general rise in prices, but wages have remained stationary. The acknowledged principle of taxation is that it should not affect the national industries. There is again nothing to rely on should these happy peaceful times threaten war. In times of peace we should prepare for war. We deprecate such an event, but we must have a large surplus in the shape of preparation.

"This increase of taxation has features which cannot be made light of. There is every certainty that your Excellency's Government will soon take such measures as may tend to lighten taxation and relieve the anxieties of our men. The position which Lord George Hamilton holds is briefly one of financial equilibrium—a test considered to be an acknowledged proof of its soundness. But there lies underneath a grave and serious peril to which we ought to be no longer blind.

"It is no use discussing where the money thus raised was spent. It is far from my mind to throw any unjust and undeserved odium on this or that administration or on this or that individual administrator. It is the entire system which has given birth to these difficulties. So long as this whole system has not been altered no part of the evil will be uprooted.

"My Lord, I have briefly tried to bring out the nature of our present financial position. I have also tried to show that though we are all very jubilant to-day there is no knowing how exchange may rise or fall. I have also shown the justness on the steps taken in partially restoring the Famine Insurance Fund and in re-imbursing the Provincial treasuries with the balances taken from them. It only remains for me to add a few more things connected with expenditure on which the Financial Statement is notably silent, though it has made some trifling savings by way of economy in different administrations.

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"The exchange and opium had a continual fall since 1883. The former entailed a loss of $9\frac{3}{4}$ crores exclusive of additional payment to European soldiers. The aggregate excess loss in consequence of exchange from 1884 to the present date amounts to nearly 60 crores. The increase in Home charges has since been about 2 millions sterling, due mainly to military expenditure and increase of loss on railway accounts.

"Opium receipts also showed a continual deficiency compared to those of previous ten years to an aggregate of nearly 6 crores of rupees. Both these losses were beyond the control of Governments.

"Towards the close of 1885 followed a tremendous extension of the frontier forward policy, special defence work, fortunately not given a prominent figure in this year's budget, and the recruiting of the armies.

"The frontier policy necessitated an aggregate expenditure of nearly 68 crores and added six to the permanent annual charge. The real cause of the financial difficulties is not the exchange, but it is this expenditure. Railway extensions have been carried on with little regard for costs. It is not necessary to think of the exchange compensation grant. The total expenditure has risen to $85\frac{1}{2}$ crores, making a permanent addition of 9 crores. Placing the military expenditure of 1887 and 1893 side by side with each other, the latter has risen to nearly $2\frac{3}{4}$ crores. Of this net increase in the charges both effective and non-effective is one crore and eighty-three lakhs, while the increase due to exchange is only 96 lakhs.

"Such is the increase in a department whose charges are already tremendously heavy.

"Though people have an incomplete knowledge of statistical study and though they cannot account for the premises of their reasonings, this is the inference they have drawn. It is difficult for a non-official member to presume to lay his fingers on established institutions. It was my duty, my Lord, to lay before your Excellency the causes of this embarrassment.

"Your Excellency's Government can best remedy the shortcomings adverted to. As regards the provinces which I have the honour to represent I must state the Finance Minister has been rightly informed as regards the crops there. I am glad the Hon'ble Member for Finance proposes restoring the contribution taken from that administration. I am aware, though the culti-

[*Rao Sahib Balwant Rao Bhuskute; Nawab Amir-ud-Din* [26TH MARCH, *Ahmad Khan, Bahádur.*]

vators are warned that the remission granted owing to failure of crops would be claimed in the year following, they are never exacted with much rigidity. There has been a continued failure in some parts and an entire remission is therefore very imperative. Some lenient rules ought to be framed for recovering arrears allowed to accumulate. If Government were to realise their arrears in one or at the most two years, the cultivator has no option other than that of borrowing. A complete remission in hard cases and a partial one in others would be desirable. The arrears in the latter cases were better collected in four or five annual instalments. In cases like this the Famine Insurance Fund may be partially utilized. If it be taken out of the pockets of the people in times of plenty to meet famine contingencies, it may be spent to meet their wants in times of scarcity. I am sure such steps will be taken both by the Local and the Central Governments.

"In this year's budget protective railways constitute the most important head of expenditure. Most of them are constructed for protecting the North-Western Frontier. The vigorous prosecution of railway construction has already largely added to the net loss to the State during previous years. Several of the new lines are strategic.

"There appears to have been much unnecessary outcry against the special grant for mobilisation purposes. Unless another war were in contemplation this item would necessarily pass into the surplus very likely to be attained over and above the margin presented in the Budget.

"There is now no use raking up an old question decided once for all. Legislation deemed it necessary to forego an income of about half a crore imposing a burden of about 8 lakhs on this country. But it could not be helped. Clouds are gathering on the horizon and there are indications enough of a gathering tempest. We have every assurance in that case that the Indian Government will assert its own.

"On the whole we cannot but admire the cautious spirit which reigns throughout the budget. Even supposing the exchange to fall, and even supposing the opium revenue to fall as it threatens to, it will be found at the end of the year that there is no shortcoming."

The Hon'ble NAWAB AMIR-UD-DIN AHMAD KHAN, BAHADUR, said :—
"My Lord, I am very glad to be able to say that I do not feel myself called upon to take up much of the time of Your Lordship's Council to-day, or to enter

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into any detailed criticism of the Financial Statement now under discussion. Feeling sure, as I am, of the desire of your Excellency's Government to do what is right, and in the best interests of the people of this country, having due regard to the duty that is laid upon it by the control that is exercised by the authorities to which it is responsible, and knowing, as is well known, that the financial interests of the Empire are at present committed to one who is eminently fitted to deal with and control them, I confidently anticipated that the Budget for the ensuing year would call for no unfavourable comment except, perhaps, from those who consider it a privilege or duty to attack everything that the Government may do, and my expectations have been fully realized.

"The Financial Statement for the year 1896-97, which was presented by the Hon'ble the Finance Minister at last Thursday's Meeting of Council, is one which I think the Government of India have good reason to be satisfied with. A surplus of nearly one crore of rupees is shown in the revised figures for the year now drawing to a close although a very large expenditure, which was not provided for in the budget estimate, had to be incurred. This in itself is matter for congratulation, but when it is remembered that this great expenditure includes amounts which denote first, the large sums debited on account of the Chitral Expedition, second, the redemption of the pledges of the Government in respect of insurance against famine, and, third, the repayment of the contributions levied from the several Provinces, the result shows that the Government has maintained its reputation for an earnest desire to do what is right, and the best that circumstances will admit of.

"The budget estimate for 1896-97 may on the whole, I think, be regarded as illustrating the prosperous condition of the country and the soundness of its financial position, and the forecast of the year, as far as it is practicable to make one, may safely be accepted.

"A budget estimate is necessarily liable to be affected by causes beyond human control, a fact which the Hon'ble Finance Minister is not slow to admit; nevertheless I for one cannot but express my appreciation of the prudence that has led to the cautious estimates of revenue which have been framed by the Hon'ble the Finance Minister in order as far as possible to be prepared for any unforeseen causes, which may operate to affect the estimates unfavourably. This is especially shown in the very moderate estimate of the gain in revenue due to the rise in exchange, for, although the present state of the silver market might justly warrant calculations at a higher rate than has

[*Nawab Amir-ud-Din Ahmad Khan, Bahádur ; Mr. Rees.*] [26TH MARCH,

been adopted, that rate will most probably prevent dislocation of the estimate and any difficulty that might be caused by an unexpected reverse. Another feature in the Financial Statement which has struck me as indicative of a wise policy on the part of the Government is the determination to improve the resources of the country by the extension of irrigation works and the constructions of railways, and additions to lines already opened out. This is in my opinion a step in the right direction which would no doubt have been taken years ago but for the state of the finances of the country which has for sometime past caused uneasiness.

"My Lord, as I indicated at the beginning of my remarks, there must and will be critics who will endeavour to pick holes, but on the present occasion they must endure the disappointment they will have to suffer in that they cannot find even a decent pretext for raising their voice against the annual Financial Statement which is now under consideration and which will, I have no hesitation in saying, call forth general approbation and tend to free the public mind from undue anxiety as to the intentions of the Government or the prospects of the future."

The Hon'ble MR. REES said:—"The hon'ble gentleman who opened the debate with all the authority which attaches to the representative of the Chamber of Commerce has already dwelt upon the most salient feature of this statement, and few, if any, who have the interests of India at heart can doubt that in the discriminate multiplication of railways lies the greatest good of the greatest number of its inhabitants. And my hon'ble friend Mr. Ananda Charlu who will speak next, clothed in a still more comprehensively representative character, will no doubt discover other merits in a Budget, the criticism of which is likely to eventuate in a chorus of congratulation. I would only beg for your Excellency's indulgence for a very few minutes to briefly refer to two or three provisions which cannot but increase in a conspicuous measure the material prosperity of Southern India in localities with which I have an intimate acquaintance.

"The first of these is the allotment of six lakhs for the water-supply of Bangalore. For many years successive Residents in Mysore, two of them distinguished officers of the Corps of Royal Engineers, and successive Governors of Madras have had this problem before them, and have sought to devise a scheme for its solution; but either because none was suitable, or because it was doubtful which was most suitable, or because funds were not forthcoming, little has been effected till this present time. With an admirable climate, and with all the

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advantages and amenities of one of the most favoured localities in the country, the water there has not been the best thing, but the worst, and there has been so little of it as to give rise to annual apprehension. In future upwards of 180,000 souls in city and cantonment, and the whole population of surrounding British and Mysore districts, which use Bangalore as a health resort, will directly or indirectly benefit by the blessings of an improved water-supply. Had the late Maharaja of Mysore, who provided a supply for the city, been spared, none would have rejoiced more than that admirable Prince to witness the grant of this boon to the inhabitants of the small tract of Mysore which is under British administration.

"The six lakhs of rupees required in the coming year for the improvement of the Coum River are provided by the Provincial Government, but by sanctioning this allotment and by passing the large estimates prepared, the Government of India has co-operated with that of Madras in the greatest effort yet made to heal a running sore which has baffled successive Administrations probably ever since the British flag has flown at Fort St. George and has contributed in no small degree to raise Madras, as judged by its death-rate, to a bad eminence among the insanitary cities of the world. Nothing so much as the improvement of the Coum will conduce to removing it from that index.

"The Hon'ble Finance Member in his speech last Thursday referred to a new and interesting feature of the present Budget, the statement showing the financial relations between the Central and the several Local Governments and the use which is made of provincial contributions, and he trusted that the figures given would show that there was no foundation for the theory that provincial surpluses are absorbed by the Imperial Government for expenditure on objects foreign to the provinces in which they arise.

"But however interesting and useful these figures are to dissipate a belief which I venture to think is not wholly peculiar to 'non-official circles,' the present Budget affords a most convincing refutation of any such theory in the liberal grants made for railways not only in adjacent, but in remote provinces, which exceed, I believe, those of any previous year.

"The matters to which I have referred, though of supreme local importance, are altogether insignificant beside the grant of Rx. 137,800 for the completion of the East Coast Railway between Bezwada and Cuttack, and of Rx. 800,000 for the Madras-Bezwada line, probably the largest sum which can consistently with efficiency and economy be spent in a single year.

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"If to these amounts be added the advance of Rx. 750,000 to the Bengal-Nagpore Railway, of which perhaps Rx. 500,000 will be devoted to the East Coast connection, little less than Rx. 1½ millions is provided for the completion of railway communication between Calcutta and Madras, which it is believed in no long time will be reduced to a matter of 44 hours. Quite lately such a prospect would have been regarded as an optimistic dream.

"There would be no justification for occupying the time of your Excellency's Council in demonstrating the acknowledged fact that the speedy construction of this line will result in unnumbered advantages to several contiguous and populous districts, at present so little in touch one with another that in 1889 Ganjam suffered from famine while its neighbours enjoyed normal prosperity.

"But it is difficult for one who upwards of twenty years ago knew the Northern Circars at all times cut off by land and not infrequently when cyclones raged in the Bay cut off by sea from all communication with the rest of the Indian world, to pass by these liberal grants without endeavouring, however inadequately, to express on behalf of nearly nine millions of inhabitants of upwards of 31,000 square miles of Madras territory a satisfaction keenly felt by the industrious and estimable Telegu people, which is not articulate in proportion to its worth.

"If I have not referred to the restoration of the Famine Insurance Grant it is because a Railway Budget is in the best and widest sense of the word an insurance against famine as well as an advance all along the line.

"There is an Arab proverb current in India, 'Better an hour of justice, than seventy years of prayer.' So little do I think that the Hon'ble Member for the Central Provinces is right in holding that the construction of railways has pressed heavily on the Indian peasantry, that I believe, if rural India could be polled, it would answer in a paraphrase of this proverb and would say, 'Better a line of railway than all the other services of civilisation.'"

The Hon'ble ANANDA CHARLU, RAI BAHÁDUR, said:—"May it please your Lordship, I cordially congratulate the Hon'ble Finance Minister on his very able Financial Statement, subject to some few exceptions; and as to these exceptions I cordially sympathise with him in his personal inability to get rid of them. With all these latter, it is hardly possible to deal at present; but some of them I cannot but discuss at some length, for which I beg to apologise.

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"It is highly gratifying to note that the question of questions of vital interest to the people of India, that of the Famine Insurance Fund, is again taken in hand and a provision has been made towards it on the credit side. It is deservedly given the first and foremost place. I do not see, however, why it is called a *self-imposed* obligation. It is, I believe, an obligation, compulsorily thrust on the Government by the necessities and conditions inseparable from the administration of a country subject to repeated recurrences of famine almost as a matter of course. If so, it is like all other obligations which are forced upon the Government by causes extraneous to its mere will and pleasure. If this has been specialised as self-imposed in order to facilitate its suspension in the future, as has too often been done in the past, I must strongly object to it as the introduction of the thin end of the wedge to initiate an unsympathetic and radical change of policy. Again, I first thought that it was nothing more than an accident that the well-known name—the Famine Insurance Fund—was discarded in favour of the new designation, the Famine Insurance Grant. To my mind and to the general public the former conveyed and conveys the idea of a trust already created and already existent, while the latter denotes a mere creature of option—not importing any sense of obligation. But this seemingly slight change of nomenclature appears to have a history behind it, and it has been followed by the systematic use of such expressions as 'famine insurance policy,' 'obligation of famine insurance,' and so forth, to the studious exclusion of the word "Fund"; and it is too much to be feared that power is meant to be taken or retained henceforward to grant the provision, to withhold it, or to withdraw it, or as it suits the exigencies of each year. To this substantial change of front I must indeed object. I fear there is, beneath the surface of an acknowledgment of the obligation, a distinct undercurrent, undermining the policy originally inaugurated and the pledges given when the Famine Insurance Fund was brought into being, under a deep and harrowing sense of responsibility for human lives, by Lord Lytton, a horrified eye-witness of the palpable havoc of famine—chiefly in the Madras Presidency. There are, in the Financial Statement before us, other indications accentuating this fear. This fund—I prefer continuing to call it by the name with which it was first christened—this Fund as set forth in the Financial Statement under debate is to be devoted (1) to actual relief of famine when it occurred, (2) to measures calculated to prevent the recurrence of famine, and (3) to facilitate measures of relief on its occurrence. Let us see how the purposes of that Fund were described at its creation.

" Now, looking back upon the history of this Fund, from the records available to me, it appears that the question of organising some system in the direction of preparing against famine was first taken up by Lord Northbrook.

" Sir John Strachey, speaking in connection with his Financial Statement for 1877-78 on the 27th December, 1877, said :—

' He (Lord Northbrook) determined that to enable the State to meet the serious obligation of preventing and relieving famine, it was necessary to secure in prosperous times a substantial surplus of revenue over expenditure in addition to that necessary margin which a prudent administration demands for the ordinary requirements of the State. Due provision would thus be made for meeting occasional expenditure upon famine. He urged that if this surplus were devoted to the reduction of debt or to preventing the increase of debt for the construction of reproductive public works in years of ordinary prosperity, there would be no objection to the public expenditure exceeding the public revenue in occasional years of adversity, so that we might then without objection meet the charges on account of famine from borrowed funds, to the full extent to which our surplus had permitted the discharge of debt or prevented its increase.'

" The policy herein indicated may be put thus :—

1. Secure a substantial surplus in prosperous times.
2. Make out of it due provision to give actual famine relief.
3. Devote the rest of it to (1) reduction of debt, (2) to prevent increase of debt, and (3) to the construction of *reproductive* public works.
4. Thus enable Government at any given time to borrow funds to meet the charges on account of famine, when they actually come on.

" That embryonic policy had to be essentially modified, proclaimed and strengthened with clear pledges, when Lord *Lytton* came face to face with the ravages of the dread spectre ! In his minute, in his speeches from his place in the Council, and in his replies to public bodies, he made his meaning abundantly clear that *every year* an allotment of *a crore and half of rupees* should be *religiously* set apart, and that, among other things, the sums, so to be set apart, should be *actually* and *loyally* invested in a particular class of public works which he indicated pretty intelligibly, irrespective of other works, generically similar perhaps, but admittedly different in character.

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" Here are his chief utterances on the subject :—

' Well, then, I think I am entitled to point out to the Council that we are not now fairly open to this customary criticism. We do not speak without having acted ; and we promised nothing which we have not, after long and anxious consideration, provided ourselves with the means of performing. I must have very imperfectly explained myself thus far, if I have failed to make it clearly understood that I am not now speaking of what we ought to do or would do, to insure this country against the worst effects of future famine, had we only the means of doing it ; but of what we can do, and will do with the means already provided for in the measures now before the Council. I do not mean to say that the construction of such an extensive system of local railroads and irrigation works, as we propose to undertake, will not be the gradual task of many years. But I *do* mean to say that in the manner and on the principle already explained we are now providing for the prompt commencement and uninterrupted continuation of this great and necessary task.

' As the representative of the Sovereign of India, I regret that such language should have been held to me by you.....The sole purpose of the additional taxation, you complain of, was the preservation of the lives of the people of India from the effects of famine..... Whatever may be the faults or shortcomings of this Government, its action in the matter to which your address makes reference was dictated by the sincerest and most anxious desire to give the people of India the greatest protection which could practically be provided for them against the calamities of future famine. To insinuate the contrary is to insinuate a calumny.'

" The passage below sets forth the engagements of the Government in Lord Lytton's own words :—

' *1st.*—To apply funds from the surplus revenues at the rate of $1\frac{1}{2}$ millions sterling per annum in such a manner as to create what shall be, in fact, an Insurance Fund, from which future expenditure for famine relief can be provided for without adding to the permanent burdens on the revenues.

" *2nd.*—To bring about this result, either by the direct discharge of debt in times of prosperity or by investments of surplus revenue in productive public works under conditions that shall ensure their being really remunerative, and that they shall at the same time supply to the country the best material protection against famine.

" *3rd.*—To comply with this condition carrying out in all the provinces of India as speedily as our financial position and other economical considerations will admit all approved extensions of irrigation, and a complete system of cheap railroads, primarily and specially adapted to a slow goods traffic.

" *4th.*—To secure to the utmost the finance basis of this undertaking by assigning to, and concentrating upon, the Local Governments the financial responsibility and adminis-

trative powers necessary for the designing, commencement, completion and maintenance, within their respective provinces, of such a system of works as shall fulfil the requirements of the case for each of them.

"5th.—To arrive at this result by giving to these Local Governments the maximum of pecuniary interest and profit in the cheap construction and successful management of all provincial public works by reducing to a minimum interference on the part of the Government of India in the administration of such works, and by not permitting such interference to extend beyond what is necessary to ensure regularity and harmony of action or protection to the general financial interests of the State."

"Placed side by side, there is a very striking, and I shall add a very startling, divergence between the two. One cannot help reading between the lines and noting with profound sorrow an ill-concealed disposition to starve this Fund in order to meet the cost of measures which are more or less dictated by the general obligation the Government is under to meet commercial or strategic needs, and to develop the resources of the country and which it is bound to undertake for their own sakes and quite apart from any relation to famines. These, for purposes of distinction and easy reference, I shall call non-famine public works, including both large irrigation measures and railway constructions. The phrase 'measures calculated to prevent the recurrence of famine' and the phrase 'to facilitate measures of relief on its occurrence,' which are used by the Hon'ble Finance Minister, are far too elastic and far too vague. Given a certain amount of skill and ingenuity, I do not know what measures could not be easily lugged into these categories, irrespective of all specifications in the past. Every railway construction by affording easy transit for food-grains, and every work of irrigation by serving the same purpose and rendering the further service of watering more extended areas of cultivated land, must to some extent help to check famine and might any day be declared to come under the latter of these words. What is the permanent differentia? Is it to be the will and pleasure of the holders of the portfolio for the time being? I do wish that the Hon'ble Finance Minister had more unequivocally enunciated his restricted meaning and shewn the amount of famine public works already accomplished and yet remaining to be accomplished out of them by means of a map or sketch indicating the former and the latter in different colours. In paragraph 4 of the Financial Statement it is stated that a total sum of Rx. 1,815,724 has been spent upon the construction of irrigation works out of the Famine Insurance Grant within these fifteen years. The first thing that strikes one is to ask why is there no table or explanation as to how this Fund had been dealt with from the date of its creation, namely, from 1878 down to 1831-82?

1896.] [Sir James Westland; Rai Ananda Charlu Bahádur.]

The Hon'ble SIR JAMES WESTLAND: "Government publishes this every year. The whole thing is available to the public whenever they like to ask for it."

The Hon'ble ANANDA CHARLU, RAI BAHÁDUR, said he was not aware of the existence of any such return or explanation.

THE HON'BLE SIR JAMES WESTLAND: "I think, before that accusation against the Government passes, I should like to hand the Hon'ble Member a copy of the return in question."

The Hon'ble ANANDA CHARLU, RAI BAHÁDUR: "I only want the assurance. That is sufficient. Is it that, during that interval, the entire Fund was devoted to famine relief and famine works? Or is it that its very existence was all these years ignored? I crave a solution of these doubts. The next thing that occurs to me is to ask for information whether the sum named represents the cost of the *entire* irrigation work constructed during that period or of a *portion only*, *i.e.*, the portion debitable against the Famine Insurance Fund? A misgiving is created by the fact that whereas, as regards the railway construction, a distinction in this respect is shewn in the table, no such thing is done as regards the irrigation works. If only a portion, I shall feel thankful if information is afforded as to the location and the cost of the rest. A natural misgiving arises from the very phraseology employed by the Hon'ble Finance Minister. In describing the source out of which the amount of their cost was taken he does not content himself with saying that they came 'out of the Famine Insurance.' But he hastens to add, '*i.e.*, out of our revenue.' Are these identical expressions? Or is it an attempt to be true to the ear but not to the hope?

"Next as to what is said on the railway construction. I have to ask about this also, for information as to the period prior to 1881-82, such as I have desired as regards irrigation works. A further point requires clearing up, namely, a specification of the railway construction already completed, as distinguished from those which yet remain to be taken up, and why so. It would have been a considerable help if it had occurred to the Hon'ble Finance Minister to indicate this also, in a map or sketch as an annexure to the Financial Statement. Such maps or sketches would also be valuable as guides in respect of future operations in the direction of safeguarding famines, and ensuring unintermittent attention to famine public works. Now it is quite possible to seize and carry away, year after year, by the right (*i.e.*, the wrong) hand

and for non-famine public works what are annually doled out to famine public works by the left hand.

“If the humane policy, which dictated a yearly allotment of a crore and a half and a utilisation of it in famine public works, has been religiously given effect to all these years, we should have to-day famine irrigation work and famine railway construction worth, at least a sum of seven crores of rupees over and above what now exists. In the interests of the eighty per cent. of the people, *i.e.*, in the interests of the entire body of agriculturist population in the country, I am bound to say that these seven crores and odd should be put back into the coffers, reserved for actual famine relief and for the completion of the famine public works, as absolutely needful for supplying them with the necessities of life, if the word *restoration*, which is so freely and so frequently diffuse throughout the Budget, is to receive its full meaning. The so-called restoration of famine insurance in the present Budget is to me, therefore, not a matter of such jubilation as it evidently has been to others whose eyes do not fall on the toiling millions of the country and who, somewhat like the barber in a Tamil story, have in their carpet-bags a small ingot of gold and will hence say that, in this land, there is none so poor as not to possess a nugget of that precious metal. I shall be deeply grateful if I am at least told whether the Fund is to be ever recouped, according to this measure of justice, if not in the immediate present. I shall also receive with an equal gratitude a further assurance as to whether the policy, now meant to be recognised and carried out, is the policy as laid down by Lord Lytton's Government, and whether annual contributions would be, hereafter at least, loyally made, to make amends for the past neglect of years; for it is surely no satisfaction to be referred, year after year, to works such as are mentioned in paragraph 4 of the Financial Statement.

“I am indeed perfectly certain that whether the Famine Insurance Fund existed or not the Government would laudably rise to the exigencies of famines whenever and on whatever scale they might occur, and that it would generously and humanely grapple with them at all cost. But that is a species of obligation quite distinct from the inviolable obligation to put back the consecrated money where it was or where it should have been, or shew it in the form of famine public works already completed and in a working order. The very fact that, side by side with the general obligation to fight famines, a special reserve under the name of Famine Insurance *Fund* was set on foot shows that contributions to it were meant to be regularly made and uninterruptedly utilised for the intended purpose, without division and without being subject to the liability

1896.]

to lapse, at the end of each year, into the common exchequer. It must have been so set apart, as is easy to realise, for the very reason that, when famines do come, the Government may not have to strain its giant strength and put forth its uttermost efforts to cope with them, as it had to do, to its bitter experience, during the famine of 1876 and 1877, chiefly in the Presidency of Madras; for, with all that the Government could do on that occasion, the public and the British generosity had to be appealed to, with all the weight and prestige of no less than the Duke of Buckingham, the then Governor of Madras. Notwithstanding all this stupendous effort, no less than six millions died by the famine of those years. It was wisely assumed that such unstinted and princely bounty, on the part of the British public in particular, could not always be counted upon, and therefore a *reserve of a crore and half of rupees under the name of Famine Insurance Fund* was brought into being, in the first instance, to be augmented by a crore and a half of rupees every succeeding year, but to remain untouched except for giving *actual* relief in times of famine and except for carrying out famine public works, *i.e.*, that particular class of works which would directly contribute to ward off occurrences of great scarcity. A new and special tax—the license-tax—was imposed for the very purpose of making up and enlarging that Fund. The proceeds of that tax ought to have been, as was pledged religiously, placed to the credit of the Famine Insurance Fund, and when the income-tax has replaced that tax an equal amount out of the collections under the new impost should have been put into the coffers of that Fund. ‘Revive the Famine Insurance Fund or remit the taxation initiated for the purpose’ demanded the Hon’ble Mr. Playfair last year. My demand this year is somewhat different, namely, do not remit the taxation initiated for that purpose, but restore the Famine Insurance Fund loyally to what it should and would have been if it had not been meddled with.

“It may be said, and it has been said, that miles of famine railroads have been constructed and numerous works of famine irrigation have been completed. Quite true. But it is beside the question. It would indeed be an answer to a charge of absolute non-performance. But how is it an argument why the rest of the promise has remained unredeemed by action? If it be said that there is very little yet left to be done in this direction, then the burden of the tax on the poorer classes must *pro tanto* go. Let the taxable minimum of the income-tax be proportionately raised or let reduction of salt-tax follow, or let a stop be put to the process of squeezing his paltry remnant from the raiyat by so-called re-surveys and re-settlements, the object of which has, till now, been enhancement and nothing but enhancement—such as the Presidency of Madras

is, with one voice, lamenting and crying against. This and the like of this are perhaps the basis for the Hon'ble Finance Minister's complacent remarks in paragraph 65: 'Our prospects are now very much more hopeful. Our revenues are advancing.'

"I cannot pass away from this subject without reminding ourselves of certain very appropriate words of Lord Lytton. Here they are:—

'The current claims upon the activities and resources on the Government of India are so numerous, so pressing, so important, official forces and imperial funds so necessarily limited, that when once the daily, hourly strain of a great famine has been removed from a wearied administration and impoverished treasury, its fearful warnings are soon forgotten; its disquieting ghosts are quickly exorcised by the conventional declaration of some unexceptionable principle, its bitter memories decently interred beneath the dull *hic jacet* of a blue-book, and there, for all practical purposes, is an end of the matter.'

"I next proceed to the pronouncement in regard to Chitral. The Hon'ble Finance Minister has very properly said that the Financial Statement is not the place in which to defend the policy relating to Chitral. I say, with greater propriety of language, that it is not of any avail (and therefore not fitting) that it should be discussed in this Council. But one single remark has, however, to be made in this connection, namely, that, owing to the accident of a recent change of Ministry in Great Britain, five untoward results to India have ensued, namely, (1) the disappearance of a *good slice* of her previous income, (2) the permanent addition to her already over-burdened expenditure by reason of retaining Chitral, (3) the postponement of a performance of a long-standing and deliberate promise to relieve her suffering poor by a reduction of the salt-tax, (4) by a fresh burden in the shape of taxation on the coarser goods which alone are available to the poor in the land, and (5) a burden of 15 lakhs a year in the shape of interest on the loan of four crores that has been announced to be in immediate contemplation. This is matter, perhaps, for serious reflection on the part of those who still cling to the fond belief that Indian affairs are outside the sphere of the party politics of Great Britain and Ireland.

"I proceed and I note that the entire income derived from the whole of the irrigation works and railway construction is coolly put down as available for the general purposes of the Imperial administration. This seems to militate against what was laid down by Lord Lytton in respect of the profits of true famine public works. Let me repeat his words in this context:—

'To arrive at this result by giving to these Local Governments the maximum of pecuniary interest and profit in the cheap construction and successful management of all

Provincial public works by reducing to a minimum interference on the part of the Government of India in the administration of such works, and by not permitting such interference to extend beyond what is necessary to ensure regularity and harmony to action of protection to the general financial interests of the State.'

"I pass on to exchange and opium. I heartily congratulate the Hon'ble Finance Minister on the cautious data on which he has based the Budget so far as the exchange and the opium revenue are concerned, and on the hopeful prospect of further betterment which he asks us to cherish regarding these shifting causes of Indian misfortune. Having regard to that prospect, and believing with others that the rate of exchange might not fall below 14d., I should receive with gratitude—not only I myself but the entire country would so receive—an assurance from the Government that, so soon as the exchange or opium rendered it possible, the reduction of the salt-tax and the raising of the taxable minimum of the income-tax would engage its very first attention.

"As regards the attitude of the Central with the Provincial Governments, it is a welcome news that repayments will be made to them of the contributions taken from them in 1894-95. But I must enter a solemn protest against the most extraordinary theory of the mutual relations between the Central and the Provincial Governments, developed and dwelt upon in paragraphs 61 to 64 of the Financial Statement.

"It is, to my mind, subversive of all accepted notions of fairness and propriety. It reduces the Governors of Provinces into gardeners for a far-off absentee landlord and the tillers of soil into his serfs. Just as a gardener cannot touch or call one bunch in the vineyard as his own, so the Governors are to be merely guards and sentinels to watch and see that no one takes any part of the outturn. Just as the serf cannot, *as of right*, look to any good coming to him from the crop which he exerts himself to raise, the people themselves cannot, *as of right*, expect that the share of the fruits of their labour, which they hand over to their Governors, might in the first instance be applied towards their well-being. This is as cruel as it is amazing and unfair. It is difficult to say which to admire—the temerity or the heartlessness of the pronouncement. Every body has been saying to himself that, at the approaching revision of the Provincial Contracts, there ought to be an insistence upon a larger retention by the Provincial Administrations of the revenues they raise. The further idea has also been fondly cherished that, on that coming occasion, Provincial Administrations should ask to be permitted to keep to themselves such sums as they may have by economy saved and allowed to accumulate for large and costly works of pro-

vincial utility, in the way of reliefs to municipalities and district boards where the revenues of these latter are not equal to them. It is indeed an irony of fate that, amid all this hope, the bolt should have fallen blasting all that hope. I sincerely wish that this theory—perilous to the welfare of the provinces and perilous to the responsibility and motives to economy on the part of the Provincial Governors as well—will not pass beyond the stage of mere enunciation.

“This Budget is indeed an admirable feat. I can only describe it as an inverted cone, with its apex in the shifting sands of exchange, with all the weight of this year’s Indian prosperity mainly poised on that apex. That unstable foundation might any day discover sudden signs of giving way; and to prop up our inverted cone we might have to seize upon every thing ready to hand, even to the extent of further straitening the poor man’s food and clothing and his small savings. It behoves us, therefore, to see how to rehabilitate our revenue and to place it on a sound, firm and solid basis. There is but one alternative, and it is but to have the word ‘retrenchment’ largely writ and put in practice measures tending towards it. A mere cheese-paring policy will never do. The insatiate and never-ceasing demands of our forward policy must be attacked and overcome. Our ever-growing home charges must be considerably beaten down.

“If these are impracticable, then the sole remedy is for Great Britain to come out with a substantial contribution to alleviate India’s burden. The colossal and costly schemes of the forward policy are mainly to maintain the British prestige—say what others may to the contrary—and this measure of bare justice is rightly due from the dominant and flourishing to the subject and prostrate country. Without these righteous achievements, to endeavour to promote the happiness or contentment of the people and, in a true sense, to make the two ends meet is—to use a homely simile—to work at the pump and leave the leak open.

“Within these ten years this forward policy has cost us—apart from the wars themselves—an aggregate sum of nearly *seventy crores* and has added to our permanent expenditure no less a sum than *six crores per annum*; and as for the home charges they have amounted up to over twenty-five crores of rupees. It is to meet drains such as these that the poor man’s food and salt are reduced to famine rations, and the hand of the tax-gatherer is laid even on his coarse and scanty raiment.

“This has been said, and said times out of number. The non-officials have said it, and they have been laughed at for their pains. But two predecessors of

the Finance Minister of to-day have also said it, with a full knowledge of the arcana of the Indian finance. They have, with the trammels of office, thrown away the dead weight of reticence which sat heavily on their conscience while they held the official portfolio. They have discharged their conscience by boldly denouncing these as the true enemies of India. They, too, have been relegated to the limbo of disdain and scorn. This is the most unspeakable of India’s misfortunes.”

The Hon’ble MR. CADELL said:—“My Lord, no department is more interested in the success of the Hon’ble Member’s financial administration than that which I have the honour to represent, and no one can congratulate him more heartily than I do on the financial prosperity which his skilful administration has been instrumental in establishing, and which among other advantages which it has brought to the country has rendered possible increased effort with respect to public works.

“Notwithstanding what has just been said by the Hon’ble Mr. Ananda Charlu, I think that I am justified in making the statement that so much has been done in former years to secure and improve cultivation in different parts of India, by extensive irrigation works, that there is now comparatively little left to be done on a large scale in that direction, and at all events the irrigation works in hand or sanctioned do not require for their completion an expenditure greatly exceeding 4 crores of rupees to be spread over a number of years.

“The Hon’ble Mr. Ananda Charlu may be surprised to hear that the demand for strictly protective works is a very small one, and does not exceed 4 to 5 lakhs annually for the help of India. A further sum of 10 or 12 lakhs may be necessary for Burma, but as most of the works required there are likely to be remunerative they would not come under the head of ‘Protective.’

“In this way financial interest with respect to public works is largely concentrated upon the operations of our railway engineers, whose possible requirements are practically unlimited, and whose immediate requirements have in the Budget under discussion been very liberally provided for. Even the figures given at page 14 of the Financial Statement show very substantial and increasing provision for the wants of the country with respect to railways, and the figures there given by no means represent the whole of the expenditure on railway extension in India, which is due either directly or indirectly to the action of Government, for, as is noticed in the Statement, there are large items

of expenditure which do not pass through the Government accounts, and our expectation is that, while in the year which is just closing a sum of $6\frac{1}{4}$ crores of rupees will have been usefully spent on railways, in the year which is about to begin, no less a sum than $13\frac{1}{4}$ crores will be so spent, and it is hoped that the Hon'ble Member's provision for the further development of the railway communications of India will be on a not greatly restricted scale in future years.

"But perhaps it will be well that I should leave financial details alone, and that I should restrict myself to the results which this Department has recently achieved or hopes to achieve, and for this purpose a convenient period to consider will be that of your Excellency's administration. When the first complete financial year of that administration began, there were 18,503 finished miles of railway in India; in 1894-95 360 miles were added, and it is hoped that in the year which is about to close 1,009 miles more will now have been completed, and, if it be possible to carry out the programme which has been drawn up, there will have been added, during the period of your Excellency's administration, no less than 4,400 miles of railway, which would constitute an addition of 24 per cent. to the mileage of 1893-94.

'But even the completion of this programme in whatever direction it may be finally altered will leave much work already considered and approved untouched. Important main lines, links which are most desirable if not absolutely necessary, and numerous minor lines, must be omitted, and there will remain very ample room for the expansion of railways in all directions, more especially in such countries as Assam and Burma.

"The most noteworthy events in the history of the Public Works Department during the year which is drawing to a close have been the opening of the Periyar Irrigation work, the brilliant conception and the practical working out of which we owe to Colonel Pennycuik, and the completion of the Mushkaf-Bolan Railway, a work presenting many difficulties which have been overcome by the skill and perseverance of Messrs. Ramsay and Hodson and their staff.

"It is, however, in the addition to our railway undertakings that the year 1895-96 has been most conspicuous. First of all in magnitude and in importance to Calcutta and Madras are the connections now arranged for at a cost of $7\frac{1}{4}$ crores of rupees for linking Calcutta with Cuttack and Madras with Bezvada, which will complete the direct line of railway communication between the two Presidency-towns, and will be most beneficial to the trade of both.

"Another important line between Rohri and Kotri to the east of the Indus is approaching completion, and the projected line of the Southern Punjab

Railway from Bhatinda to near Bhawalpur will form an important complement to it, when the bridge over the Indus is finished. The Saugor-Katni Railway forms another desirable link which will render the coal-fields of the Central Provinces accessible to the railway system and Rajputana, and is being arranged for by the Indian Midland Railway.

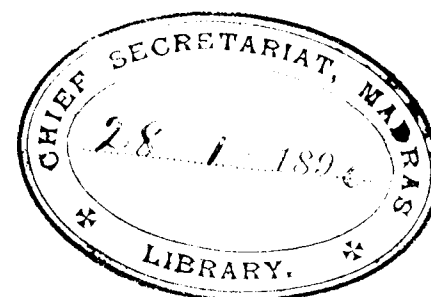
"In the North-Western Provinces as in certain other parts of India the extension of the railway system of the country has been accelerated by the prevailing scarcity, which rendered the commencement of work desirable, on the extension from Rai Bareilly to Benares and on the Bengal and North-Western system.

"In Burma work on the Mu Valley Railway has been progressing steadily, an extension has been sanctioned from Mogaung to the river at Myitkina, and the construction of an important line from Mandalay to the Salween river at a cost of 225 lakhs has been authorized and has been begun.

"In all directions there has been marked progress and the foundation has been laid of still more important progress in the near future, and I think it may be said that the Public Works Department of the Government of India, until recently presided over by Sir Charles Pritchard, is taking full advantage of the opportunities which have been afforded by the great improvement in the financial condition of the country which has taken place.

"The Hon'ble Mr. Playfair expressed the hope that more liberal encouragement might in future be given to the construction of feeder railways. I do not think that one who is only temporarily connected with the Government should be its exponent on questions of permanent policy, but in case your Excellency does not discuss this question, I may say that new rules on the subject are under consideration, and will shortly be issued with the effect, I trust, of encouraging private enterprise in this very useful direction.

"The Hon'ble Rao Sahib Balwant Rao Bhuskute has made a statement to the effect that 'protective railways constitute the most important head of expenditure. Most of them are constructed for protecting the North-Western frontier.' As a matter of fact, the only two railways which bear this character are the Mushkaf-Bolan and the Mari-Attock Railways, for the Kotri-Rohri chord line lies to the east of the Indus, and although it will no doubt be used for military purposes when required, it was principally demanded by the commercial community of Karachi in the interests of that port. So far from most of the railways



Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892 (24 & 25 Vict., cap. 67, and 55 & 56 Vict., cap. 14).

The Council met at Government House on Thursday, the 16th January 1896.

PRESENT :

The Hon'ble Sir A. E. Miller, KT., C.S.I., Q.C., *presiding*.
His Excellency the Commander-in-Chief, G.C.I.E., K.C.B., K.C.S.I., V.C.
The Hon'ble Lieutenant-General Sir H. Brackenbury, K.C.B., R.A.
The Hon'ble Sir C. B. Pritchard, K.C.I.E., C.S.I.
The Hon'ble Sir J. Westland, K.C.S.I.
The Hon'ble J. Woodburn, C.S.I.
The Hon'ble Prince Sir Jahan Kadr Meerza Muhammad Wahid Ali Bahádur, K.C.I.E.,
The Hon'ble Mohiny Mohun Roy.
The Hon'ble C. C. Stevens, C.S.I.
The Hon'ble A. S. Lethbridge, C.S.I., M.D.
The Hon'ble Sir G. H. P. Evans, K.C.I.E.
The Hon'ble Alan Cadell, C.S.I.
The Hon'ble J. D. Rees, C.I.E.
The Hon'ble G. P. Glendinning.
The Hon'ble Nawab Amir-ud-Din Ahmad Khan, C.I.E., Bahádur, Fakharuddoulah, Chief of Loharu.
The Hon'ble Rao Sahib Balwant Rao Bhuskate.
The Hon'ble P. Playfair, C.I.E.

NEW MEMBER.

The Hon'ble RAO SAHIB BALWANT RAO BHUSKATE took his seat as an Additional Member of Council.

CIVIL PROCEDURE CODE AMENDMENT BILL.

The Hon'ble BABU MOHINY MOHUN ROY moved that the Bill to amend the Code of Civil Procedure and Statement of Objects and Reasons be published in the Gazette of India in English, and in the local official Gazettes in English and in such other languages as the Local Governments think fit.

The motion was put and agreed to.

being on the North-West frontier, most of them, it so happens, are on the Eastern side of India.

"The Hon'ble Mr. Rees has borne testimony to the great advantage to the country which is likely to follow the construction of a continuous line of railway from Madras to Calcutta, and there is little doubt that it will serve the interests of Calcutta and Madras, as much as it will tend to the advantage of the districts traversed and the convenience of the people.

"The chief assailant of the administration of the Government in past times and in the budget arrangements of the present period has been the Hon'ble Member on my right, Mr. Ananda Charlu, who seems to think that protective works have been systematically neglected, and that the administration of the country has been careless of the interests of the people. The Hon'ble Member in charge of the Finance Department will no doubt reply to the Hon'ble Member on the whole question, but I think it may be of use if I describe what within my personal observation has been done to protect the only province, as far as I know in the territories under immediate administration of your Excellency's Government, in which upon any extensive scale relief operations have at the present time been found to be necessary. I happened to be in charge of one of the Bundelkhand districts when famine last threatened in 1877. At that time there was no railway in the province, and if the supply of food had proved insufficient to meet the wants not only of the population of our districts, but of adjoining Native States, there might have been serious difficulty in pouring supplies into a country provided with few metalled roads, and with unmetalled roads peculiarly liable to be rendered impassable if rain had fallen at a time which was too late for the purposes of agriculture. Now the Province is traversed to the west by the main line of the Indian Midland Railway, while to the east a long and wholly unremunerative broad gauge branch passes through three out of the four districts and brings every village in within 50 miles or less of the railway. Both these branches of the Indian Midland Railway have been constructed from the Famine Grant, from which also the annual loss is met. But this is not all that has been done to safeguard the people of Bundelkhand from the worst terrors of drought, for although there was great difference of opinion as to whether it was desirable to construct a canal in a country in which black soils predominate on the level plain, Government decided that the experiment should be tried, and undertook the construction of the Betwa Canal at the cost of some 40 lakhs of rupees. This work has never paid, and has not so far been so

beneficial to the country as to justify the construction of the other Bundelkhand Canal which was at one time contemplated. The benefit to the country of the Betwa Canal during a period of scarcity is now being tested. I am certainly not one of those to use words used by the Hon'ble Member 'whose eyes do not fall upon the toiling millions of the country'. I have year after year spent many months each season in contact with the agricultural community, in their villages and fields, and I can certainly say that I have never noticed more especially in the districts which I have mentioned, the harsh and unsympathetic attitude of which the Hon'ble Member complains. Enhancements of land-revenue are only looked for where the circumstances of the country fully justify them, and I am sure that the Hon'ble Member on my left (Mr. Woodburn) will bear me out in saying there is no pressure on the part of Government in that direction. I can for my own part assert that when in one of these very Bundelkhand districts to which I have referred large and important reductions in assessment were held to be necessary, they were granted with the fullest and readiest approval of every authority to which they were submitted. The Hon'ble Member's charges are general, and a mere general assertion to the contrary would have been of little use. I have traversed them by stating what has been done in a single tract of country selected for the sole reason that it is happily the only portion of British territory with which I am acquainted in which during the current year relief operations on a considerable scale have been found to be necessary."

The Hon'ble MR. WOODBURN said :—"I had no intention of intervening in this debate, but as I have been appealed to by my hon'ble friend Mr. Cadell, I may at once confirm what he has said as to the attitude of the Government of India and the Local Governments in the matter of the assessment of land-revenue. I listened with some surprise to the remarks made by the Hon'ble Mr. Bhuskute on the condition of the soil, and of the people who live on it. In the part of the country with which he is most familiar I have never heard or seen any evidence of any sensible depreciation of the soil within recent times; nor have I heard that crops have as a natural consequence begun to yield diminishing returns. But what I have heard and seen is a great enhancement within the last quarter of a century of the rents which are received by the landlords. No one would be more ready than my hon'ble friend in calmer moments to admit that in that great increase of the landlord's receipts, the State, which supplies protection and the assistance of many services, is entitled to have a place.

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"There is one matter in which Mr. Cadell has taken from my lips the only other remark which has been suggested to me by the course of this discussion. I was surprised to hear my hon'ble friend Rai Ananda Charlu speak with such disapproval of the expenditure from the Famine Fund and, indeed, from the general revenues. No one who has seen the influence of railways in tracts where the harvests are short can doubt that almost every railway is in fact a famine protection railway. In Saugor, where two years ago there was sharp scarcity, the railway brought such supplies of food and grain that prices never rose to what used to be known as famine prices. Similarly, in the North-West Provinces in the present year the Lieutenant-Governor has just presented to your Excellency a statement in regard to the scarcity there which is illustrated by those maps that Rai Ananda Charlu would like to see presented to this Council. Each one of these districts is traversed by a railway, and the consequence is that, though there may be much suffering and poverty, the prices will never be abnormal, and it ought to be possible that there shall be no death from starvation."

The Hon'ble LIEUTENANT-GENERAL SIR HENRY BRACKENBURY said:—
 "My Lord, I am grateful to my hon'ble colleagues in charge of the Public Works and Home Departments for having intervened between the speech of the Hon'ble Mr. Ananda Charlu and myself, for I feel that it is always a somewhat ungrateful task to bring a debate down from those high, if somewhat misty and vague, regions of Oriental metaphor to which this debate was raised by the Hon'ble Member, to those earthly, but I trust solid and substantial, regions of fact in which I shall have to ask the Council to follow me for I fear some considerable length of time. My hon'ble friend Mr. Playfair, with his usual courtesy, gave me notice of his intention to invite me to explain to this Council some matters connected with military expenditure, and especially the point in connection with the Chitral outposts. I have now to thank him also for his most kindly mention of myself, and for his statement that my efforts in former years to explain in this Council in as clear a manner as possible the facts in regard to our military expenditure in India have given satisfaction to the commercial classes in India; and I trust that in the statement I shall now make I shall be able satisfactorily to account to him and to this Council for much upon which it is impossible for them, without such statements being made in Council by the Member in charge of the Military Department, to have any real knowledge."

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"To the best of my recollection I have never heard the Royal Indian Marine mentioned in this Council, but I am responsible to your Excellency for the estimates of that Service, and I should like to say a few words about them. The Royal Indian Marine is a very important service. It contains more than fifty vessels of various kinds. Of these, two armour-plated turret vessels, two gun-boats, and seven first class torpedo boats, constituting Her Majesty's ships and vessels for the naval defence of India, are in charge of the Royal Navy, and are partly officered by officers of the Royal Indian Marine; four are troopships, which carry out the whole of the Indian Trooping Service between India and Burma, and between the various ports on our coasts, occasionally proceeding to England or elsewhere out of Indian waters; one is used as a despatch vessel in the Persian Gulf, while the remainder are employed in various services, including the Marine Survey and the conveyance of troops by river in Burma and elsewhere."

"This service provides the Port Officers for all the chief ports in India, and the officers for Marine Transport Service and for the Marine Survey. It possesses dockyards at Bombay, Kidderpore and elsewhere, where repairs are carried on for the Royal Navy and for its own ships, where vessels of small size are built, and where services of construction and repair are carried out for Local Governments at actual cost price. Its net budget estimate for the year now closing was 16½ lakhs. The actual expenditure has been about 14 lakhs, showing a saving of 2½ lakhs. The net estimates for the coming year are Rs. 1,36,000 below the estimates for 1895-96."

"I will now proceed to deal with military expenditure, and in speaking on this subject, I shall always deal with net figures. I have great satisfaction in bringing to notice that the net expenditure in the Indian estimates for 1894-95, the accounts of which year are now completed, was 6½ lakhs below the budget estimates for that year, although there was an expenditure of 6¾ lakhs on account of the Chitral Expedition in that year for which no provision had been made in the estimates. This is, I believe, the first time for many years that the military expenditure has been within the Indian budget estimates. The Military Works expenditure the Special Defence expenditure and the Home expenditure for 1894-95 were all also well within the estimates."

"I now pass to the current year. There are four separate items to be considered:—

1.—The Home Military Budget Estimates.

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2.—The Indian Military Budget Estimates.

3.—The Military Works Estimates (India and Home taken together).

4.—Special Defence Estimates (India and Home taken together).

“In the Home estimates there has been a saving of 25 lakhs in expenditure as compared with the estimates. In India there has been an excess over estimates of 108½ lakhs. In the Military Works estimates the expenditure just comes up to the estimates; and in Special Defence estimates there has been a saving of 4 lakhs. Taking the whole of these several estimates together the net excess of expenditure over estimates has been 79½ lakhs.

“There has been expenditure on account of the Chitral Expedition in the Home estimates to the extent of 3 lakhs, in the Indian estimates of 165 lakhs, and in the Military Works estimates of 5½ lakhs, so that the total expenditure upon the Chitral Relief Expedition during the year has been 173½ lakhs. A sum of 15 lakhs only was provided in the estimates; as stated in the Financial Statement of last year, not for an expedition, but for preliminary preparations in case an expedition should become necessary. We have thus an expenditure of 158½ lakhs over what was provided in estimates for preparations for the Chitral Expedition, while the actual expenditure over estimates has been only 79½ lakhs. Thus, but for the Chitral Expedition, the whole of the military expenditure during the current year would have been 79 lakhs below the estimates for the current year.

“The savings in the Home estimates are largely due to causes over which the Government of India has no control. But in those portions of the Home estimates over which the Government of India has control, that is to say, the supply of stores from England, the expenditure has been kept well within the estimates.

“The savings in the Indian budget estimates which have reduced the net excess from 165 lakhs due to the Chitral Expedition to 108½ lakhs are due to various causes. Seventeen lakhs of these savings are due to fall in food prices below the estimated rate; 5½ lakhs are due to diminution in exchange compensation allowance owing to improvement in exchange; 7 lakhs are due to savings on account of conveyance of troops and stores; 5½ lakhs to savings in Commissariat establishments and miscellaneous Commissariat expenditure; 1¼ lakhs to savings in hot weather establishments and barrack supplies; ¾ lakh to saving in sea transport charges; 7½ lakhs to saving in Ordnance establishments

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and expenditure; ¾ lakh to savings in Remount Depot charges. All these savings show careful and economical management by heads of departments, upon whom the Government of India pressed the necessity for watching and keeping down expenditure, and to whom, in my opinion, great thanks are due for their efforts to assist the Government and tax-payers in this direction.

“The first great event of the year from the military point of view has been the introduction on the 1st April of the new scheme under which the Presidential Army system was abolished, the control of the armies of Madras and Bombay, hitherto vested in the Governments of those presidencies, was transferred to the Government of India, and their supreme command from the Commanders-in-Chief in those presidencies to the Commander-in-Chief in India. During the current financial year there has been but one army in India, under the Commander-in-Chief in India, and under the Government of India. The system has worked, I believe I may say, without a hitch of any importance, a result which I believe to be due in the first place to the determination of all concerned, including the Lieutenant-Generals Commanding in Madras and Bombay, to make the new system work smoothly; and in the second place to the deliberation with which every detail consequent upon the change was considered previous to the change being introduced. The Military Secretariats of the Governments of Madras and Bombay were abolished from the 1st April, and a considerable saving ensued to the civil estimates. The Military Department of the Government of India made no addition to its higher staff in consequence of the increase of work, and only a small addition to its clerical establishment. Large reductions have been effected in the staff at the head-quarters of the commands in Madras and Bombay, some reductions have been made in the head-quarters staff of the Commander-in-Chief in India, and further reductions are about to be made on the 1st of April next. But it must be remembered in considering the reductions that can be made at army head-quarters that, although the Commander-in-Chief has got rid of the direct command of the armies of the Punjab and Bengal, he has had thrown upon himself and his staff the supreme command of the armies in Madras and Bombay. The establishments of the two new commands created in the Punjab and Bengal have been kept within most economical limits. Further experience is necessary before the establishments of the four commands and of army head-quarters can be distinctly and finally fixed. But I believe they will be kept, taken as a whole, within the amount sanctioned by the Secretary of State when the scheme was originally introduced; and I can say with confidence that no further increase on account of this change will be required in the office establishment of the Military Department of the Government of India.

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"The second great event of the year from the military point of view has been the Chitral Expedition. On the morning of the 7th of March last year, news reached your Excellency's Government leading it to believe that it might be absolutely necessary to send an expedition by way of Swat and Bajaur to relieve the beleaguered garrison of Chitral. The Commander-in-Chief was absent in Assam. That afternoon I held an interview with the representative of the Quartermaster-General's Department present in Calcutta, and the Commissary-General-in-Chief. The latest report of the Intelligence Department upon the steps to be taken for such an expedition was laid before me, and the Commissary-General-in-Chief stated his views. It was clear that owing to our mobilisation arrangements the troops necessary could be assembled on the frontier in a very short time, and that whatever delay might occur in the despatch of the expedition across the frontier would be due to the time required for collecting transport. I laid certain proposals for the collection of transport before your Excellency, and you assembled a Council the same evening which decided that these preparations should be proceeded with. At midnight on the 7th I personally gave the orders to the Commissary-General-in-Chief, and they were telegraphed off the same night, the Commander-in-Chief being informed. The Commander-in-Chief returned to Calcutta on the 11th, and at the Council held on the 14th March it was decided, on His Excellency's recommendation, to issue instructions for the mobilisation of the First Division of the field army, with certain modifications due to the special nature of the country between our frontier and Chitral. It was then still hoped that an expedition might be avoided, but before the end of March that hope was dead; and on the 1st of April, the day named in your Excellency's ultimatum to Umra Khan, within eighteen days from the order for mobilisation, a force of upwards of 15,000 men advanced across the frontier. The despatch of that force under the command of Sir Robert Low, its complete success in the storming of that most difficult position, the Malakand Pass, and its rapid advance into Dir, enabled Colonel Kelly with a small force of Pioneers, Kashmir Imperial Service Troops and native levies to effect the relief of the garrison of Chitral at a time when they were closely pressed by the enemy, and when their provisions would shortly have been exhausted.

"Your Excellency's Government in a General Order has expressed its sense of the services of Sir Robert Low and Colonel Kelly and the troops under their command, and Her Majesty's Government has endorsed those expressions. But there are some points in connection with that expedition to which I now wish to draw attention. But for the delay which occurred in the hire and pur-

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chase of transport at the outset, the expedition might have started sooner. This delay was in no way due to any neglect on the part of the Government or the military authorities. For a considerable time past the whole of the arrangements for the purchase of transport in the event of war had been matured. Civil officers of districts had taken steps to ascertain where and how the transport animals could best be procured, purchasing officers had been told off and placed in communication with the civil authorities. The delay was due in part to the time actually necessary for collecting the animals, in part to hesitation of owners to hire or sell them. Once it had started, the expedition was, I may safely assert, an unqualified success. Owing to the good medical arrangements the health of the troops was on the whole excellent. Fearing that owing to the necessity for rapidity of movement the troops might be obliged to put up with short rations for some time, permission to give compensation to the men in such cases was granted by Government; but such were the commissariat arrangements that in no single case were we called upon to grant that compensation. As soon as the first rush was over, and the line of communications was thoroughly established under the able direction of General Stedman, the staging system of transport was introduced throughout with the most admirable results. The condition of the Government transport at the end of the campaign was excellent. I believe it may safely be said that in no campaign ever yet conducted on the Indian frontier has there been so little loss in mule transport, or have the animals been in such good condition at the close of the campaign. As regards camels the same can only to a certain extent be said. We were dependent entirely upon hired camels or upon camels purchased expressly for the campaign. The Government has no establishment of camels in peace, and has therefore no means of training officers and men to the care and supervision of those most delicate animals. The result is that the management and working of camels is not understood as it should be by our Transport Department. The hired camels did better in the campaign than the camels which we had purchased, the reason being that where camels were hired they were accompanied by the trained camel drivers of their owners, who looked after them in their masters' interests. But the number which could be hired was extremely small, and at the very outset the Government was obliged to have recourse to purchase. Having no trained establishment of drivers of its own it had to engage as transport drivers any men who were willing to take such service, and they were nearly all utterly inexperienced in the work. The result has been that while comparatively few camels actually died on the campaign, the camels purchased by Government have for the most part so broken down in health that it has been found impracticable to retain any but

a very small number of them for future use. I shall state presently how the Government of India propose to remedy this great defect in our preparation for war in the future.

"The expedition has been invaluable to us as a test of the mobilisation arrangements for a whole division of the field army. It would be too much to say that those arrangements were found perfect. No army in the world, so far as I know, and I have been a great student of these matters, has ever found its mobilisation arrangements perfect, though all the skill and experience of its ablest experts has been brought to bear upon them. But with a few exceptions the mobilisation arrangements were found thoroughly sound, practical and easy to work. The campaign has also taught a great lesson to our military authorities in the working of the lines of communication of an army. And I feel confident that, in any future campaign, that experience will bear most valuable fruit, both in the form of comfort and saving of suffering to the troops engaged, and in the form of reducing waste of transport. The campaign has also been of great value in testing the Imperial Service Troops. The Kashmir Imperial Service Troops showed very fine qualities and the greatest advantage was derived from the admirably organised transport corps of the Maharajas of Gwalior and Jeypore, who placed those corps at our disposal. And I would take this opportunity of expressing my hope that further efforts may be made by the Native Rulers of India to organise such transport corps, which cannot fail to be of the greatest service in any considerable campaign. I wish to bring prominently to notice the fact that the charges for this campaign include the whole cost of an excellent metalled road from Hoti Mardan to the Swat River, of the bridging of that river and the Panjkora, and of the pack road which has been constructed from the Swat River to Chitral, as well as the construction of forts and barracks for the troops at the Malakand, at Chakdara and in Chitral. There, I may say in answer to the Hon'ble Mr. Playfair, will be no charge on account of these barracks and defences in the Special Defence estimates; and a small addition to the Military Works estimates of the coming year, which I shall presently mention, completes the provision for them.

"I now turn to the estimates for 1896-67. Here again I have to deal with the four estimates:—

1.—Home Budget Estimates.

2.—Indian Budget Estimates.

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3.—Military Works Estimates.

4.—Special Defence Estimates.

"The Home budget estimates, as compared with the estimates of 1895-96, show a decrease of rather more than 5 lakhs of rupees. These estimates are so complicated by causes over which the Government of India has no control, such as payments to the War Office for services, and payments for stores, rising or falling according as the payments are made in one year or another, that I can say nothing about them, except this one simple fact that that portion of them over which the Government of India has control, namely, its demands for stores, shows a saving of 14 lakhs in the estimates of 1896-97 as compared with the similar demands for 1895-96. This is largely due to manufacture in this country having replaced manufacture at home. The Indian budget estimates for 1896-97 (I am dealing with net figures), show an increase of 39 lakhs over the budget estimates for 1895-96. The Military Works estimates show an increase of 6 lakhs over the estimates for 1895-96 and the Special Defence estimates show a decrease of 10 lakhs. So that the whole of the Military estimates for which the Government of India is responsible, taken together, show a net increase over those of the current year of only 21 lakhs of rupees.

"This Council is aware that a Royal Commission is now sitting in England to discuss the apportionment of Home charges between the mother country and India. We have sent home officers specially versed in this question, including Sir Edwin Collen and Captain Hext, to give evidence before that Commission, and we hope that its report may be in favour of giving some relief to India in the matter of the Home charges.

"The Indian budget estimates for 1896-97 include three great items of expenditure which have not appeared in former budget estimates. The first of these is an addition of 11 lakhs to the pay for the Native army. The estimates of the current year only include the extra pay given to the sepoy from 1st July last for eight months of the year; in next year's estimates twelve months have to be provided for, causing this increase of 11 lakhs. There is an item of 49½ lakhs for preparations for mobilisation, concerning which I shall speak presently; and the cost of the occupation of Chitral and the line of communications to it, and of the relief of troops which has to be carried out during the current year, adds 23 lakhs to the estimates. These three items amount to 83½ lakhs as against 39 lakhs of excess over last year's estimates, and the difference of 44½ lakhs may be roughly accounted for in the following way.

Thirteen lakhs is on account of the Chitral Expedition, 15 lakhs having been provided in the current year's estimates and only 2 lakhs being required for arrear charges in the estimates for 1896-97. The adoption of a more favourable rate of exchange causes a saving of 13 lakhs in exchange compensation, and 5 lakhs on account of the pay of the British soldier. There is a saving of 6 lakhs on account of lower estimate for food prices for men and animals, and the remaining 7½ lakhs of savings is spread over a great number of items which it is not necessary for me to enter upon.

"Economies are constantly being introduced on the recommendation of the Commander-in-Chief, or Heads of Departments, or the Controllers. On the other hand, new demands are constantly being made upon us for additional expenditure on account of necessary services, and in the interests of improvement and progress. It would be useless for me to weary the Council with a long list of the economies effected on the one side, and the additional expenditure sanctioned on the other side. It is sufficient to point out that apart from the great items which I have already mentioned, the net result of this is a saving of between 7 and 8 lakhs in the coming year.

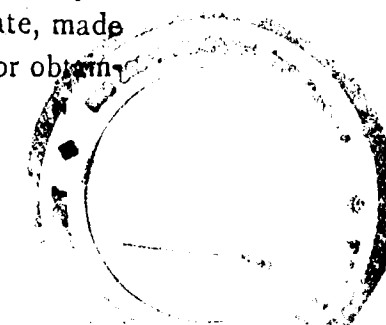
"As regards the three great items of addition to the estimates which I have named that on account of pay for the Native soldier explains itself. The pay of the dismounted branches of the army was raised by Rs. 2 a month from the 1st of July last, with, I think I may say, the unanimous approval of this Council.

"The expenditure due to the occupation of Chitral has been kept as low as possible. That expenditure is due to the deliberately adopted policy of the Government of India, endorsed and approved by Her Majesty's Government. It is not for me to defend that policy, heartily as I approve it. All that I need say is that up to the present date it has been attended with complete success from every point of view. The troops in Chitral and at the Malakand are on a war footing. They are ready to take the field at a moment's notice. They are healthy; their transport is in excellent condition, and though the service may be somewhat irksome especially for the troops in Chitral, they receive the prescribed pecuniary and other concessions which render them contented. The inhabitants of Swat, Dir and Chitral find their advantage in the markets created by the presence of our troops; and in the coming year it is believed that the greatest portion of the supplies required will be obtained by local purchase. Trade between these countries and India has very largely increased. It is intended to reduce the

garrison of the Malakand by one regiment of infantry during this year; and I look forward with confidence to further reductions becoming possible within a short period of time. Against the expenditure under the head of 'Occupation of Chitral' has to be set the saving due to the withdrawal of the regiment of Native Infantry from Gilgit, which was made possible by the occupation of Chitral, and proposal for further reductions in the cost of the Gilgit Agency are under consideration.

"As regards the large sum of 49½ lakhs included in the estimates for the preparations for mobilisation, I will, with the permission of the Council, explain to what this is due. Preparation for mobilisation is comparatively a new branch of the science of war. It is an outgrowth of modern times. When once one army had prepared itself in every detail to pass with great rapidity from a peace footing to a war footing, it became necessary for other armies to follow in the same direction. The field army of India consists of a certain number of divisions, each including a Cavalry Brigade, and of an additional force of cavalry and of reserve artillery. The arrangements for the mobilisation of this army, which is quite apart from the garrisons which will have to be maintained in India in case of the field army marching to the frontier, have been worked out in every detail upon paper. But the equipment, stores and mules required for mobilisation have only been provided as yet for a part of that army, and until they have been provided for the whole of it our field army cannot be considered ready for war. Great delay would occur in procuring from England the stores and equipment which must be obtained thence, and in the manufacturing in this country of such stores as could not be obtained ready in the local markets. And it would be practically impossible to purchase at short notice in this country the mules that would be required. Were circumstances to compel us to mobilise our field army, it is the opinion of your Excellency's Government that the attitude of the frontier tribes would largely depend upon our ability to advance rapidly and in perfect order; while, in the event of our having to meet a strong enemy, there would be great risk in pushing forward only a portion of our army, when weeks and even months might pass before the remainder could be in a position to support it.

"These grave considerations have not been absent from the minds of the Government of India, but in recent years financial considerations have prevented our making the preparations which we considered necessary. The time has now come when we consider that these preparations should no longer be delayed and we have therefore, with the full approval of the Secretary of State, made the necessary provision in the estimates of the coming financial year for obtaining



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ing such equipment and stores as could not be at once obtained locally at the time of mobilisation, and for such number of the mules required as we believe can be purchased within twelve months at ordinary rates in the local market.

"If our field army were to be mobilised, in order to bring the reserve cavalry, the reserve artillery and the line of communication troops up to war strength, nearly 1,000 artillery horses would be required, and to obtain these we should have to take them from the batteries remaining with the garrisons in India, which would thus be so depleted as to be scarcely fit for fighting purposes. To bring these batteries up to war strength we should have to purchase in Australia, for this country does not provide horses fit for artillery, and a long time would elapse before the horses, which would arrive raw, unbroken and unacclimatised, could be fit for service. More than four years ago we brought this to the notice of the Secretary of State, and we obtained his permission to provide a reserve of 1,000 horses whenever our funds would admit of it. Up to the present time we have been unable to make this provision. But with the approval of the Secretary of State it has now been made in the estimates for the coming year.

"Experience has shown us that the greatest delay in the starting of every expedition is caused by the time that is required to obtain camels for transport purposes. This was specially marked in the case of the despatch of the Chitral Relief Force. A week had passed from the date of our orders before any camels had been obtained in the districts. It was found impossible to hire in sufficient numbers, and resort had to be made to purchase, with the results which I have already described in speaking of that expedition. Time is necessarily involved in the despatch of purchasing officers to the districts in which camels are to be procured, in sending orders to the district civil officers, in the issue of instructions by them for the collection of transport and in the collection of that transport. Valuable time which might be utilised in the formation of advanced depôts is thus lost. Year by year the number of camels that can be procured for transport purposes in India is diminishing as railways take the place of camel transport, and our difficulties on this score are increasing. The troops can always be moved in far less time than it takes to collect the stores and supplies in the advanced depôts, and we consider it of great importance to minimise this delay as far as possible. We have, therefore, with the Secretary of State's approval, made provision in the estimates of the coming year for the purchase of sufficient camels to complete an establishment of 3,250, which we propose to maintain in future, so that they will be immediately available, and can be utilised for the formation of advanced depôts, even before formal orders for

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mobilisation issue. We look to another immense advantage from the purchase of these camels. By thus maintaining an establishment of camel transport, the Government will be able to educate both officers and attendants in the care and management of camels, and will have a considerable nucleus of trained camel attendants who will be able to superintend those large numbers of hired and purchased camels—no less than 40,000 transport animals were employed with the Chitral Relief Force—which it is always necessary to obtain in case of an expedition. We believe that this will bring great advantages to us in any future campaign.

"The provision which we have made in the estimates provides under the head 'Rations for men' for all home supplies required for the field army; local supplies could not wisely be laid in, having regard to the stocks already maintained, which are as much as can be turned over. Under the head 'Rations for animals' provision has been made for the purchase of fodder for the concentration period, for the fodder to accompany corps, for the marching stages and for one-fourth of the reserve. The remainder of the fodder could not wisely be laid in for the same reason as in the case of rations for men, but provision has been made for the provision of the fodder presses and engines required for pressing this amount on the occasion arising.

"Under the head 'Clothing' a full reserve of articles required has been provided for troops and followers, with certain deliberately considered exceptions.

"Under 'Transport Animals' provision has been made for the purchase of 1,750 mules and 3,250 camels; bullocks, it is believed, could be purchased when required. Employment for the mules and the camels can be found during peace, and there will be a saving on account of hire of transport in consequence. Bullocks on the other hand could not be economically employed during peace time. Provision has been made for the camel gear, transport carts, transport gear, water gear, regimental equipments, ambulance equipments, artificers' tools, stationery, forms, office furniture, miscellaneous equipment and packing materials to enable our field army to take the field without delay.

"Under 'Ordnance' provision has been made for all the stores required from home, and for local expenditure in providing the tents, harness, saddlery, Ordnance stores for medical and veterinary hospitals, entrenching tools, ammunition boxes and general stores for ammunition columns and field

parks. In the Medical Department the medical and surgical stores, Commissariat stores, equipment and furniture required to complete the equipment of the field hospitals of the whole field army have been provided for. In the Veterinary Department the whole of the veterinary equipment and medicines, instruments and other supplies required will be purchased. Eight hundred and fifty artillery horses will be purchased in the coming cold season, and the shippers have already received notice that this number will be required; we already possess a reserve of about 150 horses. One thousand seven hundred and fifty mules, and 3,250 camels with their gear will be provided. The establishments for the care of the horses, mules and camels are provided for in the estimates.

"It is evident that the maintenance of these additional animals involves a recurring charge in the estimates annually, and there will be a certain small annual charge for deterioration of stores and for compressing forage. For the year 1896-97 this recurring charge is estimated at a little under 6 lakhs; so that of the 49½ lakhs 43½ lakhs are an initial charge, which will drop out of the estimates in future years. But, on the other hand, it is estimated that in future years the recurring charge, which for the present year will be only 6 lakhs, will rise in round numbers to 13 lakhs. This initial charge of 43½ lakhs, and this annual recurring charge of 13 lakhs, do not, in my opinion, provide all that is required. The number of mules should, I consider, be increased in future years by about 2,700, and the number of camels be raised from 3,250 to 6,500. This would involve an additional initial expenditure of about 7 lakhs, and an additional annual expenditure of between 10 and 12 lakhs. These initial and annual charges are the price which India must pay for having its army ready for war. I believe that there is no greater extravagance than to maintain a large army and to keep that army unready for war. There is, it seems to me, but one excuse for military expenditure, that when the army on whose account this expenditure has been incurred is called upon to take the field it shall be ready to do so promptly and in perfect order. I believe that when these preparations have been fully completed, the army of India will be in every detail as ready to take the field and as able to give a good account of its enemies as any army in the world.

"The increase of 6 lakhs in the Military Works estimates for this year is due to the provision of 4 lakhs for a cantonment in the Tochi Valley and 2 lakhs for works connected with the occupation of Chitral.

"Special Defence estimates for the coming year are 5½ lakhs as against 15½ lakhs in the current year and 22 lakhs in the year 1894-95. In the budget

estimate for the current year sufficient provision was made for nearly carrying to completion the whole programme of Special Defences, with the exception only of those items which the Government of India have decided should be abandoned or indefinitely postponed. But it was found impossible to spend the whole of the money during the year, and about 4 lakhs have lapsed from one cause or another. The budget provision for 1896-97 is chiefly for carrying out works provided for but not executed in 1895-96. Two new items only have been brought forward, namely, an extension of the sea-wall at Middle Ground Battery, Bombay, which is necessary for the security of the work, and a new main magazine at Bombay. The provision made in 1896-97 should suffice to carry the Special Defence programme to completion, so far as it is considered desirable to carry out the original programme, and these Special Defence estimates should in future years disappear.

"My Lord, this is the last time that I shall speak or sit in this Council, and I will ask its indulgence while I mention briefly a few of the chief reforms which have been carried out, during the past five years, in the Departments of which I have been in charge.

"In the Royal Indian Marine, under the direction of that able officer, Captain Hext, while the tone and spirit of the service have greatly improved, there is not one test by which you can measure the work done, which will not show that economy has been effected. Whether you take the cost per mile run of the ships, the cost per head of men conveyed by them, or the cost per ton of the vessels maintained, the charge is less than it was five years ago.

"Turning to the reforms in the Military Department, these have all had one of two objects, either the effecting of economy, or the making the army of India a more perfect instrument for war. First amongst these in time and date, and second to none in importance, is the reorganisation of the Intelligence Department at Army head-quarters. Upon the information of the Intelligence Department depends and must depend in all armies the original direction and impetus given to the army at the commencement of a campaign. And it is a well known military axiom that, if the original impetus given is in the right direction and with sufficient force, half the campaign is already won. The Intelligence Department was insufficiently officered, and was stinted in funds. It was entirely reorganised and granted sufficient money to enable it to carry on its work, and was placed in charge of that most able officer, Colonel Elles, under whom and his successor it has become, I believe, as good as any Intelligence Department can be. The Chitral Relief Expedition was carried out, with scarcely any

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alteration, on the lines indicated in the Intelligence Department memorandum which I have already spoken of as having been placed in my hands on the 7th of March of last year.

"The next great reform has been in our mobilisation system. Five years ago this was only in embryo, and none of the present details had been worked out. A little less than five years ago the Mobilisation Committee, of which Lord Roberts was President, met at Simla, and the lines upon which mobilisation was to proceed were definitely decided. It was felt that a large committee was not the right machinery for carrying out a system full of extraordinarily complicated details, and a section was created in the Quartermaster-General's Department under the charge of that most valuable officer, Captain Kemball, for the purpose of working out all the details and keeping them constantly up to date. The troops to form the several brigades and divisions of the field army have been told off. Those of the first divisions have been supplied with their regimental equipment for war; transport, equipment and stores for the mobilisation of the first two divisions have been collected at the strategic points laid down. Field Service Manuals containing instructions for all arms and departments in case of mobilisation have been printed. The corps composing the field army are kept warned; the Staff and Army Departments are told off; railway time tables for the movement of the whole field army and its stores for long distances have been prepared in concert with the railway authorities. By the end of March, 1897, thanks to the provision made in the estimates for the coming year, the entire equipment and stores required for the whole field army will be in readiness.

"Our establishment of transport, which is our greatest difficulty in India, was increased by 2,000 mules in 1891, and will be again increased as I have already explained in the coming year, and at the end of the year we should, as I have said, be in possession of a nucleus of camel transport.

"Of the abolition of the Presidential Army System, and of the substitution for it of a single army of India, I have already spoken. This great reform had been so long delayed, though so constantly urged by successive Indian Governments, that it still seems to me almost difficult to believe that this dream has been so quietly and completely realised.

"The Coast Defences at Karachi, Bombay, Calcutta, Madras and Rangoon have been brought to completion, and the defence vessels of the Royal Indian Marine have been placed under the control of the Admiral Commanding the

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East India Squadron, by whom they will be utilised in case of war with a maritime power.

"The defences of the North-West Frontier, including the lines of Quetta and the great bridge heads on the Indus at Sukkur and at Attock, have been completed. A series of forts has been completed at Rawal Pindi, forming a strong entrenched position. These forts required a long time for construction, and the Government of India thought it well that they should be made. But it has been decided to postpone the construction of the intermediate batteries, as these could comparatively rapidly be made, and in view of the great progress of modern military science it is thought that the armament should not yet be procured.

"Great progress has also been made in the armament of the troops. The Horse and Field Artillery have been armed with 12-pounder breach-loading guns, and every encouragement is given to them in the way of grants of ammunition and prizes to make the most by good shooting of that weapon. The British Infantry has been armed with the Lee-Metford magazine rifle, a most satisfactory arm. The only complaint made in regard to this weapon has been that the small-bore bullet has not, at short ranges, sufficient stopping power. Experiments have been conducted with a view to remedying this defect, and there is every reason to believe that a complete remedy has been found in a modification of the bullet. The Native Infantry and Cavalry have been armed with Martini-Henry rifles and carbines in place of Sniders, while the Sniders returned by the Native Infantry have, after conversion into smooth-bores, been handed over to the armed police. The shooting of both the British and Native Infantry is eminently satisfactory. Large grants of free ammunition are made for practice, and the troops are allowed to purchase, within certain limits, additional ammunition at considerably reduced prices.

"Great progress has been made in the manufacturing departments, and India is now turning out all her own small-arm ammunition, is making her own cartridge metal, gun fittings for the latest types of guns, powder, accoutrements, harness and saddlery to keep pace with the extended needs of the army in India; while under the able direction of Captain Mahon, and of General Walker, the Director-General of Ordnance, the manufacture of steel and steel projectiles has been successfully introduced at Cossipore.

"As examples of the economy of substituting Indian manufactures for articles from home, I may mention that the English price of Martini-Henry rifle

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cartridges is Rs. 71 per 1,000, and we manufacture them in India for Rs. 49 per 1,000. The English price of Lee-Metford cordite cartridges is Rs. 108 per 1,000, we manufacture them in India for Rs. 83 per 1,000. Twelve-pounder shrapnel shells cost in England Rs. 837 per 100, we manufacture them for Rs. 710. In every proposal for new manufacture in this country the Ordnance Department has been required to show that the local manufacture will be economical; and the result of our advance in this direction has been that every material increase in the Ordnance Indian budget estimate has been counter-balanced by a larger reduction in the Home estimates. The official Financial Review shows that in 1894-95 a saving of close upon 20 lakhs was effected during that year in the Bengal ordnance factories by local manufacture having taken the place of importation of stores.

"A Proof Department has been established at Balasore for the practical test of projectiles, fuses, etc., made in India, before they are passed into the service.

"We have not as yet attempted the manufacture of cordite in India. For some time there was a doubt as to its suitability for standing the heat of India, as it failed in some cases to fulfil the War Office standard heat test. But its ballistic properties, even when it failed to fulfil this test, were unimpaired, and the War Office have recently acknowledged that the test, not the cordite, was in fault. The test has been reduced, the cordite thoroughly meets the requirements of the new test, and all anxiety has been removed. It causes rather excessive wear of the Lee-Metford rifle barrels. I have no doubt that means will be found of removing this drawback; and it is probable that in a rifle of larger calibre this wear would not take place, but pending certainty on this point cordite is not being introduced for the Native army. We are still experimenting to obtain a thoroughly satisfactory rolled cartridge case for the Henry-Martini rifle, as this will cost very much less than the solid-drawn cartridge case in use with the Lee-Metford. I have no hesitation in saying that we are on the point of success. There would undoubtedly be difficulties attending the manufacture of cordite in this country; and we do not propose to attempt it, unless there is reason to suppose we cannot obtain our full requirements at a reasonable rate from England. There would be no danger in depending upon England for it, as we should always keep a four-years' supply in this country.

"The greatly increased duties of the Ordnance Department have been hitherto carried out without increase to its staff. But it is under-officered, and,

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as this is not true economy, provision has been made in the estimates of the coming year for an increase of five officers to the department.

"The Commissariat Department has shown itself effective and successful in the many expeditions and campaigns that have taken place in the last five years, campaigns for the most part conducted in wild countries where it is most difficult to obtain supplies; and searching inquiries have convinced me that in time of peace its administration is as economical as can reasonably be expected.

"Lieutenants-General Commanding have since the 1st of April last been invested with the control over the Commissariat Department within their respective Commands, and are responsible for its maintenance in an efficient condition, as well as for strict economy in its administration. The Commissaries-General have been placed on their departmental staff; and Commissariat officers have been made staff officers of the Generals or other officers commanding districts or stations.

"The principle that as far as possible supplies and services should be arranged for by contract rather than by departmental agency has been carefully observed, and in the Bombay Command especially very considerable savings have been effected by introducing important changes in this direction.

"In all cases where Indian manufactures can be obtained as good in quality as imported articles and no dearer in price, they have been substituted for imported articles. The gain in 1891-92 resulting from the use of stores manufactured in India in substitution for stores formerly imported through Secretary of State was Rs. 5,37,000, and in 1894-95 Rs. 16,50,000.

"The bread supply of the troops has received careful attention. An officer of the Commissariat was deputed to inspect mills and private bakeries in England in 1892, and consequent on his report schools of instruction have been established for the training of European departmental subordinates in bread-making, instructors having been obtained from Home. A native bakery class was established at Rawal Pindi and a second class is about to be held in the coming year. With a view to checking the spread of enteric fever, dairy farms have been established at several stations throughout India and Burma. Officers have been trained in meat inspection since 1893. The entire supply of tinned meat is now obtained direct from the British Colonies, the supplies so obtained being better and cheaper than the American meats previously obtained from England.

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cases where there has been *bond fide* payment of money by the first transferee before registration. If it could be shown that the subsequent transferee had notice of the prior transfer, it would probably be held that the subsequent transfer was not *bond fide* and would not take effect although registered previously. It has been so held with reference to a cognate section—I. L. R. 8 Cal. 597 F. B.; see also *Le Neve v. Le Neve*, White and Tudor's Leading Cases in Equity, Volume II, page 32 (edition of 1877). But, if both the transfers are *bond fide*, the transferee who has been tardy in registering his transfer, and whose tardiness has enabled the transferor to perpetrate fraud, ought certainly to suffer.

“With regard to registered documents of a certain age, say twelve years, when they are past the age of being questioned by suit, it is desirable that the Civil Court should have the power to use them as evidence without formal proof of execution. Prudent men of business generally rely and act upon registered documents without such formal proof. Why should not the Civil Court be at liberty to dispense with it, when it thinks fit to do so? If, however, a registered document be seriously impugned or be the subject of an issue in the cause, the Court will doubtless go into evidence upon it. This is exactly what the amendment provides. Under it, the Court ‘may presume’ that a registered document which is more than twelve years old and is produced from a proper custody is genuine. The expression ‘may presume’ is thus defined in the Indian Evidence Act:—

' Whenever it is provided by this Act that the Court " may presume " a fact, it may either regard such fact as proved, unless or until it is disproved, or may call for proof of it.'

"This presumption applies at present to all documents more than thirty years old, although they may have never seen the light until produced in Court. It is proposed to extend this presumption to registered documents of a less age but having a greater guarantee of authenticity by reason of registration. The proposed amendment, while it will simplify the procedure of the Court and save the recording of a lot of formal evidence, seems to be necessary in the interests of justice for the protection of purchasers at auction sales, who have to depend chiefly upon certified copies of deeds from the registry office and find it extremely difficult to obtain evidence of their execution."

The Hon'ble SIR GRIFFITH EVANS said :—“ The second amendment as regards giving priority to prior registration appears to be a very important one and it will require serious consideration.

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" It will particularly require consideration as regards documents executed in England.

"As regards the other matters they are comparatively small and one of them seems, at any rate, to be very desirable; and as regards the other proposal for allowing a registered document of twelve years to be taken as *prima facie* proving itself, there is much to be said for it and I incline to think it will work well."

The Hon'ble SIR ALEXANDER MILLER said :—" I do not intend at this stage to express any opinion on any of these amendments except the one last mentioned by the Hon'ble Sir Griffith Evans. It seems to me that in a country where we have the limitation of twelve years it is a most reasonable provision that a document so old that possession in accordance with the document would give a good title under the Statute of Limitations, whether the deed itself were valid or not, ought to be at least looked upon as *prima facie* proving itself : and I do not understand that the Bill proposes to go any further ; if it does, it may be necessary to amend it."

The Hon'ble SIR GRIFFITH EVANS said :—" No, it does not go any further."

The motion was put and agreed to.

The Hon'ble MOHINY MOHUN ROY introduced the Bill.

The Council adjourned to Thursday, the 16th January 1896.

CALCUTTA ; }
 The 10th January 1896. }

S. HARVEY JAMES,
Secretary to the Government of India,
Legislative Department.

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"The spread of cultivation having made it almost impossible to obtain grass through the agency of grass-cutters from waste land, a system of grass cultivation was inaugurated in 1887. During the past five years these operations have been extended very considerably, and have been very successful financially and otherwise. Grass farms and rukhs are now existing practically to the full extent necessary in the Bengal and Punjab Commands, and Government have recently sanctioned the extension of the system to the Bombay Command. In the Bengal and Punjab Commands in 1894-95, the Financial Review shows that these grass operations resulted in a saving of Rs. 2,74,000, besides which there were further indirect savings by the reduction of claims from silladar cavalry corps for compensation for dearness of forage.

"It has been satisfactorily proved that the Commissariat rates for supplies are well within market rates, and that the compensation for dearness of food and forage given to troops corresponds fairly accurately with the fluctuation in those rates. The Department suffered great loss this year in the removal of its able chief, General Badcock. But in his new position as Quartermaster-General his valuable advice will still be available to the Government.

"In the Clothing Department every effort has been made to substitute clothing materials of *bond fid* Indian manufacture for imported articles, in order to encourage local industries, and in view to economy. The gain to the State by this procedure was in 1891-92 Rs. 1,68,000, and in 1894-95 Rs. 3,33,000. As a specimen of the success attending these efforts I may mention that the white drill for the summer clothing of British troops which costs about 3½d. a yard manufactured in India was reported upon by the Store Department of the India Office to be superior to the material costing about 4½d. a yard previously supplied from England, or to any material which could be manufactured in England at the price.

"The whole of the boots for the British troops serving in India are now made by Messrs. Cooper, Allen & Co. of Cawnpore. They are cheaper and at least as good as the boots previously supplied from England.

"Helmets, formerly obtained from Home and costing up to 1892 Rs. 3-14, are now made in India for Rs. 2-12. Many internal improvements have been introduced in the Clothing Department.

"In the Military Works Department great progress has been made in the direction of sanitation. Pure water supply has been laid down at a large number of the military stations in India, including Secunderabad, Delhi, Agra,

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Lucknow, Allahabad, Dum-Dum, Rawal Pindi, Murree and Quetta; and each year the number of such stations is being added to. Provision has been made in the estimates of the coming year for the water-supply of the Civil and Military Station of Bangalore, to which my hon'ble friend Mr. Rees has alluded; not for the whole cost of that scheme, but for as much as it is believed can be usefully expended upon it during the financial year. Improved systems of conservancy have been introduced, and we are now experimenting at several stations with different kinds of incinerators, by which method of disposal of the solid products of sewage it is to be hoped that the health of our troops may be greatly improved.

"In one most important matter, the horsing of the Cavalry and Artillery, considerable advance has been made. For horses for our Artillery and for the greater part of the British Cavalry we are dependent upon Australia, and it became necessary to raise the prices which had hitherto been given, as the supply was falling off in consequence of the diminished value of the rupee. The price now given is £45 sterling with which the shippers are thoroughly content, and I believe that I may confidently say that nowhere in the world are any cavalry and artillery so well horsed as ours are in India. Three regiments of British Cavalry are now mounted on country-breds by which a considerable saving is effected. But at present the local markets do not supply horses fit for this purpose in sufficient numbers to mount more than three British regiments.

"It is impossible to buy country-bred horses of an age fit for issue as remounts. Young horses, if left with the zamindars who have bred them, are worked too young, and are not sufficiently well-fed or allowed sufficient freedom in that early stage of a horse's life when his growth depends upon good feeding and freedom. Consequently, the Government has established rearing depôts at Ahmednagar, Hapur and Kurnal. It buys, every year, some hundreds of young stock at eighteen months of age and over, and rears them in the very best conditions under its own care, issuing them when fit as remounts. The age of issue of remounts to British Cavalry and Artillery has been raised from four years to five years. Although this involves an additional initial expenditure in the cost of the horse when issued, there is no doubt that horses which are not worked till five years old will last longer and stand the strain of heavy weights better than horses which are worked at an earlier age. The Government horse depôts have been strictly limited to their functions of rearing, breaking and acclimatising horses. The old stud system, abolished several years ago,

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but which had begun again to crop up, was absolutely abolished and forbidden four years ago. There is now no competition whatever between the Government and the private breeders in the matter of breeding horses. The Government of India is indebted to Colonel Deane, Director of Army Remounts, for his loyal co-operation in its orders in this respect, and for his excellent management of the remount depôts.

"A great improvement in horse-breeding in India has taken place. There is a distinct improvement in the quality of the horses at the fairs upon which the Silladar Cavalry are dependent for their remounts. The present Inspector-General of the Civil Veterinary Department, Veterinary-Colonel Queripel, is an enthusiast on the subject of horse-breeding, and I have little doubt that it will improve greatly in his hands. He has induced several of the Native States to take the question up.

"Mule-breeding too has made considerable progress. We have imported first class donkey stallions from Europe and elsewhere, and for the past three years we have been able to obtain the whole of our requirements in mules, both for transport and for ordnance purposes, within the limits of India.

"As regards the personnel of the army, the British soldier is well paid. He receives the equivalent of his sterling pay at the current official rate of exchange; and, as his expenditure is all in India, he has benefited by the fall in the sterling value of the rupee. He is well fed, well housed and well clothed, and a new clothing scheme is on the point of being introduced, which, while it results in economy to the State will also save the pocket of the soldier, and will ensure his always being clothed in a dress suitable to the climate, the cloth clothing worn in England being, with the exception of certain regiments, abolished for India.

"As regards the Native army, the opinion of the military authorities has long been that class regiments are better fitted for war than regiments composed of several classes. And in this direction progress has been made. Sixteen mixed battalions of Hindustani regiments have been reconstituted into class regiments of Brahmins, Rajputs, Jats and Muhammadans. And in Madras seven battalions of infantry have been reconstituted by transforming battalions of military police, composed of Gurkhas, Sikhs, Punjabis and other hardy and valiant races into local battalions for service in Burma. In Bombay a class company system has been introduced, and two regiments have been converted into local corps, for service in Baluchistan, composed of warlike tribes of

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Northern India. It is believed that the class company system will result in our obtaining recruits of a better stamp than those obtainable under the old system in which men of all classes were indiscriminately mixed together.

"An improved system of recruiting has been introduced under which officers specially selected are told off for the recruiting of certain classes of soldiers in the Punjab, in Bengal and in Bombay. This system cannot yet be introduced into Madras, for the authorities there have not as yet sufficient information as to the classes suitable for recruitment in that Command; but the existing system of recruiting there has been improved, and certain unwarlike races will no longer be recruited.

"The increase of pay of Rs. 2 granted to the dismounted branches of the Native army in the current year is already having its effect in an improvement in the class of men who join the army. And I may mention that the deficiency in the strength of the army as compared with sanctioned establishments was a thousand less on the first of this month than on the first of March last year. There is little doubt that as the increased advantages given to the soldier become more widely known their effect will become more marked.

"One great step is being taken towards the comfort of the Native soldier. The old system under which he built his own lines, receiving a hutting and repair allowance from the Government, is being gradually replaced by a system under which good lines of an improved pattern are being built for him by the Government, and maintained at the expense of Government. The estimates for the current year and coming year each contain a grant sufficient to build from three to four new sets of lines, and at the end of a few years all the Native Infantry should be decently and comfortably housed.

"An Act was passed in this Legislative Council in 1894 revising and amending the Indian Articles of War, and they are now thoroughly adapted to the disciplinary requirements of the Native army.

"As regards the numbers of the army, there has been practically no addition to the army during the past five years, and the occupation of all the new territory which has come under our control, whether on the frontiers of Burma, or on the North-West Frontier of India, has been provided for by the redistribution of the troops.

"But the Reserves of the Native army which stood on the 1st of April, 1891 at a strength of 7,093 now stand at a strength of 15,567. These are all

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thoroughly trained soldiers within good fighting limits of age. They are called up annually and trained at the centres of the regiments to which they belong, and they will be a most substantial and valuable addition to our army in case of its having to take the field.

“Finally, there are the Imperial Service Troops, which have to a great extent taken the place of the large inferior and undisciplined armies formerly kept up by the Native States in India. They have made great progress under the Inspector-General, Colonel Melliss, during the past five years. By the latest report in the hands of Government these troops numbered 7,970 cavalry, 289 artillery; 303 Sappers and Miners, 9,015 infantry, 497 camel corps and 942 transport corps, a total of 18,710, with 1,400 transport ponies and 600 carts. The troops are trained under the supervision of British officers, they have recently been armed with Martini-Henry rifles, and many of them have now reached a stage of efficiency which, in the opinion of the Commander-in-Chief, would render them valuable auxiliaries to our army in the field. To the services of the Kashmir Imperial Service Troops and of the Transport Corps of Jeypore and Gwalior in the Chitral Relief Expedition I have already alluded.

“On the European side, the volunteers who in April 1891 numbered less than 20,000 efficient and less than 23,000 enrolled, now number nearly 24,000 efficient and nearly 30,000 enrolled. Additional concessions have been given to them in the way of grants for camps of exercise and field days, relieving the pockets of the officers of expense, and for construction of armouries, headquarters buildings, etc. By the Act passed a fortnight ago the Governor General in Council has obtained power to call out the volunteers for actual military service in case of emergency, and to provide them with pay, supplies and transport, and to give pensions and gratuities to them and their families in case of wounds or death.

“These, my Lord, are some of the great improvements which have been made in the army in the past five years. When my predecessor in office, the late General Sir George Chesney, left India, he left behind him an important and long minute on the Indian Army and Military Administration, in which he recommended certain improvements and reforms. Some few of these have been deliberately considered and rejected, but the rest with one exception have been either entirely carried out or are in actual progress. That one exception is an increase to the number of British officers with the Native army.

“Were it necessary now for me to write for my successor such a minute, I should confine my expression of the wants of the army of India to three

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points—more transport, more officers and more garrison artillery. I hope that that transport may be provided in the next year or two. Our forts and batteries are undermanned, but it has not been in our power to provide the money for an increase to the garrison artillery establishments.

“The greatest want, in my opinion, and, I know, in the opinion of the Commander-in-Chief, is an increase to the number of British officers. We have endeavoured to meet this by establishing a reserve of officers, but the attempt has been a failure. Civilians in the service of the State would be far too heavily occupied with their own duties for us to be able to count upon their service with the army in case of war, and the number of British civilians in India not in the service of the State is so small, and they are all such busy men that it is little wonder that we have had but few applications to join the reserve of officers. Yet upon the outbreak of war we ought to increase the number of European officers with every unit of the Native army, and we should require some hundreds of officers for transport duties, and for various staff appointments in the field. Where to lay hands upon these officers is a problem that has not yet been solved. Should the finances of India improve I earnestly hope that this question will not be lost sight of.

“In addition to the reforms which I have above enumerated, there is one which is unknown outside the walls of the Military and Finance Departments and the India Office in London, and that is the internal reform of our military financial system. The system which I found in existence was one that did not give sufficient control even in times when money was plentiful, and was utterly unsuited for times of difficulty. The Military Member of Council and Finance Department did not have that control over military expenditure which they should have had. For that system one has been substituted under which not one rupee of additional expenditure can be sanctioned by any one but the Military Member of Council himself, under which no expenditure not provided for in the estimates is sanctioned during any current year, unless it is of absolute and urgent necessity, and no fresh expenditure is added to future estimates until after the Military and Financial Members have personally agreed upon the amount available for military expenditure within which the estimates must be kept. I take this opportunity of expressing my sense of deep personal indebtedness to Colonel Miley, the Military Accountant-General, for his untiring efforts to assist me in carrying out these reforms, and in effecting true economy. I would like to give this Council one specimen of the Accountant-General's work, which will, I think, convey confidence to the minds

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of this Council and of the public ; especially to those who remember the failure to forecast the expenditure in the Afghan war. Within about five weeks from the starting of the Chitral Relief Force, the Accountant-General sent to the Finance Department his approximate estimate of the cost of the expedition. It was a full estimate, in which an allowance had been made for contingencies under each separate head. The actual expenditure has been 19 per cent. below the Accountant-General's estimate. I can assure this Council that the most rigid economy is now practised in all matters of military expenditure, that no effort is spared by the Military Department, by the Commander-in-Chief and the heads of departments to effect reductions of expenditure wherever they can be effected without detriment to the efficiency of the army, and that except for military expeditions which cannot be provided for in the estimates, such things as supplementary estimates have altogether ceased.

"I am to be succeeded in charge of the Military Department by an officer, Sir Edwin Collen, who has for the past five years been working with me heart and soul in these reforms, whose ability is well known, and whose efforts in favour of economy have not been exceeded by those of any officer in the service of the Government. I would ask this Council to trust him.

"The past five years have been years of great difficulty for the Military Department. There have been a great number of frontier expeditions, which have upset our budgets, and have been unwillingly concurred in by the Commander-in-Chief and myself. There has been, owing to the fall in exchange, a financial pressure such as had been hitherto unknown.

"In face of these facts I trust, my Lord, that the list of improvements and reforms which have been effected in our army and our military administration will not be considered by this Council an unsatisfactory record of progress.

"The army in India is in my opinion none too large for the work it may be called upon at any time to perform, and I trust that this Council will never lend a willing ear to those who advocate reduction of military expenditure other than that recommended by your Excellency's Government. For I say deliberately and advisedly, after the closest and most minute study of every detail of that expenditure, that such reduction could only result in that worst and most wicked of all waste, the maintenance of an army which would be either insufficient in strength, or unfit and unready for war."

[The Lieutenant-Governor.]

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His Honour THE LIEUTENANT-GOVERNOR said:—"I should like to say a few words on the subject of Provincial Finance and paragraphs 60-64 of the Hon'ble Member's statement. I hardly think it possible that at the present day Local Governments can have any such misapprehension of their true relation to the Supreme Government as the Hon'ble Member describes. Personally I have always refused to admit that there can be any separation of interests between the Government of India and the Local Administrations. The latter are as much interested in the expenditure directly controlled by the Imperial Government as the Imperial Government itself. But the principle applies in the other direction also. The Imperial Government is or ought to be as much interested in the matters left to the Provincial Governments as any or all of those Governments. Now I have received myself as a provincial administrator, as a general rule, the most generous treatment and support from the Government of India during the past ten years. Our relations have ordinarily been of the most amicable kind. But nevertheless it has at times appeared to me that the Supreme Government did not always realise that it has as great a responsibility for local administration as the Local Government itself. I have seen or seemed to see a tendency on the part of that Government to wash its hands of this responsibility, especially as regards finance. I thought I saw this when as Chief Commissioner of Burma I protested vigorously against the mulct of 18 lakhs taken from that province in 1894-95, and which I am glad to see now given back. I know that my hon'ble friend will repudiate the idea, but I have, I believe, none the less seen it elsewhere also in operation, conscious or unconscious. I refer to it, however, now not by way of complaint about the past, but in order to enter a caveat in view of the revision of the provincial contracts to which the Hon'ble Member alludes in his paragraph 60. I trust that he will enter upon this revision in full consciousness of the fact that the Imperial Government is as much interested in the development and improvement of provincial administration as the Provincial Governments themselves, and that any check inflicted on them is a check to the whole imperial machine. I must say I deprecate the way in which these quinquennial revisions have too frequently been carried out. The provincial sheep is summarily thrown on its back, close clipped and shorn of its wool and turned out to shiver till its fleece grows again.

"The normal history of a Provincial contract is this—two years of screwing and saving and postponement of works; two years of resumed energy on a normal scale, and one year of dissipation of balances in the fear that if not spent they will be annexed by the Supreme Government, directly or indirectly,

at the time of revision. Now, all this is wrong, not to say demoralising. I say that the Supreme Government ought not to sheer too closely each quinquennium. It is as much interested in the continuity of work as the Local Governments: and ought to endeavour to secure this and avoid extreme bouleversements of the Provincial finances. In the first two Provincial contracts India left Bengal not only its accumulated balance, but part of its normal and recurring surplus. In the last three contracts it has taken the whole normal surplus, leaving Bengal to create a new surplus, and make what it could out of the progressive growth of its revenues. This necessarily inflicts on the province at least two years of leanness at the outset of each quinquennium. It would be an immense gain to local administration if the Government of India could see its way to renewing the contracts with as little change as practicable on each occasion. It is only in this way that the element of fiscal certainty, which was put forward in 1870 as one of the main objects of decentralisation, can be secured. Hitherto we have had but little of certainty. Not only have the terms of the contract been repeatedly changed, but 3 out of 5 have been practically set aside. I do not grumble at this. I would willingly surrender every available rupee if Imperial necessities required it. We are, as I said at starting, all one Government. I merely desire to suggest that this unity should be recognised throughout all the financial arrangements, and as little disturbance as possible be introduced on each occasion of quinquennial revision."

The Hon'ble SIR JAMES WESTLAND said:—"During the past week I have been making an attempt, by studying the public newspapers, to discover on what particular lines my Financial Statement was likely to be attacked. I failed somewhat in that effort, because I have found that the proposals of the Government as made in the Statement have been generally accepted. There was one newspaper, I admit, that I looked to with some fear and trembling—it is a weekly newspaper published in Calcutta, a newspaper that never has a good word to say for the Government or any of its doings, and I was afraid that this newspaper would have some words of commendation for the Financial Statement—a commendation which would damn it in its author's eyes. But fortunately I found that this newspaper did not approve of the Statement. It did not give any particular reasons, but it did not approve of it, and it went on to accuse me of something like the fraud, of which the Hon'ble Rai Ananda Charlu has been accusing me, namely, that of diverting the Famine Insurance Grant, or the Famine

Insurance Fund, as he insists upon calling it, to purposes for which it was never intended. I have also been accused of fraudulently making up the accounts by a gentleman on the Bombay side who is under the delusion that he knows something about Indian finance and has been making occasional attempts to induce the public to share in his hallucination. He stated that it was no wonder that I should bring forward the accounts of 1894-95 as showing how accurately we had forecasted them in the revised estimates presented last March, because we had already obviously taken the revised estimate as our basis and falsified the accounts so as to make them work up to the estimate. He was able to show this by comparing the Statement of Accounts we published with the estimates with one that we published in one of our Gazettes in February. Now, it requires only an elementary acquaintance with our accounts to know that when we first make them up we gather the land-revenue and the interest each under a single head, because it is a single class of receipt or of charge; but that afterwards, when making up our final accounts, we divide these preliminary figures between two different heads, namely, the land-revenue ordinary, and the land-revenue due to Irrigation, and in the case of interest, part of the interest we pay is transferred to the charge of the Irrigation and the Railway Accounts. All this was perfectly plain on the face of the Account presented for certain comparative purposes in the Gazette in February; but by suppressing the differences in the names we gave to the heads, this critic of mine on the Bombay side professed to show that we produce different figures under the same designation. Of course they were different figures, because they refer entirely to different things. If he had carried the comparison into detail, he would have found that the figures he produced in one statement exactly corresponded with the figures I had produced in another. I only notice these matters because they have been given currency to by one of the leading newspapers of Bombay. I think it necessary, as I shall have to answer other charges of fraudulent concoction of accounts, to state that these accounts are made under safeguards which render it perfectly impossible, even if the Government of India desired to produce fraudulent accounts, for it to do so. I am accustomed to be hauled over the coals for doing dishonest actions; but political criticism in this country is young, and it has not emerged from that primitive stage in which it consists of accusing your adversary, with or without evidence, of dishonest actions. But what did touch me in the criticism presented in Bombay was that we were not only supposed to be rogues in making up our accounts, but also declared to be such fools as to provide the public in our own Gazette with the means of convicting us.

"The Hon'ble Mr. Bhuskute has prepared a long discussion, and I think

on the whole a very useful one for the purposes of the Government of India upon many questions raised in the Budget. I call it a very useful discussion, because I think it is very desirable and that it is a very valuable assistance to us to get a calm statement of the manner in which our accounts and financial transactions present themselves to a non-official gentleman who has at heart the interests of the province to which he belongs.

"The Hon'ble Mr. Bhuskute was good enough to give me a copy of his statement last night, and in the course of this morning I have been able to examine his statements and some figures on which he has founded them. Now, Sir, of course an Hon'ble Member who gives me a statement of this kind places himself, I know, at a very great disadvantage. He gives me a very great dialectic advantage over him; he knows that the last word will come to me and that I may make use of his statement without the possibility of his making any answer to my criticisms. I desire to avoid as far as possible using any language which can be interpreted as in any way disparaging the Hon'ble Mr. Bhuskute's criticisms, because, as I say, I do admit it is very useful for us to know what view is taken of many of these matters by an independent gentleman in his position. But I am bound at the same time to point out that many of the statements and figures presented are very far from correct. I know that in these matters I am at a very great advantage. He is dealing with figures new to him—figures which in their very mass are very difficult to follow, and I am dealing with matters with which I have been familiar during the whole of my life. For one of the statements the Hon'ble Mr. Bhuskute drew up he was good enough to come to me for information. I gave him that information at once, but in regard to the other matters I regret that he did not ask me for further information, because I could have saved him a very great deal of criticism which I think somewhat unfounded.

"Now the Hon'ble Mr. Bhuskute addresses himself first of all to the Famine Insurance Grant, and what he has said has been repeated with additions by the Hon'ble Rai Ananda Charlu. I think it will be better for me to notice first the points which the Hon'ble Mr. Bhuskute has taken up and afterwards to take up those to which the Hon'ble Rai Ananda Charlu drew attention.

"The Hon'ble Mr. Bhuskute objects to the reduction of the amount of the Famine Insurance Fund on the ground that we spent during the last fifteen years an average representing one crore and sixteen lakhs. I cannot admit this to be true. I am quite sure that, if any person having an income (say) of five lakhs of rupees chose to invest of that income two lakhs in railway shares and two lakhs

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in Government securities, it would not be said that he spent his whole income. That is exactly what we have been doing with our Famine Insurance Grant. We have not spent the 116 lakhs; the greater part of that has been invested in railways and in Government securities. It is obvious, therefore, that the fact that we have laid out 116 lakhs in these investments is no argument to show that it is for the future necessary for protection against famine to maintain the grant at its original figure—1½ millions.

"Then he calls upon us to remit the special taxes imposed at the time when this Insurance Fund was instituted. And he says that the provinces interested in this special taxation will naturally claim immediate consideration of the subject from us. In the first place, I have to point out that the taxes imposed for the institution of the Famine Insurance policy did not exceed one crore of rupees, and that therefore no question of their remission at present arises. I will make a quotation on this point from one of Sir John Strachey's Financial Statements (1880-81), in which he says—

'As I have already explained, that taxation amounted originally to Rx. 1,345,000. It has now been reduced to Rx. 1,000,000.'

"So that the amount of taxation which was called the famine taxation and was instituted at the time when the Famine Insurance Grant was instituted does not exceed the amount set aside now as famine insurance. Moreover, I rather think that the Hon'ble Member is not aware to what a small extent his own province is interested in this famine taxation. The details of it are before me; they were given in the Financial Statement of 1879-80. They consisted for the most part of the license-tax amendment, ordinarily called the income-tax, and of the Bengal public works cess. Then there were small amounts of local taxation, of which the additional cess in the Central Provinces comes only to 1¼ lakhs of rupees. It would appear, therefore, that the Hon'ble Member's province is very little interested in the question of the abolition of the taxation which was instituted at the time of the Famine Insurance Grant, and I am quite sure from what the Hon'ble Member says in his speech of the smallness of the contribution which Bengal makes compared with other provinces that he would not argue in favour of the remission of that part of the taxation which is represented by the public works cess of Bengal.

"I wish to point out with reference to this point that Sir John Strachey, when he instituted this Famine Grant, distinctly declared that any intermission of it did not involve in the smallest degree the question of the remission of the

[*Sir James Westland ; Rai Ananda Charlu Bahádur.*] [26TH MARCH,

particular taxation levied at the time of the grant. And it is very obvious that that cannot be the case. Our last tax in point of date was the imposition of the customs-duties. We levied the customs-duties because the value of the rupee had fallen from 14 or 14½ to 13 pence. If there was any force in the argument of the Hon'ble Member, it is obvious that our first endeavour when the rupee rises ought to be to abolish these customs-duties and not touch any part of the rest of the taxation of the Empire. Now I do not think there is any person who would urge that as the first tax to be got rid of.

"There are a great number of taxes for the prior remission of which claims may be made—one from the Hon'ble Rai Ananda Charlu for example, that a portion of the income-tax should go. We have a claim from the Hon'ble Rai Ananda Charlu, and also I think from the Hon'ble Mr. Bhuskute, that the salt-tax should go. It is obvious that these claims are founded upon a theory quite different from that which would attach to each tax a particular ear-mark and declare that when the increase of expenditure, with reference to which that special taxation had been levied, ceased, it should become the duty of Government to abolish the particular tax levied for it. Sir John Strachey was very clear on that point, and I shall read a short extract from his Financial Statement, the same statement as that from which I quoted before, of 1878-79, in which he says—

'I need hardly say, after what has been said on former occasions, that the Government can entertain no idea of giving these taxes up and of sacrificing a million a year of revenue.'

"I would wish to point out to the Hon'ble Rai Ananda Charlu that this statement was made at a time when Sir John Strachey was suspending the Famine Grant, and that even at that time he declared that he would not propose to remit the taxation which was levied with reference to the constitution of the Famine Insurance Grant."

The Hon'ble RAI ANANDA CHARLU BAHÁDUR: "Kindly give me the year."

The Hon'ble SIR JAMES WESTLAND: "It is paragraph 54 of the Financial Statement of 1880-81. Sir John Strachey goes on to say—

'Even if those taxes were as bad as some think them, a time like the present, when we have to meet the heavy obligations entailed by a serious war, would not be opportune for abandoning them; still less could such a course be approved by those who believed, with me, that these taxes are far less objectionable than others that could be named,

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and that when the time comes for remitting taxes, it is not with these that we ought to begin.'

"When a tax is imposed, whether it is imposed at a time when it is necessary to make a special provision for famine, or whether it is imposed at a time when the conquest of a new province has necessitated the increase of our army expenditure, or whether it is imposed, as it was two years ago, at a time when great difficulties in exchange had increased the burden of our expenditure, that tax becomes part of the regular fiscal system of the Empire. When we come to questions of remission of taxation, which I hope is not very far distant—although I do not like to prophesy until I am sure—we must take up the remission of taxation as a thing which is quite independent of the particular expenditure for which the tax has been levied. We must choose for remission those taxes which are found to be most burdensome and whose remission will bring the greatest relief to the Empire.

"My statement of the financial relations between Provincial Governments and the Imperial Government has been criticised in more than one direction. I am afraid that the Hon'ble Mr. Bhuskute is one of those against whose views it was my object to remonstrate, one of those, namely, who think that the Local Governments and the local objects have necessarily a first claim upon the revenues and that the Imperial Government is something which lies entirely outside. In fact, the Hon'ble Mr. Charlu went further than that and protested against our imagining that the Local Governments were only the agents of an absentee landlord and were merely collecting taxes for some other Government. I am glad for one thing that His Honour the Lieutenant-Governor has very promptly repudiated these claims, and I am sure that every Local Government will admit, as he has admitted, that it is both legally and constitutionally the agent of the Government of India for carrying on the administration of its province, and that it cannot declare to us that its business is to keep its own revenue in its own hands and refuse to be responsible to the Government of India for the revenues it collects. In talking of it as an agent it is to be understood that I am not denying it a large amount of discretion. In fact, the whole system is founded on the theory that it is still an independent Government and has all the functions of a Government, but that we must control the action of the Local Governments in their financial proceedings on the theory that the whole financial system of India is one, and that we cannot break up the system into financially separate provinces and make these provinces independent contributories to a

central account. This is one of the proposals which the Hon'ble Mr. Bhuskute makes in his statement. In connection with it he says :—

'This complaint is not, as the Hon'ble Member puts it, that each province thinks the richer provinces have a surplus which they are made to disgorge for the poorer provinces, but that under the present arrangements the poorer provinces are made to contribute more than their proper shares in order that the richer provinces might not be taxed their full share of the Imperial contribution.'

"And here, my Lord, I think that the Hon'ble Member's statements are not borne out by the figures which I set forth in my Financial Statement, from which it will be seen that, as a matter of fact, the richer provinces do contribute a very much larger share than the poorer provinces. I would ask attention to paragraph 63 of the Financial Statement in which I showed the figures of the contributions made to the central account by the various Governments. Now, I take the Central Provinces: those provinces have a population of ten millions and contribute Rs. 451,000. Bengal has a population of seven times as much, but contributes ten times as much. Madras has a population of three and a half times as much, but contributes ten times as much. Bombay has a population of not quite twice the amount of the Central Provinces, but its contribution is about six times the amount that the Central Provinces contribute. I think there is no better proof than that afforded by those statements that the present provincial system is not liable to the charge, that the poorer provinces are taxed beyond their power, and that the largest provinces get off with too small a contribution.

"And with reference to the proposal that it might be possible to alter the system of assignment altogether, which has been made by the Hon'ble Mr. Bhuskute, and partly also by His Honour the Lieutenant-Governor, I can only say that the question has been considered over and over again and that there are immense difficulties in the way. You cannot deal with India as a homogeneous country. Various provinces are in various stages of advancement. Bombay and Bengal, which have been a long time under the control of the British Government, are advanced provinces to an extent to which such recent occupation as the Central Provinces can lay no claim. They are better fitted out with roads and communications; their whole administrative system is more complete; the population is for the most part a more dense one; and their industrial development is also very much greater. You cannot deal on the same footing with such provinces as Bombay and the Central Provinces, which, although neighbours of each other, are yet in such entirely different stages of development. Now, if we were to attempt to make a theoretical

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distribution of liability according to the Hon'ble Mr. Bhuskute's plan so that the same tax per head should be levied towards Imperial purposes from the various provinces, we would be met at the outset by this impossibility—we would be assuming an equality between provinces which does not exist. It is perhaps a fault, but it is an inevitable fault of the provincial system, that we must take the actual state of each province as a starting point, and the result of the provincial system, as at present applied, is that taking that starting point each Local Government can practically keep in its demands upon the general account its relative position with reference to all other provinces. We cannot, for example, reduce the assignment made to Bombay because we find that in some respects its expenditure is greater than that of Bengal and might theoretically be reduced to the same standard. It is not practicable to impose upon any province an obligation to reduce its expenditure to the standard of another province. Suppose, for example, that dealing with questions by the head of population, we were to tell Bombay that we must reduce its assignment by half a crore. What would that mean to Bombay? It would only mean that it would not have the means of carrying on its existing system of administration; perhaps it would have to discharge some hundreds of its officers. We would certainly dislocate by this means its whole administration. We must, therefore, as I say, deal with each province, in the consideration of the requirements of its administrative expenditure, almost as a separate unit, and in these matters at least take each province as we find it. I quite agree with the theory of His Honour the Lieutenant-Governor that the Government of India has a very direct interest in provincial expenditure and should not wash its hands of responsibility for it. I think the Government of India gave a very satisfactory proof of their acceptance of that theory in returning into the hands of the Provincial Administrations the balances which it was obliged to take from them when it had to impose upon them a share of the retrenchment which had to be effected two years ago.

"I have taken a note also of the Hon'ble Mr. Bhuskute's remarks in which he called upon us for reduction of taxation, but unfortunately they are mixed up with calls for increase of expenditure. These are two things which it is very obvious will not go together. You cannot reduce taxation and at the same time urge, as Mr. Bhuskute does, that 'the department of Police should undergo a thorough revision,' that 'there is an universal cry for the separation of the Judicial and Executive functions, and for larger grants for higher education' on the ground that the taste for learning has increased and the amounts at present allowed are inadequate. I freely admit that it is highly desirable that we should

increase expenditure in some directions, but it must be continually borne in mind that if we increase the expenditure we can only do so by increasing taxation. It is no use to call upon us to diminish this tax and that tax, if at the same time you call for increased expenditure. At the same time I would call attention to one of the theories of the Hon'ble Rai Ananda Charlu with reference to provincial and local arrangements. He protests against our entering upon a new settlement of our contracts with the Provincial Governments with the idea that we are going to make money out of the operation. He points out with perfect truth that the local funds, which, I admit, are in Madras developed to a much larger extent than in any other part of India, are demanding larger assignments of funds from the Provincial Government, that the Provincial Government requires for this and other purposes larger funds; and he argues that therefore we are called upon to increase the provincial assignment that all this may be undertaken. But then the question is where is the money to come from? He protests against our sending Settlement-officers over the land because it means enhancement of land-revenue; and he wants the salt-tax reduced. You cannot be increasing your provincial assignments and increasing provincial and local expenditure unless you are prepared to pay for it by paying increased taxes.

"He has called upon us also to restore the Famine Fund, and declares that it is useless for us to talk of restoring the Famine Fund, because in order to do that we must repay to it the seven crores of rupees by which the forward totals fall short of $1\frac{1}{2}$ crores a year. I have to ask again where these seven crores are to come from? I would ask, for example, what would be thought if I were to give notice now, that, as the Hon'ble Rai Ananda Charlu has pointed out this obligation on the part of Government, at the next sitting of Council I would introduce a Bill by which the income-tax for the present year would be quintupled, because it would require fully that amount of taxation to restore these seven crores of rupees which he represents to belong to the Famine Fund? Government does not possess money other than what it derives from taxation. It is no use saying that we must get this money and that money if at the same time it is known that it cannot be got except by taxation. The Famine Fund had occasionally to be suspended because the Government did not possess the money to keep it at a crore and a half; and it deliberately chose to suspend the grant rather than impose a new burden upon the people. If the Hon'ble Rai Ananda Charlu's advice had been taken then it would have been necessary, in order to keep up the Famine Grant up to the mark, to impose some new tax upon the people; it is quite obvious that in no other way could Government have observed the obligation which he insists

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upon to keep up the Famine Fund to a standard of one and a half crores. But, as regards this assumed standard, I shall read a paragraph from Sir John Strachey's statement dated the 27th December, 1877, which shews that it was never his intention to permanently fix it at one and a half crores, and that he knew perfectly well that the question would arise whether it should be maintained at that figure or should be reduced:—

* * * * *

'Making all allowances for these considerations, I cannot now venture to estimate the yearly average cost of famines in loss of revenue and actual expenditure at less than £1,500,000. This amount has necessarily been arrived at in a somewhat arbitrary manner, and it will be seen to correspond approximately with the sum that would be requisite to distribute the charges of the last five years over a period of ten years. It will remain for the Government in the future to reconsider, from time to time, the practical result of the assumption which we are now constrained to make on what are necessarily imperfect grounds, and to take all requisite steps in the way of correcting any error into which farther experience may indicate that we have fallen, either in the one direction or the other.'

* * * * *

"I cannot imagine a more distinct statement made by the founder of the Fund shewing that it was not to be fixed at one and a half crores and that the amount was to be reconsidered from time to time. We have done so, and the Government has come to the conclusion on the facts set forth in the Financial Statement that, for the present at least, we meet all necessary obligation by keeping it at a million. So far as the power to reduce the amount is concerned, the Government is at perfect liberty to reduce it to a million or any other sum which the experience of the past may teach to be expedient. The original sum was fixed as the amount which the then Government calculated to be sufficient and expedient, and in the same way the present or any future Government can consider the question upon the same basis and find it sufficient and expedient to fix it at a crore. I am rather sorry to see that an Hon'ble Member of this Council should charge the Government with something like a breach of faith or dishonesty in its reducing the amount to a million, and should declare that he expects further dishonesty to take place because we have been using the term 'grant' instead of the term 'fund' which he prefers to use. As to this point perhaps I may also quote from the same speech of Sir John Strachey. It is to these speeches, delivered at the time of the institution of the Famine Fund or Famine Grant that we must appeal to discover the meaning of the Famine Insurance system and to see from the expressions in them what the intentions were that the founders wished to be carried out:—

* * * * *

'So far, however, as we can now speak for the future, the Government of India intends to keep this million and a half as an insurance against famine alone. In saying this I should explain that we do not contemplate the constitution of any separate statutory fund, as such a course would be attended with many useless and inconvenient complications, without giving any real security. Unless, then, it should be proved hereafter by experience that the annual appropriation of a smaller sum from our revenues will give to the country the protection which it requires, we consider that the estimates of every year ought to make provision for religiously applying the sum I have mentioned to this sole purpose, and I hope that no desire to carry out any administrative improvement, however urgent, or any fiscal reform, however wise, will tempt the Government to neglect this sacred trust.'

"One of the inconvenient complications which Sir John Strachey foresaw and deprecated was that we would from time to time have to temporarily increase the taxation purely for maintaining the Fund at a certain amount, and we might have now to introduce a Bill to levy seven crores of rupees of new taxes from the people in order to restore this seven crores which the Hon'ble Member claims for his Famine Fund.

"The Hon'ble Member does not at all say what we are to do with these seven crores. I suppose they are to be put into some hiding place. He seems to have overlooked the fact that there is nobody but ourselves to whom the restoration could be made; it is the Government treasury alone to whom the restoration could be made.

"There is one thing also with reference to which I desire to express my regret. The Hon'ble Member who represents Madras has used the word 'protest' half a dozen times, and it is my duty on the part of Government also to make a protest. My protest is this, that when an Hon'ble Member desires to make a statement on a subject in which he accuses the Government of dishonesty, which the Hon'ble Member has done, he ought to be very careful in ascertaining the facts. I do not think that my hon'ble friend Rai Ananda Charlu has done so before bringing this accusation against us. If I followed his statement rightly—and Hon'ble Members here have had the same opportunity as I have had of following his speech—he has accused us of suppressing the Famine Fund, and he has accused us of using this Fund for the purposes of ordinary irrigation, ordinary railway-construction and other things. He has also accused us of concealing these facts. At the last meeting of the Council I stated that if any Hon'ble Member desired to have information on any points which were not fully enough explained in the Financial Statement I would be very pleased if he gave me notice of what he wanted in order that I

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might possibly give him all the information he pleased. The Hon'ble Rai Ananda Charlu has not asked for a single piece of information, and yet he now says that the Government has acted dishonestly in respect of these moneys and we are withholding the facts and the accounts of the expenditure. There is not a single point in all the information which he says we are withholding because we dare not publish it, in which the fullest details are not set forth in our annual accounts for the benefit of every one who desires information; and they are set out not only for the year concerned but for all previous years. The Government accounts are available for any Hon'ble Member (in fact, for any member of the public,) who wishes to see them, and any one with the slightest knowledge of how the work of Government is done ought to know that the Government publishes these accounts. I have great pleasure in passing down a copy of the accounts of 1894-95 to the Hon'ble Rai Ananda Charlu, if he wants to satisfy himself that the Government of India has published the full information he desires.

"I am afraid I am a little discursive in the order in which I take up the different subjects. It is rather difficult for me to take up my subjects in a regular and definite order, because I have been busy the whole day in taking notes of the various statements which have been made by the speakers, and I am obliged to bring matters forward in the order in which I have taken notes.

"I am led back now to the salt-duties, which have been criticised and represented to us as a heavy burden upon the people. If it is a burden at all, it is a burden which not a soul in the country feels, and this is good evidence that it is a burden which can be very easily borne. Of course I quite agree in thinking that it is desirable that these duties should be reduced if possible, and possibly some day the question may arise. But there is one thing I will impress upon Hon'ble Members who think that the Government imposed a heavy burden by the increase of the salt-duties, which took place about ten years ago, and that is, that instead of affecting the salt-trade by making the price of salt higher, during the last ten years the price of salt has been very much lower than it was ever before in this country.

"I have here statistics which go back to the year 1861 and there is hardly a single province except Burma in which the figures do not show that salt at the present day sells at a cheaper price than it ever did before. The truth is that the improvement of communication in the country and the gradual extension of railways has cheapened salt so much that notwithstanding the taxation imposed upon it its price has not been added to. The consequence therefore is that the

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AND INDIAN EVIDENCE ACT, 1872; AMENDMENT OF
EXCISE ACT, 1881.*

[*Babu Mohiny Mohun Roy ; Sir James Westland*] [16TH JANUARY 1896.]

INDIAN REGISTRATION ACT, 1877, AND INDIAN EVIDENCE ACT,
1872, AMENDMENT BILL.

The Hon'ble BABU MOHINY MOHUN ROY moved that the Bill to amend the Indian Registration Act, 1877, and the Indian Evidence Act, 1872, and Statement of Objects and Reasons be published in the Gazette of India in English, and in the local official Gazettes in English and in such other languages as the Local Governments think fit.

The motion was put and agreed to.

EXCISE ACT, 1881, AMENDMENT BILL.

The Hon'ble SIR JAMES WESTLAND moved for leave to introduce a Bill to amend the Excise Act, 1881. He said :—" The Bill which I ask permission to introduce is the outcome of the recommendations made by the Hemp Drugs Commission which sat during 1893 and 1894, under the presidency of Mr. Mackworth Young. That Commission made a very elaborate enquiry into the whole subject of hemp drugs and made certain recommendations on the subject. These recommendations were discussed by the Government of India in a Resolution which was published in the Gazette of India about a year ago. The general policy of Government towards hemp drugs, as recommended by the Commission, and, on their recommendation, adopted by the Government of India, is that there should not be an attempt to prohibit the cultivation and use of hemp drugs altogether, that is to say, to render their cultivation and their consumption penal under all circumstances. The adopted policy is that such restriction and control as the Government desire to exercise in reference to these drugs should be exercised by means of the imposition of taxation. Now, this Hemp Drugs Commission's inquiries have resulted in giving us a great deal of information regarding hemp drugs which we did not possess before, and the law as it stands with reference to the imposition of taxation upon these drugs having been drawn up and brought into force at a time when we did not know so much about them as we now know, is imperfect in some respects. In the first place the accepted principle of excise taxation on liquors and drugs in this country is, where it is possible, as follows: we attempt at the place of origin where liquors or drugs are produced to levy an initial tax by quantity, and we thereafter add to that a further taxation, obtained by selling privileges of vend. For example, in the case of liquors we obtain control over the liquor at the place where it is produced—the distillery—and before the liquor passes out of our control we levy a duty per gallon. In the

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same way opium is entirely cultivated under our control; it is gathered in the factories, afterwards despatched to the Treasuries, and does not pass out of these Treasuries until the vendor who is licensed to distribute it pays to the Government not only the cost price but a considerable sum *per* seer in respect of initial duty. Unfortunately in the case of ganja the Government have not under the present law the power to impose this initial duty; they can only tax it by means of licenses to vend and sale of privileges of vend. This does not give to the Government anything approaching to the taxation which, on a better system, might be levied upon the ganja, and does not carry out a recommendation of the Commission which the Government adopted, namely, that of imposing a sufficient control and restriction upon the consumption of hemp drugs by heavy taxation. Now, I ought to observe in the first place that I do not ask this Legislative Council to deal with these matters so far as they relate to the bigger Provinces of Bengal, Madras and Bombay. Each of these Provinces has its own legislation on abkari matters, and whatever legislation is necessary will be undertaken under the legislative authority of the Local Governments. The Act which I propose to amend—the Excise Act of 1881—applies both to the Provinces of Northern India, the North-Western Provinces, the Central Provinces and the Punjab; also to a small district in the south—Coorg—which happens to be under the direct administration of the Government of India; and it applies also to Burma. But, with regard to Burma, I ought to observe that although the word 'Burma' appears in some of the amendments which the present Bill introduces into the Excise Act, we do not propose to make any alteration in the system of administration of hemp drugs in that Province. It is at present prohibited in that Province, but I regret to say that that prohibition exists far more upon paper than in reality. The Burmese and Chinese are, both of them, extremely good smugglers and have hitherto managed to introduce as much ganja into that country as would be consumed if we had a regular system of taxation and not of prohibition. Now, of these Provinces for which we propose to legislate—the Provinces of Northern India—some of them have local cultivation of the hemp plant, but most of them have not. One of the centres of local cultivation is Nimar in the Central Provinces, and the drug which is consumed in the North-Western Provinces is mostly obtained either from Bengal, where an extremely satisfactory system prevails, and where we have the drug completely under our control, or from Nimar, where, at present at least, we think the control may be improved. In the North-Western Provinces and the Punjab there is practically no local cultivation. The principle we wish to apply to the taxation of ganja is that each of these Provinces may be independent of every other one, and may manage its hemp drugs independently. It will,

burden upon the people in respect of the salt, instead of increasing, continues to diminish and has been continually diminishing.

"As regards the burden of land-revenue the Hon'ble Rai Ananda Charlu has expressed his horror at seeing the Settlement-officer let loose in every province raising the land-revenue. I will read a paragraph from a despatch which was recently sent by the Secretary of State which will show that the land revenue has also been a gradually diminishing burden upon the people. This paragraph runs as follows—

* * * * *

'8. We shall first set forth, as briefly as the facts permit, the successive steps by which the Government share of the assets of land has been reduced.

'It was laid down in Regulations IX and X of 1812, following the precedent of the Permanent Settlement, that a net income of 10 per cent. on the Government demand should be reserved to the proprietors. This fixed the State's share of the assets at 91 per cent. Regulation VII of 1822 raised their income to 20 per cent., and reduced the share of the State to 83 per cent. of the assets. The assessment was to be based upon an enquiry into the productive capacity of each field or plot of land; and the Resolution which accompanied the Regulation substituted for the two or three years term of settlement that had till then been customary, a term of ten to twelve years, and thus introduced the first long-term settlements. The detailed enquiry thus prescribed was found to be impracticable, and Regulation IX of 1833 was based upon a minute by Lord William Bentinck, dated 26th September, 1832, in which he proposed that the demand should be fixed upon a general consideration of the circumstances of each village or estate, and that the term should be extended to fifteen or twenty years. At the same time, he limited the Government share of the assets to 70 to 75 per cent. All the early settlements of the North-Western Provinces were made under this Regulation, and for the most part for a term of thirty years. In 1844 Mr. Thomason, Lieutenant-Governor of the North-Western Provinces, reduced the share of the net assets to be taken as revenue to two-thirds, or 67 per cent. In 1855 the demand was still further reduced by the Saharanpur Instructions, Rule XXXVI of which limited it to 50 per cent. of what were described as "the *real* average assets," and this proportion has ever since formed the basis of assessment in Northern India; though, as we shall presently show, still further reduction has been authorised in certain cases.'

"I wish in addition to this to point out to my hon'ble friend a purely arithmetical calculation which will show how much of the increase of the productiveness of the land has fallen to the share of the proprietors and how very small the increase to Government has been. We will assume that the land-revenue at present is something like 25 crores. The purpose for which I am making

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use of this figure is one in regard to which we need not be particular I will assume that fifty years ago the land-revenue assessed upon the same territory was 15 crores and that we have during this time increased our assessment of land-revenue from 15 crores to 25 crores. Let us see what this enhancement really means to the people of the country. We fixed it at 15 crores at a time when Government got 75 per cent of the assets and the people got 25 per cent. The people's share of the assets, fifty years ago, was therefore five crores. Now, when we get 25 crores we get 50 per cent., and the consequence is that the share of the people is equal to our own and is equal to 25 crores. So that the Government share of the produce of the land has increased from 15 crores to 25 crores, but the share of the people has increased from 5 crores to 25 crores. This will show that the enhancement of the land-revenue has been brought about without adding to the burden of the people, and that the amount left in the people's pockets after each settlement is greater than at each previous settlement. This is what our Settlement-officers have done; they universally find that in claiming for Government its proper share of the enhancement of the produce of the land, they leave a continually increasing share in the pockets of the people.

"Another matter which was referred to in the Hon'ble Mr. Bhaskute's address was his declaration that the vigorous prosecution of railways has caused us heavy loss, and in the same way the Hon'ble Rai Ananda Charlu says that we are imposing a new and unnecessary burden, because we are raising four crores of rupees during the current year for the construction of railways. I can only say that the vigorous prosecution of railways during the last ten years has not caused loss of revenue. Our railways have produced more than the interest on the loans raised for the purpose of construction, and as regards these four crores of rupees that we are to raise this year, every single railway project has been separately investigated and the greater part of them will produce a great deal more than the amount we will have to pay as interest on the loan. At the present moment the whole of our loss on railway transactions is about two crores of rupees, that is to say, we have constructed and we are running 19,000 or 20,000 miles of railway, part of them constructed on military grounds and without reference to commercial returns; part of them constructed for protective purposes—protection against famine; and most of them constructed for commercial purposes. Taking the whole of them, the charge to Government is only two crores of rupees. I would ask simply as a question of policy whether the possession of these 20,000 miles of railway is not worth to the people of India two crores of rupees. There is not a soul in the room who would not

admit that India would be better for these railways even if the people had to pay ten crores a year instead of two.

"With reference to these two crores of rupees I have also to state that the loss which we have to bear mostly arises upon railways constructed on the guaranteed system. The loss a few years ago was only 70 lakhs of rupees. It has since mounted to two crores mainly because we have to bear a heavy loss of exchange upon the sterling debt connected with the older railways. But it is obvious that this heavy loss has nothing to do with the present construction of railways. We would have to bear this loss even if we were not constructing any railways during the last ten or twenty years. The later construction and expansion of railways has therefore been on the whole a financial gain.

"Before I close I want to refer to another statement which is made in the Hon'ble Mr. Bhuskute's address and which refers to the military expenditure. We have been liberally accused on all sides of having indulged in heavy military expenditure, and putting the figures of 1887 and 1893 side by side it is stated that the latter has risen by $2\frac{3}{4}$ crores of rupees; and the statement is made that the only portion of the increase due to exchange is 95 lakhs. The Hon'ble Mr. Bhuskute is erring in good company, for the *Economist* made the same blunder in a criticism it published about July last. The Hon'ble Mr. Bhuskute when he talks of these charges means that the figures which are entered in the exchange column account for only 95 lakhs of increase; but he forgets, what has often been pointed out, that there are a number of charges which enter into our Indian column of expenditure which are very much affected indeed by exchange. One of them, for example, is the obligation to pay the British soldier at a sterling rate. The consequence is that as the rate of exchange falls we have to pay him more rupees. I have made an actual calculation of the difference which arose between 1887 and 1893 on this account and also on account of exchange compensation allowance which, whether the Hon'ble Member is in favour of it or not, he must admit arises purely from the fall in rate of exchange. From these figures I take it that from 55 to 60 lakhs are the amount of the increase which is made in the British soldier's pay and 26 lakhs were the amount which we had to pay for exchange compensation in the year 1893. These two amounts taken together make up 81 to 86 lakhs of rupees, and these 86 lakhs do not represent increased military expenditure, as the Hon'ble Member and the *Economist* put it, but arise from the fall in exchange.

"There is one thing with reference to this subject which I wish to mention. It seems to me that I have been unnecessarily modest in not claiming for

myself the whole of the credit for the improvement that has occurred in the financial state of affairs. I thought I was bound to be honest and state that the increase of some Rs. 1,400,000 was due to exchange. For many years past the Government of India has been declaring that the difficulty they were in had been almost entirely due to the imposition upon it of the burdens arising from the loss in exchange, and that statement has been continually denied by our critics, and we have been continually told that our difficulties arose from our own extravagance and that it was not any loss in exchange which produced this result. Well, the people who make that statement against us are bound, if they are consistent with themselves, to admit that the improvement in the present state of finances is due to our own good management, and that it is nonsense on our part to allege that the improvement is due to the rise in the value of the rupee. If they were right, and we were wrong, in estimating the gravity of the effect of the falling rupee, they are bound now to give to us, and not to the rising rupee, the credit of the recovery that has taken place.

"The Hon'ble Mr. Bhuskute, in the twelfth page of the statement which he has made, compares the duty and consumption of salt in 1886-87 with that in 1894, and deduces a conclusion as to the poverty of the people. I know where he has got these figures, but there is one important thing he omitted to observe. The consumption of salt in any given twelve months from various circumstances is always altering. The Hon'ble Mr. Bhuskute has taken as his first year one in which it was abnormally large, and for his second year one in which it was abnormally small. If he had only taken as his figures for 1886-87 those which are the average for that year and the year before it and the year after it, and for the second year also not the figures of that year but the figure which is the average of that year and the year before it and the year after it, the result is that the consumption of salt for the first period on which the Hon'ble Member makes his stand is 32·8 millions of maunds and for the second 34·4, and the Hon'ble Mr. Bhuskute's conclusion as to 'the poverty of the masses' becomes reversed.

"In connection with the taxation of salt, which is said to be an extreme burden upon the masses, I wish to make one remark. One can hardly understand the people of India being an over-taxed people, as they are often represented to be by Native political associations, if they do not in some way or another feel the burden of the tax. But the truth is that there is not one man in a hundred who is in the least degree aware that he contributes a single pice to the system under which he obtains security for his property and person to which his forefathers of three generations ago were utter strangers, and is

assured of the possession of legal rights which are superior to those enjoyed by many nations of the West. I can only oppose to this imaginary, poor, over-taxed raiyat the fact, which is perfectly notorious and which every one can verify for himself, that there is not a single country in the civilized world where the amount of taxation is so small as it is in India.

“And here I want to add one remark with reference to the military expenditure which is attacked by the Hon'ble Mr. Bhuskute and a great many other people as a tremendously heavy one. I can quite understand the ordinary cultivator, whose knowledge of history never goes beyond his own life and whose experience is limited by the boundaries of his own village thinking that the state of peace, prosperity, tranquillity and comfort which he enjoys is the natural condition of India. But for educated gentlemen like our political critics to know nothing of the history of their own country astonishes me. They have only to look back one hundred years to see that those fields which now smile with yellow harvest and which the husbandman can till every year with the absolute assurance that in time he will reap his harvest were year by year liable to be devastated by warfare or by the rivalries of contending chiefs whose armies plundered the country. The districts from which the Hon'ble Mr. Bhuskute comes were the highway between Northern India and the Dekkhan. They were the districts through which the armies of the Mogul poured from Northern India to the Dekkhan for conquest and for plunder. The whole country within the last hundred years resounded to the tramp of armies and was filled with robbery and rapine, and that is a state of things which would return to India if the British army were withdrawn. The one security that India has for the continual preservation of that state of peace and tranquillity is that there is one Paramount authority that possesses sufficient power to suppress all disorderly elements. It is at the back of our civil administration, which would not be effective unless it could carry out its duties in peace and quietness. The cost of the army, to which 250 millions of people are indebted for the peace and tranquillity which they enjoy, comes to something a little more than half a rupee per head of the people protected. The Hon'ble Sir Henry Brackenbury has made a very full statement to-day which is a complete answer to those who think that the interests of economy are not fully studied in its administration. There is no army so effective anywhere as the army of India; none in which the money spent is made to go so far in the direction of efficiency. I cannot understand how educated people who know the perpetual condition of warfare and insecurity in which people were in India before it was occupied by one over-mastering Power can make any objection to the military expenditure which is

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necessary for maintaining the security, peace and tranquillity, to which Mr. Bhuskute refers as one of the gifts of the British power.

“My Lord, I have left till the end a necessary duty—that of answering the questions which have been put to me by the Hon'ble Mr. Playfair. I shall answer them one by one. The first question that he asked was with reference to opium—whether I consider that the rise in the price which we offer for crude opium is sufficient. I think it is, and my reasons are that it has secured to us as much extension of cultivation as we wanted: that is, enough to enable us to recommence piling up a reserve. I regret that the crop has partially failed, and that the raiyats again will fail to benefit by the enhanced price to the extent that we and they hoped they would. What is wanted more than anything else is a favourable season; and, if we were to get a fairly favourable season, I am quite sure that the cultivator would get such encouragement that we would obtain, at the price we at present offer, all and more than all the cultivation we want.

“Another question was asked with regard to the interest which we propose to fix for the loan which we are about to issue. This is rather a difficult question to answer just now, for it is difficult for me to make a statement, without its being held to some extent to be binding. I must therefore begin by saying that any statement I make now will be understood as not in any way binding upon us when we come to make a settlement of the terms of the new loan. What they will really be depends solely upon the state of the market at the time. But, if I am allowed to make this complete reservation as to what we may do, I have no hesitation in saying that, unless circumstances change, my advice to the Government will be to issue a three per cent. loan and to add conditions guaranteeing it against a reduction of interest for a certain number of years, say, twenty years or something like that.

“I hope my hon'ble friend will be satisfied with that answer. It is impossible for me to give any answer which may be taken in any way as pledging the Government.

“In regard to the question of saving bank balances raised by the Hon'ble Member, the difficulty raised is one which is felt not only by the Government in this country but by the Government at home. The only security which we have in respect of our saving bank balances is that the amounts are all extremely small, so that it requires a very large combination of depositors to make a demand upon us which we would have the least difficulty in immediately meeting.

They are, of course, secure of being all ultimately met, in any circumstances. We have, as the Hon'ble Member points out, about 10 lakhs on deposit payable upon call. But 10 lakhs is composed of a very large number of very minute items, and in practice we have as little danger to fear as any ordinary Bank, in respect of the calls of its depositors.

"Now, my Lord, before I close I have one word to say. It may be considered impertinence on the part of a junior Member of your Excellency's Council to say a word in acknowledgment of the services of a senior Member of this Council. But my relations with my hon'ble friend Sir Henry Brackenbury in the financial administration of his department have been such, that it is impossible for me to allow him to leave this Council without conveying to him, on the part of the department over which I have the honour to preside, our acknowledgments for the grand work that he has done in bringing under complete financial control the whole of the expenditure of his department. I have had in my time of service in the Financial Department, now extending back over a quarter of a century, not a few contests with the Military Department. It is almost necessary that these should arise, because the Military Department is peculiarly the spending department of the Government and the Financial Department is very much interested in its financial control and in its financial arrangements. But there have been no difficulties of this kind during the time that I have had as my colleague the distinguished officer who sits on my left, and who is not only a distinguished soldier and military administrator, but is also a financier, and in that capacity has been able to give to me in my official duties most material assistance and helpful counsel."

His Excellency THE PRESIDENT said:—"I recognise with pleasure that no attack has been made on the policy of the Budget now under discussion, which calls for any general defence from me. It is not a sensational Budget; it is, as the Hon'ble Member has said, a modest Budget, as modest as himself, but I doubt if sensational Budgets are always the most satisfactory. It is generally agreed that, in the circumstances of the present time, the proper financial policy for India is one that is cautious, moderate and conservative, and that while the time may come, as the Hon'ble Member has hinted, for a comprehensive revision of the position, that time is not yet. What we have done in the Budget before us is to take advantage of the increase of the revenue which has exceeded the anticipations of last year, in two ways; in the first place, to retrace certain steps which we were very unwillingly obliged to take in laying under contribution for general purposes grants which otherwise would have been devoted to special and useful purposes; and, in the

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second place, to the making good of special deficiencies. It is, in my opinion, most satisfactory that we have been again able to grant the large sum of a crore of rupees to the purpose of Famine Insurance—purposes as to which I cannot altogether accept the definition of the Hon'ble Mr. Ananda Charlu, which I venture to think is based on some misconception of the original proposals, of the nature of the transactions of the last fifteen years, and of the necessities of to-day. It is also most satisfactory that we have been able to restore to Provincial Governments the contributions from their balances which we had to demand in 1891. I have for myself always entirely sympathised with the disappointment which the Local Governments must feel, when they are suddenly called upon to relinquish funds on which they had calculated for works which they considered essential for the well-being of the people under their care.

"It is satisfactory also, for the reasons so well stated by the Hon'ble the Military Member, that we are at last able to complete those arrangements on which, it has been long recognised, in an emergency the safety of the Empire would depend. There is only one general remark which I would like to make with reference to these aspects of the Budget, and that is that it must not be supposed that we are going to deal equally generously with all demands of the kind. My hon'ble colleague, the Financial Member, will insist on as strict economy as the Hon'ble Mr. Ananda Charlu can desire.

"I am sure the Council will have heard with much interest the statement which has been made by the Hon'ble the Military Member; and not only have we listened to it with interest, but it will be exceedingly valuable to have on our proceedings a record of this kind. It is a record of a great work, not only the work during five years of an individual of distinguished ability, but the work of a great Department of State under the guidance of the Hon'ble Member. It is, I believe, a record of progress both in efficiency and in economy.

"We shall all miss the Hon'ble Member in our debates here, but we rejoice to know that the influence of his work will be felt in India for many years to come.

"There is another great Department, however, in which it is impossible for me not to take a personal interest, and to which I should like to refer. The Hon'ble Mr. Playfair has spoken of the importance to India of its railways. He not unnaturally dwells specially on the question of rates. But I shall, with him, postpone the discussion of that delicate question. He has, however,

spoken of the general railway policy of the Government with approval, and I should like to say a word or two about that.

“The development of the country by the construction of railways has for long been the recognised policy of the Government of India, and I need support it by no detailed argument. The fact is that it is the method by which we can materially improve the condition of the vast population dependent upon agriculture most surely and most steadily, and I am the last person to deny the contention of the Hon'ble Member from the Central Provinces that there is much in the condition of the agricultural population that calls for the careful attention of the Government. Even irrigation works, all important as they are in certain localities, can scarcely claim such far-reaching results as railways; at all events, unless irrigation and railway works proceed simultaneously.

“I need scarcely point out that the improvement in the condition of the people which I have claimed for railways has a special bearing on the discussion of to-day. I believe that, if the lines we have constructed for military purposes and protection against famine are kept separate, a very sufficient return is realised on the capital we have expended on railways. But, in truth, their value is far greater indirectly—from the growth and stability of the land-revenue on which Indian finance depends so much, and which in its turn depends largely on increased facilities of communication.

“But while there has never been much doubt about the policy, there has been considerable debate as to the best means of carrying it out. At first the construction of railways was generally entrusted to companies under some form of guarantee; then came a period when State agency alone was employed. Since 1880 the pendulum has swung now to one side, now to another: and the problem has been how best to utilise the resources of the State on the one hand, and the funds which private enterprise offers on the other.

“I think there has been some misconception of what the Government have been doing in the matter. I shall not repeat more than necessary what has been said by other Members, but I should like to say how it appears to me.

“As a preliminary, however, we must clearly understand what we mean by private enterprise as applied to railways. It is not the same, and probably it never can be wholly the same here, as it is in England. There it means that certain persons propose to construct a railway; they obtain surveys and esti-

mates and prepare their Bill; they prove their surveys and estimates before a Select Committee, and pass their Bill, if they can. They raise their capital, buy the land, carry out their works; and, if they succeed in all this, they may make a profit. Throughout they look for nothing from the State. Parliament gives them certain rights, and imposes on them certain obligations, but only interferes with them financially by mulcting them in heavy Parliamentary expenses.

“We have nothing of all this in India, not even the last item. Private enterprise does not stand alone in this way. I do not propose at present to examine the causes of this; I merely ask you to note the fact that it is the State which makes the survey, which examines the estimates, which sanctions the project, which provides the land, which perhaps builds the line, and, quite possibly, in certain circumstances, might even work it. In fact the assistance given to the Government in India by private enterprise, with scarcely an exception, takes one of two forms: (1) it raises the capital in the sense that it acts as intermediary between the Government and the individual investor; or (2) it undertakes the management of the line when opened. Of the second, I need not say more than this, that the policy of entrusting the working of railways to company management has, in several instances, proved very successful, and may be carried further with advantage, provided that the companies are such that we can be sure the management will be in the hands of capable and energetic men.

“As to the raising of capital, I need scarcely remind you that the determining cause is the nature of the security offered. In proportion to any doubt which the investor may entertain of the safety of his investment will he demand a larger interest on his loan. The Government of India could certainly borrow on its own account all the money required for its railways at the cheapest rate, if it consented to offer the security of the revenues of India. Of late years, as I have said, it has been thought wiser not to do this in all cases, and the assistance of private enterprise has therefore been sought. That was the origin of the Branch Lines Resolution of 1893, which offered, not the guarantee of the Government, but a security based on certain traffic arrangements. I believe that as all, or almost all, of the lines coming under this Resolution would have been lines which had been approved by the Government as likely to give a fair return, the terms of the Resolution did, as a matter of fact, afford ample security. But, unfortunately, the conditions were necessarily somewhat complicated, and it was impossible so to state them as to bring home to the average reader what his true position would be. The results, therefore, have been disappointing, and the Government have taken the

whole matter into consideration. It has now been determined to issue a new Resolution for branch lines which will offer two alternatives—

- (1) a fixed yearly minimum dividend with such share of the surplus net profits as may be agreed upon; or,
- (2) a rebate arrangement on the lines of the present.

“The particular rate of interest will, of course, form part of the bargain, but the present intention is that the minimum dividend to be guaranteed under the first alternative should not exceed 3 per cent., and the rate of interest secured by rebates under the second alternative should be $3\frac{1}{2}$ per cent.

“The effect will be shortly this—

“Under (1) the company will receive an absolute guarantee of interest at a rate not exceeding 3 per cent. and a higher return if the net earnings of the branch are sufficient to pay more than the guaranteed dividend; and, as an alternative, under (2) the company will receive a dividend of $3\frac{1}{2}$ per cent., provided that the amount of the net earnings from local and interchanged traffic be sufficient, and a higher return if the net earnings of the branch from its own traffic be sufficient to pay a higher dividend.

“I do not wish to be misunderstood. We do not put forward this new Resolution because the small success of the former Resolution has hindered us in pushing forward the work of construction of railways. I do not believe that the amount of work we are now doing is at all realised, and I should like to give a few figures of mileage to show what it has been during the year now current.

“At the commencement of 1895-96, *i.e.*, on the 1st April, 1895, the total length of railways open for traffic was 18,863 miles, and the mileage under construction, or sanctioned for commencement on the same date, was 2,217 miles. During 1895-96, *i.e.*, from April 1st, 1895, to the present time, the commencement of 2,384 miles of new railway was authorised, and 1,009 miles were opened to traffic.

“Thus the total length of open line at the present moment is 19,873 miles, and the mileage now under construction, or sanctioned for commencement, is 3,564 miles.

“Adding together the amount of construction completed during the current year, and that in hand at the end of it, we have 4,573 miles, or an addition

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[The President.]

of one-fourth to the existing railways of India. This length of line exceeds the total length constructed in the United Kingdom in the last 20 years—or, to put it another way, is more than double the entire mileage of what is sometimes called the premier railway in England—the London and North-Western Railway Company—while there are only half a dozen Railway Companies in the United Kingdom whose mileage exceeds that which we opened as new lines in India in the single year 1895-96.

“I think that Hon'ble Members will be of opinion that this is a sufficiently extended programme. That part of it which still remains to be completed represents an expenditure of something like 35 crores. The Financial Statement shows that we are preparing to undertake not much less than a third of it during the year 1896-97, including the amounts which are to be provided by companies, and do not pass through the Government accounts.

“It is also a comprehensive programme if you look at the character of the principal undertakings. In the west, in the Bombay Presidency, we have the Rohri-Kotri Chord, 200 miles, which not only practically doubles the main line to Karachi, but secures us against an interruption of the traffic by the irruption of the Indus.

“Passing northwards, we have in Upper India the new company, the Southern Punjab, with a mileage of 400 miles, shortening materially the distance from Delhi. We have extensions of the Bengal and North-Western and Tirhoot State Railway system, 489 miles, which will provide on the north side of the Gogra a much improved communication between the districts where population is congested, and the districts in Eastern Bengal and Assam where labour is scarce, and on the south side of the Gogra a series of branches in the Eastern part of the North-West Provinces which is peculiarly liable to scarcity. We have also an important work, though the mileage is shorter, in the linking-up of the metre gauge systems of the north and west by a new connection between Cawnpore and the Gogra river, 80 miles.

“In Central India we have the Saugor-Katni Line, 118 miles, in connection with the Indian Midland system, which will not only secure districts which have suffered from scarcity more than any others since I came here, but will give a direct access for Umaria coal towards the west; and a similar advantage for east and west traffic has been secured by the construction of the Godhra-Rutlam and Bhopal-Ujjain Railways, a little further south.

“In the east there is the great scheme of the East Coast Railway, long contemplated, and now in a fair way to completion, of which it might be

enough to say that Calcutta and Madras seem prepared to tear any one to pieces who denies their claim to the larger share in its benefits. At all events, this large work of which there is now under construction about 600 miles, while it completes the programme of the Famine Commission—a Commission which I may remark did long ago the work which, if I rightly understood the Hon'ble Mr. Ananda Charlu's observations, he asked should now be done—in the one district remaining, Orissa, and gives an independent access to Calcutta to the Bengal and Nagpur Railway, it will connect Madras with the Northern districts of that Presidency, and will bring to it cheaply and expeditiously the excellent coal of Singareni. I am obliged to the Hon'ble Mr. Rees for the warm way in which he has represented the views of Madras.

“In the north-east, by the doubling of a considerable portion of the Eastern Bengal Railway, we hope to provide facilities for the great jute trade in which this city is so largely interested, while it is not too much to say that the construction of the Assam-Bengal Railway, 600 miles, will open up an entire province, and have a lasting effect on another great interest, *i.e.*, trade in tea.

“In Burma we have in hand the completion of the Mu Valley line to Myitkina, which will give a thorough connection to Upper Burma over more than 700 miles of railway and by the Mandalay-Kunlon, 224 miles, the carrying forward of our railways to the Chinese border.

“In addition to all this and outside the mileage figures I have given, the Nizam's Government have several railway projects under consideration, and we are assured that a line in the Godavari Valley of some 400 miles in length will shortly be begun. The growing interest taken by Native States in railway construction is an encouraging symptom.

“I venture to say that in this programme—I do not profess to have described it exhaustively, but only to have touched on its more prominent features and the longer lines—we have endeavoured to provide for the more pressing needs in many directions in the varying conditions of this great Empire. I do not deny that there are many more to satisfy. I know that here in this city there are those who complain of our inaction. I can say for the Government as well as for myself that we can never be indifferent to anything that would tend to the prosperity of this city and of its trade. No one who has seen the magnificent spectacle of the river crowded with shipping could fail to recognise how strong would be the arguments—senti-

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mental as well as material—against anything that affected adversely interests so great. But, if I may say so in a whisper, we are doing something for Calcutta on the East Coast Railway—on the Eastern Bengal Railway—perhaps I might add in the opening up of Assam. I am not going to argue in detail the vexed question of the connection to the north. I am bound to say that I am not one of those who think two railways always better than one, or three railways better than two, and I am also bound to add that I cannot find evidence to prove that the existing facilities are insufficient for the existing traffic. On the other hand, I admit that there are districts from which new traffic might come to Calcutta, and I admit that, if and when existing facilities prove insufficient, it would be necessary to provide additional facilities. All I would urge is that in the case of new traffic we are bound to have as complete information as can be obtained, in the case of coal fields to be opened up we are bound to be satisfied as to the quality and quantity of the coal, and in the case of fresh facilities we must study the best way of giving them; and, much as I should like to see the coal traffic from Palamow or Jherria filling the docks of Kidderpore, all I can say now is that we are prosecuting our enquiries as to the mineral resources of the district between Calcutta and the North-West, but they are not complete.

“As to fresh facilities *prima facie*, the first desideratum is to shorten the distance to be travelled. It will have been observed from a reply by the Secretary of State the other day to a question in Parliament that we have acknowledged that it falls to the East Indian Railway to construct what is undoubtedly the shortest line to the north, namely, the line known as the ‘grand chord;’ but we have coupled that acknowledgment with a very important stipulation. We are distinctly of opinion that full rights to running powers must be reserved for the administration working the Oudh and Rohilkhand Railway over any lines that may hereafter form part of a new through route between Mogal Sarai and Calcutta, and that stipulation will be found in the contract for the construction of the lines to Shergotty and Gaya now sanctioned. We recognise that it is imperative that the mercantile communities not only of Calcutta, but of Upper India, should be secured the full benefits that such a scheme, when carried out, would bring, and what I wish to make clear is that, if we have not been able to accept the case for the immediate construction of a second line between Calcutta and the North-West, we have at least taken care that no steps we are taking now shall be an obstacle to such a line, if it should be found desirable in the future.

"And, if any one has any hesitation about the efficiency of such a provision, I can give him an example. I was till the other day a Director of a Railway Company in Scotland that only by a right to running powers over a certain section of railway has access to an important city. It was essential to our rivals to shut us out if they could, and I will not deny that they did their best, but that they failed I think will be self-evident when I mention that the line of which I speak formed the 'run in,' 'the finish,' of the great railway race to the North, of which the home papers were so full a few months ago. There will be no lack of competition if the rivals of the East Indian Railway have the same powers as the rivals of the Caledonian."

"I have shown that our programme is a full programme, and that it covers a great deal of ground. I wish now to impress upon you that all this lays upon the Government one duty above others for the present, *i.e.*, to resist temptation. It is very tempting to be asked to embark in large schemes or great works. But, if I am right in saying that the State is concerned in some way or other in every railway enterprise in India, it is undoubtedly incumbent on us not only to push forward railway construction at a favourable time such as this, but to do so at a rate that is not excessive, but can be steadily maintained: to be bold indeed but not to be rash. With this object it is most desirable that the Government should themselves determine in the case of the larger schemes what new railways are required, and when they ought to be undertaken. It is only by so doing that a programme can be formed, can be adhered to, and can be carried out with regularity and efficiency. For the present it will be clear to every one that so far as large schemes are concerned our hands are full, and our ambitions must be humble."

"But there is another branch of railway construction which is at this moment even more important than the prosecution of large schemes, and that is the construction of those shorter lines which spread out from the great systems and, by gathering together the produce of the country, extend the beneficial influence of these systems over a far wider area. There is but one opinion of the necessity that exists for these lines in all directions, if we are to secure the development of the country of which I spoke at the beginning. I hope that, though our hands are full, it will still be possible to proceed with this work. It is a work which is specially suited for the employment of private enterprise, and I have told you the encourage-

ment we are prepared to offer. It is a work which can also be profitably undertaken by the great main lines themselves, and we are anxious to see them engaged in it. It is a work of which the several items may seem unimportant, yet which is the most potent instrument we possess not only to consolidate and render profitable the great railway system of India, in which so much of its wealth is invested, but to make it an all-powerful agent in the promotion of the material and social advancement and political tranquillity of the people."

CRIMINAL PROCEDURE CODE, 1882, AMENDMENT BILL.

The Hon'ble SIR ALEXANDER MILLER moved that the Report of the Select Committee on the Bill to amend the Code of Criminal Procedure, 1882, be taken into consideration. He said:—"This Bill has been so frequently before the Council, and the effects of the procedure discussed in the Select Committee were explained so fully last week when I presented the Report, that I do not propose to-day to recapitulate what must be fresh in the memory of Members of Council."

The Hon'ble MR. BHUSKUTE said:—"My Lord, the jury system has existed in India in the shape of a germ from time immemorial. Even the law, as it obtains here, recognizes it in the panchayat, arbitration, etc. Ny, the conclusiveness of its judgments has been generally accepted with satisfaction. I should have liked, my Lord, to dwell more on this point, had it not been for the heavy work of this day. I think the Bill as amended will please most of us, though there is some hesitation about section 307 of the original Act. But in my opinion the new wording inserted for the words 'so completely' does not make any new changes."

The Hon'ble NAWAB AMIR-UD-DIN AHMAD KHAN, BAHADUR, said:—"My Lord, the Bill to amend the Criminal Procedure Code, popularly known as the Jury Bill, has evoked a good deal of hostile criticism, and has engaged the attention of all classes of the community since its introduction in Your Lordship's Council."

"It is therefore a cause of much satisfaction that the Select Committee, as the result of their deliberations, have modified the original Bill to such an extent as to render any further adverse criticism unnecessary and have presented the measure in a form in which it can meet with general approval. The elimination from the Bill, as introduced, of the provision in respect of special verdicts

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UNITED KINGDOM PROBATES.

[*Nawab Amir-ud-Din Ahmad Khan, Bahádur ; Sir Alexander Miller.*] [26TH MARCH,

on specific issues of fact is the most noticeable feature of the Bill, as amended, and will be regarded as a very necessary modification, while the provision requiring High Courts to consider the entire evidence and to give due weight to the opinions of the Sessions Judge and jury in cases of reference when the Judge and jury differ in the matter of a verdict, and extending the period of exemption from service to twelve months in the case of special jurors, will I have no doubt make the jury system more acceptable to the people generally. I am exceedingly glad to find that the measure as it stands deserves cordial support, and I desire to be permitted to avail myself of this opportunity of congratulating the Hon'ble the Law Member in having on the eve of his laying down his high office been enabled to allay the uneasiness to which the Bill as introduced gave rise."

The motion was put and agreed to.

The Hon'ble SIR ALEXANDER MILLER moved that the Bill, as amended, be passed.

The motion was put and agreed to.

UNITED KINGDOM PROBATES BILL.

The Hon'ble SIR ALEXANDER MILLER said:—"The next motion in my name is the one with reference to the Probates and Letters of Administration Bill. I introduced this under the impression that it was perfectly and obviously non-contentious, and when I received from the Hon'ble Mr. Playfair the letter from the Administrator General which I thought was merely intended as a hint to call my attention to certain observations on the Bill, which I thought and still think showed an entire misapprehension of its meaning, I did not then think myself called upon to do more than mention the fact to the Council. Since then I have received what might be called a Parliamentary Paper from the Administrator General, which shows that he is still under what, without disrespect to him, I might call the illusion that the Bill will be injurious to the interests of creditors in India; and under the circumstances I do not think it would be wise in me to press for the passing of the Bill without its being referred, in the ordinary way, for the opinions of the various High Courts; and therefore I do not propose to make the motion that stands in my name, but would move that the Bill be circulated for opinion to Local Governments and Administrations and to the High Court of Calcutta."

The motion was put and agreed to.

REFORMATORY SCHOOLS; AMENDMENT OF GLANDERS AND FARCY ACT, 1879. 347

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REFORMATORY SCHOOLS BILL.

The Hon'ble MR. WOODBURN moved for leave to introduce a Bill to amend the Law relating to Reformatory Schools, and to make further provision for dealing with youthful offenders. He said:—"This is a Bill to amend an Act passed by this Council in 1876. Since that period several minor defects have been brought to notice, and some suggestions have been made to the Government by a Conference held in 1892, and the opportunity has been taken to consider the procedure in force in certain British Colonies. The detailed results of this examination are not very numerous, nor are they very important, but most of them are very useful. At this hour of the afternoon I will not refer in detail to them, but I may mention as illustrating them the authority that is given to a Subordinate Magistrate, who is not himself empowered to send an offender to a Reformatory School, to submit to the District Magistrate cases in which he considers that such detention is the most appropriate punishment: another, which I myself regard with special interest, provides authority by which opportunity is given to a Magistrate to discharge with a mere admonition a youthful offender convicted of an offence."

The motion was put and agreed to.

The Hon'ble MR. WOODBURN introduced the Bill.

The Hon'ble MR. WOODBURN moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English, and in the local official Gazettes in English and in such other languages as the Local Governments may think fit.

The motion was put and agreed to.

GLANDERS AND FARCY ACT, 1879, AMENDMENT BILL.

The Hon'ble MR. WOODBURN also moved for leave to introduce a Bill to amend the Glanders and Farcy Act, 1879. He said:—"It has been represented to the Government of India that it is highly expedient and desirable that the Glanders and Farcy Act should be made applicable to the Presidencies of Madras and Bombay and the Province of Bengal, as well as other Provinces in which it is desirable, and the entire object of the Bill is to make that extension."

The motion was put and agreed to.

The Hon'ble MR. WOODBURN introduced the Bill.

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 [Mr. Woodburn.] [26TH MARCH, 1896.]

The Hon'ble MR. WOODBURN moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English, and in the local official Gazettes in English and in such other languages as the Local Governments may think fit.

The motion was put and agreed to.

The Council adjourned *sine die*.

CALCUTTA; }
 The 30th March, 1896. }
 S. HARVEY JAMES,
 Secretary to the Government of India,
 Legislative Department.



Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892 (24 & 25 Vict., cap. 67, and 55 & 56 Vict., cap. 14).

The Council met at the Viceregal Lodge, Simla, on Thursday, the 30th July, 1896.

PRESENT:

His Excellency the Viceroy and Governor General of India, P.C., G.M.S.I., G.M.I.E., LL.D., *presiding*.
 His Excellency the Commander-in-Chief, G.C.I.E., K.C.B., V.C.
 The Hon'ble Sir J. Westland, K.C.S.I.
 The Hon'ble J. Woodburn, C.S.I.
 The Hon'ble M. D. Chalmers.
 The Hon'ble Major-General Sir E. H. H. Collen, K.C.I.E.
 The Hon'ble A. C. Trevor, C.S.I.
 The Hon'ble C. M. Rivaz, C.S.I.

NEW MEMBER.

The Hon'ble MR. RIVAZ took his seat as an Additional Member of Council.

FISHERIES BILL.

The Hon'ble MR. WOODBURN moved for leave to postpone his motion that the Bill to provide for certain matters relating to Fisheries in British India be referred to a Select Committee consisting of the Hon'ble Mr. Chalmers, the Hon'ble Mr. Trevor, the Hon'ble Nawab Amir-ud-Din Ahmad Khan Bahadur and the Mover.

Leave was granted.

GLANDERS AND FARCY ACT, 1879, AMENDMENT BILL.

The Hon'ble MR. WOODBURN moved for leave to postpone his motion that the Bill to amend the Glanders and Farcy Act, 1879, be taken into consideration. He explained that within the last few days a reference had been received from the Bombay Government which necessitated the postponement of the motion.

Leave was granted.

first of all, obtain an initial taxation by quantity. That it will do upon the drug cultivated in other Provinces and imported into the Province of consumption by the control exercised over the drug at the point of cultivation and the control exercised in respect of importation from the place of cultivation into the consuming Provinces. We do not intend that the levy of the tax shall take place at the very moment of storing the plant, or of obtaining it by importation. That would not necessarily suit the trade; they may reasonably wish to keep the drug and store it until it passes into consumption. For that purpose we provide a system of bonded warehouses, and though 'bonded warehouses' sound something very grand, they may really be nothing but a small godown within the confines of a central distillery; we provide, therefore, that the drug may remain untaxed in these bonded warehouses until it finally passes out into the possession of the vendors. At that point, whether the drug is obtained from importation from outside British India, or merely from outside the Province in which it is consumed, we intend that the consuming Province will be able to levy its initial duty. As I have explained, the present Act does not give power to Local Governments to levy an initial duty, or to hold the ganja under complete control of Government officials, and it is for the purpose of giving them that power that I propose to amend the Act. I ought also to mention that this Excise Act of 1881 has been the subject of very many amending Acts, and at a later stage I shall propose either to the Council or to the Select Committee, in such a form as my hon'ble friend Sir Alexander Miller may tell me is the proper form, that the Council should pass not a mere amending Act in the form in which the Bill is now proposed to be introduced, but an amended Act containing all the amendments up to date. It will be a mere consolidation because I do not pretend that the Act as it stands is in every respect satisfactory. At the same time the Excise Act—an Act which very many officers of Government, and many people engaged in a large trade, are having continual recourse to, and are required to enter into the ins and outs of—I say it is extremely desirable that such an Act should be in a consolidated shape and not scattered over the Statute-book in half a dozen partial Acts. It is desirable, however, in the first place that the Bill should take the form of an amending Act in matters relating to ganja only, because in that shape it will be easier for the Local Governments and officers concerned to consider the precise proposals contained in the Bill, and to avoid considering at the same time other matters in connection with the administration of excise in respect of which there is not the same urgency."

The motion was put and agreed to.

The Hon'ble SIR JAMES WESTLAND introduced the Bill.

The Hon'ble SIR JAMES WESTLAND moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English, and in the North-Western Provinces and Oudh Government Gazette, the Punjab Government Gazette, the Central Provinces Gazette, the Burma Gazette and the Coorg District Gazette in English and in such other languages as the Local Governments think fit.

The motion was put and agreed to.

The Council adjourned to Thursday, the 23rd January 1896.

S. HARVEY JAMES,

CALCUTTA;
The 17th January 1896.

} Secretary to the Government of India,
Legislative Department.

[Mr. Woodburn.]

[30TH JULY,

BURMA MUNICIPAL BILL.

The Hon'ble MR. WOODBURN moved for leave to introduce a Bill to amend the law relating to Municipalities in Burma. He said:—"This Bill has been prepared at the instance of the Chief Commissioner of Burma to carry out the various amendments which the experience of the past twelve years has rendered desirable. The amendments are none of them of a fundamental character, but they are so exceedingly numerous that the Legislative Department has considered it expedient, instead of passing a Bill of amendments, to prepare a new Bill altogether recasting and revising the Act of 1884. I had the curiosity this morning to count the amendments proposed, and I found that they numbered over 80; so the Council will probably not expect me to go into much detail in regard to the Bill which contains these 80 proposals. A detail has been prepared by the Legislative Department explaining each of them, which is being printed and will presently be distributed to Members of Council. It will, I think, sufficiently explain the object with which these several proposals have been made. Of these there are a few of special importance which I may mention as illustrative of the kind of proposals which the Chief Commissioner has submitted for our consideration.

"In clause 7 of the new Bill, as drafted by the Legislative Department, authority is given to the Chief Commissioner to delegate his powers in certain matters to the Commissioner of a division. That is a power which has proved useful in other Provinces and will certainly be useful in Burma.

"In clause 17 municipalities are authorised to elect an *ex officio* president. As matters stand in Burma, most of the presidents of municipalities are official presidents, and it has proved to be inconvenient in practice that from time to time the official president should be nominated by name, and it is proposed to give power to municipal committees, if they so desire, to elect a president *ex officio* to avoid this difficulty.

"In clause 20 the validation of certain elections and appointments which were held to be obscure has been made clear.

"In clause 29 committees are empowered—as they are empowered in the Punjab and other Provinces in India—to delegate certain of their powers to their president, and a very important provision is introduced by which the bye-laws of municipal committees shall be subject to approval by the Chief Commissioner—a provision which will bring about a certain uniformity in the bye-laws of municipal committees that is very desirable.

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[Mr. Woodburn.]

"In clause 33 authority is given to make rules as to the appointment and dismissal of municipal servants. This is also a very expedient measure, as it is desirable to ensure that municipal servants shall not be dismissed in any capricious way.

"Clause 45, perhaps the most important of all the proposals of the Chief Commissioner, provides that a maximum should be inserted in the Municipal Act as to the amount of taxation. At the present moment the maximum of taxation in Burma on immoveable property is 5 per cent. on its value; in other Provinces of India the maximum is $7\frac{1}{2}$ per cent., but the Chief Commissioner thinks this is too low a maximum, and wishes to have the maximum raised to 10 per cent. Without local knowledge, it is difficult to say whether a maximum of 10 per cent. is or is not too high, but the Bill contains the provision which the Chief Commissioner has himself desired, and the matter will be one for discussion in Select Committee.

"In clause 48 power is taken to impose a scavenging-tax. This does not occur in the same form in other provinces, but the Chief Commissioner recommends the provision as desirable in Burma.

"In clause 50 the procedure in respect of taxation is simplified in accordance with the Chief Commissioner's wishes.

"In clause 62 a new provision has been introduced in regard to appeals from persons upon whom taxes have been imposed. The Rangoon Municipal Committee resolved some time ago that a new system of deciding appeals against municipal assessments would be desirable. In the municipalities to which the Bill will apply, the need of providing an appeal to some outside person has not been made very manifest, but on general grounds it appears proper to provide for such an appeal. Accordingly the Commissioner, or Deputy Commissioner, has been made the appellate authority. It is obvious that a municipal committee assembled in general meeting is not capable of hearing objections, and it has been provided that a small sub-committee shall dispose of objections in the first instance. The Punjab Act, from which much assistance has been derived in the framing of this Bill, and the law in force in the City of Madras have furnished precedents for these proposals.

"In clause 74 a useful provision is introduced, permitting the members of a municipal committee when assembled in committee for the supervision of schools and hospitals to associate outsiders with themselves. This is a provision

BURMA MUNICIPALITIES.

[Mr. Woodburn; the President.]

[30TH JULY,

which has proved extremely useful in the Central Provinces, and I am glad to see its proposed extension to Burma.

"In clause 88 provision is taken to remove after due warning inflammable roofs in towns, such as those of Burma, which are largely composed of wooden buildings. This is a very necessary provision.

"In clause 97 regulations are adopted from the Punjab Act for the slaughter of animals. This is also a necessary provision which will recommend itself to the sense of the Council.

"In clauses 114 and 115 certain provisions have been adopted from the Calcutta and Bombay Acts for the construction of sewerage and water-connections between houses.

"In clause 133 provisions are made for the regulation of fire-brigades, and in clause 204 provision is taken for extending to other municipalities so far as may be appropriate the rules in force in the Rangoon Municipality for the construction and supervision of water-works.

"These are the principal changes made in the municipal law. They are very numerous and some of them are important. The Bill has been the subject of very minute attention on the part of the Chief Commissioner, and I hope the result will be an Act that will last for a term of at least twice the duration of that of its predecessor."

His Excellency THE PRESIDENT:—"I understand that the intention of the Hon'ble Member is that the Bill should now only be introduced and published, and should not be taken into consideration till the Council meets in Calcutta."

The Hon'ble MR. WOODBURN replied in the affirmative.

The motion was put and agreed to.

The Hon'ble MR. WOODBURN introduced the Bill.

The Hon'ble MR. WOODBURN moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English, and in the Burma Gazette in English and in such other languages as the Local Administration thinks fit.

The motion was put and agreed to.

1896.]

[Mr. Woodburn.]

LEPERS BILL.

The Hon'ble MR. WOODBURN moved for leave to introduce a Bill to provide for the segregation of pauper lepers and the control of lepers following certain callings. He said:—"In 1890-91 a Leprosy Commission visited India, and a couple of years later submitted a Report to the Government of India pressing upon it very earnestly two questions—the segregation of lepers and the restraint of lepers in certain callings in which they were brought into immediate contact with the food or the clothing of their neighbours. The Government of Bombay had already taken action in that direction with the help of a very munificent donation from Sir Dinshaw Petit. They constructed in 1890 a leper asylum in Bombay. That asylum, I believe, contains accommodation for about 300 lepers, and the result has been to free the City of Bombay from the beggars who extorted alms by the exhibition of their sores. The unfortunate creatures subjected to this dreadful malady have now been removed to a hospital in which that comfort and attention are given to them to which their pitiable condition gives them a just claim. The Government of Bengal followed that example last year and passed through their local Council a Bill for the two purposes I have mentioned—the segregation of lepers and their prohibition from certain callings; but the Act in its application was very carefully restricted. In the first place, the Act could not be introduced at all except into an area in which a leper asylum had been previously constructed; in the second place, as far as the segregation of lepers is concerned, it was confined to pauper lepers, that is, lepers who were beggars and had no ostensible means of subsistence; in the third place, no leper could be removed to an asylum except on the certificate of a medical authority, and the leper was provided with means for making an appeal from the order for his removal to an asylum; and last of all a very careful definition was made in regard to the callings from which the lepers in that area were expressly precluded, such as the sale of food and the washing of clothes. The Bill as is usual was circulated to a very large number of officials and non-officials in the Province and to Associations interested in the matter, and it was eventually passed through the Bengal Council, where it met with general approval and support. The Chief Commissioner of Burma has since applied to have the provisions of that Bill extended to Burma, and it is understood that several other Local Governments are also desirous of having the provisions of the Bengal Act applied to their Provinces. It has been considered more desirable, however, that, instead of having a separate Bill for each Province, a general measure should be framed upon the lines of the

[*Mr. Woodburn; Mr. Rivaz.*] [30TH JULY,

Bengal Act which each Government in turn may apply or not as the circumstances render expedient. That is the Bill which I have now the honour to ask leave to introduce."

The motion was put and agreed to.

The Hon'ble MR. WOODBURN introduced the Bill.

The Hon'ble MR. WOODBURN moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English, and in the local official Gazettes in English and in such other languages as the Local Governments think fit.

The motion was put and agreed to.

GOVERNMENT TENANTS (PUNJAB) ACT, 1893, AMENDMENT
BILL.

The Hon'ble MR. RIVAZ moved for leave to introduce a Bill to amend the Government Tenants (Punjab) Act, 1893. He said:—"The Bill is a simple amendment of the Government Tenants Act in the Punjab, Act III of 1893, which provides a convenient system of registration of the conditions on which Government lands are leased out in certain cases for the purposes of cultivation, and saves the necessity of giving separate lease deeds to a large number of small tenants. That Act was, however, passed with special reference to the colonization scheme on the Chenab Canal, and as at present worded it can only be made applicable to lands, the property of Government, which are irrigable in whole or part from a Government canal. But there are also extensive tracts of Government land at present lying uncultivated which are not commanded by any Government canal, and it may be desirable to bring some of these lands from time to time under a scheme of colonization similar to that which is at present working so successfully on the Chenab Canal. In such cases it would be convenient to take advantage of the provisions of the Government Tenants Act, and the object of the present Bill is merely to enable the Local Government to extend that Act, when considered desirable, to any lands which are the property of Government whether they are irrigable from a Government canal or not."

The motion was put and agreed to.

1896.] [*Mr. Rivaz.*]

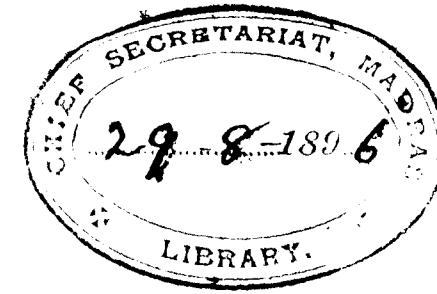
The Hon'ble MR. RIVAZ introduced the Bill.

The Hon'ble MR. RIVAZ moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English, and in the Punjab Government Gazette in English and in such other languages as the Local Government thinks fit.

The motion was put and agreed to.

The Council adjourned to Thursday, the 20th August, 1896.

SIMLA;	}	S. HARVEY JAMES,
<i>The 31st July, 1896:</i>		<i>Secretary to the Government of India, Legislative Department.</i>



Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892 (24 & 25 Vict., cap. 67, and 55 & 56 Vict., cap. 14).

The Council met at the Viceregal Lodge, Simla, on Thursday, the 20th August, 1896.

PRESENT:

His Excellency the Viceroy and Governor General of India, P.C., G.M.S.I., G.M.I.E., LL.D., *presiding*.
His Honour the Lieutenant-Governor of the Punjab, K.C.S.I.
His Excellency the Commander-in-Chief, G.C.I.E., K.C.B., V.C.
The Hon'ble Sir J. Westland, K.C.S.I.
The Hon'ble J. Woodburn, C.S.I.
The Hon'ble M. D. Chalmers.
The Hon'ble Major-General Sir E. H. H. Collen, K.C.I.E.
The Hon'ble A. C. Trevor, C.S.I.
The Hon'ble Nawab Amir-ud-Din Ahmad Khan, C.I.E., Bahadur, Fakharud-doulah, Chief of Loharu.
The Hon'ble C. M. Rivaz, C.S.I.

GOVERNMENT TENANTS (PUNJAB) ACT, 1893, AMENDMENT BILL.

The Hon'ble MR. RIVAZ moved that the Bill to amend the Government Tenants (Punjab) Act, 1893, be taken into consideration. He said that, as he had already explained, the Bill merely provided for a simple amendment to the present Act, and it was not thought necessary to circulate it for opinion.

The motion was put and agreed to.

The Hon'ble MR. RIVAZ moved that the Bill be passed.

The motion was put and agreed to.

INDIAN POST-OFFICE ACT, 1866, AMENDMENT BILL.

The Hon'ble SIR JAMES WESTLAND moved for leave to introduce a Bill to amend the Indian Post-office Act, 1866. He said:—"This Act, as its title

[Sir James Westland.]

[20TH AUGUST,

implies, is now thirty years old, and it falls very far short of the requirements of the Post-office as at present constituted. We have it in contemplation, at some time or other, to take up the whole Act for amendment; but there is at present one urgent and simple amendment, and it is in respect of this that I ask for leave to propose an alteration in the Act.

"In 1866 the Post-office had no duties in connection with foreign parcels,—in fact, such duties were not undertaken till a much more recent date than 1866,—and the consequence is that the Act as then passed makes no reference to them and gives the Post-office no legal powers in respect to this part of their business. Now, the Customs Act imposes upon the Customs-officers the task of realising the customs-duties upon parcels as it does upon all other goods which arrive from abroad; the Customs-officers have, in accordance with their duty, to realise that customs-tax before they part with their control over the imported parcels. It would be extremely inconvenient for the public if the Post-office were obliged, on the receipt of their parcels from home, to intimate to the receivers of the parcels that they could only forward them for delivery after the addressees had paid the duties on them to the Customs-officers. The Post-office has, therefore, undertaken the responsibility of paying the duty so as to receive delivery of the parcels in order to distribute them over India. In most cases—I may say in all but a few exceptional cases—no difficulty whatever is experienced in recovering the duty thus paid; but, in a few cases, persons who have taken delivery of their parcels have refused to pay the customs-duty due upon them to the Post-office, and the Post-office, as the law at present stands, have no means, or at any rate no summary means, of recovering the amount from the addressee.

"The simple object, therefore, of the present Bill is to give the Post-office the necessary legal power to recover the duty which it has paid upon the parcels."

The motion was put and agreed to.

The Hon'ble SIR JAMES WESTLAND introduced the Bill. He said:—"I may mention that the Bill consists of a single clause, adding a section to the Indian Post-office Act of 1866. The purport of that section is that the customs-duty which has been paid by the postal authorities upon parcels received from abroad shall be recoverable by the Post-office authorities in the same way as postage is recovered. The section of the Act which refers to the recovery of postage is section 28, and it provides two methods of recovery. One is the recovery in the same manner as fines imposed under the

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[Sir James Westland.]

Act are recoverable, which is by a distress-warrant, and imprisonment if necessary; and the other is action on the part of the Post-office itself in refusing the delivery of letters or parcels which may subsequently be received addressed to the same individual.

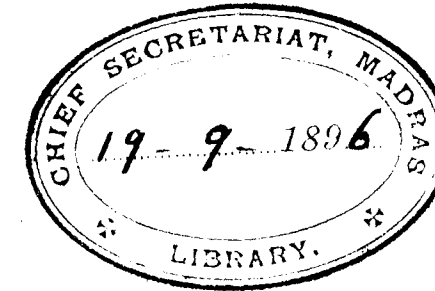
"It is not intended in the case of a simple Bill like this to circulate it for opinion to the Local Governments, and it will not be made public otherwise than in the regular way of publication in the local official Gazettes. I hope, with Your Excellency's permission, to ask the Council to pass the Bill during the course of the present Simla session. I have the honour, therefore, to move that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English, and in the local official Gazettes in English and in such other languages as the Local Governments think fit."

The motion was put and agreed to.

The Council adjourned to Thursday, the 10th September, 1896.

SIMLA;
The 21st August, 1896.

S. HARVEY JAMES,
Secretary to the Government of India,
Legislative Department.



Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892 (24 & 25 Vict., cap. 67, and 55 & 56 Vict., cap. 14).

The Council met at the Viceregal Lodge, Simla, on Thursday, the 10th September, 1896.

PRESENT:

His Excellency the Viceroy and Governor General of India, P.C., G.M.S.I., G.M.I.E., LL.D., *presiding*.
His Excellency the Commander-in-Chief, G.C.I.E., K.C.B., V.C.
The Hon'ble Sir J. Westland, K.C.S.I.
The Hon'ble J. Woodburn, C.S.I.
The Hon'ble M. D. Chalmers.
The Hon'ble Major-General Sir E. H. H. Collen, K.C.I.E.
The Hon'ble A. C. Trevor, C.S.I.
The Hon'ble Nawab Amir-ud-Din Ahmad Khan, C.I.E., Bahadur, Fakharud-doulah, Chief of Loharu.
The Hon'ble C. M. Rivaz, C.S.I.

GLANDERS AND FARCY ACT, 1879, AMENDMENT BILL.

The Hon'ble MR. WOODBURN moved that the Bill to amend the Glanders and Farcy Act, 1879, be taken into consideration. He said:—"At the last meeting of the Legislative Council in Calcutta in March I obtained leave from the Council to introduce this Bill. I explained at that meeting that the Bill was a very short one, the object of which was simply to extend to the Presidency of Madras and the Province of Bengal the provisions of the Act which apply to other parts of India. When the Act of 1879 was passed it was arranged that it should apply only to those Provinces which had not the assistance of a local Legislature. At that time the Madras Presidency had an Act of its own which applied not only to diseases of horses but to diseases of cattle. Subsequently the Bengal Council passed a local Act which, however, is in force only in Calcutta and the suburbs. The Bombay Government preferred to have the Act of 1879 applied in Bombay rather than to pass it separately in a different Act of their own, and what is now proposed is that the Act, which applies

[Mr. Woodburn.]

[10TH SEPTEMBER,

to other parts of India, shall also be applied to Bombay, Madras and to Bengal, an arrangement in which the Governments concerned have agreed."

The motion was put and agreed to.

The Hon'ble MR. WOODBURN said :—" Since this Bill was under consideration, short and simple as it is, a question has arisen regarding which I have to make a motion for the further amendment of the Act of 1879. That Act recognises two officials in connection with the duties imposed by it. There are Inspectors and there are Veterinary Surgeons. Occasions have arisen in which it has been expedient to appoint a single man to discharge both these duties. For example, a report has reached the Government that glanders has broken out on a line of road on which tonga ponies are used, and eventually an officer—a Veterinary Surgeon—is deputed to inquire and take such action as is necessary. In order to prevent any doubt upon the matter it is proposed to add to section 7 of the Act these words :—

'Provided that when the Inspector is also a Veterinary Practitioner so appointed he may make the examination himself.'

" Our supply of Veterinary Officers is not very large, and, as the real responsibility as to the action to be taken under the Act rests with the Veterinary Officer, it is most expedient that power should be given to the Veterinary Officer to inspect, as well as to pronounce when disease is present, and to take the necessary action in consequence. I accordingly move that the words I have just now read be added to section 7 of the Act."

The motion was put and agreed to.

The Hon'ble MR. WOODBURN said :—" I have also to move that the following clause be added to the Bill :—

XII of 1891. " 3. To the said Act, as amended by the Repealing and Amending Act, 1891, the following section shall be added, namely :—

" 15. Any Veterinary Practitioner may be appointed by the Local Government to be both Inspector and Veterinary Practitioner for all or any of the purposes of this Act or of any rule thereunder."

The motion was put and agreed to.

The Hon'ble MR. WOODBURN moved that the Bill, as amended, be passed.

The motion was put and agreed to.

1896.]

[Sir James Westland; Mr. Chalmers.]

INDIAN POST-OFFICE ACT, 1866. AMENDMENT BILL.

The Hon'ble SIR JAMES WESTLAND moved that the Bill to amend the Indian Post-office Act, 1866, be taken into consideration. He said :—" This Bill was introduced at the last meeting of the Legislative Council, its object being to give power to the Post-office, by summary means, to realise from the person to whom is delivered a parcel chargeable with customs-duty, and upon which customs-duty has been paid, the amount of customs-duty so paid. It is a very simple matter, and I stated when introducing the Bill that I proposed that at an early meeting of the Council it should be taken into consideration and, if possible, passed. The matter is too unimportant to attract any large amount of public attention, but so far as I have observed it mentioned in the public Press the proposed legislation has been approved as necessary."

The motion was put and agreed to.

The Hon'ble SIR JAMES WESTLAND moved that the Bill be passed.

The motion was put and agreed to.

ACT XXXVII OF 1850 AMENDMENT BILL.

The Hon'ble MR. CHALMERS moved for leave to introduce a Bill to amend Act XXXVII of 1850 (*for regulating Inquiries into the behaviour of Public Servants*). He said :—" These inquiries can be ordered by the Government. The present definition of 'Government' is contained in section 23 of that Act, and the definition is somewhat obscure. It is not quite clear in certain cases whether the inquiry ought to be ordered by the Supreme Government or by the Local Government, and the present section further contains, not a definition, but a description of Local Governments framed with reference to the state of affairs in 1850. The object of the present Bill is merely to clear up these doubts, and to provide that where a charge is made against a public servant the inquiry into his conduct can be ordered in all cases by the Supreme Government, and where he is removable by the Local Government there also the Local Government should have power to put the Act in force.

" There are one or two verbal amendments introduced with the same object. For instance, where the words 'the East India Company' occur, the word 'Government' or 'India' is substituted, and opportunity has been taken to give

364 AMENDMENT OF ACT XXXVII OF 1850; AMENDMENT
OF PUNJAB LAND-REVENUE ACT, 1887.

[Mr. Chalmers; Mr. Rivaz.] [10TH SEPTEMBER,

a short title to the Act in accordance with all modern practice. I think it is not necessary to say anything more about the Bill, which purely effects a formal amendment in the law."

The motion was put and agreed to.

The Hon'ble MR. CHALMERS introduced the Bill.

The Hon'ble MR. CHALMERS moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English, and in the local official Gazettes in English and in such other languages as the Local Governments think fit.

The motion was put and agreed to.

PUNJAB LAND-REVENUE ACT, 1887, AMENDMENT BILL.

The Hon'ble MR. RIVAZ moved for leave to introduce a Bill to amend the Punjab Land-revenue Act, 1887. He said:—"The present Punjab Land-Revenue and Tenancy Acts, which were the outcome of prolonged deliberations and discussions, have been in force for nearly nine years. In their main provisions they have worked very satisfactorily and there is no necessity for undertaking any general revision of either Act, at all events at present. A few minor amendments are, however, required in the Land-revenue Act, and the Bill which I now beg leave to introduce is intended to provide for these. The first point relates to the emoluments of zaildárs or village-circle-officers. These officers have hitherto been remunerated in most districts where the zaildárí system is in force by receiving a percentage of the land-revenue of the villages in their circle. By past custom the remuneration thus provided for the zaildár has been deducted from the whole land-revenue of his circle, whether Government or assigned, or redeemed or compounded for, and the contribution thus levied varies from a little under to a little over one per cent. In some districts, however, the system has been introduced of regulating the remuneration of zaildárs by grades according to merit and services rendered, and it may be desirable to extend this system from time to time, for administrative reasons, to districts where the circle system of remuneration is at present in force. But, as sub-section (2) of section 28 of the Act stands at present, the customary contribution from assignees of the land-revenue, or from landowners who have redeemed or compounded for the land-revenue, can only be legally levied when

1896.]

[Mr. Rivaz.]

the percentage of land-revenue appropriated in any zaildár's circle is devoted to the payment of the zaildár of such circle. Accordingly, the proposed amendment of this sub-section provides for these customary contributions being taken, as heretofore, from jágirdárs and other persons concerned when it is considered desirable to fund the percentages of the land-revenue which are appropriated for the payment of zaildárs, for any district or portion of a district. The maximum to be thus appropriated has been limited to one and a half per cent. and the provision applies to inámdárs as well as to zaildárs. I may mention that, whether the circle or graded system of remuneration is employed, the field of selection as regards a zaildár is identical; that is, the holder of such office must be a village-headman, or in special cases a landowner or Government tenant other than a headman, in the circle in which he is to be appointed, and in either case the zaildár's remuneration is paid to him in the form of an assignment on the land-revenue of some estate in his circle.

"The second matter dealt with in this Bill is an amendment of section 29 of the Act, so as to enable the patwári-cess, the accounts of which are at present kept separately for each district, to be funded for the whole province. This measure has been carried out in some other parts of India, and was suggested by the Government of India for adoption in the Punjab. The Local Government has accepted the proposal.

"The third and last matter under consideration is in connection with village-cesses. By section 145 of the Act, a list of such cesses which have been approved by the Local Government, or the title to which has been judicially established, has to be prepared for every estate from time to time by the revenue-officer, and especially when a general re-assessment of the land-revenue is undertaken. Sub-section (2) of this section provides that when such lists have been prepared any cess not comprised therein shall not be recoverable by suit in any Court. This provision has led to difficulties, as experience has shown that it is hardly possible for the revenue-officer to prepare an exhaustive list of village-cesses, and consequently section 145 has up to the present remained a dead-letter. It is therefore proposed to repeal sub-section (2), leaving the rest of the section as it stands at present. The safeguard which it is thus proposed to cancel is not needed in this Province, where the village-cess is generally a small due levied by the proprietary body of a village from the non-proprietary residents. Large landowners, who are in a position to levy improper exactions from their tenants in the shape of cesses, are but few in the Punjab. These few large landowners are mostly also grantees of the land-revenue of their estates, and

366 *AMENDMENT OF PUNJAB LAND-REVENUE ACT, 1887;
AMENDMENT OF PUNJAB MUNICIPAL ACT, 1891.*

[*Mr. Rivaz.*] [10TH SEPTEMBER,

the question of cesses which they may levy is generally regulated by Government as part of the arrangements made in settling their estates, as, for instance, in the case of the Khan of Teri in the Kohat District, and of the Jágírdár Rájás in the Kangra District.

"With these remarks, I beg to ask permission to introduce the Bill in question."

The motion was put and agreed to.

The Hon'ble MR. RIVAZ introduced the Bill.

The Hon'ble MR. RIVAZ moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English, and in the Punjab Government Gazette in English and in such other languages as the Local Government thinks fit.

The motion was put and agreed to.

PUNJAB MUNICIPAL ACT, 1891, AMENDMENT BILL.

The Hon'ble MR. RIVAZ moved for leave to introduce a Bill to amend the Punjab Municipal Act, 1891. He said:—"The object of the second Bill which I have to ask permission to introduce to-day is to make certain amendments in the Punjab Municipal Act, XX of 1891. At the instance of the Simla Municipal Committee, it is proposed to make some additions to section 137 of the Act which will enable municipal committees to regulate more effectively than they can at present the sale of milk and butter within municipal limits, and the importation of milk and butter for sale. A new section has also been added after section 137, closely following section 364 of the Calcutta Municipal Act and similar provisions in other Municipal Acts, which provides a penalty for selling any article of food or drink which is not of the nature, substance or quality of the article demanded by the purchaser. This new section will apply to those municipalities only to which it may be specially extended by the Local Government at the request of the committee.

"The opportunity has also been taken to revise the wording of sections 69 and 70 of the Act so as to bring it into accord with the declared policy of the Secretary of State and the Government of India against the farming of octroi.

AMENDMENT OF PUNJAB MUNICIPAL ACT, 1891.

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[*Mr. Rivaz.*]
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"The detailed reasons for these various amendments are given in the Statement of Objects and Reasons."

The motion was put and agreed to.

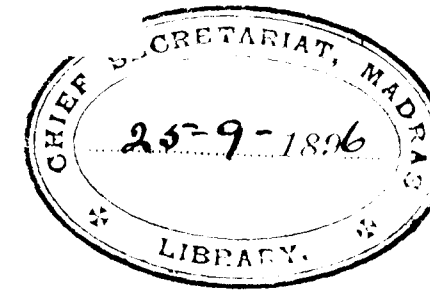
The Hon'ble MR. RIVAZ introduced the Bill.

The Hon'ble MR. RIVAZ moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English, and in the Punjab Government Gazette in English and in such other languages as the Local Government thinks fit.

The motion was put and agreed to.

The Council adjourned to Thursday, the 17th September, 1896.

SIMLA;
The 11th September, 1896: }
S. HARVEY JAMES,
Secretary to the Government of India,
Legislative Department.



Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892 (24 & 25 Vict., cap. 67, and 55 & 56 Vict., cap. 14).

The Council met at the Viceregal Lodge, Simla, on Thursday, the 17th September, 1896.

P R E S E N T :

His Excellency the Earl of Elgin, Viceroy and Governor General of India, P.C., G.M.S.I., G.M.I.E., LL.D., *presiding*.
The Hon'ble Sir J. Westland, K.C.S.I.
The Hon'ble J. Woodburn, C.S.I.
The Hon'ble M. D. Chalmers.
The Hon'ble Major-General Sir E. H. H. Collen, K.C.I.E.
The Hon'ble A. C. Trevor, C.S.I.
The Hon'ble Nawab Amir-ud-Din Ahmad Khan, C.I.E., Bahadur, Fakharud-doula, Chief of Loharu.
The Hon'ble C. M. Rivaz, C.S.I.

CENTRAL PROVINCES ADDITIONAL JUDICIAL COMMISSIONER'S BILL.

The Hon'ble MR. WOODBURN moved for leave to introduce a Bill to provide for the temporary appointment from time to time of an Additional Judicial Commissioner for the Central Provinces. He said :—"The Chief Commissioner of the Central Provinces has represented to the Government of India that some temporary assistance is very necessary to the Judicial Commissioner for the disposal of the appeals which have accumulated in his Court. I can say, from my personal knowledge, that the Judicial Commissioner himself is not in fault for the arrears which have so gathered. During the last three years the office of Judicial Commissioner has been held by Judges of notable assiduity and ability, but it was inevitable that the judicial business, like all other forms of official work in a growing Province, should increase, and the Government of India have admitted that it is necessary to afford the Judicial Commissioner some temporary help. When the case came to be considered it was found that the Civil Courts Act for the Central Provinces, which was passed in 1885, contained no provisions enabling the appointment

*Abstract of the Proceedings of the Council of the Governor General of India,
assembled for the purpose of making Laws and Regulations under the
provisions of the Indian Councils Acts, 1861 and 1892 (24 & 25 Vict.,
cap. 67, and 55 & 56 Vict., cap. 14).*

Th Council met at Government House on Thursday, the 23rd January, 1896.

PRESENT :

The Hon'ble Sir A. E. Miller, Kt., c.s.i., q.c., *presiding*.
His Honour the Lieutenant-Governor of Bengal, k.c.s.i.
His Excellency the Commander-in-Chief, g.c.i.e., k.c.b., v.c.
The Hon'ble Lieutenant-General Sir H. Brackenbury, k.c.b., k.c.s.i., r.a.
The Hon'ble Sir C. B. Pritchard, k.c.i.e., c.s.i.
The Hon'ble Sir J. Westland, k.c.s.i.
The Hon'ble J. Woodburn, c.s.i.
The Hon'ble Prince Sir Jahan Kadr Meerza Muhammad Wahid Ali Bahá-
dur, k.c.i.e.
The Hon'ble Mohiny Mohun Roy.
The Hon'ble C. C. Stevens. c.s.i.
The Hon'ble A. S. Lethbridge, c.s.i., m.d.
The Hon'ble M. R. Ry. P. Ananda Charlu, Rai Bahádur.
The Hon'ble Sir G. H. P. Evans, k.c.i.e.
The Hon'ble Alan Cadell, c.s.i.
The Hon'ble J. D. Rees, c.i.e.
The Hon'ble G. P. Glendinning.
The Hon'ble Nawab Amir-ud-Din Ahmad Khan, c.i.e., Bahádur,
Fakharuddoulah, Chief of Loharu.
The Hon'ble Rao Sahib Balwant Rao Bhuskate.
The Hon'ble P. Playfair, c.i.e.

NEW MEMBER.

The Hon'ble M. R. Ry. P. ANANDA CHARLU, RAI BAHÁDUR, took his seat
as an Additional Member of Council.

COTTON DUTIES AND TARIFF BILLS.

The Hon'ble SIR JAMES WESTLAND moved for leave to introduce a Bill to
provide for the Imposition and Levy of certain Duties on Cotton Goods. He
said :—"It will be in the recollection of the Council that when first we re-imposed

370 CENTRAL PROVINCES ADDITIONAL JUDICIAL COM-
MISSIONER; SINDH INCUMBERED ESTATES.

[Mr. Woodburn.]

[17TH SEPTEMBER,

of an Additional Judicial Commissioner, and that in order to validate the proposed appointment it was necessary to pass a special Act. That is the reason why the Bill which I have now the honour to ask leave to introduce has been prepared. It has been framed on the provisions of a similar Act passed in similar circumstances in Oudh in 1885, and opportunity has been taken of adding to it a provision which is necessary in order to provide for a case which I hope will be of more frequent occurrence in the future than it has been in the past, in which a Provincial Judge is promoted to the office of Additional Judicial Commissioner. A Judge so promoted cannot decide appeals from the judgments he has given in a lower capacity. The Code of Criminal Procedure contains a section which provides for that contingency. The Judicial Commissioner in regard to criminal appeals is empowered to transfer to the High Court of some other Province appeals from his own decisions as a Sessions Judge. A similar provision is necessary in regard to civil appeals, and a clause to that effect has been introduced into the Bill."

The motion was put and agreed to.

The Hon'ble MR. WOODBURN introduced the Bill.

The Hon'ble MR. WOODBURN moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English, and in the Central Provinces Gazette in English and in such other languages as the Local Administration thinks fit.

The motion was put and agreed to.

SINDH INCUMBERED ESTATES BILL.

The Hon'ble MR. WOODBURN moved for leave to introduce a Bill to amend the law providing for the relief of Jágirdárs and Zamíndárs in Sindh. He said :—"I have to ask the leave of the Council to introduce another Bill. It is to revive the Sindh Incumbered Estates Act of 1881. That Act was passed for the relief of embarrassed landowners in Sindh. They were invited and enabled to apply for the management of their estates by the officers of Government, but a period of six months from the passing of the Act was fixed for any such application, and that limitation once passed no further applications under the Act could be entertained. The main reason for that limitation I believe to have been that Government had been asked to provide the money by which the debts of the

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[Mr. Woodburn; Sir James Westland.]

applicants were to be paid off. A similar help had been given to incumbered properties in Oudh in 1870, and a similar limitation was made in the Act for that Province. This limitation distinguishes the Incumbered Estates Acts of Sindh and Oudh from the Court of Wards Acts which are in force in most Provinces.

"In Sindh there is no Court of Wards Act, but some assistance to indebted proprietors is necessary, and the simplest way of giving it is to re-enact the Act of 1881 without the provision which limits the period for applications.

"The Government of India have agreed to this course, the more readily because it is no longer proposed to make the measures of relief solely dependent on loans from the State. In the Courts of Wards in other parts of India, bankers, both English and Native, are found very ready to lend money at moderate rates of interest on the security of the management of the Court of Wards, and it is obvious that the more local assistance of this kind is enlisted, the wider is the area over which the help of the Court of Wards to embarrassed proprietors can be given. The extent to which the Government of India can lend money for the purpose is limited, and all funds so provided are withdrawn from other and at least equally useful purposes. The indebtedness in Sindh, which has been represented by the Bombay Government, is evidence in itself that there is local capital in the Province, very willing to find investment in land. The Government of India has been pressed to take early action because foreclosure is threatened on some estates which the Local Government is anxious to save. It may be gathered, therefore, that local capital is more than willing to find investments in land.

"The Government of India will give such pecuniary help as is necessary, but it will be in supplement of the local loans which the District Officers are able to raise in the local markets at moderate rates.

"The Act of 1881, in the section which describes the liquidation-scheme of the Government manager, authorizes him in express terms to borrow from Government. These words are omitted in the Bill reviving the Act which I have asked leave to introduce. The manager's powers of borrowing money on the security of the estate are thus made general.

"This and the removal of the time-limit are the only changes proposed in reviving the Act."

The Hon'ble SIR JAMES WESTLAND said :—"As the amendment of the Act of 1881, to make which the present Bill is proposed to be introduced into this

[*Sir James Westland.*] [17TH SEPTEMBER,

Council, involves a small question of financial policy, I would ask Your Excellency's permission to make a few remarks regarding it.

"We have recently received from more than one Government applications to make loans in order to redeem from their pecuniary difficulties persons of local distinction—either pensioners of Government or landholders—people who represent families of some local importance and who have been long held in respect by the people of the neighbourhoods in which they live. It has been necessary for the Government in connection with these applications to consider the general question of the extent to which public funds should be utilised for the purpose of the relief of local magnates, and the decision the Government has come to is to adhere to its previously declared policy of refusing, as a matter of principle, to intervene in matters of the kind. The question had been before the Government and had been decided by it before the present proposal of the Government of Bombay was made to apply Government loans, under the principle of the Act of 1881, to the relief of incumbered estates in Sindh. Now, we must admit it to be, to a certain extent, desirable on public grounds that the representatives of the families to which the natives in various parts of this country have been accustomed to look up should not through the action of our Courts be effaced and reduced to a state of poverty, even although that state of poverty may be what we consider the legitimate consequence of their own extravagance or want of thrift. It is, to a certain extent, a matter of public interest that this principle should be applied even to petty magnates who are merely the dominant members of the society of a village. This last, however, is a much more general question. It is a question which is at present before the Government of India in another shape and is receiving due consideration.

"I deal here, for the most part, with proposals to lend small sums of money—Rs. 5,000, Rs. 10,000 or Rs. 20,000—which are meant to relieve landholders and preserve the social position of people who have for a long time held a position of local distinction. Now, it is very natural that a local authority—a Collector or Commissioner for example—when he sees one of this class in pecuniary difficulties should fix his attention, to a large extent, upon the public aspect of the disadvantage of allowing him to be reduced to a position of dependence and perhaps poverty; and the means which the local authority sees most readily is that of Government coming forward and lending money at a cheap rate of interest in order to extricate the estate, or the individual, from his difficulties. He naturally sees that the direct result of such action would be that the creditor of the estate who has been pressing for his money would get it repaid; that

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[*Sir James Westland.*]

the debtor would be freed from the pressure of his incumbrances; and that the Government who has lent the money, and receives 5 per cent. on money that it can borrow at 3 per cent., would be a gainer. Everybody in fact would be satisfied all round, and everybody would be a gainer. But when these various applications are concentrated, as they are when they come before me, and when I am obliged to look at them from the general point of view, I see disadvantages—disadvantages as far as the Government is concerned, and disadvantages also even as regards the attainment of the results aimed at by an Incumbered Estates Act. So far as regards the Government, we have, unfortunately, far more pressing demands upon our loan funds than any that can be brought forward in respect of incumbered estates. For one thing, the railway policy initiated under Your Excellency's auspices not only absorbs the loan funds raised in this country but also necessitates application to the English money-market for sterling borrowing. The consequence is that any loans which we make to estates in this country, such as we would have to make if the Incumbered Estates Act of 1881 were renewed, would practically be made out of funds borrowed in sterling in England. With all these demands it is incumbent upon us, simply as a matter of the proper management of the public finances, to restrict as far as possible the use of public funds for a purpose for which there is reasonable prospect of other funds being forthcoming. But, as I say, there is a disadvantage in our interference in these matters even from the point of view of those officers who are anxious to redeem the estates in their districts and divisions from indebtedness, for it is obvious that as long as the Government comes forward with loans at 5 per cent. it practically drives away other capitalists from the market. Now, I think it was Lord Northbrook who said, in talking of the policy of Government intervening in the matter of the import of grain into famine-stricken districts, that while Government can do more than any one merchant, still the sum and substance of all that Government can do is very much less than that which can be effected by all the merchants put together. We have, therefore, from the point of view of those who most strongly support this policy of redeeming estates to choose between these two courses:—Government may come forward with such small amount of money as it can afford, and can lend it at a low rate of interest, and this would tend to exclude all other capitalists from the market; or Government may keep in the background altogether, and by fixing a higher rate of interest for its own loans induce capitalists to enter the market and offer loans at a reasonable interest,—I think my Hon'ble friend Mr. Woodburn would probably set this down at something like 6, 7 or 8 per cent.,—and if these rates were available we believe that private capitalists

[*Sir James Westland.*] [17TH SEPTEMBER, 1896.]

would come forward and lend money for such purposes as the Bill now being introduced contemplates.

"The Commissioner in Sindh, when he reported on the present matter, pointed out that there was a great want of local capital in Sindh, and he was of opinion that, if Government did nothing to assist, there would be no means of carrying out the purposes of the Bill; but I find as a matter of fact that Government when it has lent money in Sindh has lent it at a much lower rate of interest than any private capitalist would be induced to lend, and that its action therefore has been such as to prevent private money being available for estates brought under Government management. We see, as Mr. Woodburn has pointed out, that as a matter of fact money has been forthcoming for loans by private arrangement on estates in Sindh, although it has not of course been lent at the low rate of interest which the local authorities expected the Government to lend it. We hope, therefore, that one effect of the withdrawal of Government from this particular form of business will be to induce private capitalists to come forward and lend money for the purposes of the Bill. It is not with the intention of making a profit out of usurious interest that the Government propose to lay down as a principle that in these cases they should not lend money except at such rate of interest as may reasonably be required by private capitalists, but purely with the intention of withdrawing from competition in a business which it is in the interests of all concerned much better to leave in the hands of private bankers and moneylenders."

The motion was put and agreed to.

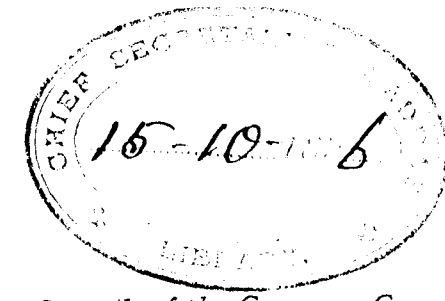
The Hon'ble MR. WOODBURN introduced the Bill.

The Hon'ble MR. WOODBURN moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English, and in the Bombay Government Gazette in English and in such other languages as the Local Government thinks fit.

The motion was put and agreed to.

The Council adjourned to Thursday, the 1st October, 1896.

SIMLA;	}	S. HARVEY JAMES,
The 18th September, 1896.		Secretary to the Government of India, Legislative Department.



Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892 (24 & 25 Vict., cap. 67, and 55 & 56 Vict., cap. 14).

The Council met at the Viceregal Lodge, Simla, on Thursday, the 1st October, 1896.

PRESENT:

His Excellency the Earl of Elgin, Viceroy and Governor General of India, P.C., G.M.S.I., G.M.I.E., LL.D., *presiding*.
His Honour Sir Dennis Fitzpatrick, K.C.S.I., Lieutenant-Governor of the Punjab.
His Excellency General Sir G. S. White, G.C.I.E., K.C.B., V.C., Commander-in-Chief in India.
The Hon'ble Sir J. Westland, K.C.S.I.
The Hon'ble J. Woodburn, C.S.I.
The Hon'ble M. D. Chalmers.
The Hon'ble Major-General Sir E. H. H. Collen, K.C.I.E.
The Hon'ble A. C. Trevor, C.S.I.
The Hon'ble Nawab Amir-ud-Din Ahmad Khan, C.I.E., Bahadur, Fakharud-doulah, Chief of Loharu.
The Hon'ble C. M. Rivaz, C.S.I.

PUNJAB LAND-REVENUE ACT, 1887, AMENDMENT BILL.

The Hon'ble MR. RIVAZ moved that the Bill to amend the Punjab Land-Revenue Act, 1887, be taken into consideration. He said that the amendments made by the Bill were explained by him in introducing it. They were very simple and of a non-controversial nature, and it was not thought necessary to circulate the Bill for opinion.

The motion was put and agreed to.

The Hon'ble MR. RIVAZ moved that the Bill be passed.

The motion was put and agreed to.

PUNJAB MUNICIPAL ACT, 1891, AMENDMENT BILL.

The Hon'ble MR. RIVAZ moved that the Bill to amend the Punjab Municipal Act, 1891, be taken into consideration.

The motion was put and agreed to.

[*Mr. Rivaz ; Mr. Woodburn ; Sir James Westland.*] [1ST OCTOBER,

The Hon'ble MR. RIVAZ moved that clause 1 of the Bill be omitted and the numbering of the following clauses altered accordingly. He said :—"The clause which it is proposed to omit made certain amendments in sections 69 and 70 of the Punjab Municipal Act, which would have had the effect of prohibiting altogether the farming of octroi-dues. The Punjab Government have, however, represented that hitherto the practice in the Punjab has been to allow the farming of these dues in special cases with the sanction of some controlling authority, who is generally the Commissioner of the Division, and in respect of such articles as milk, fruit, vegetables and the like. This practice was authorised by the Government of India, after correspondence on the subject, and it has been thought desirable to continue it as a convenient arrangement to all concerned. It is therefore now proposed to omit clause 1 of the Bill, which will leave sections 69 and 70 of the Act as they stand at present. The remaining provisions of the Bill have not been altered in any respect."

The Hon'ble MR. WOODBURN said :—"It is perhaps expedient that I should make a single remark on this question. As has been stated in the Statement of Objects and Reasons, it was ruled both by the Government of India and the Secretary of State that the leasing of octroi-dues should not be in any way permitted, and a note was made that when an opportunity came to revise the Punjab Municipal Act the section in that Act which permits the leasing of octroi-dues should be altered. I have had it brought to my notice since this arrangement was made that, in several municipalities in the Punjab, the direct sanction of the Government of India for the leasing of certain forms of octroi-dues, as explained by the Hon'ble Mr. Rivaz, has been given, and the Lieutenant-Governor, although he agrees in the general principle laid down by the Government of India, has asked that the present opportunity should not be taken of bringing this custom to an immediate end. He has promised to take the matter into consideration and to make such other arrangements as will permit the gradual abolition of this custom in municipalities in which it is in force. On this understanding, as far as I am concerned, I consent to the omission of the clause."

The Hon'ble SIR JAMES WESTLAND said that he would not have thought it necessary to make any remark if the clause which it was now proposed to delete had not first been inserted in the Bill and now formally withdrawn. But, before assenting in the Legislature to a proposal which seemed to formally endorse the application of octroi as a means of municipal taxation, he wished to make it clear that he adhered in principle to the view expressed by his predecessors that there were many economic objections to octroi as a form of

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municipal taxation, although there were strong administrative and political objections to its supersession, especially in Northern India, by other forms of taxation. He wished to make this personal reservation in assenting to a motion which not only sanctioned octroi, but sanctioned, within certain limits, the giving of it in farm.

The motion was put and agreed to.

The Hon'ble MR. RIVAZ moved that the Bill, as amended, be passed.

The motion was put and agreed to.

CENTRAL PROVINCES ADDITIONAL JUDICIAL COMMISSIONER'S BILL.

The Hon'ble MR. WOODBURN moved that the Bill to provide for the temporary appointment from time to time of an Additional Judicial Commissioner for the Central Provinces be taken into consideration. He said that at the last meeting of the Council he had explained the objects of the Bill and the reasons for it, and it was unnecessary now to repeat his remarks on that occasion.

The motion was put and agreed to.

The Hon'ble MR. WOODBURN moved that the Bill be passed.

The motion was put and agreed to.

PROVIDENT FUNDS BILL.

The Hon'ble MR. CHALMERS moved for leave to introduce a Bill to amend the law relating to Government and other Provident Funds. He said :—"This is a Bill which requires very few words of explanation. It proposes to apply to Government Provident Funds the rules which already prevail in England as regards friendly societies and Industrial Provident societies. I believe that those societies in English form do not exist in India; but, on the other hand, we have various Provident Funds under the Supreme Government, and I believe there are in course of formation other societies of the like kind under Local Governments."

"The main object of the Bill is to provide that, on the death of a subscriber, the Fund which has accumulated, and which, under the rules of his service,

[Mr. Chalmers.]

[1ST OCTOBER, 1896.]

he is bound to subscribe to, should be distributed among his relatives or nominees without any legal formalities. In the case of these small assets, where there is a small fund accumulated for the benefit of the family of the depositor, it is essential that the distribution should be made as quickly and with as little expense and formality as possible. That has been fully recognised by the English Legislature, and we now propose in the main section of this Bill to provide that, on death, the officer whose duty it is to pay out the money may pay it to an executor if there is one, and if not to a nominee, and if not to a nominee why then he will pay it to the person who appears to him to be entitled to receive it.

"There is one other clause which just requires mention. We propose that, where the funds are collected compulsorily and where the depositor is bound to pay in the money, that money should be exempt from attachment under civil process. I think that is perfectly right; for it would not be fair that any one creditor should be able to step in and sweep away the whole of the deposits compulsorily made for certain special objects. It is not a case of money in a savings bank, or of money voluntarily put aside, but of compulsory payments to make provision for the family. In this case too we are following, though not going so far as, English law.

"There is also a power to extend the provisions of the Act to any other Provident Fund under any other local authority. That will, no doubt, be a useful power to exercise as these institutions increase, as we hope they will.

"I think there is nothing more in the Bill which requires mentioning."

The motion was put and agreed to.

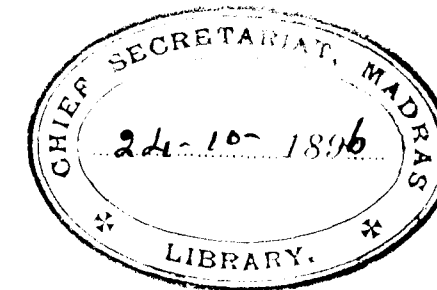
The Hon'ble MR. CHALMERS introduced the Bill.

The Hon'ble MR. CHALMERS moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English, and in the local official Gazettes in English and in such other languages as the Local Governments think fit.

The motion was put and agreed to.

The Council adjourned to Thursday, the 15th October, 1896.

SIMLA;	}	S. HARVEY JAMES,
The 2nd October, 1896.		Secretary to the Government of India, Legislative Department.



Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892 (24 & 25 Vict., cap. 67, and 55 & 56 Vict., cap. 14).

The Council met at the Viceregal Lodge, Simla, on Thursday, the 15th October, 1896.

PRESENT:

His Excellency the Earl of Elgin, Viceroy and Governor General of India, P.C., G.M.S.I., G.M.I.E., LL.D., *presiding*.

His Excellency General Sir G. S. White, G.C.I.E., K.C.B., V.C., Commander-in-Chief in India.

The Hon'ble Sir J. Westland, K.C.S.I.

The Hon'ble J. Woodburn, C.S.I.

The Hon'ble M. D. Chalmers.

The Hon'ble Major-General Sir E. H. H. Collen, K.C.I.E.

The Hon'ble A. C. Trevor, C.S.I.

The Hon'ble Sir A. S. Lethbridge, K.C.S.I., M.D.

The Hon'ble C. M. Rivaz, C.S.I.

SINDH INCUMBERED ESTATES BILL.

The Hon'ble MR. WOODBURN moved that the Bill to amend the law providing for the relief of Jágirdárs and Zamíndárs in Sindh be taken into consideration. He said :—"Since the Bill was introduced only one comment upon it has been received. It was referred to the Government of Bombay for opinion, and they have expressed their earnest desire that the Bill should be passed into law without delay. They apprehend that any delay may lead to foreclosures of mortgages in Sindh which they are very anxious to avoid. It is unnecessary that I should recapitulate the reasons for this measure which I gave in Council the other day. The course of events since has shown the great necessity of Government husbanding its imperial resources and of calling into play all those local aids which it may be presumed are available in Sindh. I have little doubt, as I said on the previous occasion, that in Sindh, as in other parts of the country, abundant opportunities will be given to the Collectors of getting local loans at reasonable rates of interest as is done in other parts of the country."

The motion was put and agreed to.

The Hon'ble MR. WOODBURN also moved that the Bill be passed.

The motion was put and agreed to.

[Mr. Woodburn.]

[15TH OCTOBER,

GOVERNMENT BUILDINGS BILL.

The Hon'ble MR. WOODBURN moved for leave to introduce a Bill to provide for the exemption from the operation of municipal laws of certain buildings and lands which are the property, or in the occupation, of Government and situate within the limits of a municipality. He said:—"In a case which occurred some little time ago the municipal authorities claimed the right of inspecting and pronouncing upon the propriety of the alteration of the plans of certain buildings within a defensive work which happened to be situated inside the municipal area. The plans were shown as the buildings were unimportant, but very strong representations were made to the Government of India that the precedent was inconvenient, and that the Military Department should have the right of refusing to submit to public inspection and criticism the plans of works which, from the very nature of the case, are ordinarily confidential. In another case the Local Government took exception to the claim made by a Municipal Committee to examine and modify plans of State buildings which it had been proposed to erect within municipal limits. They represented that these plans had been prepared and matured by the best Engineers that were available in the Province, and that it was inconsistent that plans so prepared should be modified at the instance of other professional advisers who certainly had not equal experience and reputation. Municipal Committees, like all other administrative bodies and functionaries, are under the control and guidance of the Executive Government, and it was urged that it is right that the supreme authority and the final decision in respect to the character and form of State buildings within municipal limits should be, not with the Municipal Committee, but with the Government itself. These arguments appear to the Government of India to be reasonable, and the Bill which I have to ask leave to introduce to-day provides that the supreme authority in such matters shall rest with the Government. At the same time it is right and reasonable that Municipal Committees should have the fullest knowledge of the intention to construct buildings within their jurisdiction, whether these buildings are private or State buildings. They have large responsibilities and they have very important interests to consider and protect. The comfort and convenience of the citizens may be affected by these buildings, and sanitary conditions have to be maintained. It is, therefore, as I have said, only right that Municipal Committees should have the fullest opportunity of ascertaining and of objecting to any details of such plans which may interfere with the general scheme of municipal administration. The Bill accordingly provides that ample notice shall be given to Municipal Committees of the intention of Government to erect any State buildings, or public edifices, within municipal areas. It provides, except in those

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[Mr. Woodburn.]

special cases where, for military reasons, it is impossible to disclose plans, that the plans shall be shown to the Municipal Committee. It provides that Committees shall have an opportunity of stating to the Government any objections they entertain to those plans, and it provides that, if those objections are overruled, the reasons for overruling them shall be explained to the Committees. The Bill does take power to reserve to the Government a supreme authority in the decision of matters of the kind, but the Municipal Committee may rest assured that the fullest weight will be given to any representations they may have to make."

The motion was put and agreed to.

The Hon'ble MR. WOODBURN introduced the Bill.

The Hon'ble MR. WOODBURN moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English, and in the local official Gazettes in English and in such other languages as the Local Governments think fit.

The motion was put and agreed to.

FISHERIES BILL.

The Hon'ble MR. WOODBURN said:—"I have to ask Your Excellency's permission to make a statement in regard to the Fisheries Bill which has been on the books of the Legislative Council since 1893. The Bill as it was then introduced consisted of two parts. The first had the object of preventing, or at least restraining, wanton or wasteful methods of fish capture, and the other had the object of protecting the owners' rights in private fisheries. The Government of India have come to the conclusion that the second part of that Bill should not be proceeded with, and I wish to take this opportunity of explaining very briefly the reasons which have led to that conclusion.

"Legislation which affects the daily and domestic life of the poorer classes is always difficult and doubtful, because one can never be very certain of the precise effect of that legislation. In this present matter it has been represented to the Government of India that, in large tracts of the country, the poorer classes are in the habit of fishing, without let or hindrance, in waters which certainly cannot be legally described as public waters. It is difficult to say how far this custom of the people is a right exercised by the permission of the proprietors, but it is apparently the fact that in very large areas it is the practice of

[Mr. Chalmers.] [1ST OCTOBER, 1896.]

he is bound to subscribe to, should be distributed among his relatives or nominees without any legal formalities. In the case of these small assets, where there is a small fund accumulated for the benefit of the family of the depositor, it is essential that the distribution should be made as quickly and with as little expense and formality as possible. That has been fully recognised by the English Legislature, and we now propose in the main section of this Bill to provide that, on death, the officer whose duty it is to pay out the money may pay it to an executor if there is one, and if not to a nominee, and if not to a nominee why then he will pay it to the person who appears to him to be entitled to receive it.

"There is one other clause which just requires mention. We propose that, where the funds are collected compulsorily and where the depositor is bound to pay in the money, that money should be exempt from attachment under civil process. I think that is perfectly right; for it would not be fair that any one creditor should be able to step in and sweep away the whole of the deposits compulsorily made for certain special objects. It is not a case of money in a savings bank, or of money voluntarily put aside, but of compulsory payments to make provision for the family. In this case too we are following, though not going so far as, English law.

"There is also a power to extend the provisions of the Act to any other Provident Fund under any other local authority. That will, no doubt, be a useful power to exercise as these institutions increase, as we hope they will.

"I think there is nothing more in the Bill which requires mentioning."

The motion was put and agreed to.

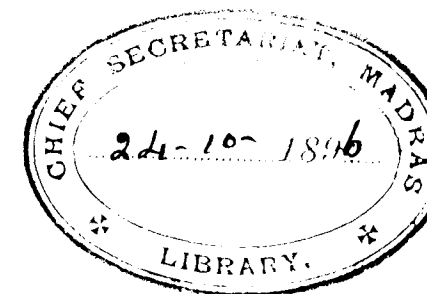
The Hon'ble MR. CHALMERS introduced the Bill.

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The motion was put and agreed to.

The Council adjourned to Thursday, the 15th October, 1896.

SIMLA ;
The 2nd October, 1896. }
S. HARVEY JAMES,
Secretary to the Government of India,
Legislative Department.



Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892 (24 & 25 Vict., cap. 67, and 55 & 56 Vict., cap. 14).

The Council met at the Viceregal Lodge, Simla, on Thursday, the 15th October, 1896.

PRESENT:

His Excellency the Earl of Elgin, Viceroy and Governor General of India, P.C., G.M.S.I., G.M.I.E., LL.D., *presiding*.

His Excellency General Sir G. S. White, G.C.I.E., K.C.B., V.C., Commander-in-Chief in India.

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The Hon'ble MR. WOODBURN moved that the Bill to amend the law providing for the relief of Jágírdárs and Zamíndárs in Sindh be taken into consideration. He said:—"Since the Bill was introduced only one comment upon it has been received. It was referred to the Government of Bombay for opinion, and they have expressed their earnest desire that the Bill should be passed into law without delay. They apprehend that any delay may lead to foreclosures of mortgages in Sindh which they are very anxious to avoid. It is unnecessary that I should recapitulate the reasons for this measure which I gave in Council the other day. The course of events since has shown the great necessity of Government husbanding its imperial resources and of calling into play all those local aids which it may be presumed are available in Sindh. I have little doubt, as I said on the previous occasion, that in Sindh, as in other parts of the country, abundant opportunities will be given to the Collectors of getting local loans at reasonable rates of interest as is done in other parts of the country."

The motion was put and agreed to.

The Hon'ble MR. WOODBURN also moved that the Bill be passed.

The motion was put and agreed to.

[Mr. Woodburn.]

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the people to fish freely in those waters, and in the exercise of this custom, whether it is a right or a privilege, multitudes of poor people have the opportunity of adding very largely to their food resources and of adding a very welcome and wholesome change to their ordinary diet. It might be possible to frame a measure in such terms as to secure to the people where this practice is the outcome of ancient habit the continuance of their privilege in the matter, but it would be difficult to do so, and a law which increased the protection of private owners in their fisheries might suggest the prohibition of a practice which otherwise it would not have occurred to the owners to refuse.

"It has also been represented to the Government of India that there has been no special claim made on the part of the owners for this new and additional protection. In Bengal, in 1889, a law was passed of a somewhat similar tenor to the second portion of the present Bill, but that law has since remained practically inoperative, and in other parts of the country there has been no claim set forward by the owners that they require and ask for an extension of similar terms in their own provinces. Further, it does not appear from the papers that there has been any very noticeable diminution in the supply of fish, in the lower parts of the country at least, and the case does not appear to the Government of India a very strong one for carrying out this portion of the Bill.

"Lastly, there is the consideration that to enforce effectively the provisions of the Bill as introduced would require the entertainment of a preventive establishment which would be quite outside our financial resources. The enforcement of these provisions would, therefore, lie with the ordinary police of the country, to whose functions it is not desirable to make any addition, and in a matter so indefinite as the rights and privileges of the people in fishing there is danger that the action of the police would become, if not oppressive, at least extremely harrassing to them. It is for these reasons that the Government of India have come to the conclusion that the second part of the Bill should not be proceeded with, and when a Select Committee is appointed in Calcutta, as I hope it shortly will be, they will be invited to confine themselves to the consideration of those provisions which have been devised for the prevention of wasteful or wanton methods of fish capture, especially in the spawning season and in spawning places."

AGRICULTURAL PROSPECTS.

The Hon'ble MR. WOODBURN said:—"I have also to ask Your Excellency's permission to make a statement in regard to the failure of the crops which has occurred this season, and the measures that are being taken by the Imperial Government and the Local Governments.

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"In view of the fact that this year's monsoon, like that of last year, has ceased prematurely, the Government of India have been in communication with Local Governments regarding the probability of approaching distress. The autumn crop-inspections are only just over, and no detailed forecast can be prepared till the end of the month. But the Governor General in Council has thought it well that the public should be informed without delay of the general aspect of affairs, so far as it can be gathered from the information at present available.

"Broadly speaking, it may be said that, if no rain falls in time for the sowing of the spring crops, severe distress may not improbably be felt in most of the Oudh districts, in those parts of the Agra and Allahabad divisions which are not protected by irrigation, in parts of the Benares, Gorakhpur and Rohilkhand divisions, in a great part of the Cis-Sutlej portion of the Punjab and in the tract lying immediately north-west of Lahore.

"In the Central Provinces, prospects are less discouraging; but it is apprehended that, in the absence of further rain, relief may be required in Saugor, Jubbulpur, Narsinghpur and Hoshangabad, in the four plateau districts and in a part of Raipur. In two districts of Upper Burma, also, distress is apprehended unless an early fall of rain brings relief; while the state of the crops in parts of the Bombay Presidency is such as to cause anxiety.

"Even where the local crops have not failed, the high prices which already prevail may, if they continue to rise, render necessary in some cases measures for the assistance and relief of the poorer classes.

"It will be seen that the portion of India over which the possibility of severe scarcity is to be apprehended corresponds closely with the famine area of 1877-78. But during the twenty years that have elapsed since then, much has been done to strengthen the hands of Government in combating distress. Since 1877 the mileage of completed perennial canals has increased in the Punjab from 500 to 1,850 for main channels and from 1,650 to 8,500 for distributaries; while the irrigating capacity of all canals has risen from $1\frac{1}{2}$ to $3\frac{1}{2}$ millions of acres, and will reach 4 millions within the next six months. In the North-Western Provinces, the length of main channels has increased from 950 to 1,400 and of distributaries from 4,650 to 6,900 miles, while the irrigating capacity has risen from $1\frac{1}{2}$ to 2 millions of acres. There are now over ten millions of acres irrigated from various sources in the North-Western Provinces and Oudh; while in the Punjab the total irrigated area has risen since 1877 from 5 to $7\frac{1}{2}$ millions of acres. During the

[Mr. Woodburn.]

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same interval, the open miles of rail have increased from 505 to 1,143 in the Central Provinces, from 618 to 2,296 in the Punjab and from 1,337 to 2,795 in the North-Western Provinces and Oudh, or in all from 2,460 to 6,234; while the cost of carriage by rail has been greatly reduced. I might mention in this connection incidentally that, last night, I was informed that the Bombay railways have voluntarily reduced their freights on all up-country imports.

"The famine of 1877-78 in the north had been immediately preceded by one of intensity in the south of the country, which had depleted the food-stocks throughout India—an element of difficulty which is now happily absent. Indeed, apart from the supply of grain which will flow to the distressed districts from other and more favoured parts of India, we find on the present occasion that, for the first time in the history of Indian famines, our resources are about to be supplemented by supplies from abroad, as indeed the Famine Commission foretold would be the case—India receiving in her need as she gives in her abundance. It is understood that wheat has already been imported into India from California, and that further supplies may be expected from the same source. It has been calculated that, at present prices, Californian wheat can be landed at Calcutta at about 10 seers per rupee, which would represent a rate of $8\frac{3}{4}$ seers at Allahabad. The surplus supplies upon which we are thus about to draw are enormous. In a single year within the last few years, the United States (in which California is included) have exported as much as 18 crores, Argentina $3\frac{1}{2}$ crores and Canada $1\frac{1}{2}$ crores, or in all 23 crores, of maunds of wheat; in addition to which Russia and the Balkan States have exported 13 and Australia $13\frac{1}{2}$ crores more. If, as seems probable, a steady supply from abroad pours into India, it is impossible that prices should ever approach such rates as have ruled in previous famines, when, even so late as 1865, coarse rice has been known to reach 5 seers per rupee.

"The Famine Commission estimated that under the most unfavourable circumstances that need be apprehended, and providing for relief on almost double the scale of 1877-78, the greatest number that was ever likely to be in receipt of relief from Government in any one famine would be $2\frac{1}{2}$ millions of people for an average period of one year, for whose support about one crore of maunds of grain would suffice.

"The Government of India and the Local Governments concerned are alike alive to the possibility of scarcity on a considerable scale, and to the importance of making timely preparation to meet it. The Supreme Government have recently indicated to the Governments of the North-Western Provinces and the

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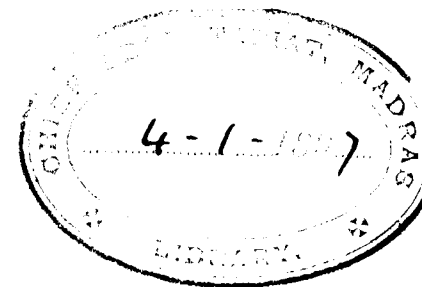
[Mr. Woodburn; the President.]

Punjab that there are nine schemes of railway construction where the line of the alignment is tolerably certain, upon which they are prepared to sanction the immediate commencement by the Local Government of earthworks as relief-works should necessity arise, quite apart from any consideration of the final completion of the railway lines, and have made preparations for the rapid completion of the surveys where these are not already complete. The Local Governments are preparing canal projects and lists of minor public works which can be utilised for purposes of relief in those districts in which distress is apprehended. Ten lakhs of rupees have just been added to the already large grant at the disposal of the Government of the North-Western Provinces and Oudh, to be spent in advances for the construction of temporary wells, which can in many parts of the country be dug with great expedition and at small expense. Meanwhile, test relief-works and poor-houses have already been opened wherever they seemed to be required.

"It is unfortunately certain, unless good rain comes very shortly, that scarcity in the coming winter will be spread over a wide area of Upper India; but active measures have already been concerted for giving work and relief wherever necessary, and there are circumstances on the present occasion which will, we may confidently hope, prevent distress from reaching the proportions it attained in 1877."

His Excellency THE PRESIDENT said:—"The statement of the Hon'ble Member will, I hope, be an assurance, if assurance be needed, that the Government of India are fully alive to their responsibilities in a matter so serious as any threatening of the approach of famine. Famine which is the result of a sudden failure of our accustomed rainfall is a foe the approach of which no Government can foretell and no prescience can altogether avert; but at the same time it is a foe which can be faced and overcome by prudence and foresight. This is a case in which the Government is fighting the people's battle, and that is the spirit which has animated the Hon'ble Member's statement, which has set forth for the information of all, frankly and without reserve, both the apprehensions we entertain and the reasons for our confident hope that the difficulties will be surmounted.

"I desire to endorse what the Hon'ble Member has said, and to add one more reason for the hope which I share with him. He has pointed out the great advantages of our position as contrasted with that of the Government in 1877-78. But, though we have been so fortunate as to escape for nearly twenty years from the severer form of distress, we shall not, if we have now to face it, enter the combat wholly unready or untried. In the first place, we



Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892 (24 & 25 Vict., cap. 67, and 55 & 56 Vict., cap. 14).

The Council met at Government House on Thursday, the 17th December, 1896.

P R E S E N T :

His Excellency the Earl of Elgin, Viceroy and Governor General of India, P.C., G.M.S.I., G.M.I.E., LL.D., *presiding*.

His Honour Sir Alexander Mackenzie, K.C.S.I., Lieutenant-Governor of Bengal.

The Hon'ble Sir J. Westland, K.C.S.I.

The Hon'ble J. Woodburn, C.S.I.

The Hon'ble M. D. Chalmers.

The Hon'ble Major-General Sir E. H. H. Collen, K.C.I.E.

The Hon'ble A. C. Trevor, C.S.I.

The Hon'ble C. C. Stevens, C.S.I.

The Hon'ble H. E. M. James.

The Hon'ble Sir A. S. Lethbridge, K.C.S.I., M.D.

The Hon'ble M. R. Ry. P. Ananda Charlu, Rai Bahadur.

The Hon'ble Sir G. H. P. Evans, K.C.I.E.

The Hon'ble Alan Cadell, C.S.I.

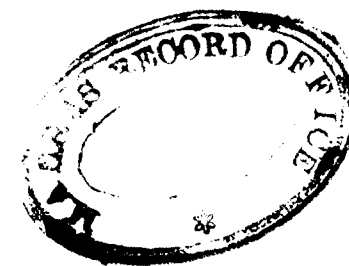
The Hon'ble J. D. Rees, C.I.E.

The Hon'ble G. P. Glendinning.

The Hon'ble P. Playfair, C.I.E.

The Hon'ble Rahimtula Muhammad Sayani, M.A., LL.B.

The Hon'ble Pandit Bishambar Nath.



NEW MEMBERS.

The Hon'ble RAHIMTULA MUHAMMAD SAYANI and the Hon'ble PANDIT BISHAMBAR NATH took their seats as additional Members of Council.

MERCHANT SHIPPING BILL.

The Hon'ble MR. CADELL moved that the Hon'ble Mr. Chalmers be substituted for Sir A. E. Miller as a member of the Select Committee on the Bill

the import duties, I was charged, in introducing the Bill for this purpose, on 1st March, 1894, to announce that Her Majesty's Government were not prepared at that time to assent to the inclusion of cotton yarns and fabrics among the articles liable to duty. They undertook, however, to give the question further consideration if the state of exchange was such as to shew that further revenues were necessary for the maintenance of financial equilibrium in India. We were obliged to resubmit the case accordingly towards the end of 1894, and Her Majesty's Government then assented to the imposition of duties on cotton goods, under conditions which I announced to the Council on 17th December, 1894 in the following terms:—

‘Her Majesty's Government, representing the supreme authority in the administration of India, and following the instructions of the House of Commons, have stipulated that, if we are obliged by stress of finance to impose an import duty on cotton goods, we must deprive it of a protective character by imposing an equivalent duty upon similar goods manufactured in India, to the extent to which these enter into direct competition with goods imported from the United Kingdom.’

“We met this condition, fairly as we thought, and certainly, as I shall easily shew the Council, much more fairly than Manchester at all understands, by the Cotton Duties Act passed in December, 1894.

“Our proceedings, or rather the proceedings of Her Majesty's Government in this matter, were made the subject of discussion in Parliament on 21st February, 1895. It is not my intention to quote any portion of the discussion that then took place, beyond what is necessary to show the position which Her Majesty's Government took up. The Secretary of State for India, speaking in the debate, referred to a distinction upon which our then proposals were largely based, namely, the distribution of the trade into two elements—one the Indian share confined to the coarser counts, and the other the English confined to the finer ones, and said—

* * * * *

‘It is said in India that between 20s and 24s competition does not begin. I have already said that—

“If you can prove that the 20 limit is too low and should be raised to 24, power is reserved to the Indian Government, with the consent of the Secretary of State, to alter that figure.”

‘I say that the same principle applies to my Lancashire friends. If they can show that this limit works injustice to them, and is in any way protective, I am equally pledged to remedy the evil. Our principle has been all through that there shall not be Protection. No one will say that it is possible, in the imposition of any new tax, especially a complicated Excise Tax, to deal at the first moment with all the possibilities of the case, or to strike off a measure which will not require amendment. I say, frankly and openly to the Lancashire manufacturers as I already have said to the Scottish manufacturers in dealing with dyed yarns,—

“If you will prove that there is any injustice done to you, I will do my best to remedy that injustice.”

‘This is purely a question for inquiry, and for inquiry alone. It is impossible to discuss it on the floor of this House. Given the evil and injustice, we will endeavour to find a remedy.’

“And it was upon this assurance that the House of Commons for the time abandoned the discussion.

“And here I would stop for a moment to explain that I desire throughout my remarks to avoid any allusions to the personality of the two high officers who during these proceedings have held the office of Secretary of State for India. The policy of the Secretary of State has, throughout these discussions, been perfectly continuous; and if I were to speak by name of Sir Henry Fowler, or of Lord George Hamilton, instead of merely speaking of the Secretary of State, I might be understood as contrasting the action of these two Ministers of the Crown when I intend merely to describe the initial and the final stages of the same proceedings, and might convey the impression, for which I believe there is absolutely no warrant, that the question in some way entered on a new phase, or was in some way affected, by the change of Ministry which took place in June last.

“In response to the invitation implied in the Secretary of State's remarks in Parliament, a deputation of Lancashire manufacturers presented themselves to the Secretary of State on 27th May, with the professed intention of showing that they were unjustly treated in respect of the Indian Cotton Duties. Unfor-

[*The President.*]

[15TH OCTOBER,

have at hand the results of former experience, in the plans carefully thought out and elaborated when the necessities were still fresh in the minds of men. But, besides, the approach of an enemy is often heralded by a skirmish at the outposts, and our skirmish with famine this summer was sharp and decisive. The distress which prevailed in the North-West Provinces this summer assumed dimensions which in other times would infallibly have had disastrous consequences. But the Government of the North-West Provinces unaided, without any dislocation of business, provided for a population so large that the numbers on relief-works for a considerable time exceeded 300,000, in so complete a manner that I think their achievement has never obtained the applause it merited, simply because so few realised what had been done.

"This great work was rendered possible by the very circumstances which, as the Hon'ble Member has said, have so much strengthened the hands of Government since 1877, more especially by the increased means of communication. It is to be remembered that in our reliance on our improved means of communication we are enunciating no new opinion. It was the opinion deliberately formed, with the experience of the great famine of 1877 fresh upon them, by the Government of Lord Lytton, who laid it down in the most precise terms that in increase of railways and canals, but especially of railways, lay the only means open to the Government of meeting attacks of famine on more favourable conditions. I draw attention to it now, both because I am desirous not to let this my first opportunity pass of alluding publicly to what Sir A. MacDonnell and his officers have done, but because it cannot be denied that what they have done can be done again and on a larger scale if necessary. It is upon the Local Government that, whatever happens, we must rely to carry out the measures that may become necessary, and knowing, as we do, that we can look to the Governments of the Punjab and the Central Provinces with the same confidence that the North-West Government have taught us to expect, we are justified I think in our belief that the work will be done, and will be done well.

"And as to the share of the Government of India, it is not for us ourselves to enter into the arena and to take charge of the operations. We should hamper the proper authorities, and not assist them. Our duty is to devise means for helping the Local Governments with the wider knowledge of the whole circumstances available to us, and to supply the sinews of war where required. The Hon'ble Member has stated how we are already doing all we can in this direction, and I am certain that the North-West Government from their recent experience will bear me out if I engage on the part of the Government of India that, if this is our share of the work, it will be done ungrudgingly and without hesitation.

1896.]

[*The President.*]

"One word I should like to add as to non-official co-operation. I have seen with much satisfaction that in Delhi, and I think elsewhere, those who possess means have taken steps to combine for the alleviation of the distress of their poorer neighbours. I shall not be suspected of any desire of shirking official responsibility if I welcome most cordially efforts of this kind. In this country the Government must undertake the relief of the people as a whole, and the rules under which it works have been framed so as to reach the really necessitous, both the able-bodied poor and those unable to share in the ordinary forms of active employment by reason of infirmities of body, of sex, or even of social custom; but still, here, as in every country, private benevolence has a long arm which can reach further than the official one, and I rejoice to think that, if need be, it will be outstretched on this occasion. It will be an example of the neighbourly kindness for which the people of India are distinguished.

"If, therefore, the worst comes to the worst, I hope we shall have no difficulty in bringing every influence to bear in the common cause. If I may speak from my own feeling in the matter, there is not a man who would not strain his utmost to prevent the loss of a single life. But, just because I feel this so strongly, I also feel that at this present moment our first duty is to keep cool, and not to excite unnecessary fears. The Government, I must repeat, have fearlessly and frankly taken the public into their confidence, and I hope that this confidence will be reciprocated, and all who have a share in controlling public opinion, or in distributing information, will avoid exaggeration, and rather lead the people to believe that everything that can be done will be done both to warn and relieve them."

The Council adjourned to Thursday, the 29th October, 1896.

SIMLA;	}	S. HARVEY JAMES,
The 16th October, 1896.		Secretary to the Government of India, Legislative Department.

390 *MERCHANT SHIPPING; FISHERIES; AMENDMENT OF CRIMINAL TRIBES ACT, 1871; AMENDMENT OF NEGOTIABLE INSTRUMENTS ACT, 1881.*

[Mr. Cadell; Mr. Woodburn; Mr. Chalmers.] [17TH DECEMBER, 1896.]

to consolidate and amend certain Indian enactments relating to Merchant Shipping and the carriage of passengers by sea.

The motion was put and agreed to.

FISHERIES BILL.

The Hon'ble MR. WOODBURN moved that the Bill to provide for certain matters relating to Fisheries in British India be referred to a Select Committee consisting of the Hon'ble Mr. Chalmers, the Hon'ble Mr. James, the Hon'ble Rai P. Ananda Charlu, Bahadur, the Hon'ble Rao Sahib Balwant Rao Bhuskute and the mover. He explained that a couple of years ago the Bill was introduced into the Council. The Bill had been before the Local Governments in the interval, and the Government of India had decided to make material alterations in it. The reason for these alterations he had explained at a recent meeting of the Legislative Council at Simla.

The motion was put and agreed to.

CRIMINAL TRIBES ACT, 1871, AMENDMENT BILL.

The Hon'ble MR. CADELL moved that the Bill to amend the Criminal Tribes Act, 1871, be referred to a Select Committee consisting of the Hon'ble Mr. Woodburn, the Hon'ble Mr. Chalmers, the Hon'ble Pandit Bishambar Nath and the mover. He said that the opinions of the different Local Governments had now been received with reference to the Bill.

The motion was put and agreed to.

NEGOTIABLE INSTRUMENTS ACT, 1881, AMENDMENT BILL.

The Hon'ble MR. CHALMERS moved that the Bill to amend the Negotiable Instruments Act, 1881, be referred to a Select Committee consisting of the Hon'ble Sir James Westland, the Hon'ble Rai P. Ananda Charlu, Bahadur, the Hon'ble Sir Griffith Evans, the Hon'ble Mr. Glendinning, the Hon'ble Mr. Playfair and the mover. He explained that this was a Bill which had stood over from last session and would be familiar to the members of the Select Committee.

The motion was put and agreed to.

391 *UNITED KINGDOM PROBATES; MEMONS; REFORMATORY SCHOOLS; AMENDMENT OF ACT XXXVII OF 1850.*

[17TH DECEMBER, 1896.] [Mr. Chalmers; Mr. Woodburn.]

UNITED KINGDOM PROBATES BILL.

The Hon'ble MR. CHALMERS moved that the Bill to provide for the recognition in British India of Probates and Letters of Administration granted by Courts in the United Kingdom be referred to a Select Committee consisting of the Hon'ble Sir James Westland, the Hon'ble Mr. Woodburn, the Hon'ble Rai P. Ananda Charlu, Bahadur, the Hon'ble Sir Griffith Evans, the Hon'ble Mr. Sayani and the mover. He said that this was also a Bill which stood over from last session and would be familiar to the members of the Select Committee to which it was referred last year.

The motion was put and agreed to.

MEMONS BILL.

The Hon'ble MR. WOODBURN moved that the Bill to render it permissive to the members of the Memon Community to declare themselves subject to Muhammadan law be referred to a Select Committee consisting of the Hon'ble Mr. Chalmers, the Hon'ble Mr. Stevens, the Hon'ble Nawab Amir-ud-Din Ahmad Khan, Bahadur, the Hon'ble Mr. Sayani and the mover.

The motion was put and agreed to.

REFORMATORY SCHOOLS BILL.

The Hon'ble MR. WOODBURN moved that the Bill to amend the law relating to Reformatory Schools and to make further provision for dealing with youthful offenders be referred to a Select Committee consisting of the Hon'ble Mr. Chalmers, the Hon'ble Sir A. S. Lethbridge, the Hon'ble Mr. Cadell, the Hon'ble Rao Sahib Balwant Rao Bhuskute, the Hon'ble Pandit Bishambar Nath and the mover.

The motion was put and agreed to.

ACT XXXVII OF 1850, AMENDMENT BILL.

The Hon'ble MR. CHALMERS moved that the Bill to amend Act XXXVII of 1850 (*for regulating Inquiries into the Behaviour of Public Servants*) be referred to a Select Committee consisting of the Hon'ble Mr. Woodburn, the Hon'ble Mr. James, the Hon'ble Mr. Rees, the Hon'ble Nawab Amir-ud-Din Ahmad Khan, Bahadur, the Hon'ble Sir Lakshmishwar Singh, Maharaja Bahadur of Durbhanga, and the mover. He said:—"This Bill was introduced

392 AMENDMENT OF ACT XXXVII OF 1850; AMENDMENT OF
INDIAN PAPER CURRENCY ACT, 1882.

[Mr. Chalmers; Sir James Westland.] [17TH DECEMBER, 1896.]

at Simla and the amendment is almost purely a formal one. It is simply an amendment of the definition of 'Government'. The definition originally inserted in the Bill applied to the various Local Governments as they existed in 1850. Now it is proposed to extend the definition to the various Local Governments throughout India."

The motion was put and agreed to.

INDIAN PAPER CURRENCY ACT, 1882, AMENDMENT BILL.

The Hon'ble SIR JAMES WESTLAND moved for leave to introduce a Bill to amend the Indian Paper Currency Act, 1882. He said:—"On the 26th March last I took the opportunity of the Budget debate to inform this Council that one matter had been under the consideration of the Government, which would eventually come before this Council for the purpose of legislation. The question was that of increasing the investment of the Government currency reserve, which is at present limited to eight crores of rupees, up to ten crores of rupees. Shortly after the session in Calcutta closed, various papers were published in the Gazette of India of the 11th April last, showing the nature of the proposal which the Government made and the reasons by which they justified it. I may remark that this question is to a certain extent one of the public credit of the Government and of the Currency Department, and although I might be quite ready to justify to my own mind the proposal to raise the investment, still I would consider it necessary to judge it, not by mere logical deductions from the facts which were within my knowledge, but to a large extent by the opinions of experts regarding the proposal; that is to say, the importance of the convertibility of the currency is a matter of such great moment to the banking and mercantile community, that, however I might myself feel justified in proposing a measure which affected that convertibility, I would nevertheless consider it necessary, before adopting it, to satisfy myself that the mercantile and banking community thoroughly approved the measure and considered that it could be carried out without in any way impairing the credit of the Currency Department. Taking this view, the Government referred the question to the mercantile community and the banking community, namely, to the five principal Chambers of Commerce and to the three presidency banks. I shall refer to the replies given to us by these institutions in order to show that they, with a modified exception, thoroughly approved the measure which the Government had suggested.

AMENDMENT OF INDIAN PAPER CURRENCY ACT, 1882. 393
[17TH DECEMBER, 1896.] [Sir James Westland.]

"First of all, to take the case of the banks. The reply which the Bank of Bombay gave us to the proposal was that they 'desired to express their entire approval of the proposal submitted for their opinion.' The reply which the Bank of Madras gave to us was that 'they are of opinion that the cash balance held in the Currency Department may be reduced by two crores with perfect safety.

"The Bank of Bengal, in the same way, said:—

'The proposed increase of securities in the paper currency reserve should therefore leave a stock of coin and bullion sufficient to ensure convertibility of the notes under all circumstances for which it appears necessary to provide.'

"They go on to discuss certain matters which do not refer immediately to the question as it relates to the Currency Department. They pointed out that certain other consequences which stood apart altogether from the question of the safety of the convertibility of the currency were affected by the transfer of two crores of rupees from currency to treasury and from treasury into ordinary circulation; but, so far as regards the Currency Department, they were satisfied that there was no impairment of the security of the currency by the addition of two crores to the amount. With reference to these collateral points, I shall quote part of their letter as I shall have to refer to it later on. After giving their opinion that the two crores might with safety be invested, they pointed out the necessity of choosing, with reference to the state of the money market generally, the time when that investment should be made. They say:—

'In India the currency has no self-adjusting power. It has no fixed specie export point, while its fixed specie import point (1s. 4d. plus transit charges) is far beyond the present range of exchange; and this want of elasticity might create a stringency at a time when the reserve treasury balances were low, which would best be met by an addition to the currency such as Government propose to make. The stringency might occur suddenly and require prompt relief, and, under these circumstances, I have to suggest, for the consideration of His Excellency the Governor General in Council, that the power contemplated should be obtained from the Legislature, but should be reserved either for use in an emergency such as above described or until the currency is made automatic.'

"I am quoting this opinion in order to show that the Bank of Bengal, although they confessed to certain doubts regarding the consequences of the proposed measure, nevertheless recommended that the powers which I now ask leave to legislate for, should be obtained from the Legislature, and also made a proposal that we should watch the time at which it was brought into operation so as to make it consonant with the interests of the money market.

[Sir James Westland.]

[17TH DECEMBER,

"I shall presently show that the Bank of Bengal are at the present moment very strongly of opinion that the precise moment which they contemplated has now arrived, and that they strongly recommend the immediate adoption of the measure to which they gave their conditional approval so long ago as last November.

"I go on to quote the opinions which were given to us, in reply to our references, by the various Chambers of Commerce. The first is that of the Bombay Chamber. They say :—

'The proposal to take power from the Legislature to raise the limit of the paper currency reserve from eight to ten crores of rupees meets with their entire approval, and the Committee will be glad to learn that early legislative action has been taken to give it effect.'

"The next reply is from the Chamber of Commerce, Rangoon, in which they say that 'the Committee approve of the proposal.' From Madras we were told—

'This Chamber sees no objection to the proposal in so far as it will affect the proportion of cash to be held in order to make good the issue of currency notes.'

"They then go on to discuss certain questions relating to the currency policy of the Government. The Karachi Chamber give their reply that they 'see no objection to the increase of the reserve as contemplated, provided it is done gradually and at a favourable time.' The Chamber of Commerce, Calcutta, were divided as to the merits of the proposal, and I, therefore, quote their opinion neither on one side nor on the other, but my hon'ble friend Mr. Playfair will presently, I understand, give a strong opinion that, if we are going to do it, it is time to do it now.

"I have quoted these opinions in order to show that the mercantile community and the banking community, who are pre-eminently interested, have given their cordial approval to the measure which I now bring before the Legislature, but I wish to go a little further and show that the Legislature has in its past action with reference to the Currency Department, practically given its approval to the grounds on which I base the measure which I am now about to bring before the Council

"The Currency Department started in 1862, and the law at that time (Act XIX of 1861) gave permission to invest out of the currency reserve an amount

1896.]

[Sir James Westland.]

not exceeding four crores of rupees. That was the amount up to the amending Act, which was No. XXIII of 1871. I have placed upon the table, in the hands of Members, statements which I now desire to make reference to with a view to enabling them to follow the remarks which I have to make. The first statement to which I draw attention is that headed No. 3, and I wish to point out that, during the last five years of the period during which the Currency Department was conducted under the Act of 1861, the minimum circulation was about seven or eight crores. At that time the amount which we had invested was about 41 or 43 per cent. of the total amount of the reserve. In 1870-71 the proportion was 37 per cent. At that time the new Act—Act XXIII of 1871—was passed, the Legislature giving authority to raise the investment to six crores; that is to say, that they were quite satisfied that it was safe to increase the investment of the reserve beyond 37 per cent., and the permission they gave to the Government at that time was to invest an amount, which was at the time of passing the Act as high as 66 per cent. of the minimum circulation. This Act remained in force for about 20 years. We had during the whole of these 20 years a sum of practically 6 crores of rupees invested, the remaining part of the currency reserve being held in the form of cash or bullion, ready for the encashment of the notes presented. The currency circulation during these 20 years very considerably increased. Towards the end of this 20 years the circulation varied between about 16 crores as a maximum and 12 or 13 crores as a minimum. The amount that we had invested, being 6 crores, was over 40 per cent. of the amount of the minimum circulation. At that time the Government again came before this Council and asked for permission to increase the amount of the investment. That permission was given, and the permission practically meant that, whereas the maximum investable balance was 40 per cent. of the minimum circulation, they agreed to the amount being raised to about 53 per cent.

"Since this Act of 1891 was passed the circulation has undergone a still further development, and the amount that was our minimum circulation then is very far below the amount which is our minimum circulation now. The result is that the proportion of the minimum circulation which the Legislature at present allows us to invest amounts to only about 30 per cent. of the minimum circulation for which we have to provide. This is far below the proportion which the Legislature has on two previous occasions declared that it is quite safe for us to invest, and that is one of my justifications for now asking the Legislative Council to pursue the same policy which it has hitherto pursued and allow us to increase the investment. I am not asking for permission to increase up to 66 per cent. which

the Legislative Council gave in 1871, nor am I asking for permission to increase up to 53 per cent. which the Legislative Council gave us in 1890. The amount which we really ask for only comes to 41 per cent.; that is to say, that, if the Government take advantage of the Bill, which I hope the Council will pass, to invest a total amount of 10 crores in the currency reserve, the total reserve investment will amount, after all, to only 41 per cent. of the minimum circulation.

"I now wish to say a few words on the merits of the question as apart from merely quoting the authority of the banking community, the mercantile community and this Legislative Chamber itself, and for that purpose I ask Hon'ble Members to look at the statements Nos. 1 and 2 which I have also had prepared and laid on the table. The first of these statements shows the total circulation of currency notes. It will be seen that in 1894-95 it was very high, well over 30 crores. Since then it has gradually come down, and we are now at 24 or 25 crores. It was with reference to these 24½ or 25 crores that I offered the Legislative Council just now the calculation that the investment of 10 crores which we proposed to make comes to only 41 per cent. of what should be regarded as the present minimum circulation; but I desire to call particular attention to the second statement, which affords an even stronger argument for the security of the note circulation than statement No. 1.

"There are in this country two large reserves of funds: one is the large sums of money which are held by the presidency banks of Calcutta, Bombay and Madras; the other is the reserve treasury, in which we deposit, for treasury purposes, the amount of money which is not immediately required for our purposes, but which, as our transactions bring us in a large amount of revenue at one time of the year, and a smaller amount of revenue at another time of the year, it is necessary for us to hold in order to tide over the low balance period of the year. Those two reserves are very naturally held, to a large extent, in currency notes. These currency notes, therefore, may be regarded as a kind of circulation quite different from the general circulation of notes in the hands of bankers, merchants and private individuals all over the country. Statement No. 2 shows what the circulation of the paper currency stands at, if we exclude the amounts which are held in the balances at the presidency banks and in the reserve treasuries; and the point to which I would desire to draw special attention is the remarkable steadiness of these figures of what I may call the net circulation. During the last four or five years they varied by not so much as 10 per cent.; that is to say, by something like 5 per cent. in either

direction. Now during this period we have passed through two or three peculiar experiences as affecting the money market. The bank rate, for example, has been as low as 3 per cent., and it has been as high as 10 per cent. The total treasury balance has been as high as 25 crores, and it has been as low as 7½ crores. Moreover, at one period, which will be within the recollection of us all, there was a very curious state of affairs which resulted from the currency legislation of June, 1893, and was followed by something like half a year during which the Secretary of State drew no Council bills and there was a large amount of money accumulating on this side. Notwithstanding all these causes of stringency, or ease, in the money market, the net circulation, as I have called it, preserved the even tenor of its way. It stood continuously at 19, 20 and 21 crores and varied to a very small amount. The argument which I wish to base upon this is that it is possible that reasonable objection might be taken to the figures in statement No. 1. The person who objected to our policy might say—'You show in statement No. 1 that the circulation has gone as high as 30 crores and on one occasion to 32 crores, but it has also come down to 24 or 25 crores; what security have you that we may not have another tumble down to a still lower figure?' In short it may be said that statement No. 1 shows a large amount of variability in the circulation, and does not give that confidence which it is necessary to inspire in the Legislative Council in giving us permission to take a fixed figure as the minimum circulation on which we base our present proposal. But if you look at statement No. 2 it will be seen that these large variations which have taken place in the total circulation altogether disappear; that is to say, those variations in circulation are entirely due to the variations in the amounts which are held by the presidency banks and which are held in the reserve treasury. The amount in circulation which is in the hands of the public generally, including private individuals, is remarkably steady. It varies, as I have pointed out, but the variations are so small that it is hardly possible to conceive any ordinary circumstances under which it would be materially reduced below the 21 or 22 crores at which it has stood for a considerable time.

"On these grounds, therefore, I think I have established the point that, in asking the Legislature to agree to our investing 10 crores of the balances, we are taking a measure which is a long way within the margin of safety which we ought at all times to preserve in the Currency Department.

"I have been at pains to explain this matter very fully to Hon'ble Members of this Council, because, as will be seen from the notice-paper, it is my intention

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to propose presently that the measure be taken into consideration with the view to its being passed immediately. I do this not for any object which the Government itself has in view, but entirely with reference to the present peculiar state of the money market, with reference to which it has been represented to the Government that, if this measure is to pass, it is desirable that it should pass immediately. I hope I have satisfied the Legislative Council that the measure may be taken practically as one already much discussed and fully established, and that they will be prepared, after hearing the reasons for the urgency which I shall bring forward, to pass it in the course of this meeting.

"It is a peculiar feature of the money market of India that it is very closely connected with the Government balances. Practically almost the whole of the available current capital used in commerce is composed of the Government balances.

"In the middle of October last, when we saw the approach of famine and its necessary consequences in stopping the incoming of revenue and creating large outgoings in the way of expenditure, we saw that there would be a time when the depletion of the balances would have a serious effect upon what is ordinarily called the money market. It will be remembered that in the middle of October the Secretary of State suddenly reduced to a very large extent his drawings. He did so because we were obliged to inform him that, although we had made the usual preparations and the usual calculations in order to get over what we call our minimum balance period, that is, December, with the balance of about eight crores or a little more, yet we had before us the prospect of having to use a considerable portion of these eight crores for the purposes of prevention of distress. We had a demand made upon us for the suspension of a crore of revenue in one Province alone, and we also had a demand made upon us for making large advances, to the extent of tens of lakhs of rupees, for the purpose of meeting and avoiding as far as possible agricultural distress. The result is that at least a crore and a half of the funds which, under normal circumstances, would at the present moment be at head-quarters in Calcutta and Bombay and would be, under ordinary circumstances, at the disposal of the mercantile community for purposes of trade, are now either placed in the pockets of agriculturists all over the country in the shape of advances or are left with them in the shape of suspensions of revenue. Notwithstanding the extremely small drawings of the Secretary of State during the past month, the Government balance at the beginning of this month was only 7½ crores of rupees—an amount which is

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smaller than has been experienced at any time within the last 20 years. The result is an extreme stringency in the money market. We foresaw this in October, and we have been watching with some anxiety the state of affairs ever since about the 10th of November. I may also mention with His Excellency's permission that our opinion of the stringency was so great that, under His Excellency's orders, I had prepared the necessary measures for stepping in at any moment if I were called upon to do so by the mercantile and banking community. Fortunately the official rate never went above 8 per cent. till quite recently, and it was unnecessary with the bank rate at that amount to take any heroic measures. Now I would not recommend any measure affecting our Currency Department upon the mere grounds of stringency in the money market, a thing that has nothing whatever to do with the safety of our currency and our currency circulation, and I do not bring this stringency forward at present in order to recommend the measure to the Council as one which it ought to pass. But it will be observed that the introduction of the measure has nothing whatever to do with the state of the money market. If reference be made to the papers which were published in the Gazette of India on the 12th September last, it will be seen that, with the sanction of the Secretary of State, in August last it was determined that this measure for increasing the currency investment should be brought forward at the first session of this Council in Calcutta. At that time nobody foresaw the stringency which has come to the market since then. But having thus, on independent grounds, determined to introduce the measure, we now urge that in consideration of the position of the money market, and of the relief it will obtain by our increasing the investment of the currency, the measure we propose can be carried into effect with great opportuneness at the present time. We have been pressed by the Bank of Bengal, whose duty it is of course to take a lead in these matters, to take up this question as urgently as possible. I had some personal communications with Mr. Cruickshank of the Bank of Bengal and also with the Hon'ble Mr. Playfair with reference to this matter as soon as the Viceroy arrived in Calcutta; and I shall read the letter which at that time I caused to be addressed to the Secretary to the Bank of Bengal, because it shows the position which I took up in dealing with the representations made to me by the two gentlemen I have named. The letter runs:

'The Bill for increasing the currency investment to 10 crores will be introduced in the Legislative Council on the 17th. In ordinary course it will be brought up in the Council with a view to its being passed on the 7th January. Sir James Westland considers himself bound to regard the measure purely from a paper currency point of view, and

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is not prepared for any reasons affecting the Government to press it as an urgent measure on the Legislature. The question of its urgency from the point of view of the money market is more immediately one for the consideration of the banking and mercantile community, and it is for them in the first place to raise that question. Any representation which you or your Directors or the representatives of the mercantile community may desire to make will receive the earliest attention at the hands of the Government.'

"The result was that both the mercantile community as represented by the Chamber of Commerce and the Bank of Bengal took action immediately after receiving this intimation of the views which, by His Excellency's orders, I communicated to the Bank of Bengal. On the 15th December, that is to say, two days ago, we received from the Bank of Bengal a letter which I have caused to be circulated to Hon'ble Members, and upon which I based the notice which was given in the notice-paper circulated yesterday that I intended to propose that the Bill should be immediately taken into consideration. It will be seen that both the Bank of Bengal and the mercantile community urge that, if this measure is at all to be passed, it should be passed at once, and that the relief which will thereby be given to the money market will come at a very opportune time and will remove the stringency which is at present affecting commerce, on this side at least, of India.

"Having thus explained the measure itself and having explained the urgency which causes me to propose that it should be passed to-day, I have only to say further that, while I hope that there will be no opposition to the proposal which I make to pass it to-day, Hon'ble Members will necessarily have an opportunity of stating their objections on the question of procedure when the motion is made that the Bill be taken into consideration. At present my motion is merely for leave to introduce a Bill to increase the investment of the currency reserve."

The Hon'ble MR. PLAYFAIR said:—"As explained by the Hon'ble Member in charge of Finance, I understand that the policy of the Bill now before Your Excellency's Council has not met with the approval of the whole of the mercantile community, but that the preponderance of opinion is in favour of the measure provided the opportunity taken to put it into operation be carefully considered. In addition to the statements and information that have been specially prepared and published in explanation of the measure, Government has opportunities, not available to the general public, for coming to a conclusion that it will be safe in the interests of the finances of the State, and of trade, to adopt this measure of liberating two crores of coin held as reserve against the paper currency, and I am,

therefore, content to leave the decision with Government. I desire, however, to represent to Your Excellency's Government that the finances of the country and the position of the money market have become altered since the date on which the expressions of public opinion I have referred to were received, and I believe I am justified in saying that many who expressed themselves doubtful of, or opposed to, the policy of the Bill, as well as those who have expressed their opinion in favour of the measure, consider it desirable that, if Government has decided to take legislative powers to decrease the metallic reserve of the paper currency, by the substitution of Government securities, this Bill should not only be passed promptly, but action should follow immediately. The opinion expressed by the Directors of the Bank of Bengal, after consultation with the Committee of the Bengal Chamber of Commerce and other representatives of the European and Native mercantile community in their letter of 15th instant, addressed to the Government of India, support the conclusion I have come to. I would emphasise the remarks made by the Hon'ble Member on the Government cash balances, and point out that these have fallen from $16\frac{1}{2}$ crores estimated as the closing balance of 1895-96 to $7\frac{1}{2}$ crores on 30th November, or to a point that was not anticipated by the Hon'ble Member when, in paragraph 178 of his Budget Statement presented to Your Excellency's Council last March, he placed the minimum cash balance required by the Government of India in November and December at between 8 and 9 crores of rupees. This depletion, I understand, arises in part from the outlay made necessary by the programme for the construction of additional lines of railway entered upon by Your Excellency's Government, to the satisfaction of the commercial community, and by the expenditure on the army mobilization scheme which was explained so clearly to this Council by General Sir Henry Brackenbury last March. On the other hand, income from railways has diminished and the treasury has not been replenished by the usual instalments of land-revenue owing to the most untoward failure of the autumn crops—an occurrence that has been so unfortunately general throughout the Empire. The Secretary of State has for some weeks past reduced his drawings, it may be presumed, not because he is holding for a better rate of exchange than the current market will yield, but on account of the restricted cash resources with the Government of India available for the purpose of meeting these drafts. As the Secretary of State's bills and telegraph transfers are now the chief medium of financing the export trade of the country, it is evident that any undue restriction of these bills must be an embarrassment to trade. The embarrassment in the present instance must become more serious

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as the resources of the joint stock banks in this country become reduced in the ordinary course of business without the means of being replenished. Nor can the banks be blamed if, under such circumstances, they arrest business in their careful regard for the cash balances held by them. This is a matter of additional importance at the present juncture, when it is particularly desirable that no monetary check to the free transfer of food supplies from one part of the Empire to another, such as from Burma to Hindustan Proper, should occur. If the effect of liberating these two crores of coin will be to enable the Secretary of State to resume the sale of his bills and telegraph transfers more freely, the present stringency in the money markets of India, which I feel myself justified in characterising as extreme, will be relieved; trade, it is to be hoped, will then be able to be carried on without interruption; and Government itself will be able, with comfort, to meet its engagements until such time as the treasury shall again be strengthened with the land-revenue which it has been compelled in part either to forego or postpone.

"With reference to remarks that have fallen from the Hon'ble Member upon the bank rate being only 9 per cent. and less than quotations reached on previous occasions, I would like to observe that the current rate is not in itself a criterion of the present stringency in the money market. I understand that the Directors of this Presidency Bank, realizing that a higher rate would not, under existing circumstances, produce adequate supplies, have wisely, in the interests of trade, not forced a higher quotation, which might in itself have created that extreme apprehension which leads on so easily to panic. My Lord, my proposal does not imply that the currency reserve is a useful fund to fall back upon when the cash balances may happen to be unduly low; but, as this Bill, after mature consideration with the best authorities, comes before this Council at a time when its effect can be of use to the cash balances, I would represent to Your Excellency's Government the advisability of meeting this monetary stringency by making the proposed addition to the currency without formal delay. In other words, I wish to say that it is desirable under the present unusual circumstances of the money market that what the Government has decided to do should be done quickly, and I rest the urgency of the case on the present position of the cash balances in relation to the money market and to the danger to trade in suspending the Secretary of State's drawings."

The Hon'ble MR. GLENDINNING said:—"After the able speech which we have just heard, it is not my intention to take up the time of the Council further than to

say that I also beg to support the Bill. It seems to me to be a distinct measure of relief at the present time to the mercantile community, and I would hope and urge that it may be brought into operation at once."

The Hon'ble SIR GRIFFITH EVANS said:—"I do not propose to discuss any of the questions which have been raised with regard to the policy of this Bill. It is sufficient to say that it is practically agreed on all hands that it does not in any way endanger the convertibility of the Government currency. Under these circumstances and after the reasons which have been put forward by the Hon'ble Financial Member, it has become apparent to everyone, whether they like it or whether they do not, that the Bill is certain to be passed on the 7th of January next. The question then that has got to be considered is mainly this: seeing that there is no danger to the currency, and seeing that this Bill is certain to be passed at the latest on the 7th of January, is it desirable to suspend the standing orders and to pass it without further discussion to-day? To put it in other words, the question is: is the advantage that is likely to be derived from any further discussion between this and the 7th January greater than that which will be derived by giving immediate relief to the present stringency of the money market? It is within my knowledge, as it is within the knowledge of almost all people who live in Calcutta, that that stringency has been extreme and unusual—far more so than is indicated by the bank rate. It is in the knowledge of many of us that firms of undoubted solvency who have ample security to offer, other than Government paper, have found the greatest difficulty in obtaining the necessary cash advances—I mean cash advances which they ordinarily obtain for the ordinary purposes of business at this time of the year. It is also known that it has been a question with the Bank of Bengal whether they would not stop advances, or contract advances even upon Government paper. This is a very unusual state of things, and is crippling the trade of the country; I do not propose to discuss what the reasons of it are. The reasons are various, and some of them have been indicated by the Financial Member; but, the position being such as I have stated, it is quite evident that if, as everybody seems agreed, the immediate passing of this Bill and the immediate putting of it into operation will have the effect of relieving the stringency, any small and doubtful advantage which might be gained by further discussion is far and away less than what will be derived by the immediate passing of the Bill. I say doubtful advantage with regard to further discussion, because this question does not come upon anybody as a surprise. It has practically been before the public for a very considerable time. It has been known for some time that it was coming on. It

[*Sir Griffith Evans; Major-General Sir Edwin Collen; Sir James Westland.*] [17TH DECEMBER, 1896.]

has been discussed outside, and really I think there is very little to add to what we already know about it. Under these circumstances I have no hesitation in agreeing with the views expressed by the Hon'ble Mr. Playfair that it is better under these circumstances to pass the Bill to-day and give immediate relief, seeing that it is certain to be passed on the 7th January next."

The Hon'ble MAJOR-GENERAL SIR EDWIN COLLEN said:—"There is one passage in the speech of my hon'ble friend Mr. Playfair to which I would venture to invite attention, as it affects the question of military expenditure. The passage to which I refer is that relating to the mobilization of the army and the expenditure thereon. As far as I could gather, it might be inferred from what Mr. Playfair said, that one of the chief causes, or one of the causes at all events, which has led to the depletion of the cash balances has been the expenditure on the mobilization of the army. I should like to point out that the sum after all was not a considerable one, and that, although arrangements have been made during the present financial year to meet the mobilization requirements, a good deal of it has not yet been spent, and in fact the cash has not actually been paid."

The motion was put and agreed to.

The Hon'ble SIR JAMES WESTLAND introduced the Bill.

The Hon'ble SIR JAMES WESTLAND moved His Excellency the President to suspend the Rules of Business to admit of the Bill being taken into consideration.

THE PRESIDENT declared the Rules to be suspended.

The Hon'ble SIR JAMES WESTLAND moved that the Bill be taken into consideration. He said:—"I have just explained in full the circumstances which led Government to take this course, but I am pleased to find that justification for it has been made so complete by the speeches of the Hon'ble Mr. Playfair and the Hon'ble Sir Griffith Evans. Allusion has been made to the fact that discount rate of the Bank of Bengal is not above 9 per cent., but my information on that subject exactly corresponds with that already communicated by my hon'ble friend Mr. Playfair. The rate of 9 per cent. does not express the rate at which business is being done. It unfortunately at this moment expresses the rate at which business is not being done. The Bank of Bengal has been obliged to contract its operations, and this contraction of its operations, and the necessary

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limitation of the advances which under ordinary circumstances it would make, is part of the state of circumstances which we desire to remedy."

The motion was put and agreed to.

The Hon'ble SIR JAMES WESTLAND moved that the Bill be passed. He said:—"I wish to add one remark, namely, that the Government intend that immediate action should be taken as soon as the Bill is passed. According to the law it is necessary to obtain the sanction of the Secretary of State before any steps are taken, because the law provides that the amount of investment shall be fixed by the Governor General with the consent of the Secretary of State. This consent, which is necessary by law, will be obtained by telegraph, and as soon as it is obtained the necessary action will be taken."

The motion was put and agreed to.

BILLS OF SALE BILL.

The Hon'ble MR. CHALMERS moved for leave to introduce a Bill to provide for the compulsory registration of certain transfers and dispositions of goods in order to prevent debtors from defeating the claims of their creditors by secret assignments of such goods. He said:—"The scope and objects of this measure are pretty fully set forth in the Statement of Objects and Reasons which will be published with the Bill, but I ought, perhaps, to add a few words of explanation here. The Bill originated in this way. The attention of the Government of India was called to a case where a merchant had secretly assigned the whole of his goods and the whole of his stock-in-trade to a particular creditor, but he remained in apparent and ostensible possession of the ownership of his goods and of his stock-in-trade. He got into difficulties, and then, when the general body of his creditors sought to realise his estate, the secret creditor came in and swept away the whole. The Government of India made enquiries, and they found out that in India, as in England, this was by no means an uncommon state of affairs. They consulted Local Governments and the Secretary of State and people at home as to whether it was desirable to pass some measure somewhat on the lines of the English Bills of Sale Act of 1878, and there seems to be a universal consensus of opinion that legislation somewhat on those lines is desirable, and the present Bill has accordingly been drafted to give effect to those recommendations.

"The Bill is a short one. It consists of five clauses only. The first clause requires very little to be said about it. It contains the title of the Bill, namely, 'the Indian Bills of Sale Act,' and provides for its extent and operation. We propose that the Bill shall only be brought into operation in any place where the Local Government thinks fit to bring it into operation. I take it, probably, that in the first instance it will only be brought into operation in large towns, such as Presidency-towns, or towns with a large mercantile community.

"The second clause is a definition clause.

"The third clause is the operative clause. It provides that where a man, whether a trader or not,—for it is not confined to traders,—that where a man sells, mortgages or charges his goods, but remains in apparent possession of them, then, although the transaction will be perfectly good as between the grantor and the grantee, still it will not be good as against either the execution-creditor or the assignee in bankruptcy, unless the sale, mortgage or charge is reduced into writing and registered under the Indian Registration Act.

"We do not propose for a moment to interfere with any transaction as between a grantor and grantee. We only provide that if a man chooses to assign or charge his goods, and his creditor chooses to allow him to remain in possession of them and in ostensible ownership, then, as long as he is in ostensible ownership, they will be liable to be seized by either an execution-creditor or an assignee in bankruptcy representing the general body of his creditors. Of course, we must take great care not to interfere with ordinary mercantile practice. We have, of course, saved the operation of all mercantile documents of title, such as bills of lading, dock-warrants, and all those mercantile documents of title which by mercantile usage throughout the world represent ownership. It is immaterial from the mercantile point of view to have actual possession of the goods, because for all mercantile purposes they are deemed to be in the possession and to be the property of the person who has the mercantile document of title to them. We have, therefore, exempted mercantile documents of title from the operation of the Bill, and we have also exempted certain other documents, such as ante-nuptial marriage settlements and transfers of ships, which are already registered.

"The fifth clause gives power to make rules to supplement the provisions of the Bill where necessary. Of course, it is easier in India than it is in England to provide for registration. We already have existing machinery here which everybody understands and which operates automatically as soon as we require an instrument to be registered.

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"There are only two other remarks that I ought to make. To any English lawyer, or any one cognisant of English law, it is well known that our English legislation concerning bills of sale has given rise to an enormous amount of vexatious and futile litigation, and we ought to be very careful in introducing any system of registration of bills of sale to avoid, if possible, the difficulties which have arisen in England. During the twelve years that I sat as a Judge in England, I do not suppose that a week passed without some question turning up about a bill of sale. As far as my experience goes, and as far as the experience of those with whom I have discussed the matter goes, the difficulty which has arisen in England is mainly attributable to two sources. In the first place, the English Acts only strike at documents and do not strike at the transactions themselves. The consequence is that continual attempts are made to evade the Act by setting up fraudulently, or sometimes honestly, an antecedent verbal transaction which does not require registration; supplemented of course by fictitious transfers of possession. We seek to get over that by providing that the transaction itself should be voided if the proper document is not executed and registered. When the Bill goes, as I presume it will go, into Committee, I shall be prepared to consider whether we ought not, for the sake of peace and quietness, to exempt certain small transactions altogether and fix a money limit. Another difficulty in England which has given rise to more trouble than any other is this: the Legislature in dealing with bills of sale and protecting the general body of creditors has also endeavoured to protect the debtor from the money-lender. It has done this more or less by a side wind. I am sure that the protection of debtors from money-lenders must be kept quite distinct from the protection of the general body of creditors from a particular secret creditor. The result of the English legislation—a well-meant endeavour to protect debtors from money-lenders—has been simply to raise the rate of interest charged to debtors and to upset a great many honest transactions which could not be brought within the complicated terms of the Act. I do not think a really fraudulent transaction has often got within the meshes of the Act. I hope we have to a great extent avoided the pitfalls which underlie the English legislation, and that this Bill, though a small one, will be of some advantage to the mercantile community."

The motion was put and agreed to.

The Hon'ble MR. CHALMERS introduced the Bill.

The Hon'ble MR. CHALMERS moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English, and in

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unately the case was not very much advanced by the discussion, for the deputation omitted what from our point of view and from that of Her Majesty's Government was the essential element in the whole matter, namely, the statement of the actual facts and statistics bearing on the question. The Secretary of State's final reply to the deputation was as follows :—

'Now what I want you to do, if you Lancashire gentlemen would do it, is drop all questions about competition with Bombay; drop all questions about public feeling in Lancashire, and do not say anything about general elections, and about Members of Parliament being influenced, or forming agitations, or anything else, but take your stand upon the distinct economical principle which I think everybody will assent to, namely, that you have no right to be put at a disadvantage by the imposition, upon the product of your county, of a protective duty.

* * * * *

'You say "this countervailing excise duty is not a countervailing excise duty and is unfair to us." That is your contention. Now, then, I say, give me your arguments; give me your statistics; give me your figures in proof of this, and give me the arguments and statistics and figures which are clear and are not disputable.'

"The result was that the Manchester manufacturers drew up a formal statement of their case in a document which bears date July 9th, 1895, and which has been made public in India. It was not until the receipt of this document that the Government was in a position to deal with the matter, or even to know exactly what the claims of the Manchester manufacturers were. I have no intention of going through this document at length. A great part of it I consider to be really beside the question. I can see no useful object, for example, in discussing in what degree the several elements of raw material, labour, freight, wear and tear of machinery, etc., etc., enter into the value of a piece of cloth. Such matters might be discussed till doomsday, and we would be no nearer a decision on the subject. I utterly deny that even accepting all these figures to be true they in any way lead to, or even bear upon, the conclusion that Manchester wants to base upon them, namely, that Manchester goods pay two or three times the tax paid by Indian

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manufactures. The question is, to my mind, most amply and ably discussed in the letter which we have received from the Mill-owners' Association of Bombay. The process adopted in the Manchester document is as if one were to attempt to find the heat of the weather by elaborate calculations founded upon the altitude of the sun, the latitude of the place, and the state of the atmosphere, instead of by the simpler process of looking at the thermometer and reading it off. Ordinary grey-shirtings imported from Manchester pay duty, as will be seen from any price-current, upon a value of about eight annas a pound. Manufactured in India, the calculation comes out thus. A pound of woven goods contained about '85 of yarn, which if of 25s or 30s, pays duty at seven annas a pound. The articles therefore pay duty, in this respect alone, on $7 \times .85$ or 6 annas a pound. I shall not enter on the question of the additional payments of duty on stores, which, the Indian mill-owners claim, make up part, if not the whole, of this difference between eight annas and six; but these figures are enough to shew that the statements of the Manchester merchants as to the differences of duty are greatly exaggerated, and that, for practical purposes, we need not concern ourselves with the elaborate calculations of the elements that enter into the final value of the finished product. Customs duties, all the world over, when levied upon value, have regard to the value at the port where they are levied, and no Government would for a moment admit the cry of protection as between two countries, because the final value, being the same in both cases, was made up in different proportions of raw material, labour and freight. We may, like other countries, safely leave all such matters out of account.

"But although the Manchester case is in these and some other points much exaggerated, there are two matters in which we feel we must admit that the treatment of Indian and of Manchester goods is not on quite the same level.

"The first of these is the effect of our drawing the line of taxation, for Indian goods, at 20. We did so because we ascertained that the amount of imported goods below that line was very small. As regards yarns, indeed, the amount of goods imported below that count (if we except the coloured yarns imported into Burma, for which we have made special arrangements) is admitted to be insignificant. The amount of coarse woven goods imported from England is at the most very small indeed, but it cannot be said to be non-existent; but Manchester claims, and there appears to be some reason in the claim, that the exemption of the coarser goods creates a difference in price between the coarser and the finer, which tends to divert the course of consumption from the finer to the coarser.

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the local official Gazettes in English and in such other languages as the Local Governments think fit.

The motion was put and agreed to.

RULES FOR THE CONDUCT OF BUSINESS.

The Hon'ble MR. CHALMERS moved that a Select Committee consisting of the Hon'ble Sir James Westland, the Hon'ble Mr. James, the Hon'ble Mr. Cadell, the Hon'ble Sir Griffith Evans, the Hon'ble Sir Lakshmishwar Singh, Maharaja Bahadur of Durbhanga, the Hon'ble Rao Sahib Balwant Rao Bhuskute and the mover be appointed to consider certain amendments in the Rules for the Conduct of the Business of the Council which are thought to be necessary. He said:—"This is a matter which I believe stands over from last session. The amendments proposed are small ones, but the Rules have been several times amended since they were passed and published, and, if we can make these fresh amendments, the new edition of the rules, which is much required, will be published shortly."

The motion was put and agreed to.

The Council adjourned to Thursday, the 7th January, 1897.

J. M. MACPHERSON,
*Secretary to the Government of India,
Legislative Department.*

CALCUTTA;
The 18th December, 1896. }

NOTE.—The meeting of Council which was fixed for the 29th October, 1896, was subsequently postponed, and the next meeting was held in Calcutta on the 17th December, 1896.

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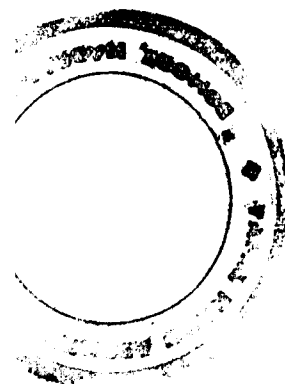
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Cotton-duties Bill	23rd January, 1896.	3rd February, 1896.	3rd February, 1896.
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Indian Contract Act, 1872, Amendment Bill	5th March, 1896.	12th March, 1896.	
Indian Penal Code Amendment Bill	2nd January, 1896.	20th February, 1896.	27th February, 1896.
Indian Ports Act, 1889, Amendment Bill	2nd January, 1896.	13th February, 1896.	20th February, 1896.
Indian Volunteers Act, 1889, Amendment Bill	13th February, 1896.	27th February, 1896.	12th March, 1896.
Inland Bonded Warehouses and Salt-bonding Bill	2nd January, 1896.	20th February, 1896.	
Legal Practitioners Act, 1879, Amendment Bill	2nd January, 1896.	5th March, 1896.	12th March, 1896.

“They claim also that there is no such marked difference between the goods above the line and the goods below the line, as would prevent the latter (in which India is chiefly interested) from being largely substituted for the former (in which Lancashire is chiefly interested). The Lancashire manufacturers claim that they can spin 20s just as easily as higher counts, and that they could, if they were not prevented by our fiscal measures, substitute for the cloth they at present send to India, a cloth made wholly or partly of non-dutiable counts which would be a substitute for, and find the same market as, their present importations. On this question of fact, or of probability, I admit that I differ from the Manchester merchants, and I believe with the Indian mill-owners, to whose memorandum on the subject I again refer, that Lancashire cannot, except in the case of a few exceptional goods such as drills, lay down in India woven goods of the coarser kinds at prices that can at all compete with those of Indian-produced goods. But I admit that Manchester may justly object to being prevented from trying the experiment by our insisting upon interposing in the way of it a duty to which we do not subject the goods of Indian manufacture.

“The conclusion to which the Government of India have come upon this matter is one in which, so far, it is supported by the Chambers of Commerce both of Calcutta and of Bombay, and is that it is not possible to longer maintain the system by which an exemption is granted to goods of 20 and under when they are of Indian manufacture, but refused when they are imported by sea. We justified the difference a year ago, because, though we admitted that the difference would operate protectively, if it operated at all, we held that as a matter of fact Manchester goods lay entirely outside its operation. It will be seen in fact that the objections urged by Manchester are rather against its indirect than its direct operation, and in this sense we admit that the rule constitutes an element of protection which violates the principles laid down for our guidance, both in former days and now, by Her Majesty’s Government.

“The second point in which the Manchester case is admitted by us to have some foundation is in the allegation that the tax levied upon yarns which are afterwards woven into cloth is *pro tanto* a lighter tax than is levied upon the completed manufactured article. I have already dealt with the actual measure of this difference and shown that it is at all events very much less than Manchester asserts it to be, but that it is a difference of operation which may result in a difference of amount I do not think we can deny. We cannot

say that the two rates of taxation, *viz.*, that upon imported goods and that upon Indian-manufactured goods, are precisely equal when they are levied upon different bases. I have pointed out the grounds on which we considered that they were practically equal, and these grounds were to some extent endorsed by the Secretary of State in replying to the deputation which met him upon 27th May. Without committing himself to the accuracy of the figures which were put forward upon the Indian side, he reminded the deputation that these claims, relating to differential taxation on stores, were made by the Indian mill-owners, and that to give a reply to them and say on which side the balance lay, it was necessary at least ‘to go very precisely into these figures.’

“If Lancashire trade were in a flourishing condition, I cannot help thinking that these differences would have been considered to be more theoretical than practical, and would not have given rise to the reclamations with which we have now to deal.

“But we cannot conceal from ourselves the fact that Lancashire trade has recently been in a depressed condition, although we certainly contend that the circumstances out of which this depression arises have nothing to do with Indian Cotton Duties. The question is dealt with, better than I can deal with it, in the letter from the Bengal Chamber of Commerce of January 3rd last. Strenuous competition all the world over is taking away from Lancashire what used to be almost its monopoly of the piece-goods markets. In China and Japan, as well as in India, manufacture has been and is being brought at the same time to the supply of the raw material, and to the door of the consumer. The Secretary of State in receiving the other day a Lancashire deputation said—

‘I quite admit the force of one statement which, I think, was common to every speaker, namely, that when a trade is in so depressed a condition as yours, an uncertainty as to its future tends greatly to aggravate that depression. But I have looked at this matter perfectly impartially, and I say very frankly to you that I do not believe even if it were possible for us and in our power to repeal these cotton duties, that would at once bring to you all the prosperity which you anticipate. I have looked carefully into the figures relating to the exports from India. I find that during the past ten years the value of the cotton exports from Great Britain to countries other than India

has not increased, but on the other hand the exports from the Indian mills during that period have literally doubled, and they are increasing still, and there is this year a large increase in the amount exported. Therefore it is clear that quite independent of those import duties, and in places where those import duties do not operate, there is increasing competition between the products of Indian mills and the products of Lancashire. I make this statement because I think it is much better for us frankly and fully to look this situation in the face. You have to deal now with new conditions and new competition.'

"It is not surprising under these circumstances that Lancashire should jealously scrutinize all the advantages which its rivals in the East may possess, and should raise objections to any artificial advantages being added to those which nature already confers. And these considerations add a special responsibility to those who, either in this country or in England, have the administration of these matters. Whatever may be the immediate future of the Lancashire industry, it behoves us to be careful that none of its misfortunes—if any such should be in store—be in any way attributable to any unequal action on our part. The history of the past ten or fifteen years shows that Indian industries in a fair field and without any adventitious aid, can even more than hold their own; and mill-owners and merchants in India are at one in declaring that they want no special terms of any kind, no treatment in which Manchester is not admitted to a perfectly equal share.

"We are anxious therefore on these grounds to secure a perfect equality of treatment—not merely an equality attained by different processes, calculated to lead to a result that in our opinion shall be equal, but an equality that shall be conspicuously such—a system that shall weigh, in precisely the same way and to precisely the same degree, on both sides. We have always wished to hold the balance with perfect fairness between the two parties, and to give to neither of them any reasonable claim that it is subjected, so far as Cotton Duties go, to any disadvantage as compared with the other. We admit that the means by which we have sought to obtain this equality leaves something open to controversy; our desire is now to close that controversy, by assimilating the methods, as well as equalizing the results.

"We have carefully considered the suggestions that have been made to apply the discriminating line of twenties to imported goods as well as to Indian-

manufactured goods; but we believe that we can find in this no permanent solution of the difficulty. As regards yarns, such a line is easy enough to work. There is no difficulty in discriminating yarns with exactitude according to count. But when we attempt to apply to woven goods a similar line of discrimination, we believe it is not possible to do it with that exactitude which is requisite as a basis of taxation. We believe that careful tests by experts can establish, as regards any woven yarns, that they are within one or two counts of any given standard, but this unfortunately leaves a certain margin for dispute, and as we have not merely to protect the revenue from frauds directed towards obtaining exemption where exemption is not due, but have also to protect the honest trader from the trader who does not draw so finely the lines of conscientious dealing, we are unwilling to undertake, if we can avoid it, a system the operation of which will certainly be jealously watched and which may have to be abandoned from sheer difficulty in working.

"Then we find that these precise lines are not adapted to the actual work of Indian mills. English mills can spin and weave to within half a count of the standard at which they aim, but by reason of differences of climate, of moisture, and of materials, Indian yarns may differ, in their absolute standard, by as much as two counts from what the spinning master aims at producing. The consequence is that the weaving master has to remedy these defects. He aims at producing a fabric that shall weigh exactly so much, no more and no less, per piece. If it is less, the purchaser will not take it, and if it is more, the manufacturer is selling more material than he is paid for. He is obliged therefore, when his material is running heavy, to correct it by inserting lighter and finer yarns; and thus even while carrying out an order to weave cloth of count 20, he may be obliged, by the necessities of working, to use in part of it yarns which have been sent him as 22s. When we are taxing yarns, a difference of this kind is of no consequence. What seller and purchaser take as a bundle of 20s, we may also reckon, for purposes of taxation, as 20s, though part of it may, by absolute measure, be really 22s. But it would obviously be unfair, when a weaving master, attempting to weave what has to be sold and bought as undutiable cloth of 20s and which on the whole average is 20s, is obliged as a manufacturing necessity of adjustment to interpolate some yarns delivered to him as 22s, to subject him in consequence to a duty that he could not recover from his purchaser.

"And this leads me to talk of another difficulty which we would have to meet in the same connection, namely, the regulation of the tax upon cloth of

which the warp is of undutiable count and the weft is dutiable. Such cloth would require to be adjusted to the tax by calculation or estimate and not by any fixed standard, and the process would give rise again to reclamations as to inequality of treatment.

“These difficulties are, in the opinion of the Government of India, sufficient to forbid the hope of a settlement that is likely to be permanent, if we attempt to draw a line, say at 20s, and declare all cloth of finer counts to be liable to duty, and all others to be free. So far as mere revenue considerations go, such a line of discrimination would not be open to much objection; we would probably lose little revenue, for, as I have already said, hardly any coarse-count cloth is imported, and it is at least open to doubt if much would be imported. But the difficulties of working the system would be fatal to it; as in fact they proved in our experience of fifteen years ago. And there is not much use in our introducing a system which, we believe, would only give rise to a new series of controversies.

“From what I have said, it will be seen that the Government of India have come to a conclusion on the following two points:—first, the countervailing excise duty to be levied in this country must be a direct duty upon woven goods (as the import duty is); and second, the discriminating line of division at No. 20, or any other count, must be given up; and I may remark here, before the Council take fright at this last proposition, that I have, as will be seen before I come to the end of my proposals, a fair compensation to offer for the additional burden which is involved in it.

“Now, I consider it an almost self-evident axiom that an excise duty, in order to be workable, must be as simple in its operation as possible. If we have to complicate it with all sorts of provisions about drawbacks, compensations, etc., or if we have to arrange matters so that the mills have to be worked with reference to the excise duty, instead of the excise duty being worked with reference to mill operations, we are attempting what we will find impracticable. All questions of duty upon mill-products in India are inextricably mixed up with questions of drawback on exportation. Obviously we have no business to tax goods which are manufactured for export—we would only be weighting our own manufactures in their competition with other countries,—and there is further serious objection to making them go through the form of assessment to duty, and subsequent exemption from it on account of exportation.

“To provide for a duty on woven goods at the Indian mills, in addition to a duty upon yarns, involves a number of complicated provisions. We must, as I have just pointed out, provide for drawbacks on exportation, which, in the case of the Bombay mills, comes to a very large proportion of the whole amount produced. We must further provide against double levy of duty, namely, first on production of yarns, and afterwards on the weaving of the same yarns. And there is a still further complication in the fact that some of the mills now weave from imported yarns, on which of course they will have paid duty. We are afraid it might be difficult to provide for the proper working of all these interlacing provisions, and although it is possible that financial stress may compel us hereafter to face the problem, we intend for the present at least to avoid all such complications, and make our system of excise as simple and as little burdensome in its working, as is practicable. The first conclusion, therefore, to which we have come is that we should abandon all duty upon yarns, and levy duty upon woven goods only, a conclusion which necessarily applies to imports as well as to Indian manufactures. We have the less hesitation in coming to this determination when we call to mind that practically all the yarns, both imported and Indian-manufactured, which are consumed in India, and would, therefore, come within the purview of our taxation, extended as it must now be to low counts as well as to high, are used up in the handloom industry—an industry whose products do not supply the market in the same sense as the mill industry does, which cannot therefore be said to compete with it as a commercial rival, but from which the ordinary villager obtains a certain portion of the clothes he uses. The freedom of village industry, that is, the continued freedom so far as low counts are concerned, and the new exemption so far as high counts are concerned, will, as we believe, be no injury to the mills, but will be a boon to many poor people who eke out their livelihood, not by wages fixed on economic principles, but rather by picking up, at odd hours, the scanty crumbs which the mill industry still leaves them. We should remember also that half the mills in Bombay (that is 46 out of 94), and a much larger proportion elsewhere, are spinning mills only, and do no weaving, and that every one of these will be, by this exemption of yarns, entirely removed from the purview of the Excise Duties.

“By giving up the present 5 per cent. duty upon yarns we lose over 14 lakhs of duty on imported yarns, and nearly half that amount on Indian yarns—say 20 lakhs in all. This reduction of taxation is the first compensation we have to offer for the extension of the duty on woven goods to low counts, as well as high ones.

“The cotton duties left to us would be, at their present standard of 5 per cent., about 125 lakhs on goods imported, and an amount which it is somewhat difficult to estimate, for want of statistics of production, but which seems to be at the outside about 18 lakhs, upon goods manufactured in India and consumed in the country.

“Now this 18 lakhs or rather so much of it as is in excess of the amount at present levied on the yarns manufactured in Indian mills is a new burden upon the Indian consumer. I do not call it a burden upon the Indian mill industry, because of course the Indian mill-owner will pass it on to the purchaser, and the purchaser has no choice but to accept. The export trade, which is a very large part of the trade of the Bombay mills, will remain quite unaffected; and, for the reason stated, I would trust that even as regards weaving for Indian consumption, the burden would be more a theoretical than a practical one.

“When making this addition to the taxation that has to be paid in part at least by the poorer classes in India, we have given careful consideration to the question whether we cannot at the same time make a reduction to counterbalance it. This the Government of India believe that they can do. We have of course to face the risk which is inseparable from a condition of things in which our financial position depends to such an extent upon the element of exchange, but if exchange holds at anything approaching to its present figure, we can safely reduce our demand in respect of the cotton duties from 5 per cent. to $3\frac{1}{2}$, and this reduction we propose to incorporate in our present proposals. There are three good results, all of which affect the Indian part of the question, which we hope to obtain from this reduction. First, it is of some importance to the Indian consumer that the tax on the coarser cloths in ordinary use should be only $3\frac{1}{2}$ per cent. and not 5; second, it is of some importance to reduce the demand that will be collected through the Indian mills so that, instead of increasing it from its present standard of 6 or 7 lakhs to (at most) 18, we will increase it only from 6 or 7 to 12; and, thirdly, it is of some importance that the advantage of the handloom industry in respect of taxation should be only $3\frac{1}{2}$ per cent. instead of 5. The village industry we consider it both impracticable and inexpedient to tax directly, and we think that the mill-owners (whose customers the handloom weavers are in respect of yarns) will admit that $3\frac{1}{2}$ per cent. is so small an advantage that for any question of competition between the mill-industry and the hand-industry, it may safely be left out of account. Practically we cannot touch the hand-

loom industry except by taxing yarns, and that means a burden which in the first place would fall upon the mill-industry, both Manchester and Indian; and which I have shown reasons for the Government, at least, not desiring to impose.

“I have just said that the duties on the new basis would bring us in about 143 lakhs of rupees altogether (125 plus 18), at a standard of 5 per cent., but if reduced to $3\frac{1}{2}$ per cent. they will be just over 100 lakhs. Our loss of revenue on the whole account will therefore be something less than fifty lakhs (for we do not expect fully to realize the budget estimate of the current year); and this reduction of taxation we believe that the improvement in our financial position warrants us in making.

“There is one small matter in which Indian mill-owners would consider themselves hardly treated if we entirely left it out of account. We are to tax them now upon the full value of the outturn of their cloth, and we ought, therefore, to refrain from taxing them specially upon any ingredient which enters into that cloth. I cannot undertake to give them any special exemption from such burdens as all manufacturers in this country have to bear—taxation upon stores consumed in the working of machinery; that they must accept as part of the conditions of working in India, just as they have to accept conditions of climate, of the labour market, of compulsory sanitary rules, and the like. But stores specially consumed in cotton manufacture we can provide for, and among the chief of these are sizing and China-clay used in weaving. Iron or steel hoops used in baling form another small item that we propose to exempt. Provisions such as these it does not require any special legislative sanction for the Government to carry out, but simultaneously with the adoption of the measures I now propose to the Council, they will be provided for by executive order.

“We have given careful consideration to the question of assessing dye-works in India to an excise duty, and we have come to the conclusion that the exemption of yarns from duty renders it inexpedient and unnecessary to attempt any precise equalization of assessment in this respect. The dyeing of cloth goes on in every bazar in India; largely of course in the large centres of population, but even in remote bazars and villages, the native can use alizarine dyes to clean and renew his apparel. It is no more possible, and it is in my opinion no more necessary, to impose a tax upon these operations, than it would be to impose a tax on every village smith who by getting imported iron, and working it up into nails, or iron implements or other small

material, avoids purchasing the finished implements or materials, as imported from abroad.

“Steam power for the dyeing of cotton is employed in only three places in India, two in Bombay and one in Ahmedabad, and the work done in these places is almost entirely yarn-dyeing. The outturn of dyed cloth is something indefinitely small, and we certainly could not tax the dye-works in respect of any advantage they possess in the rare cases in which they dye cloth, without considering also the necessity of making up to them the disadvantage they are under in having to use imported dyes in respect of the much larger business they do in dyeing yarns. If we leave these dye-works unaffected by excise duties, we can leave them in the position, occupied by all the other industries in this country, which have to compete with foreign industries after bearing a share in the general taxation of the country; but if we subject them to a special duty, such as our excise duty, in respect of part of their outturn, namely, their dyed cloth, we are bound to apply the same principles to giving them special relief in respect of the other part, namely, their dyed yarns.

“On one other matter, I desire to give a reply and an explanation.

“The Council have no doubt observed the perpetual allegations regarding our delay in dealing with the present matter, and it may, therefore, be just as well to state the Government of India side of the case. First, Manchester has systematically refused all information regarding the trade; it has left us to ferret out all the facts for ourselves; secondly, it has not helped us by one single suggestion as to how to meet the difficulties inherent in the matter. Yet, notwithstanding these obstacles, for which the responsibility does not rest with us, we have (taking the date of the Manchester memorandum, July 9th, 1895) actually taken no more time to enquire into, and settle the means of meeting, the Manchester objections, than it took the Manchester people merely to state them.

“No one who reads the Bombay and Calcutta contributions to the discussion will imagine that we would have been justified in proceeding to judgment with the Manchester case only before us.

“It will be seen that I have throughout dealt with this question on the assumption that the tax, whatever it is, falls upon and is paid by the Indian consumer. Much of the language held in Manchester would seem to indicate a belief that the tax really falls upon the producer there; but I can hardly

believe that this is seriously accepted by the Manchester merchants, and I am quite sure that two years ago they would have rejected with scorn such an economic heresy. I hold it therefore to be irrelevant to the present purpose to weigh against each other, for purposes of fair distribution between Manchester mills and Indian mills, the amount of tax levied on Manchester manufactures and the amount levied through Indian mill-owners. The question of fairness of adjustment as between the two sets of producers, is not the question of how much each will pay towards the total; it is, in my view, of an entirely different kind. It is, namely, that we must so adjust the incidence of the tax, that nothing in that incidence will have the effect of altering the course of trade; that there may be nothing in it which may influence the trade of Manchester to pass to India, or the trade of the Indian producer to pass to his Manchester rival.

“In this sense, we have striven to hold the balance equally, between what I may almost call the two contending parties. The Manchester merchants unfortunately have made to us no suggestions at all, except the financially impracticable one to abolish the duties altogether. The Bombay mill-owners, besides giving us a mass of helpful information, discuss some of the possible ways of meeting difficulties which they admit are not easy of satisfactory solution; and although the plan, which we have on consideration adopted, is one which did not commend itself to them, I trust they will see, in the compensatory measures with which we have accompanied it, that we have taken away, if not the whole, at least the greater part, of the force of the objections to which they considered it liable.

“I think it right, under present circumstances, to conclude these observations by stating that His Excellency the Viceroy, though unfortunately prevented by illness from being present at this announcement of the decision at which his Government has arrived on this important question, has taken his full share, as Viceroy, in our deliberations, and that even these remarks of mine, intended to explain the policy of the Government, have received His Excellency's personal endorsement.”

The Hon'ble MR. PLAYFAIR said :—“Sir, I do not intend at present to offer any remarks upon the provisions of the Bills introduced to the Council, but with due deference I desire to express my appreciation of the clear and practical explanation that has been made to the Council by the Hon'ble Member in

charge of the Bills, and to which we have listened with so much interest and attention. The impartial and independent manner in which the Hon'ble Member has reviewed this troublesome and intricate question, and the consideration he has given to the various interests involved, will be appreciated not only by Hon'ble Members present but also by the general community throughout India and, I venture to add, in England as well. He has pointedly and correctly emphasised the fact that the mill-owners and merchants in India are at one in declaring that they want no special terms of any kind—no treatment in which Manchester is not admitted to a perfectly equal share; and Hon'ble Members must have observed that in the very valuable papers lately addressed to the Government, both merchants and manufacturers have shown a desire that the sense of injury under which the Lancashire manufacturer is rightly or wrongly, and unfortunately, labouring should be removed. The well-deserved tribute of loyalty and integrity that Sir James Westland has so courteously paid to the spinners and manufacturers of India will also be appreciated by those best competent to judge of their conduct, and it must be of general satisfaction to the community to learn that the remission of taxation proposed by this legislation is warranted by the improvement in the position of the finances of the State. The latter is a primary consideration, and any further information that the Member for Finance can afford the Council in this respect will be received with keen interest. Indeed, this would be of special interest, as the Hon'ble Member has observed that the element of exchange largely affects the proposals put forward and that the latter are based on the supposition that the rate of exchange will hold at something approaching its present figure."

The Hon'ble SIR JAMES WESTLAND said:—"With reference to the observation which has fallen from the Hon'ble Mr. Playfair, I think it will be practically impossible for me to give any further detailed information regarding the financial position before this question comes before the Council for decision. There are many objections to going into such a question in detail before the proper time comes for doing so, but I would desire to take the opportunity of correcting one possible misapprehension which may arise from what the Hon'ble Mr. Playfair said. I would not give up—I would not consider myself warranted in giving up—50 lakhs of revenue if our ability to do so could only be justified by the maintenance of the present rate of exchange. The maintenance of the present rate of exchange gives us a very ample margin over that 50 lakhs, and we will be able to spare the 50 lakhs even if

the rate of exchange does not hold quite so high as the figure at which it is at present standing."

The motion was put and agreed to.

The Hon'ble SIR JAMES WESTLAND also moved for leave to introduce a Bill to amend the Indian Tariff Act, 1891. He said:—"This is merely a small amendment intended to carry out with reference to imported goods the policy which I have described with reference to goods generally."

The motion was put and agreed to.

The Hon'ble SIR JAMES WESTLAND introduced the Bills referred to in the above motions. He said:—"In now introducing the two Bills intended to carry into effect the policy which I have described, I shall give some account of their detailed provisions.

"The Bill to which most interest is necessarily attached is that which imposes an excise duty upon manufactures at Indian mills. The principle of its operation is the same as under the existing Cotton Duties Act, namely, assessment upon returns made to us by the mill-owners or managers. I see that a member of the Manchester deputation to the Secretary of State, himself a manager, was good enough to describe this method of assessment as a farce. To that I give the most emphatic denial; the Mill-owners' Association justly expect the Government to repudiate any such impugnement of their good faith. It may possibly be a matter of surprise to this gentleman that the Bombay mill-owners have not put every obstacle in the way of the operation of the Cotton Duties Act, and have not systematically falsified their returns; but the Government have never found the least reason to regret that they treated the mill-owners of Bombay as honest men, for they have systematically received from their Association every support in carrying the law into effect, and from the individual members a ready and straightforward compliance with the requirements of the law. Our experience confirms what I said a year ago, that returns sent us by the mills themselves, subject to the check afforded by the inspection of the mill accounts and records, is the simplest way of working the duties so far as the mills are concerned, and is fair and just so far as the Government is concerned.

"In the case of yarns we last year required a monthly return only, because the descriptions of yarns were necessarily definite and precise. This plan, however, is not quite sufficient in the case of finished goods, which are much

more various in quality. We do indeed begin by specifying some ten or twelve standard qualities, which cover the bulk of the production of the mills, but in the case of other goods there might be difficulties in valuation were we to allow such a long interval to elapse, that the goods included in the return might have passed entirely out of reach, before the checking officer would be able to inspect. We therefore prescribe a fortnightly return, but as the return is merely an enumeration of the articles that have passed out of the gate of the mill, of which every mill-owner keeps a regular record, we believe its compilation will be a much simpler business than the present one, and that the mill-owners will find less difficulty and less labour involved in sending us the proposed return within three days, than in sending the present return of yarns within fifteen days.

"I have already said that for the simplicity of working this matter, and also in accordance with our principle of having a conspicuously equal taxation upon Indian and upon imported goods, we have classified the more frequent and the regularly recognized kinds of grey goods and have imposed the duty in the shape of a specific rate.

"I am desirous of calling particular attention to this feature, which we believe will conduce greatly to the easy working of the new duties. We are, in India, somewhat wedded to the principle of levying duties by percentages *ad valorem*, a plan which as a matter of fact is the exception rather than the rule among the tariffs of the world; and which has what is in some respects the disadvantage of giving rise to petty variations of duty, in accordance with petty differences in the quality of goods. It is of more importance that the duties levied should be equal as between the persons who pay them, than that they should bear, with mathematical precision, the same ratio in every case to the value of the goods. The usual way by which in India we obtain this result is that of affixing tariff values to goods which do not greatly differ in quality; the present is a variation of that method.

"The rates we have fixed in the cases referred to (for which I refer to the Schedule to the Act) have been so arranged as to be, at the prices which have now for a long time been prevailing, just $3\frac{1}{2}$ per cent. upon the values (say, $7\frac{1}{2}$, 8, 9 and $10\frac{1}{2}$ annas) of the common qualities of the goods upon which they are levied; and the real effect of the introduction of these specific duties is that we are giving up the small additions which an *ad valorem* duty might give us in respect of the better varieties of the same goods, and those called 'fancy'

or 'fancy-bordered.' This we are willing to do if we can thereby obtain smoothness and simplicity in working.

"I may call attention to the fact that we tax nothing until it passes out of the premises of the mill, so that all the operations of baling, warehousing, etc., go on untouched by the tax. We have special warehousing provisions in the existing Act and we have repeated them in the proposed one; but they are not at present taken advantage of and most likely they will not be. The universal practice of the mills is not to pass out their finished goods until they are to be exported or delivered to a purchaser. The working of the proposed Act will in this respect be simpler than the present system, for in the one case, that of export, the goods will pass straight away untaxed, and in the other, that of sale, the proper time will have arrived to assess the duty on the manufacturer.

"The other provisions of the Bill follow, for the most part, the lines of the existing system. But I desire to draw attention to one section of the Bill, section 1, the only section which affects mills that are spinning mills only. It is proposed to obtain from them a simple monthly return of the quantities of yarn they spin. This is wanted for statistical purposes only, just as we have legislative power to require all vessels landing cargo to give us for trade purposes and quite apart from the levy of duty the statistics of their imports. I believe that the mercantile community and the Mill-owners' Association recognise the value of statistics of the kind, and the section in question is offered for their consideration, but will not be pressed if they are opposed to its retention. I need hardly say that the figures received from the mills will continue to be treated as strictly confidential, as in the past: our publications will show them only in a general provincial form. It seems, however, to be a pity to discontinue altogether the collection of statistics of so important a trade as the cotton manufacture of India.

"It is necessary also to make certain provisions for the transition from the present to the future system of taxation. We may take for granted that, in the case of imported goods, the reduction of taxation on cloth and the exemption of yarns come into effect from to-day. Any person whose goods arrive before the passing of any new system into law will take care to put off their assessment to import duty until he can get the benefit of the new conditions. We therefore, in the case of Indian-made yarns also, stop the assessment to duty with effect from to-day, thus putting the two on precisely the same footing.

"We have therefore only to provide that when the new duties come into force, which I hope the Council will permit within a week's time, the new duty will not be charged on woven goods in addition to the duty already paid on the yarns that have entered into its substance; that is, we allow a rebate of duty already paid on any yarns which, on the date when the Bill becomes law, are still on the premises of the mill and waiting to be woven into cloth. To prevent delay in the settlement of claims under this head and to enable us to wind up the account of this transition period as soon as possible, we provide that, within a week of the passing of the Act, the mill-owner shall give to the Collector a list of all the yarns in respect of which he intends to make this claim. The inspector ought to verify this list as soon as possible, and it will then become a standard with reference to which the duties leviable for the short transition period will be settled.

"So much for the Cotton Duties Bill. The other Bill appears in the form of an amendment of the Indian Tariff. As laid before the Council, the Bill substitutes an entirely new Tariff for the existing Tariff, a form of legislation which is much more convenient both to merchants and to Customs Houses than an amending Act which directs certain new entries to be substituted for certain existing entries in the Tariff. The only real amendments are (1) the exemption of yarns from all duty, (2) the levy on woven and other cotton goods of $3\frac{1}{2}$ instead of 5 per cent. duty, and (3) the attachment of a specific duty to certain classes of grey goods in the manner already explained.

"I shall be able to satisfy the Select Committee, to whom, with the permission of the President, I shall presently propose the Bill should be referred, that in every other respect the Tariff now laid before the Council, where it is not word for word a copy of the existing Tariff, corrects it only in respect of notifications of exemption, or reduction of duty, or alteration of Tariff value, which the Government has power to carry out by executive order and has actually notified in regular legal fashion.

"In view of the question coming under discussion by the Select Committee, and as it will prevent probably greater delay in finally passing the Bills which might disturb the course of trade, I desire now to move the President to suspend the Rules of Business in order to admit of the said Bills being referred to Select Committees."

THE PRESIDENT declared the rules to be suspended.

1896.]

[Sir James Westland; Sir Griffith Evans; Rai Ananda Charlu Bahádur.]

The Hon'ble SIR JAMES WESTLAND said:—"In moving that these two Bills be referred to a Select Committee, I perfectly understand that the Members of this Council do not in any way bind themselves at present to the principle of the Bills. It is extremely desirable for many reasons, which I think I had occasion to explain in introducing previous Bills of the same kind, that Bills of this description should pass the Council, if they pass at all, as rapidly as possible. I have taken special precautions to acquaint the people interested in the trade with our proceedings in this matter. To-day all mill-owners at Bombay, and the newspapers there, will receive copies of the speeches which I have delivered, and also of the Bills as they stand and as now introduced before the Council. They will be in immediate communication with us and also with the Government in the Legislative Department regarding all matters connected with these Bills. This is only fair to them, inasmuch as we are discussing the matter at a very great distance from the place they are situated and a matter also in which Bombay is even more interested than Calcutta is. I desire to move that the Bill to provide for the Imposition and Levy of certain Duties on Cotton Goods be referred to a Select Committee consisting of the Hon'ble Sir Alexander Miller, the Hon'ble Sir Charles Pritchard, the Hon'ble Mr. Rees, the Hon'ble Mr. Glendinning, the Hon'ble Mr. Mehta (who may just possibly turn up), the Hon'ble Mr. Playfair and the Mover, with instructions to report in a week."

The Hon'ble SIR GRIFFITH EVANS said:—"Under ordinary circumstances it would no doubt be objectionable to refer a Bill of this kind to a Select Committee before having the principle of it fully considered; but as it is impossible to consider the Bill to-day, and as it is most desirable that the details should be considered as soon as possible, and as it is important to have the views of the Select Committee before us in order to aid the Council in the discussion of the measure, and on the understanding that the Council is in no way committed to the principle of the Bill, I see no objection under the circumstances to the proposal to refer it to a Select Committee."

The Hon'ble RAI ANANDA CHARLU BAHÁDUR said:—"I agree to the remarks which have fallen from the previous speaker; but I think a week too short a period. I would say a fortnight, because although the mill-owners might easily communicate their views to us within that period, still there are other people who are entitled to express an opinion upon the question. Madras will not be able to communicate in time within a week. I would, therefore, submit that the period is too short, and I would suggest a fortnight. I would

[*Rai Ananda Charlu Bahádur; the President; Babu Mohiny Mohun Roy; Sir James Westland.*] [23RD JANUARY,

also point out another fact—that Mr. Mehta is not here. As the Hon'ble Mover said, it is just possible he will be here, but it is equally possible that he will not be here, because, as I understand, he will not be in Calcutta until the end of this month."

THE PRESIDENT:—"Am I to understand that you are moving an amendment to the Motion?"

The Hon'ble RAI ANANDA CHARLU BAHÁDUR:—"Yes, moving an amendment. I have no objection to make but wish to suggest that a fortnight should be substituted for a week."

The Hon'ble BABU MOHINY MOHUN ROY said:—"I think I ought to second the proposition of the last speaker. The Hon'ble Member in charge of the Bill has assured us, and I am glad of his assurance, that the loss of revenue on the whole account would be something less than 50 lakhs, and this reduction of taxation, he believes, the improvement in our financial position would warrant him in making. This means, I take it, there will be no fresh taxes imposed this year, nor any increase in any of our old taxes. It seems to me, however, that as we are surrendering part of our revenue, we need not do it in such a great hurry, and that one week's time is too short for proper deliberation such as the importance of the measure calls for. I observe also that the Hon'ble Mr. Mehta, Member for Bombay, is not present in Council, nor is likely to be in Calcutta within a week. For these reasons I second the proposition of Rai Ananda Charlu Bahádur that 'a fortnight' be substituted for 'a week'."

The Hon'ble SIR JAMES WESTLAND said:—"With reference to the proposal that the Select Committee should report within a fortnight, and not within a week, I desire to emphasise what I have already stated. The suspension of a Bill of this kind is a very great inconvenience to trade—both to the import trade and to the mill trade in India. I think that the practice of the House of Commons in this matter is that when a Resolution on a fiscal matter is before it, it practically comes into effect at once, without even a day's delay. We are not talking here without experience, for we are only proposing to do in respect to the proposals now before the Council exactly what was done thirteen months ago, in 1894. If the Select Committee find that they are unable to report in a week, they will no doubt ask for further time, but it seems to me quite unnecessary to begin by telling them to spread their

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[*Sir James Westland; the President.*]

deliberations over a fortnight, instead of laying upon them some obligation at any rate to come back to Council with their Report in a week if they are able to present it by that time. I therefore oppose the amendment of the Hon'ble Rai Ananda Charlu Bahádur.

"In respect to Mr. Mehta's absence, which has been referred to, I think it highly desirable that the Member for Bombay should be present and on the Select Committee, but we are not responsible for Mr. Mehta's absence, and our object in putting his name on the Select Committee was that, if he could possibly be present, he would be able to take his place at once without any further motion coming before the Council."

The PRESIDENT said:—"I may say that it is so constantly felt that any unnecessary delay in matters of a fiscal kind is very objectionable, that that was the consideration which moved me at once to assent to the suspension of the rules. If the Select Committee are not to report for a fortnight, they might be appointed next week and there would have been no object in suspending the rules at all. The question is that the Bill to provide for the Imposition and Levy of certain Duties on Cotton Goods be referred to a Select Committee consisting of the Hon'ble Sir Alexander Miller, the Hon'ble Sir Charles Pritchard, the Hon'ble Mr. Rees, the Hon'ble Mr. Glendinning, the Hon'ble Mr. Mehta, the Hon'ble Mr. Playfair and the Mover, with instructions to report in a week.

"An amendment has been moved to substitute for the word 'week' the word 'fortnight.' I shall follow the course usual in the House of Commons and put the question:—

"That the word proposed to be left out stand part of the question'; that is to say, those who are in favour of the word 'week' will say 'aye,' the contrary 'no'. The 'ayes' have it."

The original motion was then put and agreed to.

The Hon'ble SIR JAMES WESTLAND also moved that the Bill to amend the Indian Tariff Act, 1894, be referred to a Select Committee consisting of the Hon'ble Sir Alexander Miller, the Hon'ble Sir Charles Pritchard, the Hon'ble Mr. Rees, the Hon'ble Mr. Glendinning, the Hon'ble Mr. Mehta, the Hon'ble Mr. Playfair and the Mover, with instructions to report in a week.

The motion was put and agreed to.

COTTON DUTIES AND TARIFF BILLS.

[Sir James Westland.]

[23RD JANUARY, 1896.]

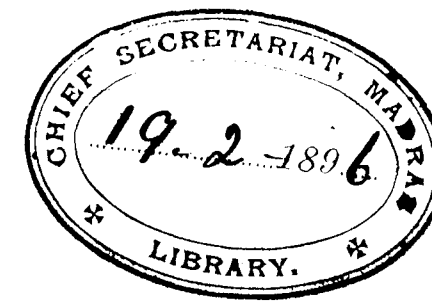
The Hon'ble SIR JAMES WESTLAND also moved that the Bills referred to in the foregoing motions be published in the Gazette of India and in the local official Gazettes in English.

The motion was put and agreed to.

The Council adjourned to Thursday, the 30th January, 1896.

CALCUTTA;
The 24th January, 1896.

S. HARVEY JAMES,
Secretary to the Government of India,
Legislative Department.



Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892 (24 & 25 Vict., cap. 67, and 55 & 56 Vict., cap. 14).

The Council met at Government House on Monday, the 3rd February, 1896.

PRESENT:

His Excellency the Viceroy and Governor General of India, P.C., G.M.S.I., G.M.I.E., LL.D., *presiding*.
His Honour the Lieutenant-Governor of Bengal, K.C.S.I.
His Excellency the Commander-in-Chief, G.C.I.E., K.C.B., V.C.
The Hon'ble Sir A. E. Miller, K.T., C.S.I., Q.C.
The Hon'ble Lieutenant-General Sir H. Brackenbury, K.C.B., K.C.S.I., R.A.
The Hon'ble Sir C. B. Pritchard, K.C.I.E., C.S.I.
The Hon'ble Sir J. Westland, K.C.S.I.
The Hon'ble J. Woodburn, C.S.I.
The Hon'ble Mohiny Mohun Roy.
The Hon'ble C. C. Stevens, C.S.I.
The Hon'ble A. S. Lethbridge, C.S.I., M.D.
The Hon'ble M. R. Ry. P. Ananda Charlu, Rai Bahádur.
The Hon'ble Sir G. H. P. Evans, K.C.I.E.
The Hon'ble Alan Cadell, C.S.I.
The Hon'ble J. D. Rees, C.I.E.
The Hon'ble G. P. Glendinning.
The Hon'ble Nawab Amir-ud-Din Ahmad Khan, C.I.E., Bahádur, Fakharuddoulah, Chief of Loharu.
The Hon'ble Rao Sahib Balwant Rao Bhuskate.
The Hon'ble P. Playfair, C.I.E.

COTTON DUTIES BILL.

The Hon'ble SIR JAMES WESTLAND being called upon, addressing His Excellency the President, said:—"In the first place, I beg to express the very great pleasure with which I and the Hon'ble Members of Your Excellency's Legislative Council see you take your seat once more amongst us as our President."

He then presented the Report of the Select Committee on the Bill to provide for the Imposition and Levy of certain Duties on Cotton Goods. He

said :—"The principal change which the Select Committee have made in this Bill, so far as its substance is concerned, is in the adoption of a system of valuation different from that proposed by me when I introduced the Bill. My object in making the two proposals which I then laid before the Council was that we might be able to hit upon a system which would ensure absolute equality as between imported and home-made goods. I found at our conference with the members of both trades that this compromise for different reasons suited neither of them. The importers are particularly anxious that the duties levied upon them should be duties strictly *ad valorem*. To the millowners the same system would be convenient, but for the fact that under the system on which we levy duties upon the millowners, the goods upon which they are levied pass out of our control, so that it is not possible, except by means of samples, to refer to them. Under these circumstances, to enable the millowners to work the system with ease and to prevent difficulties arising from minute questions of valuation, we have provided in the Bill that tariff valuations may be imposed upon the goods which they produce. This system of tariff valuation we intend to apply to the chief products of the mills, so that by far the bulk of those products will be assessed on a tariff valuation which approximates as closely as possible to actual values, but will at least make the values not dependent on the price, as they run from day to day, and as they might be estimated from day to day by different millowners. This system, I have ascertained, suits the millowners, and provides for equality of taxation as among the millowners themselves. I shall probably be able to issue a Notification to-day fixing certain tariff valuations, because it is a matter on which we have been making minute enquiries for some time past, and a matter in which the Bombay millowners have been able to give us considerable assistance.

"There are also three or four points in which we have modified the Bill as first presented to us, all these points being matters in which it was desirable to give certain protection to the millowners in respect of their trade secrets, so as to prevent an inspector, who may be no permanent servant of Government, and may find himself afterwards in a position to make use of the secrets of one firm for the advantage of another, from doing so.

"We have therefore provided that, under certain circumstances, the records of the mills may be withheld from the inspectors on the ground that they contain trade secrets; we have provided also that the millowners who are obliged to keep samples may, when called upon to produce them to the inspector, insist on their being forwarded in an intact condition to the Collector. We have also

made provisions by which the Local Governments may prescribe in case of inspections that the entry of the inspector to certain parts of the mill where processes which are of a secret nature and which the millowners should not be required to divulge are carried on, may be subjected to certain restrictions.

"The question of stores has also, I ought to mention, been before us. It is not a matter in which the Select Committee have taken any action, but it has been before the Select Committee, and I may mention that, as I proposed when the original Bill came before the Council to give exemption to millowners with regard to a limited amount of stores, so I propose, as soon as possible, to provide that certain classes of stores, of which I have obtained a list from the millowners of Bombay, may be imported by them without payment of duty. It is easy enough to arrange so far as regards the millowners themselves. The difficulty only arises when the millowners, instead of importing themselves, provide themselves through agents. I have thought it desirable to mention these matters although they are not matters relating to the Select Committee, because it will show the Council and those interested in this Bill that we have attempted in these matters, as far as possible, to meet the claims of those gentlemen who have taken the trouble to come from Bombay and from Cawnpore to lay their views before us. With these remarks I beg to present the Report of the Select Committee."

The Hon'ble SIR JAMES WESTLAND moved the President to suspend the Rules of Business to admit of the Report of the Select Committee being taken into consideration.

THE PRESIDENT declared the Rules suspended.

The Hon'ble SIR JAMES WESTLAND moved that the Report of the Select Committee be taken into consideration.

The Hon'ble MR. PLAYFAIR said :—"My Lord, it will be within the recollection of Hon'ble Members that the initial efforts of the members of the Select Committees who dealt in December, 1894, with the imposition of a duty on cotton goods imported into this country, and an excise on Indian manufactures were based on a desire to avoid protecting the local industry against Lancashire manufacturers. For this reason and to remove all possible chance of dispute and cavil, the limit of exemption from excise was fixed at yarns counting 20 hanks and less to the 10lb. bundle, although sufficient evidence had been produced to satisfy many Hon'ble Members that the line for exemption might with safety be drawn at count 24s and under. It will also be within the recollection of

those Hon'ble Members who were present and took part in the discussion upon the Report of the Select Committee that the Hon'ble Member in charge of the Finances went so far as to say that it was open to the Government to reconsider the merits of raising the limit to embrace yarns of count 24s and under, and it was understood that Government did not forthwith adopt so high a limit, as among other reasons the Secretary of State had stated that he believed he would be furnished with facts to show that a trade did exist between England and India in fabrics made from yarns ranging between 20s and 24s. No such information has, however, been forthcoming. It may fairly be presumed from the further light thrown on the subject that it was not to be obtained. Nothing has been produced, therefore, to contradict the views held by Hon'ble Members that competition on the part of Lancashire mills with the production of the coarser fabrics spun and woven in Indian mills does not exist. On the other hand, further examination in India proves that in reality no competition exists in goods made from yarns below 20s. Cotton drill goods, such as are worn during the hot weather months by Europeans and Eurasians, are almost the only fabrics made of 20s yarn that come to India from abroad. It has been shown that these importations are insignificant, representing a little over two per cent. of the entire import-trade in cotton goods, that these drills are manufactured more largely in America than in England, that long staple cotton is more suitable for the manufacture of these goods, and that the quantity imported has not fallen off since custom-duties were imposed. This trade is of such a retail description, supplying the wants of the European community, that it would have been no less unreasonable had the Bond Street tailors objected to a five per cent. duty being levied on their superior suitings while the Cawnpore Woollen Mills were permitted to produce their serges and angolas free of excise. Hon'ble Members cannot but be impressed with the fact that there is nothing before the Council to show that goods manufactured in India enter into direct commercial competition with goods imported from the United Kingdom. And this leads me to say that the theory of substitution, under the argument that the exemption of the lower qualities from taxation tends to divert the course of consumption from the higher to the lower class of goods, is groundless, and is disproved by the fact that the purchasers of the coarse Indian-made fabric are distinct and separate from the purchasers of the Lancashire product. As an illustration it might as well be argued that it would be unfair in England to tax for revenue purposes velvet and let fustian go free in case substitution should take place to the detriment of the velvet manufacturer. Statistics of past years are unfortunately incomplete, but it is more

reasonable to assume that any falling off that may have taken place last year in importations of Lancashire manufactures of a low range of counts is the natural reaction to over-supply and is not a consequence of the Indian import-duties. It has been further demonstrated that it is impossible for Lancashire to compete in this trade, for even with American cotton at 3d. per pound it has been shown that the Bombay millowners have an advantage up to 27 per cent.

"And after all what is this Indian trade over which so much contention has unfortunately arisen? An examination of statistics shows that the power-loom spindles in India amount to 1-25th and the power-looms in India to 1-60th of the world's supply. In relation to Great Britain's equipment, which represents one-half in spindles and one-third in looms of the world's supply, India possesses 1-12th part of Great Britain's spindles and 1-19th part of her looms. May India not have this little ewe lamb? My lord, I have every sympathy with the depressed condition of Lancashire trade, and for the welfare of England as well as of India everything that can, legitimately, be done to afford relief should be granted; but, because Lancashire masters may be alarmed and discontented on account of the state of their affairs, I see no reason why they should unjustly attack a separate industry in India. The proposals under these Bills mean a remission of taxation of Rs. 5 1½ lakhs (or 37 per cent.) on Manchester goods and an increase of Rs. 11 lakhs (or 300 per cent.) of taxation on Indian-made goods. It is surely but natural that Indian manufacturers should stoutly object to a transfer of taxation from the customers of the Lancashire mills to those of the Indian mills when no practical reason has been adduced to justify this, and when remission of Indian taxation is being made. It is a transfer of taxation from the richer to the poorer classes of the community, that is not required for fiscal considerations, that is not warranted when a surplus in the finances is available, and I may add that the annoyance is intensified by the knowledge that this shifting of taxation cannot be of the least benefit to Lancashire. Unfortunately a sense of injury has been created in the minds of Lancashire manufacturers by the imposition of a duty on cotton goods, which feeling it is highly desirable should be removed. It has been recognised in India that it would be a matter of very serious concern were an embittered controversy and political hostility to exist between the manufacturing communities of England and India. The readiness with which local manufacturers have addressed themselves to a consideration of the subject in response to the agitation by Manchester, and the impartial manner in which they have stated the facts of the case for the information of Your Excellency's Government, manifest to a remarkable degree their desire that even justice should be secured. Their proposal, that

the class of yarns and fabrics freed from excise should be exempt from import-duty, and that locally-manufactured cloth and yarns of 20s and over should pay an excise, was supported by the Chambers of Commerce of India and the Government of Bombay and should have removed the sense of injury that has unfortunately sprung into existence, without implying loss of revenue. It should have done more than remove 'a shred of protection' against Lancashire, as it would have turned the scale against the Indian manufacturers so long as a duty on any stores is levied. A duty on stores adds to the cost of exported yarns, and to this extent the Lancashire manufacturer will have an advantage in competition with Indian products in those foreign markets to which India sends three-fourths of her production. I say with frankness I do not anticipate that this proposal in itself, any more than the measure now put forward by the Government, would either bring about a revival or lead to a development of Lancashire trade, Lancashire having long since ceased to export the coarser qualities, supplying India with shirtings instead.

"A remission of taxation is always welcome, and the present proposal again proves the elasticity of the Indian revenues. It is surprising that it should now be possible for the Government to offer any remission remembering the despondent tones that were uttered in this Council Chamber not many months ago. For myself I should have preferred that the attention of the Government of India should have been devoted, if a remission of taxation were admissible, to lowering the railway rates for the carriage of exports and imports over the main lines of the State Railways. It seems to me that working as Government is now doing for a dividend of from 8 per cent. to 10 per cent. on the liberal capital of the State Railways, and at the same time improving block at the expense of revenue, may check the development of Lancashire trade far more seriously than the imaginary injury arising from the imposition of customs-duties. As an illustration I would like to say that were Government to give up the surplus revenue it obtains from the East Indian Grand Trunk line, which last year amounted to the identical sum of taxation that Government is prepared to remit, namely, Rs. 50,00,000, the produce of the country would have a better chance of competing successfully in the markets of Europe with crops of other countries, and that the benefit to be derived from cheap railway freights by the people of this country, including the poorer classes, would also directly benefit Manchester in creating a greater demand for her wares. I personally place this claim for remission of taxation first. I think it is sound in principle and would be beneficial in results. Next to this there might well come the consideration of what has been so frequently characterised as the iniquitous income-tax, the limit of which might have been

raised for the benefit of the poorer classes even if Government did not see its way to redistribute or entirely abolish the impost. Either of these proposals would have been of benefit to the community, and, if Lancashire would actively support the extension of the railway system in India, and if Government would carry out and give whatever terms are necessary to secure the construction of a system of feeder-lines by which Manchester goods may be brought to the door of the Indian peasant, and be exchanged for the produce of his land, it would, in my opinion, be a permanent benefit and do far more than this method of dealing with a surplus which, after all, may be accidental.

"I offer these remarks in the hope that when Government comes to deal with a further surplus it will give consideration to this commercial requirement.

"The Council is now assuming that the finances and future prospects admit of reduction in taxation, but without a statement of the finances it is very much in the position of a Board of Direction of a public Company called upon to approve of a dividend being distributed without having an estimate of the revenue account. I would further observe that it has been admitted that sterling exchange is now the most important factor in the realization of a balance in the finances of the State, and I assume that Government has anticipated what effect a revival in trade with Lancashire, which it is intended by this Bill to promote, may have upon exchange.

"I do not approve of the principle involved in the Bill, and, if Government intends to proceed with the Bill, regardless of the opposition it has created, I can only hope that when trade has become accustomed to the alteration it may be continued without further loss; but to ensure this I would like to obtain from Your Excellency's Government something in the nature of an assurance that this legislative measure is looked upon as a final settlement of the question, and that, so long as the finances permit, there need be no further alteration in import-duties. I am convinced that, if Your Excellency's Government and Her Majesty's Secretary of State for India do not intend that the proposals now put forward shall be a final solution and settlement of the question as far as Lancashire is concerned, and that Lancashire shall not be permitted to regard this as an instalment of her demands, the Bill will not only be useless, it will be injurious, and will involve the trade of the country in annoyance, agitation and loss against which I would enter a strong protest. The legislative measures affecting currency and commerce passed during recent years have with their initiation brought severe loss on sections of the commercial and industrial community, and so serious are the consequences involved in an alteration in fiscal policy that in Paper No. 5,

[*Mr. Playfair ; Rao Sahib Balwant Rao Bhuskute.*] [3RD FEBRUARY,

attached to the Bill, an earnest protest has been preferred by the importers of Manchester goods against the interruption to business caused by the numerous changes to which the duty and the tariff have been subjected, and the hope is expressed that the settlement now about to be come to may be a lasting one, and that importers may be allowed to conduct their business in peace for many years to come."

The Hon'ble RAO SAHIB BALWANT RAO BHUSKUTE said :—" My Lord, the Government of India is justly entitled to the warmest gratitude of the people of this country for the most appropriate consideration they have given to the much difficult problem of the re-imposition of cotton-duties. It is quite true that the Government has been placed as it were between the hammer and the anvil. Yet a deal of the anxiety so unnecessarily excited may still be quieted. Educated public opinion and especially that of the English and Indian mercantile communities in this country may be said to have been fully represented by the Millowners Association of Bombay. That opinion, my Lord, is not only favourable to the cause of good government but is sure to foster a spirit of contentment amongst the masses. I shall confine my observations to the able speech, made by the Hon'ble Mover in introducing the Bill, to the letter from the Millowners Association and to the representation of Lancashire manufacturers.

" The framers of the Lancashire case have gone far off the range of existing facts, in representing that under the influence of the import-duties the prosperity of the Bombay mills has gone forward by leaps and bounds. It is evident, my Lord, that the mill industry here could not have been in a thriving condition, owing to the condition of the exchange, to the war in Eastern Asia, and to the effects of the closing of the mints. Allow me therefore to mention that the statement that the depression of Lancashire manufacture is due to any unnatural impetus given to the Indian mills cannot be true. Mr. Marshall rightly remarks :—" throughout these papers there is no shadow of a hint or suggestion that the bad times which have overtaken Lancashire of late can have any other source or origin than India, and any one reading them or otherwise unaware of the facts would come to the conclusion that there had been no increase in the spinning power in any other part of the world than in India." He then appends a table showing how much the United Kingdom alone added to its spinning power during the last four years. Her trade in India is comparatively smaller. Her trade with this country in fabrics of 20s and lower is almost a nullity. She may have a real grievance. But the remedy sought for is not specific for the distemper. It would simply be amputating the leg when there

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is pain in the fingers. Even the Hon'ble the Finance Member holds the same opinion when he says :—" But although the Manchester case is in these and some other points much exaggerated there are other matters in which we feel we must admit that the treatment of Indian and Manchester goods is not quite on the same level."

" The Lancashire men, we are told, have made out their case by a set of figures which show that during the first five months of 1895 there was a large falling off in the shipment of cotton goods from England to India. If comparative statistics are to have any value, they must extend over a very wide area, and that narrower the basis of a fact asserted the less reliable is the logical consequence likely to be inferred from it. It is for the same reason that Lord Salisbury impresses upon statesmen the necessity of using large maps. Lancashire complains that she has suffered from a shortage of nearly 300 million yards in her export. She more than hints that India has absorbed to herself the trade which she has lost. But it is highly gratifying to find that the Hon'ble Mover is duly sensible of the invalidity of this assertion and does not consider that whatever Lancashire may have lost in this time of depression is India's gain. It is therefore quite out of place to make any comments on the hints she throws out.

" My Lord, we are all aware that the idea of protection is very repugnant to our most benign Government. This is neither the time nor the occasion to enter into a discussion on free trade and protection for this country. The established principles of free trade have been applied to this country, and I, for one, would never ask a favour partaking of the nature of a protective system, even though it is an admitted fact that the theories of the Western science cannot have a salutary effect on this country. No less an authority than Mr. Mill advocates a temporary protection to infant and promising industries—an opinion which though rejected by his school has a strong re-action in its favour. But taking our stand on free trade alone, it cannot be made out that in the duties as they have hitherto been levied there can be any protection afforded to India. Properly speaking, it is only 30s and 40s of the Indian goods that enter into direct competition with Manchester. This is the opinion held by experts of established capability like Mr. Benzonji Dadabhoy Mehta, the Manager of the Empress Mills at Nagpur. But Indian mills hardly ' produce yarns of better class than 30s.' This is the belief of an authority as high as the Hon'ble Sir James Westland himself. There is therefore no real competition between Lancashire and India. The former does not, or rather cannot, trade in lower counts, while the latter cannot produce the higher ones. The truth of the non-existence of

competition is evident enough in spite of the perverted attempts of Lancashire to prove contrary. She is moreover not affected by the incidence of the import-duty. Nor has she any grievance in the lower counts because, as the Hon'ble Mover has said, the quantity of articles sent by her to Indian markets is too inconsiderable for any attention. But Lancashire does not admit even this palpable fact. Little of the fabrics manufactured in Lancashire out of the yarns of counts 20s and under comes into India. The Bombay millowners could, in consequence of this fact, very easily dislodge their opponents from their ground from this standpoint. Mr. Marshall emphatically asks why Lancashire has left to India the virtual monopoly in the supply of low count yarns to China? The truth is that when American cotton is at three pence a pound it costs nearly two annas more to lay down a pound of twenties made from it in Bombay, than to lay down a pound of the same quality, namely, of twenties, made from Indian cotton.

"My Lord, I have endeavoured to bring to Your Excellency's notice that no injury has been done to Lancashire by any exemption from excise granted to Indian yarns of 20s and lower. Nor has any protection resulted from it to India.

"It is now necessary to sum up the Bombay minute of the Hon'ble Mover dated the 14th of July, 1894. He admits therein:— That the mills do not as a matter of fact produce yarns of better class than 30s.; that Indian cotton is not generally suitable for spinning higher counts; that there is no chance of American cotton being imported into India for purposes of finer counts; the Egyptian cotton which is suited for fine spinning is imported only to a limited extent for the sake of experiments only; that besides above Lancashire starts with great advantages over India, machinery costs less, building and erecting are expensive in India; coal lies the next door to Manchester, while Bombay mills get theirs from England; depreciation is great in India, wages are high in India; considering inefficiency of labour is required to be made up by number; and lastly that one of the reasons which prevent Indian millowners from attempting to compete by importing yarns and weaving (finer fabrics) from them is that when a mill weaves from its own spinnings the yarn is conveyed to the weaving department on its original spindles. A mill that purchases yarns to weave would have first to pay in the price of the yarns, the cost of the reeling, bundling and packing, and then in its own wages, also the cost of conveyance, unpacking and unbundling. All this is prohibitive as a matter of competition, and, though in Lancashire some mills do weave from yarns spun elsewhere, it is done only when it is possible to convey the yarn on its original spindles."

"The Hon'ble Mover has thus enumerated the advantages which England has over India. The mathematical value of these far more than exceeds five per cent. Or, to be more clear, the advantages which England has over India cannot be obviated by an *ad valorem* duty of five per cent. on goods imported therefrom into India. Does an import-duty of five per cent. on Lancashire goods prevent the merchants therein, in spite of their numerous advantages, from competing with the merchants of Indian fabrics duty-free so far as 20s are concerned? With all the advantages in her favour Lancashire could not compete with her rival when there was no duty.

"In spite of the numerous disadvantages to India, she could undersell her rival either in her home market or elsewhere. A slight *ad valorem* duty could have interfered little with the existing state of things. People are often apt to forget and overlook future consequences when a change against the existing state of things is aimed at. They are often inclined to ignore its consequences and declare in favour of that state which has stood the test of time. The complaint of Lancashire against the exemption granted in India to the lower counts is but similar. This is unnatural. The rest is in order. I mean her attributing to it her present depression. I am quite confident that Your Excellency's Government will not yield to such vague representations.

"The Hon'ble Finance Minister lays some stress, however, upon one claim of Manchester and says:—'That the exemption of the coarser goods creates a difference in price between the coarser and the finer, which tends to divert the course of consumption from the finer to the coarser.' Nothing can strike one more than this argument. I proceed to point out its weakness. The question of clothing is not decided by the strict economical equalisation of supply and demand. Cloth is one of those commodities whose supply can be increased at less cost of production. It is one of the necessities of life though of a lesser degree. Nearly 85 per cent. of our population are agricultural labourers. Their subsistence is so scanty that they are constantly on the brink of famine and starvation. They cannot even afford to clothe themselves. If such persons clothe themselves they necessarily resort to the cheapest possible clothing. There is no choice to them. Supposing excise-duty were equalised with the import-duty, the present state of things will remain unaltered. How is Manchester bettered by the duty? The relative difference in the increased prices remains the same. As long as Manchester goods made from the yarn of 20s or lower do not enter into competition with the Indian fabrics woven out of a yarn of that quality, the latter will be the only staple cloth of the poorest."

"Moreover, when exemption was first granted to counts 20 and the lower ones, it was done on the due consideration that foreign yarns of that quality never entered into competition in India, and if at all they did it they were too inconsiderable. If, however, the articles manufactured in India out of the yarns of 20s and lower were excised, no advantage is gained by any foreign dealer. How can one gain an advantage when one does not exist? But at the same time millions will have to buy their coarse cloth at an unnecessarily higher price which is sure to tell heavily on their impoverishment. Those who are best able to pay for a tax and that too in proportion to their higher comfort will have their tax reduced and the deficit will be filled up by the poorest, all other circumstances remaining the same!

"Ascending from the poorest class let us rise to one immediately above it. This class cannot exactly be called the middle class. In India even this class has its own peculiarities and distinguishing features. This class has imbibed a slight tincture of education. It has broken the links of pitiable ignorance and grasped the advantages of a higher and more comfortable state of existence, the concomitant appendage of civilization. This class has frequently to move in a superior society. A contact, however slight, with western civilization has rendered them alive to the importance of finer clothing. It therefore strains its means with a view to furnish itself with a dress as decent as possible. The effect of a slight increase in prices, though felt never, renders their resort to a meaner dress imperative. No doubt the duty is to them a hardship, yet not so stringent as to drive them from the finer to the coarser manufacture.

"It is no doubt an acknowledged and an established maxim of economical science that when an article is made dearer its demand proportionately diminishes and some customers are excluded. But an abstract proposition has a variety of modifications. An increased taste for finery, regard to fashion, comfort, and decency prevent the class of whom I am speaking from resorting to a coarser and therefore cheaper cloth. The duty raises the prices, but the rise is not material. There is no paradox in this. But if we were to look to the poorest class of people, helplessness and poverty are beyond measure so great that the duty as proposed would materially fall very heavily on them, whereas the class immediately above them, owing to modifications given above, will prefer any other privations to sacrificing an outward semblance of decency. Just as in politics every abstract proposition requires a modification of circumstances, so also in economics every principle has a variety of counteracting influences. It is circumstances which give in reality to every established principle its distinguishing colour and its discriminating effect. The class to be burdened by the

proposed duty is the poorest. The reduction in duty from five to three per cent. and a half will certainly be a decided advantage to the class immediately above it. But though it may be an advantage to them the proposed taxation will materially alter the condition of the poorest class. The former class feels the burden, yet it does not overpress it. It persists in resorting to its former raiment at the sacrifice of some other necessities of life. Because it cannot go without it. Competition is hampered in this country by custom, and the Lancashire argument about the diversion of trade is therefore quite futile. What is true of the class immediately above the poorest is true of all other classes above it. The other class of men will never exchange their fine clothing for a coarser one, so long as the conventional ideas of fashion and respectability remain unchanged. But for the counteracting modifications I have briefly outsketched, the argument would have had a deal of intrinsic force in it.

"The Hon'ble Finance Member says:—'They claim also that there is no such marked difference between the goods above the line and the goods below the line as would prevent the latter from being substituted for the former.'

"This argument will speak for itself, considering the Lancashire manufacturers were practically withdrawn from competition with the Indian mills by past experience, when there was no duty levied on imported goods. She does not send goods to India made even from yarn of 24s. She has therefore nothing to urge against this distinguishing line fixed by Your Excellency's Government. Again, a consumer's nicety in cloths of 20s, 21s and 19s may be questioned, but that in decidedly higher or lower counts cannot be doubted. Every one of us knows that when we go to the market we are always anxious first of all to see the different marks, stamps and impressions upon the cloth offered for sale. Customers know best how to make an adjustment for themselves.

"The other argument having some cogency in it is:—'The Lancastrian manufacturers claim that they can spin 20s just as easily as higher counts, and that they could, if they were not prevented by our fiscal measures, substitute for the cloth they at present send to India a cloth made wholly or partly of non-dutiable counts which would be a substitute for and find the same market as their present importations.' If Manchester had any chance of successfully doing this, the attempt would certainly have been made long ago. I am sure, my Lord, Your Excellency's Government will not make radical changes in our tariff in order that Lancashire may make experiments which she neither made before nor thought of. I have thus endeavoured to point out to Your Excellency that there has been no essential inequality of treatment of Lancashire

and India, in the present arrangements. It is an acknowledged fact that India cannot make cloth or yarn of counts above 30. Considerable opportunity thus presents itself to Lancashire to try her skill in counts ranging from 30 to 20. But as a matter of fact that is not the case. When there is no proof, actual or presumptive, that she can compete with India in cloths of yarns of counts 20 and under, it would be perfectly inexpedient to change the entire fiscal arrangement of this country only for the sake of allowing her facility for making an hitherto untried experiment. If her trade be not in a prosperous state, it is owing entirely to other extraneous reasons. If the Government were convinced that the present exemption is detrimental to the just interests of Lancashire, some consideration would have been absolutely necessary for her. But in the present case the repeal of a provision highly congenial to the interests of one class and perfectly harmless to those of another would be highly impolitic.

"In fact, there is no real conflict between the two classes of manufacturers. But it is, if carefully analysed, directed against altogether two distinct classes of men. It is a conflict between the mill industry and the hand-loom industry of this country. Representations from Cawnpore and from that part of the country which I have the honour to represent prove this to a demonstration. If the proposed measure becomes a law, there can be no finality of taxation. The hand-loom weaver, who is subjected to no restraints and regulations of the factory laws, and whose wages are not fixed on economic principles, will come into open competition with millowners both here and abroad. The duty which he escapes cannot be too small an advantage to be taken into account. Again, side by side with it the consumer is put to an undue hardship. No adequate consideration has been shown to him. I have already described who he is. He is the wearer of the coarsest and the cheapest cloth. The incidence of the proposed excise-duty must fall on him, if we lose sight of the competition between power-looms and hand-looms. He must necessarily curtail his demand for his rough cloth. In proportion to a diminution in demand the supply must be diminished. Thus the Bill contemplates adding a further hardship to the illiterate helpless poor and a blow to the Indian mill industry. The *Statesman* does not regard the slight rise in price as productive of any consequences. It is indeed surprising that a journal of so much weight and renown should not imagine to itself the miserable plight of the masses living constantly in famine and starvation. My Lord, first of all, the depression of trade in Lancashire is due to extraneous circumstances; secondly, there is no competition between Lancashire and Indian mill industries owing to the divergences in their respective trades; thirdly, the import duty does not change

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the course of consumption; fourthly, for the sake of giving to Lancashire opportunities for untried experiments the results of which are absolutely certain of failure, the poorest millions of this country ought not to be unjustly taxed; and lastly, the infant mill industry of this vast empire will be considerably hampered by the proposed legislation.

"My Lord, the Millowners Association of Bombay, the Chamber of Commerce there, Elgin Mills Company at Cawnpore, the Chamber of Commerce there, the Bombay Presidency Association, the Upper India Chamber of Commerce, the City of Bombay, the Mahratta Sabha there, the Ahmedabad Millowners Association and several other bodies best fitted to judge this question, have all humbly but emphatically protested against the Bill. Public opinion is much stirred throughout this vast empire.

"In the provinces which I have the honour to represent there are three mills; two of them are at Nagpur and the third is a little off from it. All of them have wired to me to lay their grievances before Your Excellency. But still more noteworthy is the telegram from the People's Association in the Central Provinces. The Sarvajanic Sabha of Poona, the most influential native body in this country, and the Bombay Presidency Association rank among the foremost representatives of the public.

"They all maintain that the tax will be imposed on the clothing of the poorest class of population, which it can ill bear.

"So long as the tax was confined to the better qualities of goods it was scarcely perceptible falling on those who could pay it or who could afford to pay it. Even the Right Hon'ble Lord George Hamilton admits by plain implication in another place the urgent need of relieving the poor from the burden of the salt-tax. The weaving industry may be endangered. The hand-loom weaver is proposed to be untouched. Will not his exemption be a protection to that extent? This will temporarily revive a depressed industry. On the whole we shall lose much and gain nothing.

"While all other importations remain taxed at 5 per cent., cotton only is being on an average taxed and excised at nearly 3 per cent. and a half. Why an artificial stimulus should be given to the cotton industry only is also another side of the question. This will be a sort of protection given to that branch of manufacture.

"It is, my Lord, almost difficult, nay impossible, for mill industry to compete now with the hand-loom if the present measure were passed as it is.

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"The only way open to satisfy every one is to draw a line, say, at counts 20 or 22 or 24, and declare all cloths of finer counts to be liable to duty and all others to be free. It is also the opinion of the Hon'ble Mover that such a line would not be objectionable. As no coarse cloth is imported, this line of discrimination would cause no loss in revenue. Several experts have pointed to the practicability and feasibility of such a step. Supposing therefore that the present financial outlook is everlasting and that the relief, granted to the poor on occasions like this by a remission of their burden, to be needless, it will be the most unobjectionable of all ways to mark out such a line and set all cloths of counts of a particular number free from excise or import duty.

"My Lord, it is probable otherwise that the poor, instead of rejoicing at this occasion of a partial and probable relief in the long-continued financial difficulties, will have to grieve for this unprecedented event of placing a fresh burden on them simultaneously with a better outlook, due perhaps to a temporary rise in the exchange. It may also be remarked that there is no finality even in the present measure, and it will have again to be reconsidered."

The Hon'ble MR. REES said:—"I will not venture to detain your Excellency's Council at any length with the considerations which have led me to an opinion sufficiently indicated by my vote, or to review the situation a duty which will fall to abler hands. But I would note that Mr. Playfair, speaking for those who raised objections to the Bill, has not referred to one of the chief objections they raised, *viz.*, the extent to which hand-loom weaving will be stimulated by the legislation now proposed. The Hon'ble Member from the Central Provinces has, however, addressed himself fully to this phase of the question. It has been contended that an excise of $3\frac{1}{2}$ per cent. on power-loom goods will press very hardly on the poor, and will so favour hand-loom weavers as to seriously damage the former industry, indeed, so as to lead to the whole-sale closing of mills. Mr. Playfair, indeed, could not support this contention, for in March, 1894, in this Chamber, he described a 5 per cent. import-duty as a rate so moderate that to it no consumer, not even the humble raiyat, could take exception, and he designated a tax of 9 pies per head per annum an infinitesimal amount which could be raised with ease and accuracy. The case was then, as argued, one of Manchester *versus* India, but the argument is equally good when the parties are Bombay millowners *versus* Indian weaver, in regard to one quarter of the former's total trade. Again, he asserted with absolute accuracy, though the competitive power of the weaver class is now looked on as an important factor in the case, that this was the class among artisans which in famine times habitually required relief. Indeed, though favour to Indian weavers is now

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suspected and deprecated by millowners, Mr. Playfair, representing with as much accuracy, I am sure, as ability, the opinions of the mercantile community in 1894 in this Chamber, thought that if it were possible to extend help to this class, it would be but assisting a section of the community which has suffered much by the introduction of power-loom manufactures through a foreign occupation of the country, a relief he considered which should not be grudged. In that case, if, indeed, assistance be incidentally afforded, the excise imposed on power-loom cloths should not be unacceptable. As regards the condition of the weavers, it is believed that in Bengal it is not too prosperous, and that numbers have forsaken, and are forsaking, their hereditary occupation for other means of livelihood. Similarly, in Madras the industry is unprofitable, and a large proportion of weavers have become agriculturists, labourers and traders. The durable, and in some rare cases extremely fine, hand-woven cloths of the South have been very much superseded by cheaper machine-made goods. It can hardly perhaps be said in general terms of the South of India that hand-loom weaving is merely a subsidiary industry, but it is in such a condition as to make it improbable, I think, that it will ever seriously compete with the mills. Sir Griffith Evans, speaking, I presume, for Bengal and perhaps for Upper India, has said in 1894 that the hand-loom weavers were beaten before the cotton duties were taken off, and he, like Mr. Playfair, scouted the idea that Manchester or Indian mills could be affected by this unorganized and sporadic industry, even if favoured by a 5 per cent. duty. How then can an excise of $3\frac{1}{2}$ per cent. on Indian-woven cloth prove so disastrous as is represented? And if help to an indigenous industry be an incidental and accidental feature of the present re-arrangement of taxation, how are the masses of the population so adversely affected by the measure? For it is they who chiefly, but by no means universally, use the coarse cloths of the hand-loom produced from low count yarns, which now, as before, will be unexcised. But looked at from another point of view, a poor man does not often buy a new cloth, probably not oftener than once a year, while the women of his family, unless bread winners, wear their clothing still longer. To take the case of a family, a Calcutta coolie on six annas a day, for instance, would pay under this Bill a tax on clothing of about one and half annas a year. Again, the hand-loom weavers, for the most part, use the yarns spun in Indian mills, which, if the local industry is stimulated, should gain and not suffer. Here in Bengal there is no power-weaving, and the local millowners are by no means unanimously of opinion that they have any cause to complain, though those who are of that opinion have not failed to express it more emphatically than those who are content have signified their acquiescence. It is also doubtful whether the poorer

classes in India so invariably as is supposed use the coarsest and cheapest cloth they can buy. For example, it is nowhere denied that of 2,480 millions of yards of cloth consumed in India only 240 millions are now duty-free, and the poor are unfortunately more than one-tenth of the population in India, as in other countries.

"It appears, therefore, that objections of this character are not very clearly made out, and, if it be urged that the exemption of fine yarns will lead to their use by hand-loom weavers in the place of the locally spun coarser yarn, it must be held either that a sudden and far-reaching change will be effected in the tastes and habits of a conservative population, which is unlikely, or that such population was induced to give up the use of finer taxed counts by the duty, which latter supposition involves the admission that such duty was, in fact, and to the extent indicated, protective of lower counts.

"As regards the pressure of this taxation upon the Indian populace, it is an admitted fact that of the classes which are to pay this infinitesimal amount, to quote again an Hon'ble Member of this Council, the most numerous have profited largely by the fall in exchange, which has made extra taxation necessary. In fact, these classes can well pay what is a very small charge indeed compared with such as they have to meet in consequence of the fluctuations of prices, which are frequent and considerable. Greatly as every one must wish to see taxation reduced, particularly such as is levied from the poor, and more particularly such as is paid by a patient, law-abiding and industrious peasantry, it must be admitted that their poverty is much exaggerated, and many competent and travelled observers hold the opinion that they are, though perhaps in less prosperous circumstances than those in a similar state of life in the richer countries of Western Europe, at the least better off than those of Eastern Europe, and than their brethren in most countries in Asia. A most elaborate unofficial enquiry, lately made by the Inspector General of Registration in Madras, a Brahmin gentleman, whose industry and research are equal to his talents and judgment, shows what the present condition of the Indian peasant is, and how that condition compares with what formerly obtained.* I believe myself that the agricultural labourer of South India on Rs 5 a month is far more fortunate than his brother in Hereford or Essex, and in 1891 and 1892 in the Southern Presidency it was proved that an admirable organisation now mitigates, and makes as tolerable as may be, even the visitations of famine. Hardly, therefore, can the Indian peasantry be described as 'a people dreadfully poor,' and with so little justice can it be suggested that the experience of one of the most terrible calamities which ever visited any country is likely to be repeated

in regard to any famine with which a humane and vigorous administration can be expected to successfully deal.

"That the cotton-duties, as at present levied, are to some, if to a small, extent protective is admitted by many of the bodies consulted. Some go farther than Sir James Westland did in introducing the Bill. One Chamber of Commerce, for example, considers it 'indisputable that the effect of the duty on drilis has favoured India as against Lancashire and is likely to permanently affect that trade, and that Lancashire manufacturers have a grievance as regards other low count fabrics, such as sheetings, 1-cloths, checks and stripes.'

"Other chambers and public bodies make similar or more qualified statements to the same effect, and many of them offer suggestions for equalization, though it must be admitted that little advantage can result from an exemption of cloths under 20s, when it is pretty well allowed that, with only one exception, in regard to which Manchester admittedly has a grievance, no such cloths are imported to an extent worthy of mention in a trade of which the volume is so vast.

"It may also be added in regard to Mr. Playfair's expression of regret that the proposal of the Bombay Millowners Association, to apply the discriminating line of twenties alike to imported and Indian-manufactured goods, was not accepted, that I understand from enquiry that the difficulties of working a similar system when formerly in force proved so great as to render extremely undesirable its present adoption. It is observed too that one Bombay Chamber, that of Ahmedabad, disapproved the recommendation of the Bombay Millowners Association, as the Import Association of Calcutta did a similar recommendation proceeding from the Bengal Chamber, and that the Import Association 'emphatically protested against any line of demarcation being drawn again between cloths of different counts.' Nor do all those bodies which approve such a line agree as to the point at which it should be drawn.

"As to the objection taken to these proposals on the ground that they involve a lightening of the tariff in favour of Manchester, the decrease in the duty must profit the consumer, and a reduction was actually recommended by several bodies consulted by the Government as a means of meeting such protection as might be involved in excising Indian spun yarns to countervail an import-duty levied on the completed article of cloth. Moreover, the mere fact that a measure profits the great Lancashire cotton trade should not be to its prejudice in any British possession, and the import tariff as a fact is not one of an all round 5 per cent. as it stands, nor is there, it is believed, in any country a tariff in

which all imports are without exception taxed at the same rate per cent. In any case some by no means opulent classes of the natives of India must benefit by the reduction from 5 to $3\frac{1}{2}$ per cent., be they or be they not the poorest of all, and that at least is matter for congratulation. I believe that the consumption of Manchester goods goes a long way down the line.

"One of the newspapers, which has most hostilely criticized these proposals, has in effect said that the extra burden on consumers of lower counts is a small matter, and that the advantage of $1\frac{1}{2}$ per cent. in imports is a small matter, but that giving way to Manchester is an unpardonable sin; and this seems to me to sum up very accurately the objections raised to the Bill and at once to prove that, if no more to its prejudice can be said, it is in the circumstances a very fair compromise. If it lacks, as is stated in some quarters, the element of finality, the attribute is as rarely present in, as that of compromise is seldom absent from, all far-reaching measures of modern legislation.

"With reference to Mr. Playfair's claim that if any surplus exists the income-tax should be one of the first to go, I take this occasion to state, with all respect to him, the contrary opinion. That tax is generally described as odious and inquisitorial, and no one is more likely to be alive to the objections which exist to its levy than one who not only pays but also collects it. Still, with all its imperfections, it is an honest effort to tax the rich in this country, for even the lowest class it touches is rich compared with the majority of the population. Though I believe the masses can easily pay the impost now proposed, to the small extent to which it affects them, and with the corresponding and compensating advantages with which it is accompanied, yet, if at any time there is remission of taxation, I would see them first relieved."

The Hon'ble SIR GRIFFITH EVANS said:—"I must remind the Council of how this matter arises.

"The import-duties were imposed in March, 1894, to meet an estimated deficit of about Rx. $3\frac{1}{2}$ millions. But cotton yarns and fabrics were exempted, and the import-duties, including the petroleum duty, were estimated to produce only Rx. 1,400,000, leaving the remainder of the $3\frac{1}{2}$ millions to be provided for by absorbing the famine surplus, and starving and crippling the administration by ruthless retrenchment.

"Public opinion in India was loud and unanimous to an unprecedented degree that cotton yarns and fabrics must be included, and the Government of India had practically no reply to make, except that Her Majesty's Government would not

permit cotton to be taxed, but that it was hoped they would relent when they realised this situation. These hopes were fulfilled, and in December, 1894, permission was received from home to impose the duties on cotton, provided the import-duty was deprived of a protective character by imposing an equivalent duty on similar goods manufactured in India *to the extent to which* they entered *into direct competition* with goods imported from the United Kingdom.

"That the attitude of the Council and of India generally in March, 1894, had much to do with the grant of this permission is shown by the speech of the Secretary of State for India in Parliament. But all must acknowledge that he had the severest political pressure to contend with, and that he exhibited no small courage in refusing to sacrifice the interests of this great dependency at the bidding of Lancashire.

"The party that succeeded to power, hampered as many of them were by pledges or semi-pledges given in the heat of a General Election, have also showed the sense of imperial responsibility which, however latent when in opposition, is generally manifested by English statesmen when the direction of the Empire falls into their hands.

"But Lancashire has been persistent in her demands for the total repeal of the duties, and has objected strongly to the legislation of December, 1894, as unfair and protective.

"The Government of India has strongly represented the interests of India, and the case of both sides has been put forward in documents.

"The Financial Member, in introducing the Bill, has shown how weak the case of Lancashire is, and how strong that of India, as to the non-protective character of the duties. He has, however, concluded that in some small points Lancashire had made out a case, and that, in view of the whole position, a settlement ought to be proposed which would take away all possible grounds of complaint by its 'conspicuous fairness' towards Lancashire. He has also informed us that, owing to the rise in exchange and other circumstances, he will be in possession of a sufficient surplus to carry out his proposals.

"These proposals are embodied in the present Bill, and the reasons for them in his introductory speech.

"These proposals are, shortly, to exempt all cotton yarns, English and Indian, from duty at an expense to the revenue of 14 lakhs of rupees, and to reduce the tax on woven cotton goods, English or Indian, to an *ad valorem* duty of $3\frac{1}{2}$ per

cent. instead of 5 per cent. as at present—at a loss of about 30 lakhs, and abolish the distinction between counts under 20s and over 20s, and have one uniform *ad valorem* excise on Indian goods woven by power-looms. I heartily wish I could see my way to accepting the proposals, but the objections to them are many and weighty.

“ If I could satisfy myself that there would be any finality in the proposed settlement, I might, in view of all the circumstances and difficulties of the position, be disposed to accept it, but I fail to find either hope or promise of finality.

“ My Lord, I have always advocated—some think too strongly—the absolute freedom of the Council within the limits of the powers delegated to it by Parliament; but I have always recognized the corresponding responsibility, and have held that the Members of this Council should act as responsible statesmen, and not as members of a debating society, or as members of a political opposition, bent on discrediting the Government of the day, and it is under a strong sense of that responsibility that I now speak.

“ I will endeavour to lay before the Council the arguments for and against the Bill, as they present themselves to my mind.

“ First, then, in favour of conceding to Lancashire what may seem to us more than justice at some considerable expense to India are the following considerations: *First*, it cannot be expected, as I have said in a former debate, that the English nation would allow India to injure its trade and commerce by a protective tariff. It would be contrary to human nature, and Parliament has finally and definitely decided this point, and both the great political parties are agreed on it. In determining to grant India equality of treatment they have done more than any ruling nation has before ever done for a dependency which is not self-governing and has no direct voice in the Imperial Council. I fully accept this position.

“ Though Parliament and the English people have decided that India should be treated with justice and fairness, and should have equal facilities for trade, yet, owing to its system of party government, there is strong pressure often put upon the Government of the day (of whichever party it may be) to depart in practice from this rule in special cases, at the instance of some English interest, possessing by reason of votes the means of political pressure. This pressure we must recognise as a fact.

“ But inasmuch as the final arbiter in case of dispute is the nation at large and not the interested section, the interested section has always to make out a

case of wanting nothing but what is fair. Now in complicated cases it is very difficult for such a nation, with a democratic Government, to form an intelligent opinion as to a dispute on facts between a section of its own traders and a distant dependency. In this case, the nation is being appealed to to support its great principle of free trade, which is almost a fetish in England, and not to allow protection against its own industries, and it responds to the appeal; but the nation is not able to judge, as we may be able to judge, whether in this particular instance the principle is being violated or not.

“ Thus, the English Government is left to meet the pressure, and the semi-pledges of members of its party, without much hope of backing from the English people, unless the point can be made clear enough to be apprehended by the ‘man in the street,’ that the principle is not being violated and the complaint is groundless. They too are nearly helpless if the verdict of the nation is against them.

“ The Government of India in conducting the case, so to speak, for India, not without reason, think that it is worth some sacrifice and some concession to put the matter on such a basis that the point shall be conspicuous and indisputable.

“ The Lancashire trade is in a state of great depression at the present time. This is, no doubt, due to other causes, as the Financial Member has pointed out; but, so long as the Lancashire weavers believe it is due to our legislation, they will make frantic efforts to get it reversed, and to deprive India of the whole of the cotton-duty. It is worth while to make some sacrifice to remove this impression. It is ill arguing with empty stomachs, and Lancashire is a great political power.

“ These are strong arguments for abandoning a part of the cotton-duties to save the rest, and even for imposing an unnecessary excise on coarse counts of woven cloth, with regard to which the duties do not, in our opinion, act as a protection; and if I could see any hope of finality in the proposals, I might accept the proposals, even as I have often advised a client to abandon some part of which I thought were his strict legal rights, to avoid a doubtful and hazardous litigation of which I could not foresee the issue.

“ Now I will try to state the other side of the question.

“ *First*, it is proposed to sacrifice about 40 lakhs of revenue from the cotton-duties. I am not in a position to question the statement of the Financial Member that he is able to budget for a surplus considerably above this amount. But the spectre of famine is beginning to loom in the North-West and exchange is

uncertain, and it is most inadvisable to part with 40 lakhs of revenue which is raised without the consumer of the cotton goods feeling that he pays it—without discontent or annoyance. We shall never again be able to get it back when we need it, as we soon may, and we may, be driven to direct taxation, which in India means discontent.

"*Second*, the money is wanted for the development of the country, and even if it could be spared for remission of taxation it ought to be applied to relieve the poorer classes from the income-tax which sorely oppresses them, as pointed out by Mr. Stevens last March. Even if the cotton-duties were a fit subject for remission, it would be better to reduce the duty all round than to exempt yarns.

"*Third*, pending adjustment of the markets, it is said by the Bombay mill-owners that the excise under 20s will cause a heavy temporary loss to the Indian mills, which the weaker ones may be unable to stand. Whether this is so or not I am not certain, but it is certain they believe it, and are smarting under a sense of injustice; there will, at any rate, be a large remission of indirect taxation on the well-to-do, and an imposition of taxation on the poorer classes, so far as they consume the coarser goods of the Indian mills, but, if the hand-loom weavers supply the very poor, they will not be affected.

"*Fourth*, we are asked to protect the hand-loom weavers by a $3\frac{1}{2}$ per cent. duty both against the Indian and Lancashire power-looms. In March last I thought the hand-loom industry had been so beaten out of the field that no small protective duty could revive it, but the figures produced by the Bombay millowners go to show that the hand-looms produce two-thirds of the cloth woven in India, as against one-third produced by power-looms; and the census tells a similar tale from the number of weavers. If this be so, the Indian power-looms may receive a severe check and be more or less crippled by a $3\frac{1}{2}$ per cent. protection to hand-looms. Moreover, in many places, I am informed, the hand-loom weavers weave from finer imported yarns. If this be so, we shall in endeavouring to free Lancashire from an imaginary indirect protection create a direct protection against her in favour of the hand-looms. What practical effect this may have I have no means of judging, but I clearly see that Lancashire will not be slow in availing herself of this argument, and will probably join hands with the Indian millowners in abolishing the duties imposed by this Bill as being directly protective.

"I do not see what answer we shall have to this argument, as the permission to impose the duties is conditional on the total elimination of direct protection.

"*Fifth*, now there are two or three other smaller matters with regard to which I would wish to advert; and first of all with regard to the direct protection of $1\frac{1}{2}$ per cent. spoken of by the Hon'ble Member in his speech.

"The Council will remember that he makes it out in this way: that there are .85 per cent. of cotton yarn per pound in the case of shirtings, and that it is taxed at seven annas. Thus, a pound of shirting manufactured in India pays six annas. On the other hand, the Manchester goods are paying nearer eight annas, and there is $1\frac{1}{4}$ per cent. difference which ought, as he says, to be adjusted. But, from the enquiries that I have made, it would appear that this is a perfectly simple matter that could have been simply adjusted. It appears, as far as I can make out, that it arose in this way: that the tariff valuation of this yarn was fixed when cotton was extremely low; that cotton rose shortly afterwards, but that the Revenue Department—ordinarily so vigilant—did not take any notice of this rise and that the tariff valuation was not changed, and that as a matter of fact if the valuation had been changed when the price of cotton went up, which it did, that this would disappear, or nearly so, and that it would be a very small matter very easily rectified and not a matter which would give any difficulty at all."

The Hon'ble SIR JAMES WESTLAND:—"Perhaps Sir Griffith Evans will allow me to interrupt him so far as to say that these figures were not given by me as an accurate estimate, but only as pointing out that Manchester had gone a very roundabout way to show what it might have done in a very simple way. I did not put forward six annas or eight annas as an accurate amount. I rather pointed out that for accurate calculation it would be better to refer to the statement of the Bombay millowners."

The Hon'ble SIR GRIFFITH EVANS:—"I accept the statement of the Hon'ble Member, but it does not interfere with my argument. The exact figures are not material, but my information is that the difference—whatever it is—arises from that fact and could have been rectified in a way. Of course they were not keen to suggest to the Hon'ble Member that he should rectify it in that way. It was not to their interest to do so. He has got to look for his own revenue, and if he makes a small slip in their favour they are not likely to tell him; but I believe he will find that that is really the case. There is another point which I must refer to, and that is the difficulty about this dividing line of 20, and I cannot help feeling—and it must have appeared to the Financial Member himself—that that difficulty was not so very insuperable; for if the difficulties of drawing a line at 20s had been so great as is represented, surely the Financial Member would not have in his Bill as laid before the Select Committee

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attempted for the purposes of tariff valuation to draw a line at 30s—a very much more difficult operation. I cannot help thinking that executive orders to allow a little elasticity would have overcome the difficulty of the dividing line.

“Not being satisfied with the reasons for this step, nor with the policy of the total remission of duty on yarns, and seeing the evils it produces, or may produce, and seeing no hope of finality in it, but only stronger grounds for a fresh attack on the fragment of the cotton-duties we are seeking to preserve, I cannot approve of this Bill.

“But I desire especially to say that I recognise it as an earnest effort on the part of Government of India, made on behalf of India, to close the controversy on what they consider the best terms obtainable for India. They are entitled to ask us as practical men to give them credit for an honest attempt to deal with a very difficult situation, and to close the controversy on what they consider the very best terms for a lasting settlement, and they are entitled to ask us to come to our conclusions with due regard to all the difficulties of the practical situation.

“I see from to-day's telegrams that one prominent member of Her Majesty's Government has expressed his satisfaction with this measure, as eliminating all protection from the cotton-duties. But there has been no time for him or for Lancashire to consider the detailed discussion of the matter contained in the recent memorials of the Indian millowners; and I see no sign that he or Lancashire has grasped the fact that by freeing all yarns and taxing all power-loom woven goods we are deliberately giving a direct $3\frac{1}{4}$ per cent. protection to the goods woven in hand-loom. I would it were possible to delay the measure until it could be ascertained what view will be taken of this important point.

“It is not for me to suggest a scheme, but, if the Bombay proposal is not feasible, it would have been safer to eliminate protection by taxing by an excise and import-duty all yarns and cloth the product of power-looms. If it was desired to remit a portion of the cotton-duties in view of a surplus, they might have been reduced to 3 per cent. all round. We could then, if necessity arose, have raised them again to 5 per cent. But, so long as protection is eliminated, I see no reason for treating cotton differently from any other article included in the schedule of taxation.”

The Hon'ble ANANDA CHARLU, RAI BAHÁDUR, said:—“I cannot better commence my remarks than by showing, at the very outset and intelligibly to

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the merest layman, how, in respect of cotton-duties, the results of the proposed measures would contrast with those of the Acts now in operation.

“India now contributes, under this head, about 7 lakhs of rupees. It is proposed to give this up and substitute for it 18 lakhs of rupees, *i.e.*, make it pay about 11 lakhs more than at present. Lancashire now contributes 1 crore and 39 lakhs of rupees. It is proposed to beat it down to $87\frac{1}{2}$ lakhs. In other words, a magnificent present of Rs. 50 lakhs is proposed to be made to contentious Lancashire, and through it to the well-to-do consumers possibly, while an onerous burden of 11 lakhs is proposed to be heaped on the back of contented India.

“It is not for me to say with what amount of contentment this contrast, when it goes abroad in this unvarnished form, will be received by the public at large. There must indeed be an overwhelming justification for such an extraordinary step. I maintain, my Lord, there is no such thing, as best shown by the Hon'ble Mr. Evans.

“Unavoidably lengthy as has been the Hon'ble Mover's speech as the initial exposition of the Government proposals, the result of boiling it down to get at the real matters at issue may be put in a few brief sentences. The first point of contention between Lancashire and India is pretty fully set forth in the subjoined sentence in the speech of the Hon'ble Mover:—‘The first of these (points) is the effect of our drawing the line of taxation, for Indian goods, at 20s. That effect, says Lancashire, is two-fold: (1) Lancashire manufacturers claim that they can spin 20s just as easily as higher counts, and that they could, *if they were not prevented by our fiscal measures*, substitute for the cloth they at present send to India a cloth which would be a substitute for and find the same market as the present importations.’ (2) Manchester claims that the exemption of the coarser goods creates a difference in price between the coarser and the finer, which tends to divert the course of consumption from the finer to the coarser.

“The second is but a corollary of the first. Grant the relief claimed in the first, the second must right itself. Then we may take it that the complaint is just this and no more, *viz.*, Lancashire says, ‘You are handicapping me with a duty in a sphere where India is free. Give me like freedom.’ This done, it ought, by its own confession, to be able to compete with India and keep its customers from running over to the latter. If this is a *just* complaint, one would expect that the logical and the only remedy open for our Government to apply is to remove the duty on Lancashire goods under 20s and say to the complainant,

'I have done what you want. Go thy way and trouble me no more.' If the complaint is just, I shall strongly urge this course on the Government. It might indeed involve a small loss of revenue, possibly none. But if it did, it would be a mere bagatelle. If the complaint is just, Lancashire, with the equal freedom it asks for, must add vastly to the stock of coarser goods, available for the mass of the population—available *on that account* at a cheaper rate than otherwise. This decided advantage to the poorer classes of consumers would so greatly weigh with the better classes that they would only too cheerfully submit to some taxation, if necessary to make up for the revenue given up in satisfying a *just* complaint.

"This plan will further possess the inestimable merit of not organically dislocating the fiscal system which has been the result of hard fight and of an extorted concession, unattainable too often. Upon the facts stated and accepting the reasoning of Lancashire that the diversion is a necessary result, any other course by the Government must, most unquestionably, press on the poorer classes most disastrously. Give Lancashire the equal freedom it claims below 20s, you earn the goodwill and the gratitude of the benefited poor. But remove the duty altogether both below and above 20s and put on 18 lakhs as proposed on India, you bring on a terrible hardship upon the needy, and their feelings will certainly not be of goodwill and gratitude. To give Lancashire the equal freedom she seeks below 20s is, in my judgment, the plain and only defensible course on the hypothesis that the complaint is just. To any other course, on that hypothesis, I feel bound to enter a strong and emphatic protest.

"But *is* the complaint just? Most assuredly not, is my unhesitating reply. In this I am supported by the Hon'ble Mover himself, for he has declared in no ambiguous terms that he differs from the assertions of Lancashire on this point. I am also supported by the invincible arguments set forth in the memorandum of the Bombay Millowners Association. That memorandum has, I daresay, been read by each of my Hon'ble Colleagues, and therefore I will not extract from it. But this I must accentuate that it has received the unqualified acceptance of the Hon'ble Mover himself. • This, by itself, ought to stamp that admirable document with the character of unimpeachability and show our case for the *status quo* to be impregnable. The fact of the matter is, that Lancashire has confessedly made only a *claim*—not that it has *made out* a claim. On the question of fact which that claim involves, all the evidence and all the opinions that have been collected and focussed clearly tell quite the other way—tell against it in every particular—and most conclusively. Lancashire goods below 20s have never been a tangible quantity and could never be.

This can be demonstrated with perfect ease. It could likewise be demonstrated by examining the conditions under which Lancashire has to work. I go further and assert that it has been indubitably demonstrated already, so that the running man might see. The Hon'ble Mover himself says quite as much in unmistakable terms. He declares it to be his own *belief* that 'Lancashire cannot lay down in India woven goods of the coarser kinds at prices that can at all compete with those of Indian-produced goods.' This is not a mere unconsidered or unsupported belief either. After sufficient deliberation, it is based by him on the convincing document already referred to, the memorandum of the Bombay Millowners Association.

"With such a *belief* and with the indefeasible arguments with which it is widely supported, I for one would expect the responsible Finance Minister, as the accredited adviser of the Supreme Government in India and bound to work with the single and sole object of advocating India's cause,—I say I would expect the Indian Finance Minister to say to his clamorous compatriots of Lancashire—"

The Hon'ble SIR JAMES WESTLAND: "Please do not put me down as a compatriot of Lancashire. I am not even an Englishman."

The Hon'ble ANANDA CHARLU, RAI BAHADUR, continued—"I say I would expect the Finance Minister to address the Lancashire people somewhat as follows:—'You have made and are making an unnecessary fuss. You have bamboozled yourselves by not being on the spot here to know the exact truth. The bubbles you have raised have burst and betrayed their unsubstantiality as soon as they were pricked. I have a sterner and an honest duty to perform than engage in the frolic of pricking soap-bubbles floating about my head. I will not be ungrateful to my confiding employers. I see no reason to budge an inch from where I am.' Such is the bold and firm stand our Finance Minister and the Government of which he is the ostensible adviser should take; and they should resolutely decline to submit to dictation, either from their Lancashire compatriots or from such as care for Lancashire votes at the poll or Lancashire support in the Parliament—come what might. On the contrary, I am deeply grieved to find—I say this far more in sorrow than anger—that our Finance Minister and the Government of which he is the adviser have allowed themselves to be overpowered by the unreasoning outcry of Lancashire and to be tempted and wheedled and drawn out of their safe, uncontroverted and incontrovertible stronghold.

"The Hon'ble Mover has however declared himself to be persuaded that *some* ground of complaint exists because, forsooth, the amount of coarse woven goods imported from England cannot, in his opinion, be said to be *non-existent*, though as he admits that at the most it is *very small*. I maintain, my Lord, that this infinitesimal amount is not an adequate ground to pull to pieces the existing smoothly-working fiscal system. The only treatment it deserves is to be waved off as unworthy of serious consideration and elaborate action. If the Government think that, nevertheless its insignificant importance, it ought to receive attention, then the only legitimate step that can, with justice to India, be taken is, as I suggested already, to do away with the duty on Lancashire goods below 20s—a step whose harmlessness in general and whose profitability to the poorer classes I have erewhile dwelt upon.

"If then, the complaint of Lancashire, *viz.*, that it is now handicapped as its own goods below 20s are taxed, is put aside, what remains, my Lord, for serious consideration? I say, nothing; for I regard as groundless and hollow the allegation that the existing state of things diverts the course of consumption from the finer to the coarser goods, and that, on that score, indirectly infringes the rule and the pledge against protection.

"To begin with, is this diversion-dread well-founded? Is it true as a matter of fact? Most certainly not. It is a sophistical bugbear—a figment of fancy due to inexperience of the ways and predilections of the people of India—due also, to a forgetfulness of the people's tenacity to customary clothes—and due also, I will deliberately add, to giving the go-by to the fact that power-loom products are discarded as being too heavily sized with foreign matter.

"My Hon'ble Colleague from the Central Provinces has at some length shown how groundless and hollow the complaint is, and my observations on the point shall therefore be few.

"There has always been a decided and deliberate preference for the coarser goods as compared to the finer on the part of the masses. The shrewd common sense of these latter and the matter of fact teaching of their experience have long ago convinced them that the Indian-made coarser cloth was far more durable and stood wear and tear and home-wash far better than the imported finer one, with less of cotton and more of China clay and loading chemicals therein. They strain to the utmost their slender means and go in for Indian-made coarser cloth, as, in the long run, cheaper.

"The whole of this diversion-argument is the outcome, my Lord, of a superstitious apotheosis of competition as an omnipotent power. Its force is over-

rated—hyperbolically over-rated. That there are a great many limitations to the operation of competitions is self-evident; and so undisguisable is this the case that even writers on economic science have had to recognise them and reckon with them—albeit that they, of all men, should be the foremost to swear by it as an all-conquering and rapidly-conquering force. I dislike talking book or bristling with quotations; but this I say with perfect confidence and on a basis of the requisite knowledge that I am well supported in maintaining that it is a grievous fallacy to enunciate the proposition, *as universally true*, that competition actually *does* operate whenever or wherever or as soon as it has a *tendency* to operate.

"To read protection in indirect results of this kind—assuming such results have actually flowed—is, in my judgment, to introduce into our fiscal arrangements an element of ever-present uncertainty and never-ending wrangle on the part of Lancashire. The direct and natural results are, like damages in law, capable of fairly satisfactory ascertainment. But it would prove a pursuit of the mirage to start a mission to detect and arrest indirect and remote consequences, if such can be called consequences at all. It is claimed for this Bill that its object is to close the present controversy and not to give rise to a new series of controversies. I take the liberty to declare, and I feel that I am justified in declaring, that the proposed method will produce an effect the very reverse of that object. It should be borne in mind that most of India's by-gone industries have long been dead and unceremoniously buried. If some few have yet a tenacity of life, it is because they are as yet beyond the reach of the most scientifically finished power-loom. Fresh industries, after the modern methods, have put forth shoots and are showing signs of growth and development. They have so far flourished, my Lord, as to enable the head of our Government—the Secretary of State for India—to say quite recently—I trust he said it with pride on behalf of India—that in other than the Indian market Lancashire has within the last ten years not been able to compete with India; that while during these ten years the value of the cotton exports from Great Britain to countries other than India has *not* increased, the exports from the Indian mills have, during the self-same period, literally doubled and they are increasing still, and that there is this year a large increase in Indian exports.

"Here my Lord, is India's layer of golden eggs for her benefit, redounding to the credit of the British rulers under whose ægis it has been incubated, hatched and fledged. It is only just beginning to give proof of its maternity. Every Indian will entreat, as I now entreat, that that giver of riches to India—

that witness to the benignity of the British rule—should not be permitted to be embarrassed and penetrated by dart upon dart at every league in the wild chase after the unsubstantial phantom of indirect protection. The chase may prove a thorough and discredited activity, as it must sooner or later. But it would be hard in the meantime to look after that breeder of boons to India from being torn or eaten up.

“I beseech the responsible Ministers who have the power, if they possess the will, to see that our interests are not ruthlessly jeopardised. To them I shall say also that they are drifting—let me say unwittingly—beyond even the pledges given by the Secretary of State for India; for that officer has promised relief only against *injustice* and only against protection so far as the English goods and Indian manufactures enter into *direct* competition. This was no doubt made at what the Hon’ble Mover has called ‘the initial stage’ of the proceedings in connection with the cotton duty deliberations, but I find no departure from it—certainly no avowal of any such departure; for I cannot accept such phrases as ‘in any way protective’ to signify any extension of the pledge, originally given in clear and unequivocal terms.

“When the objection to the line of demarcation at 20s is set at rest, there is really nothing more for serious consideration. But the Hon’ble Mover has referred to a second complaint on the part of Lancashire and he has put it in the following terms:—

‘The second point in which the Manchester case is admitted by us to have some foundation is in the allegation that the tax levied upon yarns which are afterwards woven into cloth is *pro tanto* a lighter tax than is levied upon the completed manufactured article.’

“This has been fully dealt with by the Hon’ble Sir Griffith Evans and I shall omit what I meant to say on it.

“As regards the proposal to give up 50 lakhs out of the present income, I have to make a remark or two. I have to state, on the hypothesis that this amount of revenue could be spared, that the reduction of the salt-tax had the prior and decidedly better claim. This was pledged to us long ago in no uncertain terms. In adjusting accounts with the taxpayer, this long-standing and unsatisfied demand must first be appropriated to, if there is to be anything like continuity in the policy of dealing with India. Every ground of claim, of justice—and I will add, pity for the suffering poor—tells heavily in favour of this humane course. It is simply inexplicable—unless indeed peremptory dictates were being subserviently carried out—it is simply inexplicable, I say, how this extra-

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ordinary method came about, of serving the least starved at first. This is behaving like the unique host in a Tamil story, who received a number of famished mendicants but singled out the least starved for what little food he could spare, on the ground that the others had shown their capacity to starve, which the elected donee was yet to prove.

“But I ask, my Lord, can this revenue be spared? I have my most anxious doubts. The Hon’ble Mover himself used very guarded language, not without some few saving clauses.

“I confess, my Lord, this is by no means reassuring. Exchange, besides laying on us, on very slender pretences, a heavy break-back load of a considerable amount, has played and is playing like a fickle goddess, whom it is impossible to propitiate, without a reserve for making periodical—I had almost said, almost daily—doles of considerable bonuses. Having regard to her unlimited and illimitable aptitude for pranks and caprices, it is of the utmost importance not to quit the hold of the 50 lakhs or give it to those who might be coerced into giving it back rather than to others who are already clamouring at its insignificance and are vowing dire vengeance against what is left us.

“To my Anglo-Indian colleagues—my non-official colleagues in particular—I have a word of earnest prayer. I know that most of their class believe in a Conservative Ministry and that they are demonstrably partial to it. I know also that many Conservative members, who constitute the bulwark of that Ministry, have entered Parliament, pledged to look after the interests of Lancashire in India. I mean no offence when I therefore say, what I cannot help feeling, that my Anglo-Indian colleagues would therefore be, in the last degree, reluctant to impair that bulwark or vex it. But I shall beg of them to bear in mind that, while India is safe-guarded against foreign inroads by the strong arm of the British Power, she is defenceless in matters where the English and the Indian interests clash and where (as a Tamil saying puts it) the very fence begins to feed on the crop. In all vital affairs relating to India, England holds the whip-hand, and men, sent out to us to watch those interests here on the spot, are placed directly under that whip-hand. It requires preternatural strength of conviction and fortitude to withstand the flourish of the lash wielded by that whip-hand when the English and the Indian interests stand mutually opposed. In such struggles—the present is a pronounced instance of such a struggle—the Anglo-Indian co-operation and support are of the supremest value. Not long ago a Secretary of State for India said to a Lancashire deputation ‘Drop all questions about public feeling in Lancashire; do not say any

thing about members of Parliament being influenced.' These were seemingly dropped, only to be picked up by others—not avowedly, as that would be a scandal—but to give utmost effect to them, as these Bills evidence. In the spirit in which the quondam Secretary of State for India spoke to the Lancashire deputation, in the same spirit I have to tell my non-official Anglo-Indian colleagues to drop their personal predilections as against their sense of justice, at this sore hour of need.

"They prosper by finding a fitting field in India; and let India too prosper by their presence and their labours in her midst. Let them realise that there is hope for her countless masses, if they cast their lots with them and throw their weight in the scale of justice to them; for a united representation of all India could not but powerfully tell. The Government themselves might then abandon these obnoxious measures. If they do not, even then such a combined protest might yet tell effectively in England. That these Bills are, transparently, the outcome of pressure from high need not trouble them any more than they should trouble us; for, meditating a wrong is one thing and perpetrating it is quite another; and our final arbiter might yet see fit not to perpetrate what he may have meditated. Even would-be murderers, my Lord, have been known to relent, repent and renounce. I first entreat the Government to abandon these unjust and injudicious measures; and I next entreat my Anglo-Indian colleagues—my non-official colleagues in particular—to lend the Government a helping hand so that, with their votes against the Government, the Bills might be dropped. Even if the Government were not prepared to take advantage of the chance thus offered, a solidarity of non-official votes might nevertheless give us a chance in the freer atmosphere of England—a chance which would be seriously imperilled if the Government and my non-official Anglo-Indian colleagues become one and send up these odious measures to that final arbiter of Indian destinies as enjoying their hearty or united support—a course which would seemingly imply full local approval and might supply the Secretary of State with an excuse and a justification, which neither justice nor fair play would warrant. I am painfully conscious that I have spoken with considerable warmth; but I could not carry a smile on my lips or play the rôle of a soft-tongued courtier when I am face to face with a gross injury which is in store for the masses. More I will not say just at present: but less than this I could not say—with justice to my own convictions and with justice to the multitudinous poor, that are meant to be bled for no benefit of their own and for no fault of their own.

"I have a word to say to two Hon'ble Members who have spoken before me—the Hon'ble Mr. Rees and the Hon'ble Sir Griffith Evans. To Mr. Rees

I shall say that he has taken a far too rosy view of the situation, and that, after hearing all he said, I see no reason to recall a single word of what I have spoken. To the Hon'ble Sir Griffith Evans I say that it was as *one of the people* I have spoken and not as the spokesman of any party, against which latter rôle he has advised—and rightly advised."

The Hon'ble MR. STEVENS said :—"My Lord, on the last occasion when the subject of the cotton-duties was discussed by this Council a decision was arrived at which was practically unanimous. There was, indeed, some difference of opinion on a single point of detail. The majority accepted the view more favourable to Lancashire, and all hoped that enough had been done to secure a satisfactory and peaceful settlement of the whole question. Your Excellency's Government had power to afford further relief if any branch of the trade should be found by experience to require relief, and accordingly in one clearly defined instance relief has been given.

"I am sure that the members of this Council—and most of all (I venture to think) those who form Your Excellency's Executive Government—have been gravely disappointed by the discovery that these anticipations have not been realized, that the concessions have been regarded in Lancashire as insufficient, and that the trade and the people in India generally are again disturbed by renewed discussions. The circumstances, no doubt, have to some extent changed in appearance, if not in reality, and I think we must reconcile ourselves to the necessity for reconsidering the position. We cannot shut our eyes to the truth that the cotton industry in Lancashire is in far from a prosperous state. Mills have been closed and a multitude of operatives have been thrown out of work; while the industry is of such vast importance to Great Britain that a serious depression becomes a source of great political danger and difficulty. In such a time of stress it is not unnatural that the Lancashire manufacturers should anxiously examine the conditions under which all their competitors are working, nor is it a matter for surprise if they over-estimate the importance of those particular adverse circumstances which appear to them to be most susceptible of control.

"I do not propose to enter into any lengthened discussion of the Manchester arguments, but I share the common opinion in India that they much exaggerate the influence of the existing fiscal arrangements. They ignore altogether the conditions of the labour-supply in England, the strikes, the higher wages, and the shorter hours of work; they ignore the disadvantage of old machinery, and they ignore the competition of foreign countries. In a report which my colleague in the Board of Revenue has recently submitted to Government he has

quoted Messrs. Ellison & Co.'s Annual Review of the Cotton Trade for the year ending 30th September, 1895. These gentlemen say that 'the margin of profits has been so poor that none but the best appointed mills have been able to make both ends meet, with the result that at the close of the season there is a good deal of machinery idle.' Mr. Lyall goes on to say on the authority of the *Economist* that the increase in the number of spindles in the world during the years 1892-95 has been—

Great Britain	50,000
Continent	1,800,000
United States	855,000
East Indies	408,000

"It may safely be asserted," he says, "that all the new spindles were of the newest pattern, and capable of turning out the cheapest material, and that each new mill, erected on the newest principles, was a further handicap on British trade."

"The *Economist* also gives the figures of consumption of cotton. In 1894-95 they were—

	Bales.
Great Britain	4,080,000
Continent	5,096,000
United States	3,219,000
East Indies	1,342,000

"These figures, like those relating to the increase in spindles, point most distinctly to the conclusion that the competition which is really injuring Lancashire is that of the Continent rather than that of India. Messrs. Ellison & Co. make a further statement which is evidently of great importance, not only in reference to the particular year but as indicating the growing enterprise of foreign nations. They say that 'American and Continental spinners were smarter in taking advantage of the market by laying in large stocks of the raw material at the low prices current during the winter months, whereas English spinners purchased very little cotton in anticipation of actual requirements.' Now the price of cotton has ranged between $2\frac{3}{4}$ pence per lb. to $4\frac{3}{4}$ d., the latter being the closing quotation. Here we have another cause in comparison with which the fiscal arrangements of Your Excellency's Government can have had but an infinitesimally small effect.

"But, although we may believe, as I for one believe, that the results of the competition of India have been greatly over-estimated in Lancashire, it is not to be questioned that in the tracts affected there is a very strong and (I might

say) angry feeling, and that the importance of that public sentiment cannot be lost sight of by Her Majesty's Government at home, or by Your Excellency's out here. It has all along been said that we have no wish to protect Indian manufacturers against English, and therefore, if a reasonable scheme of taxation be arrived at more satisfactory than that existing, this Council ought, I think, without hesitation to support Your Excellency in introducing it. It is with this object that the present Bill has been brought before us to-day.

"I fear it must be owned that the measure has not received the support of the public as a whole. For this there are two main reasons: first, the suspicion existing in some quarters that it has been called for by the exigencies of party politics in England rather than by the wants of India; secondly, that the trade will be disturbed to the disadvantage of important industries, and of poor consumers in this country, while the relief of taxation is not to be given in the best way. It is not at this stage necessary to discuss the propriety of any policy which would sacrifice the interests of those for whom we legislate in order to secure profits for those who neither adjust our expenditure nor bear our burdens. Even public opinion in England would never defend such a policy. But it is impossible for us to claim the privileges of a perfectly self-governing and selfish Legislature, for these are inconsistent with the constitution under which we serve, and under which we must continue to serve. It is our duty to consider the obligations and limitations which bind not only Your Excellency's Government, but the Government of Her Majesty; and we must not be deterred from passing a measure, if it is reasonable in itself, by any suspicions as to its origin.

"The question then remains whether this measure is in itself reasonable. In so far as it taxes alike all the products of the Lancashire and of the Indian weaving mills, it is consistent with the avowed desire expressed in both countries that there should be no protection for either. It has, however, been urged very strongly that a new element of protection has been introduced, by giving a new advantage to the hand-looms, whose products it is quite impossible to reach by excise-duties. I think that the extent of this advantage has been greatly exaggerated. It is a matter of notoriety, and beyond argument, that the competition of English and foreign power-looms has hitherto proved destructive to an important branch of the hand-loom industry; but we are told that still two-thirds of the cloth used are the product of hand-looms. The condition of affairs is, I think, well and justly put in the following extract from

the Census Report of 1891 which of course was written from the Indian point of view :—

‘The home products, strong and coarse but genuine and durable, still hold the agricultural market amongst the lower classes, and indeed among the raiyats generally, a fact that is obvious to any one who goes about amongst the country people. In the town, the competition is beyond doubt severe, for the finer fabrics of the home-loom must be more expensive than the machine-made product of Europe, now that processes are so much improved and freights so low, and it is the townsman that takes first to a novelty. On the whole, therefore, looking to the very small proportion of the urban population, and of the wearers of fine raiment among the rustics, it does not appear that the field of the ordinary weaver is yet usurped by any competitor. The manufacture of muslin and “woven air,” and so on, is the one to suffer.’

“There may be said to be three classes of weavers—those who obtain their whole livelihood by weaving, those who supplement some other occupation such as agriculture by weaving, and those who weave for domestic use. I think that the competition of the power-loom will never affect the last two classes until the time of these people can be more profitably spent in other ways, and this period is far distant. There are other considerations which limit the competition of price; there is the habit of wearing country cloth, and there are the superior honesty and durability of the hand-woven goods. The country weavers do not turn out as cotton goods products half of which is size. It is not the case that the whole of India, including all castes and classes of the population, is an arena for contests between the power-looms and the hand-looms.

“Again, I would point out that the caste system limits the possibilities of production in the hand-looms, while, if I am not mistaken, it has less effect in the case of power-looms. The millowners of Bombay, in their letter of the 29th of January, have, in this connection, committed a very serious error, which I feel bound to correct. They say: ‘According to the census returns there are no less than seven millions of people working as weavers in India.’ I have referred to the Census Report, and have found that the number of cotton weavers, including millowners and managers, was 4,877,357 in British territory, and in Native States 1,433,389, or in all a total of about 6,300,000. In the explanation of the manner in which these figures had been arrived at, it is stated that ‘it was held desirable on this occasion to recognize no distinction in tabulation between the working and the non-working members of the community, and to widen the enquiry, so as to indicate the relative supporting power of the various occupations, by returning against each the whole population living by it, whether as workers or dependents.’ In overlooking this explanation the

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Bombay millowners have overestimated the number of their competitors—probably something like fourfold.

“The mills in Upper India have again pointed to the closing of power-looms and to the depression of their trade. They attribute this to the competition of the hand-looms, but surely it is more likely that the injurious rivalry is that of mills which turn out the same, or approximately the same, class of goods, namely, such goods as are imported into India.

“It seems clear then that, even if a trifling protection will certainly be given to some of the products of hand-looms, the extent of it has been much overestimated by those who fear it. It has been repeatedly argued that this measure will injure the poor for the benefit of the rich. So far as the poor are supplied by hand-looms (and we are told that two-thirds of the goods woven are the products of such looms), it is clear that this will not be the effect. And in those parts of India with which I am acquainted, the hand-loom weavers are themselves among the poor, and among the first to suffer in times of scarcity.

“The gravest objection to the Bill appears to me to be the selection of this particular method of reducing taxation. There is no one who will maintain that there are not numerous and important directions in which money might be spent with great advantage to the country. But if we have become so rich that such expenditure can be met with a smaller revenue than that which is now collected, there are other directions in which many think that taxation can be remitted with greater relief than this. I would especially urge once more the case of the income-tax, which, even in the higher classes, is assessed with difficulty and no little annoyance; in the lower classes my own personal experience, which appears to have been less favourable than that of the Hon’ble Mr. Rees, forbids me to believe that it can be evenly and equitably levied.

“I will not weary Your Excellency by further comments in detail. The conclusions at which I have arrived are that the Bill is not likely to be accepted without objections, even after the exaggerations and misconceptions of some of its critics have been removed. On the other hand, it seems to satisfy the importers, and to be accepted, so far as is known, by Lancashire. It is the outcome of the mature deliberations of Your Excellency’s Government—a Government which (if a subordinate officer may venture to say so) has given the most conspicuous proofs of its anxiety to defend Indian interests. Therefore, even though I see difficulties, I believe that it is my duty to support the Bill.

[Mr. Stevens; Babu Mohiny Mohun Roy.] [3RD FEBRUARY,

"I have endeavoured to shew that the effect of this measure on the competition of hand-loom and power-loom has been much magnified; and I cannot abandon the hope that, when this is understood, it may not be deemed to be destructive of that finality and peace which we all desire to see."

The Hon'ble BABU MOHINY MOHUN ROY said:—"The two Bills under consideration propose to make the following important changes in the levy of cotton-duties: (1) to abandon all duty upon yarns, whether imported or manufactured in India; (2) to repeal the exemption which now exists of cotton goods of 20 counts and under, manufactured in India; (3) to reduce the duty all round from 5 to 3½ per cent.

"On the first item of change, I have not much to say. Any change in the incidence of duty is certain to affect, whether slightly or largely, the interests of some industry. The point for consideration is whether this change is likely to affect the interests of cotton mills, Native or English, to such an extent as to render it objectionable. I do not think so. The hand-loom industry of India is now in a very depressed condition, and is gradually being pressed out of life between the cotton mills, Native and foreign. It is an industry which the world and we, of all people in the world, ought not willingly to let die. Our cotton fabrics, the produce of hand-looms, have been famous from very ancient times, and may be said to have made our country famous when it was otherwise little known in the Roman world. A very large proportion of our industrial population, the weaver caste among Hindus and Jolahas among the Mohamedans, find employment in hand-looms and earn a precarious livelihood, as Sir James Westland has truly observed, 'not by wages fixed on economical principles, but rather by picking up at odd hours the scanty crumbs which the mill industry still leaves them.' He estimates the loss of revenue from relinquishment of 5 per cent. duty upon yarns at 20 lakhs. I do not grudge this sacrifice, because it is likely to stimulate and benefit the hand-loom industry of India, and because it is not favourable either to Manchester or to Bombay so far as their mutual competition is concerned.

"With reference to the second item of change, I find it more difficult to formulate my views. The Finance Minister has stated that 'it is not possible to longer maintain the system by which an exemption is granted to goods of 20 counts and under when they are of Indian manufacture, but refused when they are imported by sea.' This, we are bound to take it, is the case. And it follows that goods of 20 counts and under, whether manufactured in India or

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[Babu Mohiny Mohun Roy.]

imported by sea, ought to be placed upon the same footing. But this may be done in two ways, *viz.*, in the way proposed by levying excise upon Indian woven goods of 20 counts and under, or by exempting similar goods imported by sea. The Bombay millowners strongly advocate the adoption of the latter remedy, and show that the adoption of the former remedy would cripple and imperil the infant industry and cause an enormous increase of excise—something like 11 lakhs. It seems we are not now covetous of grabbing the 11 lakhs of excise. We are now in a generous mood and rather for throwing away our revenue. The Bombay millowners show that, whereas the taxation on imported goods will be reduced by 5½ lakhs or 37 per cent., the excise on Indian goods will be increased by 11 lakhs or 300 per cent., a difference in treatment which seems somewhat startling. Sir James Westland tries to justify this difference in treatment upon the ground that it is not possible in the case of woven goods to work out a line of discrimination by counts with that exactitude which is requisite as a basis of taxation. He says, 'we believe that careful tests by experts can establish, as regards any woven yarns, that they are within one or two counts of any given standard, but this unfortunately leaves a certain margin for dispute, and as we have not merely to protect the revenue from frauds directed towards obtaining exemption where exemption is not due, but have also to protect the honest trader from the trader who does not draw so finely the lines of conscientious dealing, we are unwilling to undertake, if we can avoid it, a system the operations of which will certainly be jealously watched and which may have to be abandoned from sheer difficulty in working.' We have hitherto exempted Indian goods of 20 counts and under, and have not found much difficulty in doing so. The only thing that remains to be tried is to discriminate and exempt imported goods of 20 counts and under. Assuming that we shall find considerable difficulty in doing so, it does not follow that we ought to abandon this scheme without a trial. As we are now in a generous mood, we need not be very strict about imported goods which are within one or two counts of 20. We may give up claims to disputed revenue near the line or appoint an umpire to settle these little differences. Then, after all, there will not be much work to do in the discrimination of imported goods of 20 counts and under, as Manchester imports very little of such goods. Sir James Westland admits this in substance, but says that, Manchester may justly object to being prevented from trying the experiment of sending out coarse cotton goods by our insisting upon interposing in the way of it a duty to which we do not subject the goods of Indian manufacture.' To this complaint the grant of an exemption in respect of such coarse goods would be a simple, complete, and satisfactory answer. But no, our mode of doing things is different. We tell

the millowners of Manchester 'We cannot, by taking off the duty, place you in a better position for making an experiment in coarse goods. But we will do what will, perhaps, please you better. We will heavily weight with duty your competitors in Bombay and make their position a great deal worse.' This is granting what is proverbially known among Hindus as the boon of Sita. When the great monkey hero of the Ramayana burnt down the city of Lanka, he happened to burn his own face, which became blackened. He then went to mother Sita and complained that he could not, with his blackened face, appear again among his fellow monkeys. She said, 'Be of good cheer, my son. I have, by my word, blackened the faces of your fellow monkey worse than yours, among which yours will not show to disadvantage.' This, according to Pouranik legend, is the origin of the black-faced monkeys so numerous in India. Now, it seems we are about to effectually burn the faces of the Indian millowners as a solatium offered in anticipation to Manchester men who may, hereafter, burn their fingers by making an experiment in coarse cotton goods.

"In regard to the second item of change, therefore, my views are quite in accordance with those of the Finance Minister that goods of 20 counts and under, whether manufactured in India or imported by sea, should be assimilated in regard to payment of duty. But I differ from him in that I hold and maintain that we should cause this assimilation by exempting such cotton goods imported by sea and not by imposing excise upon Indian goods of similar quality.

"The third item of change I look upon with considerable dismay. The import-duty on cotton goods happens to have a past history which augers no good of its future. The duty was fixed at 10 per cent. *ad valorem* by Act VII of 1859. It continued at that rate till 1875 when, by Act XVI of 1875, it was reduced to 7½ per cent. Then in 1882 it was abolished altogether by Act XI of that year. Of these two Acts, the one of 1875, which was passed during Lord Lytton's Viceroyalty, was 'the beginning of the end,' and the other Act, XI of 1882, passed during the administration of Lord Ripon, was 'the end' itself of the import customs-revenue. The repeal was made amidst a flourish of trumpets. Our finances were represented to be in a very prosperous condition and fully able to bear the sacrifice of about a million and-a-half of revenue. There was a great deal of tall talk about the import-duty pressing upon poor people and invocation of the principles of free trade. Disillusion came soon enough. The income-tax had to be re-imposed, the salt-tax considerably increased, and a petroleum-duty imposed; and yet the Government did not find it possible to make two ends meet. Deficit continued to be the normal condi-

tion of the finances of India until we re-imposed last year an import-duty of 5 per cent. upon cotton goods. Then, owing to a rise in exchange, we have before us the prospect of a small surplus at the end of the year. Dost thou do wisely to throw away this surplus? is a question which the tax-paying millions of India have a right to ask our Finance Minister. Nay more, they have a right to insist that no portion of our revenue shall be thrown away without necessity. The Finance Minister has no guarantee that the exchange will not go down during the next five years. He has not made out or stated any case of necessity for throwing away 30 per cent. of our import-revenue. Surrender of duty upon yarns, amounting to 20 lakhs, seems to be a sufficient sop for the time to Manchester. She will never accept as a payment in full anything that we may offer her now. She will take it merely as an instalment. Then it clearly behoves us to pay in instalments small and spread over a large number of years."

The Hon'ble SIR JAMES WESTLAND said:—"I confess that I am hardly able to accept for the Government of India the position which the Hon'ble Member who represents Madras has described for us. He evidently thinks that we have deliberately entered upon a course of crime, that we are thoroughly conscience-stricken but are now desiring to repent at the last moment when we find that the crime will amount to what, I think, he called murder.

"The fact is that the questions which have been discussed in this Council, and the questions upon which the settlement of the cotton-duties hinges, have been for a long time under our anxious consideration. The matter has been discussed by us from all points of view, and I do not think any new fact has come out since the Bill was introduced which was not already before us, with one exception only. That exception is in the extraordinary line adopted at the public meeting in Bombay, and, following the Bombay meeting, in the numerous protests received from various parts of the Bombay Presidency. I confess I was not prepared for the allegation that the result of our measure will be to relieve the rich from taxation and to impose new taxation upon the poor; and I think I shall be able to show the Council before we have done that that is an utter travesty of the real state of things. I ought to mention to the Council that this morning we received four additional protests from the Bombay Presidency which arrived too late to be circulated; but it is probably right that the Council should know that these documents have arrived, because, of course, if this matter had been a little longer under consideration, it would have been the duty of the Government to lay these

papers before the Council. I admit that the large number of these protests which we have received do great credit to the organization of the opposition in Bombay, but I would have been able to attach a greater value to their contents if the protesting associations had been able to see the question stated from both sides and had not so absolutely followed the extraordinary and, as I may call it, the false line of argument set forth at the Bombay public meeting. I hope that, when these Associations have before them the considerations which I shall bring forward before the Council to-day, they will see that there are two sides at least to the question of rich *versus* poor, and that the Government on that particular point has a great deal to say for itself; and I hope to commend the view of the Government rather than the view of the Bombay public meeting to the sense of this Legislative Council.

"A great deal has been made out of arguments based on the comparison of the total amounts of taxation as they stand at present, and as they will stand if the Bill passes into law. It is said that we are adding so much to the Indian portion of the duties, and reducing so much from the Manchester portion.

"The use of percentages in a comparison of this kind is a very specious but a singularly fallacious argument; and I may be permitted to take an example from an operation which arises very frequently in the ordinary course of our business. We have a class of pensions which we call political pensions, because they arise out of the political relations of the Government of India, and we have frequently on the death of a pensioner to divide the pension among heirs. I will assume that we divide a pension of R40, so as to give one heir, A, R10, and another, B, R30, but it is afterwards brought to our notice that their claims are really equal, and we therefore alter the division to R20 and R20. What would we think of B putting in this argument?—

'You admit that you have no right to diminish the aggregate, and that you have no right to give to A more than you take away from me. But the fact is that though you have diminished my share by only 33 per cent. you have gone and increased A's by 100 per cent., which is obviously grossly unfair.'

"Is not the argument put forward in the present matter exactly of this nature? It is alleged that, though we have reduced the taxation on Manchester goods by 37 per cent., we have increased that on Indian goods by 300 per cent. The two figures are percentages of utterly different totals, and are therefore not capable of comparison; and the only answer we can give is that the real question is whether the result attained is or is not equality of incidence, and that, if the result is equality of incidence, it is beside the question to discuss comparisons arising out of the process by which that equality has been attained.

"And so also with reference to the corrections which the Bombay Mill-owners Association have made in the figures I presented in Council in introducing the Bills. I noted at the time that we were without proper statistics of this production, and my figures were really based, rightly or wrongly, on information which I obtained in Bombay eighteen months ago. The millowners have much improved their information since then, and, when they estimate that they will have to pay 18 lakhs instead of my estimate of 12, I can only say that I accept their figures for present purposes, but that they in no way affect the principle of the Bill. Let me take another illustration, for illustrations often explain matters better than arguments. I will suppose that I am introducing an income-tax of one per cent. I estimate it will produce 10 lakhs of rupees, and included in that estimate is a sum of R10,000 being the proceeds of the one per cent. tax on millowners' income which I reckon at 10 lakhs. The millowners come to me and say, 'Your estimates are too small,—our joint incomes come to 20 lakhs, and the tax you will get is not R10,000, but R20,000.' It seems to me that all I can say is, 'Gentlemen, I accept your correction on a matter which I admit you are better informed than I am: and I will correct my figures accordingly.' But supposing they were to go on to say, 'You reckoned upon getting only R10,000 from us, and therefore we claim that the tax upon our incomes should be one-half per cent. only, so as to produce that sum, and not one per cent.' I do not see how I could possibly admit the contention. I would have to point out that the question of the precise total of the result did not affect the principle of the tax, and that it was necessary to lay the tax upon them at the same rate as upon others, whether the result was a levy of R10,000 or R20,000.

"And so in the present case, the principle of the taxation is a levy of a $3\frac{1}{2}$ per cent. tax on woven goods; and for decision of the question of whether it falls equally or not it is quite irrelevant to compare merely the total amounts.

"But the whole of these comparisons and arguments are based on a radically unsound foundation. We discuss the question on false lines when we deal with it as a question how much Manchester mills will pay and how much Indian mills. The real payer in each case is eventually some person quite different from both. In fact it is quite unnecessary for revenue purposes to call in the Indian millowner at all. If we were to deal with Indian goods as we deal with Manchester ones, we would arrange that they should be on their manufacture delivered into store-houses under our control, just as goods arriving in ships are delivered into our customs-houses; and we should arrange that in one case, as in the other, the purchaser or the importer should

receive them out of our control on producing his documents, and paying the duty. The Indian millowner would disappear from the whole system, and his purchaser would be, in the one case, as in the other, the real person charged with the tax. I am sure that such a system would be intolerable to mill-owners, and that they prefer being made the collectors of the tax to having their business so greatly interfered with as it would be under the supposed system: but I introduce the illustration as showing how impossible it is to admit, as really bearing upon the case, arguments that are founded upon a comparison of the total amounts levied respectively upon Manchester and upon Indian mill-goods. It is a question of equality of position and not a question of the total amounts involved in the alterations necessary for the attainment of that equality.

"The basis of the policy adopted by the Government in this matter is the fact of which they believe they have received sufficient evidence that in the competition between the different makes of cotton goods, whether imported or Indian-made, a difference of $3\frac{1}{2}$ per cent. on the burden of taxation is enough to divert the course of consumption from one class to another. It is of course not so much in the difference of price in the goods as sold in the bazars that these diversions of trade take place; it is the importers and the middlemen whose operations are chiefly affected and who keenly take advantage of any difference which taxation imports into their transactions. This influence is felt even in the minuter differences which arise among imported goods out of the differences of incidence in a tax which is not levied strictly *ad valorem*. The three Chambers of Calcutta, Bombay and Madras have all objected (Bombay less than the other two) to any system of valuation on imported goods which is not strictly an *ad valorem* one; and I had an interview with some of the importing merchants in Calcutta, in which they convinced me that a difference in incidence of tax as between two different makes, which amounted to one per cent. upon the value, was sufficient to place one of these makes at a disadvantage in the market, and to bring about an immediate tendency to alter the makes and the various marks in the direction of securing lightness of taxation. This was certainly the case in 1879, when, as has been often pointed out, the Lancashire trade changed its character to meet our fiscal system. I expressed the opinion last year, and it is no doubt true that a much more violent change is now required to obtain exemption from duty than was then necessary, but to obtain diminution of duty the changes required are not so great. I have accepted it as a fact that those petty variations I have referred to will be the necessary consequence of our varying in any respect from a

system of *ad valorem* duties in respect of import goods, and I have persuaded the Select Committee on this ground to meet the views of the importers by adhering to *ad valorem* taxation.

"Now, if in these petty variations this diversion of the lines of trade takes place, how much greater will be the effect of a difference of $3\frac{1}{2}$ per cent. between goods that are below and above a line of a particular count in yarn. As I stated when introducing the Bills, the Government of India, in the form of excise-duty which it introduced in December, 1894, altogether under-estimated this effect, and it has been obliged to retrace its steps because it has found that the exemption of low count goods has actually had the effect of promoting consumption of Indian goods at the cost of imported goods.

"I desire in this connection to refer to two documents, both of which are dated before the introduction of the Bills, but which were only brought under my cognisance after their introduction. It will show that the Government are not altogether without evidence, or rather it will show that the evidence before the Government previous to the introduction of the Bills has in this matter been confirmed by further evidence received afterwards. I have a letter written by one of the import merchants in Calcutta, and placed in my hands with other papers by the Hon'ble Mr. Playfair, who has been the medium of communication throughout between me and the commercial classes interested in this question. This merchant writes:—

'As regards, however, practically the whole of what is technically called "grey goods," of which the bulk of the Lancashire imports consist, they are used by the same class of consumers as take the production of the Indian mills, and if they can, owing to their passing free of duty, obtain the latter on more favourable terms than the former, then unquestionably the tendency will be towards a decrease in the demand for those least favourably situated. As an object lesson is better than any amount of writing, will you allow me to lay before you two patterns of cloth in the accompanying parcel. That marked A represents a quality for which my firm has for many years had a very large sale, and B is a cutting from a cloth bearing the stamp of the Hindustan Spinning and Weaving Company, Limited, Bombay, upon which duty is not payable. Since the re-imposition of the duties we have had a steadily decreasing demand for our cloths of such quality, and moreover the prices we have been obliged to take have left a loss on the cost of manufacture. Both these cloths are used for the purpose of covering the nakedness of the labourers in the field, and there cannot be a doubt that if a 5 per cent. duty is put upon the one, while the other is left untouched, protection is given to the latter.'

"I beg Mr. Playfair's pardon. I find now that I obtained this letter from the Board of Revenue, and that it is not one of the papers which he gave me.

"The other document, which I only received last night, comes from Manchester. It says, after referring to the argument which the Manchester merchants put forward in which they asserted that the relief of goods under 20s were sure to re-act in the form of restricting the demand for goods over 20s,—

'On Tuesday I had a very remarkable confirmation of my opinion in the shape of two pieces manufactured by one of the Petit group of mills at Bombay from 20s yarns, which have totally supplanted an English-made cloth, the yarns being 28s in the twist (the "reed" threads) and 32s in the weft (the "pick" threads).

'These Indian-made cloths were sent to a certain firm' (I omit names) 'of Manchester by their Karachi house, and along with a piece of the cloth they have supplanted.

'The remarkable feature of this case is the wide difference in the yarns and "reed" and "pick" of the substituted and supplanted cloths. That 20s should be substituted for 22s or 24s and 12 or 13 threads per quarter inch for 14 or 15 we were quite prepared for, but that substitution should at once have gone so far we did not expect.

'It only proves, what we have always asserted, that every cloth competes with every other cloth, and that the buyer takes that one which, at a price, best suits his requirements.'

"These are two pieces of further evidence received since the Bill was introduced and confirm the view the Government of India have taken in this matter, and on which it has based its policy, that there is no permanent solution of the difficulty in any system which will leave a dividing line at any point and tax the cloth which is above that line and exempt from the tax the cloth which is below it.

"Moreover, the Government of India could not fail to be struck by the circumstance that, though this view was put forward in the letter in which it asked for the opinions of the Chambers of Commerce as one of the points requiring consideration, the fact was not called in question in any of the replies it received. Even the reply of the Millowners' Association of Bombay, able and exhaustive as it was in other respects, did not take up this point, and after I called their attention expressly to the matter, their contention in the document which they have addressed to the Council, under date 29th January, is not that this alleged effect or tendency does not exist, but that if it does exist it is not a 'direct' competition within the meaning of the declaration which Her Majesty's Government made through me in 1894. It occurs, they urge, in the region of consumption in which the competition is indirect, and therefore ought to be left out of account. Even one of the gentlemen who has been loudest in his denunciation of the Government of India and all its works makes the strange admission

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that he has actually observed the very transference of trade to which allusion has been made. Presiding at a meeting of the millowners of Calcutta on Monday last, he said (I have verified the quotation from two newspapers):—

'By the exemption of all yarns from taxation, the new Bill will encourage the importation of finer yarns to the detriment of the cotton mill industry in this country, as only the coarser counts of yarn can be spun from Indian cotton.'

"In other words, he declares that Manchester is kept out of a market that would be open to it if there were no taxation at all; and he holds that, if the Government does not continue to tax yarns above 20 and exempt those below, he will lose the protection which the present system gives him.

"Moreover, it cannot escape observation that in Bombay, where the opposition to the present measures has at least been most public, not a single voice has been raised in contradiction of the claim which Manchester put forward, and the admission of which, as I explained in introducing the Bills, rendered it necessary for us to extend the line of taxation below twenties,—the claim, I mean, 'that the exemption of the coarser goods creates a difference in price between the coarser and the finer, which tends to divert the course of consumption from the finer to the coarser.' The resolutions which we received from the public meeting in Bombay and which have been printed and circulated as papers to the Bill abandoned this branch of the contention altogether, and took up entirely different lines, with which I shall afterwards deal.

"I must hold therefore that the fact that we have to this extent placed Manchester competition at a disadvantage must be taken as proved; and it becomes necessary for us to seek a remedy for this state of things. I am quite aware of the evil things that are said of us for taking into consideration any claims of Manchester. My own position in this matter is to my own mind perfectly clear. It is useless to talk as if India were an independent Government, in the same sense, as, say, the Government of the United States of America. The Government of such a country can afford to neglect all interests but those of its own subjects; and in fact it is bound to do so, and to regard the interests of other countries only so far as they re-act upon its own. It need not care what injury (if any) its fiscal or commercial legislation causes to other countries; such injury is not its concern, except (as I say) in so far as it may re-act upon itself. But that is not our position: India is one of the members of a big Empire, the portions of which are bound together by innumerable ties, and it is out of the question that we should intentionally administer its affairs so as to cause injury to a great British industry. If injustice were proposed to an Indian one, it



would be the duty of us, as representing Indian interests, to fight against that injustice to the utmost; but even then, the final verdict would not rest with us. But the pretension that it is in any way either our duty, or even consistent with our duty, to shut our eyes to interests that lie outside the geographical limits of India, and to refuse to consider them, is one which is utterly unsustainable, and which, notwithstanding the sorrowful solicitations of the Hon'ble Member for Madras, I do not for a moment accept as defining my line of conduct. I know it gives grand opportunities for public orators, and for people like the writer of one of the letters that have been circulated with the Bill (Paper No. 7) to issue to us high-falutin exhortations to act up to our responsibilities and frustrate machinations invented in the interest of English party politicians. My views as to my responsibilities differ from theirs—a difference which not unfrequently exists between those who have to exercise responsibilities and those who have not. But I would ask them, looking at the matter merely from the point of view of self-interest, whether they consider it better that the legislation on the subject should be undertaken here, by persons who have at least a full knowledge of the Indian side of the case, or that, by our refusal to give even a just consideration to the Manchester side of the case, the matter should be entirely taken out of our hands, and made the subject of orders or of legislation by a higher authority than the Government of India. I have myself little doubt that that would be the result of our deliberately electing to continue a system which as a matter of fact places Manchester at an admitted disadvantage, and which so far as I see everybody stoutly denies that he desires to have that effect.

“I am well aware that the Chambers of Commerce in this country have recommended a manner of dealing with this matter which has not been accepted by the Government; though their recommendation has not been quite so unanimous as some of the papers make out. I can only say they are more strictly bound than the Government of India is to give exclusive attention to Indian interests. The Government of India is, as I have explained, bound to give a wider consideration to the subject, and that is the reason why it has found itself unable in this matter to follow their advice. The argument that because we asked their advice we are bound to follow it, is a two-edged weapon which it is somewhat dangerous to use—I am referring to this as one of the public arguments which have been directed against our action—I say the argument is a two-edged one, for it would obviously equally apply to the consultations which have been publicly held through the Secretary of State with those who represent the Manchester side of the case.

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“I come now to deal with the argument put forward first of all by the public meeting in Bombay, and afterwards reiterated by various members of this Council, that the effect of our legislation is to relieve from taxation the richer classes of India and put upon the poorer classes a burden which they are not at present liable to bear.

“It is clear that a statement of this sort is entirely without foundation unless we accept the theory that the cotton goods imported from Manchester are wholly consumed by a certain class called the richer class, and the goods manufactured in India are wholly consumed by another class called the poorer class. It is only upon a supposition of this kind that the diminution of taxation upon the former class of goods and the imposition of taxation upon the latter class can be called a transfer of taxation from the richer to the poorer class.

“A mere glance at the figures of the trade is enough to show that any theory of the kind is absolutely without foundation. We know that imported cotton goods come to a value of 30 crores of rupees, and it is out of the question to assume that the consumers of such a vast import are a class that can in any way be called a limited class. The mere statement of the figures is enough to show that they include at least a very considerable share of what may be called the vast mass of the population. I never heard the fact denied that Manchester goods were in general use, until it suited some persons to get up the cry of rich *versus* poor, and no one who sees how these goods are scattered over the length and breadth of the country can admit that their use or consumption is confined to a limited class.

“In the same way, take the mill-goods. A similar unfounded assumption has been made with regard to them. It is no doubt true that whatever cloths the poor classes use are coarse cloths of low count, but it is an utterly different thing to assert that the whole production of coarse count cloths is used by those poorer classes, and by them alone. The mills produce and sell in India, according to the figures last given me, over five crores in value of cloth, mostly of low counts; and again I say these figures are enough to show that their consumption is not confined to the poor classes, if we use that term as applying to those persons who, in any scheme, even of petty taxation, might claim, on account of their poverty, an exemption from the common burden.

“We have in India that very large middle class, which is often referred to as the vast mass of the population, and which contains at least three-quarters of

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it. This class contains the ordinary agriculturist of all grades, the village tradesman, the villagers in fact of all classes. In the urban population it includes the labourer, the petty tradesman, and those whose livelihood come under the generic specification of service. This large class is not wealthy in any sense in which that word can be used. Their standard of living may be a low standard according to Western notions; but they live in what is moderate comfort according to their own notions, passing frugal lives, fairly free from any anxiety about the future. But neither are they in any proper sense in a state of poverty. I entirely decline to accept Mr. Bhuskate's estimate that all who are not the direct recipients of the advantages of Western education are to be included under the designation of the 'poorest classes.'

"That I am well within the mark in putting down this large proportion of the population as outside the line of poverty I take to be proved from the following considerations arising out of the test which this country unfortunately sometimes applies in the shape of famine. The Famine Commissioners, who carefully went into the subject, estimated that during the worst famines the average number likely to require relief for the space of a year was 7 or 8 per cent. of the whole population affected, and the maximum number likely to be in receipt of relief in worst months was 15 per cent. I asked Mr. Ibbetson, our Secretary in the Revenue and Agricultural Department, how far subsequent experience had confirmed this estimate; his reply is that all experience teaches that the estimate of the Famine Commissioners is a full one; in short, that 85 per cent. of the population are well enough off to pass, without any relief from the State, through the worst of famines. Of course I know that these views differ from those urged by the people who like to descant upon the poverty of the Indian, chiefly because they think that the circumstance contains something of reproach to the administration. But then I am unfortunately dealing with facts and not with declamatory rhetoric; and therefore I deal with this huge middle class as what it really is, fairly well-off according to its own lights, its own traditions and its own standards.

"It is this large class which furnishes the bulk of the consumers both of Manchester and of Indian goods. If this were not so, that is, if we were to exclude from either class of goods the consumption of three-fourths of the population of India, it is impossible that either branch of trade could show anything approaching to its present figures. There is no doubt a fringe of wealthier people above the class I refer to who probably confine their consumption to the finer classes of goods that come from Manchester, and there is a fringe of poor people below, who have to be content with the coarsest and

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cheapest goods they can get; but the consumption of this last class is necessarily something very small and is probably the village-woven cloth which pays no tax at all. By far the bulk of the consumption in both cases is in the large middle class I have referred to. How they distribute the Manchester consumption and the Indian consumption is, I am afraid, what no one can precisely tell. There is no doubt that a very large number of individuals use both kinds. A villager does not use the same clothes when he goes to the hāt for his weekly bazar or when he goes to the chief town for a holiday (as I have seen them do in crowds) as when he goes out to do his ploughing in the fields; and like ourselves he clothes his wife in garments of quite different kind from those he uses himself. There are abundance of reasons, and there are abundance of occasions for the possession by the same man of different varieties of raiment.

"I must hold therefore that there is absolutely no evidence on which to base the theory of the division of India and the Indian population into two great classes—the richer who use Manchester goods, and the poorer who use Indian goods. It is a pure imagination, and it is entirely opposed to the facts that we do know. By far the bulk of the consumption of both kinds of goods lies in the same classes of the population; and what the Government has done in readjusting the taxation so far as the consumers are concerned, is not that it has relieved one class at the expense of another, but that in having to deal in the main (that is, in all but a small part of the effect of its proposals) with a taxation contributed in a general way by a class that contains about three-fourths of the population of India, it has accompanied the extension of taxation to *all* the articles of their clothing instead of a part only, with a diminution in the rate of the tax so that the burden might be lighter on the whole. I think it is evident that this was a wise and proper thing to do, if we could afford to give up the revenue,

"Of course it is very natural that, when any question of giving up revenue arises, we should be assailed with claims of various kinds; that we should be told that other taxes have a preferable claim to remission over that of the cotton-duties. The reason why we selected the cotton-duties was simply this, that we know that the duties extend over a vast mass of the population and the way in which the remission of duties could best benefit the population as a whole was when applied in the form of a reduction of the cotton-duties. This was the more pressed upon us for the reason that one of the results of the proposals which we are at present laying before the Legislature would otherwise be to increase the amount of taxation which we expect this large population to pay to us. As for the argument that we ought to take the opportunity of

remitting the income-tax, I would be very glad to see it done if we were rich enough to do it; but at the same time it is very obvious that the remission of income-tax and the maintenance of the cotton-duties would be, more than anything else, a remission of taxation on the rich and a continuance of taxation on the poor.

"I know no foundation for the theory that the classes who have to bear the tax are in any way unable to do so. It has always been urged that one great reason in support of duties on cotton goods was that we thereby obtained, even from the subjects of Native States, some small contribution in consideration of the benefits which these persons, though outside the sphere of our direct taxation, reaped from the protection enjoyed under British rule. It seems to me singularly inconsistent to say that, while it is legitimate and even desirable to obtain a revenue from these classes so far as they are dwellers in Native States, it is not proper to obtain similar revenue from the same classes in our own territories who enjoy a much more direct share in the benefits of the system to which they are asked to contribute.

"Indeed, I have heard it argued, and it has been argued to-day, that they are in some respects precisely the classes who ought to contribute to present necessities; inasmuch as the same fall in the rupee which has rendered it necessary for us to enlarge our revenue has been to them a source of advantage. To them it means higher prices for their agricultural produce and more active trade in carrying it away to the markets.

"Those who argue about oppressiveness of taxation and the inability of these classes to meet the demand, altogether forget, it seems to me, the figures with which they are dealing. The whole tax which we intend to obtain by cotton-duties is put down at 105 lakhs of rupees: the number of people who pay it—for nearly every soul in India wears cotton cloths—is something like 287 millions; and the result of these two figures is to show that the average contribution of each person to the tax is about seven pies, a little over half an anna. It is a tax which by the nature of its application is to some extent graduated according to the means of the payer, and we may safely say that the vast mass of the population to which I have referred will not be called on to pay on the average more than half an anna, and that the poorest classes—those who cannot afford to indulge in even such minor luxuries as a good *dhuti*—will not have to pay, even if they used taxed cloth, more than a quarter as much, or say one pie and-a-half. To talk of this as oppressive taxation is a misuse of words. The amount has been saved to these same persons over

and over again in the cheapness which the improvement of communications has brought about in the supply of these same cotton goods. It may be a pity that in the nature of things we cannot maintain the fabric of civilized society without making the members of it contribute in some minute degree towards the cost. But, that necessity being accepted, the obligation upon us is limited to seeing that the demand we make is as small as is consistent with our necessities, and that we have striven to do, by reducing the total amount of it by some fifty lakhs. This reduced demand, I think I have shown, is as fairly assessed by the cotton-duties we propose as it is possible in India to assess any tax; and I must leave to the indignation orators of Bombay the task of reconciling their denunciation of a tax which, as I have shown, has in any case to be paid by the general mass of the population of India, with their denunciation of the Government for reducing it within as narrow limits of amount as possible. We don't impose taxes merely for amusement; we do it because we are obliged to do it by our financial necessities; and I confess that I think people must find it rather difficult to attack our proposals on the merits, when their attack practically come to this, that if our existing financial necessities do not warrant our maintaining a high rate of duty, why, then, we ought to find some other financial necessities which do. I repeat again what I said before, we have been obliged to alter the manner of incidence of a tax which is now paid and will in future—whether it be levied upon the principles we have adopted, or upon those which have been recommended to us by some of the bodies we have consulted in India—be paid by the general mass of the population, and we are doing what is wise and proper in not only preventing that change from involving an additional total demand, but in reducing that demand within the narrowest limits our financial exigencies warrant.

"The truth is that a great deal of the opposition which has been made in this respect arises from a notion that crops up over and over again in the arguments, that if we maintain the tax upon goods imported from Manchester, we in some way or other obtain the revenue, not from the pockets of our own subjects, but from the producers in Lancashire. Take away this false view, and realise the fact that the tax, whether levied on Manchester goods or on Indian ones, has to be paid by the consumer in this country, and the whole question at once becomes plain. It becomes absurd then to talk of a relief of $1\frac{1}{2}$ per cent. of taxation on Manchester goods, as a relief given to anybody but the consumers of the 30 crores of goods that come from there; and as these thirty crores of goods account for nearly three-quarters of the oven goods consumed

in the country (including hand-woven), the consumers who have obtained this partial relief must be something approaching to three-quarters of the population of the country.

"We are told by those who oppose our policy in this matter that we are altogether wrong in imagining that the financial position of India is such that we can afford to reduce our revenue by 50 lakhs. It is certainly a very unusual thing, when a Government proposes to remit 50 lakhs of taxation and say they are able to do so, for people who say they represent the taxpayers to insist that the Government is wrong, and that taxation should not be remitted. The contention of course really arises from that notion to which I have referred, that it is the producers in Manchester and not the consumers in India who are the real payers of the tax, and that the benefit will be to the former and not to the latter.

"We are quite accustomed in this country to being told that we know nothing about our business; and that the commonest sense of our self-constituted critics would be sufficient to prevent us falling into patent blunders; but still I would think that, upon such a question as the real nature of our financial position, people would think they were treading upon dangerous ground in asserting that they are better informed than the Government itself. I hope, however, to convince the Council that in this matter at least the Government knows its business better than its critics.

"The head and forefront of our offending is that we have proposed to give up revenue on the face of the 'notorious fact that the famine insurance fund is suspended'; so says a resolution of the 'citizens of Bombay.' There is a document which is annually published by the Comptroller General and which will, as usual, be published in the first half of the present month. It contains the accounts of the year 1894-95, which we are obliged by Statute to lay before the two Houses of Parliament before the middle of May. The Comptroller General has sent me an early copy of that document, and on referring to these accounts I see that the famine insurance grant is in its old place, and in short the Government has, as a matter of fact, restored the famine insurance before it proposed to reduce its revenue. In short, the notorious fact which was stated as the forefront of our offending turns out not to be a fact at all.

"I seem in some quarters to have been understood as depreciating the alleged competition of handloom industry on the ground of the small extent of that industry; but that was not at all my meaning. I am quite content, so far

as the extent to which handloom weaving is carried on, to accept the estimates put in my hands by the mill-owners of Bombay, who allege that it is very considerable as compared with Indian mill industry, though no great fraction of the consumption of India as a whole. The exact figures which they give me would account for the consumption of woven goods in India as follows:—Indian mill-woven, 5 crores; Indian hand-woven (including that woven from imported and other yarns), about $2\frac{1}{2}$ times as much, say, 12 crores; Lancashire mill-woven, 24 crores; total 41 crores.

"What I pointed out was that the conditions under which the handloom industry was carried on were such as to remove it from commercial competition with the other woven goods. I call it commercial competition when two sets of goods enter the channels of consumption alongside of each other, and contest the entrance against each other. That is the way in which Manchester mills and India mills compete; the prices at which the two can be sold are determined by the cost of production, by rate of wages and various other elements; the two classes of goods are laid down alongside of each other, and in the wholesale market the consumer or rather the man who purchases for sale to the consumer is attracted to the one or to the other according to their relative cheapness. An advantage of cheapness gained by one kind over the other enables the cheaper kind immediately, to that extent, to oust some of the dearer. Heavier taxation on the one than on the other, therefore, immediately affects the amount of each that will pass into consumption.

"But the village industry is on an entirely different footing; it has no such standard as cost of production; it is for the most part, the product of the by-time of the person who weaves it, and even where there are villages of regular weavers it is not an organized industry entering the market in bulk. The weaver brings his wares in small quantities to small markets, and he gets for them what he can get. Whatever he can get above the cost price of the raw material is gain, for his time he reckons as of no value; if he cannot get 4 annas he will take $3\frac{3}{4}$, and if he cannot get that he will take $3\frac{1}{4}$. He has no cost of production which establishes for him a minimum value such that if the price he realizes goes below it he must discontinue his manufacture altogether. The amount he weaves will not be determined by the prices he receives; it will not increase if he remains untaxed, and it will not diminish even if we were to place a heavy tax upon him. His trade is on a retail basis, and all the effect of taxation or non-taxation is wiped out before the trade reaches that level. The additional price that the mill-owner may have to put on his goods may

enable the village weaver to realize slightly more than he would otherwise do, for there is no other standard by which the price of his wares can be regulated than that they must be just such as to give him a footing alongside the Manchester or Indian goods; but, as his chief reason for weaving is that his fathers and grandfathers were weavers before him, the advantage of price will not bring more of his goods into the market and will not diminish the area of consumption available to the power-loom.

"The Cawnpore millowners writing of the handloom industry in the North-Western Provinces say—

'Hand-loom weaving is mostly carried out in village homes free from all Factory Act restrictions; and since any amount, however small, that can be earned by a family in its own home is better than no wage at all, the difference in the price of the two cloths is a little less than the cost of weaving the mill-cloth.'

"Meaning, as I understand it, that the price of the hand-woven cloth is adjusted so as to be a little less than that of the mill-woven.

"I have seen an account to precisely the same effect given by a merchant of Calcutta, who, though he is interested in both Lancashire mills and in Indian mills and in the Indian import trade, holds that the handloom industry cannot, for the reasons stated, be regarded as a commercial competitor. As a matter of economic cost of production, the advantage of the power-loom must be many times $3\frac{1}{2}$ per cent.; and if it were not for this fact just stated, that the weaver plying a hereditary calling will go on weaving and taking what he can get, he would have been ousted long ago, as he has practically been in England.

"The Cawnpore Chamber of Commerce have urged the fact that two mills in the North-Western Provinces have within the last three or four years had to give up their weaving business as proof of the competition of hand-loom industry; but the real facts I interpret differently. Bombay mill goods, and Manchester mill goods sell freely at all the commercial centres in the North-West, and it is their inability to compete with these that has prevented the establishment, on any considerable scale, of power-loom weaving in these provinces. In short, the products of mill-weaving find ample sale in the marts, but Cawnpore is at a disadvantage both with Bombay and with Manchester in producing them. There is no want of a market for mill-woven goods; only Bombay and Manchester have ousted Cawnpore from it.

"I do not therefore believe that the limited advantage which hand-loom weavers obtain in getting these yarns untaxed from the mills will have any real

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effect in restricting the mill production of woven goods. The hand-loom industry can be taxed, as I explained in introducing these Bills, only by taxing the yarns, which means levying the tax through the millowners. In fact, I put it to the deputation which came over from Bombay, that if they preferred we might consider extending the tax to yarns, and then it would be enough to take 3 per cent. all round instead of $3\frac{1}{2}$. Of course, in the case of a proposal of this kind, sprung in the course of conversation upon a deputation who had no authority to discuss it, I do not take the replies of the gentlemen concerned as expressing matured opinions; but I thought, for myself, that it was easy to see that the millowners of Bombay were not likely to consider the competition of hand-loom weavers of sufficient importance to warrant their undertaking the burden of the collection of the duty with which it would be necessary to weight it. It would have involved, as I make out the figures, adding $17\frac{1}{2}$ lakhs of rupees to the amount of excise levied upon Indian mill manufactures; and the discussions that have taken place since the Bills were introduced clearly shew, as I take it, that the Government were wise in abstaining from adding this amount to the excise levied upon Indian industry, although it necessarily involved a similar abstention from taxation on imported yarns. The policy of exempting yarns has been both a lightening of the burden to India, and a considerable diminution of the liabilities we have to impose upon Indian millowners; for taking the mill industry as a whole, they produce twice as much yarn as cloth. If we reckon only by the amounts consumed in India, and therefore coming within the purview of taxation, the amount of yarn produced exceeds that of cloth. We may gather, from the criticisms that have been passed upon us during the past week, the denunciations that would have been levelled at us if we had added taxation on all yarns produced in India to the taxation included in the present measure.

"I have been referring to the deputations which came from Bombay and Cawnpore to confer with me on the subject of these Bills; and before I leave the subject of these deputations I may say at once that they have been of the greatest assistance to myself and the Select Committee in collecting facts, and in adapting some of the detailed provisions of the Bill, though they have not moved the Government from the principle upon which it has deemed itself obliged to base its legislation. I desire, however, to remove a wrong impression that seems to have got abroad that they were at once stopped from any discussion of that principle. Indeed, when Mr. Marshall sent his telegram to Bombay saying that I had informed him that certain matters were 'not open to

discussion,' he could not have meant that discussion was prohibited, for, as a matter of fact, the discussion of matters relating to the principle occupied no inconsiderable portion of the two hours and forty minutes our conversation lasted; and the deputation had afterwards a further opportunity of stating their views on the matter before the Select Committee. What I did was to point out my own inability as a member of the Government to deal with the principle of the Bill as a question that was still open, or to go beyond explaining as far as I could the grounds upon which it was based, and receiving and communicating to my colleagues any objections or proposals they might have to make. I pointed out, as I think it was my business to do, that the establishment at count 20 or any other count of a dividing line between taxation and non-taxation would certainly not meet the occasion out of which the Bill arose, and that we might as well leave the matter altogether untouched as introduce a system of that kind, which left the whole question in dispute still open. In saying this I was, it seems to me, stating only what was a matter of fact, and was in that sense not 'open to discussion.' I also advised them that the real place of formal discussion on the principle of the Bill was now the Legislative Council, and asked them to draw up their case in writing for circulation to the members of that Council, and this, as the Council is aware, they did. I do not think the members themselves consider that they were prevented from stating their case, though they may be disappointed that the Government has not seen its way to departing from its decision as to the inadmissibility, for any practical purpose of settlement, of a line of division at any particular count.

"These are the observations which I have to offer both on the question of the principle on which we have based our Bill, and in reply to the criticisms which have been directed against us. I thought it necessary to answer questions which come from outside the Council, because it is impossible to pass them over, or leave them out of consideration after the papers have been circulated to the Council. It is with reference to that necessity and to our wish to give full consideration to the matters laid before us by the various bodies that I have referred to these matters in directing my remarks to the Council. I have, I think, shown that the Government have given very careful consideration to this measure, first of all carefully weighing the principle on which they have based it, and afterwards striving sufficiently to meet the claims of Manchester, while doing ample justice to the claims also of the Indian mills."

His Honour THE LIEUTENANT-GOVERNOR said:—"It is an extremely difficult position to have to follow in debate such a speech as we have listened to, especially in the case of one who like myself entered this room with considerable doubts as to the equity and wisdom of this measure. It would have been well, I think, had the forms of the Council permitted it, if Sir James Westland had given us this speech at the commencement of the debate when he presented the Report of the Select Committee. I should then have had the assistance of the criticisms of the commercial members and others who are more familiar with this subject than I am myself. I must confess that, listening with all my ears, I have not been able to follow clearly and completely the very rapidly read paper with which the Financial Member has favoured us. I do, however, see that he has been able to meet some of the objections that were brought forward to this measure. I think he has, to a large extent, met the objections arising from the allegation that there is a transfer of taxation from the well-to-do classes to the poorer classes. No doubt what he has said will be submitted to criticism hereafter, and the case in favour of the Bill may not in the end prove to be so strong as he has made it appear; but as well as I can judge I think he has to a large extent met that particular objection. He has not, however, dealt with what to my mind is one of the principal objections to the measure, that is, the protection and favouritism shown to one special item of our import tariff, while there are undoubtedly many other items in that tariff which have equal claims to consideration. As a free trader myself I shall rejoice to see the day when we revert to free trade altogether, but so long as our finances require us to realise duties of this kind I can see no particular reason why cotton should be more favoured than (say) woollen or other goods in the tariff. There is an inequity which comes out very clearly in the proposal to reduce the duties on cotton goods to $1\frac{1}{2}$ per cent. less than the ordinary tariff rate. I am not, moreover, altogether convinced that either he, or the other Members who have to a certain extent taken his view, have fully realised the effect of the retention in the Bill of the exemption of hand-woven goods. That is a point which presses very much upon my mind and regarding which I shall have to say something by and bye, but as to the general form of the thing and treatment of the Bill I must say now that I certainly understood, when this measure was introduced a fortnight ago, that the only principle to which the Government was pledged was the principle of removing from our fiscal system not only all protection but all appearance of protection, and I thought it was quite open to the Select Committee to consider fairly and frankly the objections that were raised to the particular scheme of the Government and to put forward any better scheme which would have secured the main object in view.

"Judging from their report, however, the Select Committee appear to have felt themselves precluded from considering any scheme save that which lay within the four corners of the Bill; but I cannot see myself why it should not have been open to the Select Committee to have taken some such line as this. 'Lancashire says, that there shall be no protection. We agree, and we will tax everything alike, imported yarn, imported cloths, country-made yarn and country-made cloths'—mill-woven of course I mean, for no one has ever dreamt of taxing the domestic spindle; and then they might have gone on to say 'We shall not of course require the Indian mill-weaver to pay his duty twice over, but he shall be entitled to set off against the duty on his cloth what has been actually paid on the yarns.' I would have met the difficulty with regard to the Indian dyes, to which the Hon'ble Member referred in introducing the Bill, by saying 'Very good, here we are prepared to make a sacrifice and we will admit dyed goods at grey or white values.' It appears to me that it was possible to devise some scheme which would entirely have done away with protection, or the very appearance of it, without raising or retaining all the inherent difficulties which appear to me still to cling to this measure. I entirely concur with Sir Griffith Evans in all he has said about its being our duty to sympathise with and support the Government in its efforts to hold the scales evenly between Manchester and Indian interests, and I think the Government has honestly tried to do its duty; but I do regret that the Select Committee, with all the opportunities that they had of consulting gentlemen interested in the trade, were not allowed to consider whether some better scheme than that contained in the Bills might not have been devised.

"Now, as regards this question of the hand-loom trade, opinions, as the Council see, differ very considerably. I confess that I agree with those who hold that the protection will have a very serious effect upon both the Indian and import interests. It robs the measure, in my opinion, of all hope of finality. It is, I fear, the little 'pitted speck' in the 'garnered fruit' of our cotton-duties which rotting inward bids fair to 'moulder all'. I differ from those who speak of the indigenous weaving industry of India as a moribund industry. I would rather describe it as in a state of suspended animation. Nor do I think the description given us just now by the Hon'ble Sir James Westland of the condition of the weaver generally is altogether correct. The weaver does not stand so much alone as some suppose. There is no doubt that he is a very depressed member of the community at present, but he has behind him the Marwari, the native piece-goods dealer, and I have myself seen scores, nay hundreds, of villages in which the weaving classes are kept from utter extinction

simply by the action of the local Marwari, who finds it to his interest to keep them under his hand. He gives them advances, little as an ordinary rule, just enough to keep them alive, but he is prepared to increase these advances whenever it suits his book; and I happen to know that there is a very real intention on the part of some big dealers here in Calcutta to act in this way and take advantage of that protection which is given to hand-loom by the present Bill. I cannot help thinking that both the mills of India and of Lancashire will feel that competition very severely, and if that is the case then I agree with Sir Griffith Evans that it is extremely unlikely that there will be any finality attaching to this measure. I have had very little time to go into the matter, but I have had the statistics of a typical weaving district in the neighbourhood of Calcutta examined. I find it is a mistake to suppose that the hand-weavers use only the coarser counts. My information is that they use very largely the very finest counts, and that they use these counts in a very large proportion, up to in fact one-third of their total yarns, and the cloth turned out by them is better liked by large classes of consumers than any imported or well-sized goods, and, so long as the prices can be kept down to the level of mill-woven goods or near it, the outturn of the hand-loom weaver will be in demand. Taking the statistics of the district to which I have referred—of course I only put them forward by way of illustration—I cannot build a whole theory upon a few figures which I take out at random—I find that the exemption of coarse cottons in 1878-79 had no effect whatever upon the trade of the district. The amount of twist and yarn imported from Calcutta and the value of hand-made goods exported from the district remained practically stationary. But when the cotton-duties were altogether taken off in 1882 the quantity of yarn taken fell from 60,000 maunds in 1881-82 to 21,000 maunds in 1890-91, and the value of hand-made goods exported fell from 7½ lakhs to 1½ lakhs, while the value of imports of European piece-goods rose year by year with the improvement of communications from 9 to 31 lakhs of rupees last year. In its best year the district exported, before the repeal of the duties took effect, nearly 12 lakhs of rupees worth of hand-made goods and took exactly that same amount of imported European goods; but in 1890-91 the hand-made industry had, as I say, fallen to 1½ lakhs. Now, these figures seem to me to shew just this, that the hand-loom cannot compete with the mills on equal terms, but that they can compete when the mill goods are saddled with an excise. It may be said that the local Administration ought to view with satisfaction anything that can be done to stimulate an industry so depressed as the hand-loom industry. The salvation of the proletariat of India no doubt lies in the development of mechanical industries; but we must look to the conditions of our

own day ; it is to the power-loom, the steam-engine and electricity that we must look for their salvation ; and therefore I do not hail the revival of this hand-loom industry with any great fervour. We are told that the Finance Minister has the prospect of a surplus and that this must go to relieve the distress of Lancashire or to stifle its complaints. My Lord, no relief that we can give will meet the case of Lancashire, involved as it is in the throes of a struggle such as Mr. Stevens has described. It is futile to spend our surpluses in such a way. These Bills will not relieve Lancashire, and any flaw in them will, as has been urged, give an opening for fresh agitation and further disturbance of trade. Then, again, I must say, in spite of all the Hon'ble Sir James Westland has said, that I do not myself feel satisfied that we ought to remit taxation at the present moment. The financial situation is in his hands, and in the womb of the future ; we know nothing about it ; but on general grounds I can see any number of objects to which surpluses, if available, might, in my opinion, be more usefully applied. One great matter that occurs to me is the reform of our currency. Surely it would be wise to accumulate surpluses with a view to securing that gold reserve which is the only thing that will save us from the bugbear of a constantly fluctuating exchange ; and, even if there be nothing in that, I can point to Burma across the Bay, your fine new territory, which requires development in every way, with its calls for irrigation, railways, roads and works of every description. You have the port of Calcutta hampered with crushing dues which interfere most seriously with the development of trade. You might endeavour to strengthen generally the trade of India to meet that competition which is looming upon it from the islands of the East. Not only that, but, as was suggested by Sir Griffith Evans, you have, I fear, grinning at you from behind the door of the North-Western Provinces at present the actual spectre of famine. I should have been glad, therefore, as I have said, to have seen some scheme devised which, whilst avoiding any appearance of protection, would have applied our system of taxation to all counts and all goods, and I should have preferred much not to diminish revenue, or favour unduly one special branch of trade."

His Excellency THE PRESIDENT said :—"The same cause which has compelled me most unwillingly to absent myself from earlier meetings of this Council prevents me from attempting any lengthy or reasoned arguments in favour of the Bills now before it. It is, however, the less necessary for me to do so, because I entirely agree in and adopt the defence of the policy of the Government which has been made by my Hon'ble Colleague in charge of the Finance Department in a manner which, while it was in no way deficient in vigour and mastery of detail, has been commended here, and will no doubt be recognised elsewhere, as showing a full measure of temper and moderation. I desire,

however, more especially to express my entire concurrence in what he has said of the nature of our responsibilities as administering the affairs of this portion of the great Empire of the Queen-Empress. It is, of course, absurd to represent the Government of India and Her Majesty's Government as advocates of two hostile interests. Hon'ble Members may recollect a spirited passage in an eloquent speech of Sir Henry Fowler, in which he declared that every Member of the House of Commons was a Member for India. Is there to be no reciprocity in this matter ? I am glad to say that I am not called upon to argue that question after the speech of the Hon'ble Sir Griffith Evans to-day. So far as we are concerned, who hold our commission from the Queen-Empress, we are bound, as the Hon'ble Finance Member has pointed out, to weigh carefully all the circumstances of the case where, as here, other interests as well as purely Indian interests are involved.

"Now, I should like to look for a moment at the history of this case. The Hon'ble Finance Member reminded you in his introductory speech that it extended over three years. None of us, I think, will wish to renew the discussions or even the memory of the discussions of 1894, and all I would say is that I cannot take the description of those discussions by the Hon'ble Sir Griffith Evans as completely exhaustive, because he omitted one result of that controversy which perhaps did not attract so much attention at the time, but which I always thought was of great importance ; and that was the admission by Her Majesty's Government that the claim for the imposition of these cotton-duties must be measured by the financial necessities of India. Accordingly when, at the end of 1894, we presented an overwhelming case, so far as our necessities were concerned, the imposition of these duties was agreed to subject to the condition that they were not to be protective. I am not going to enter into any argument now as to the propriety or reasonableness of that condition. It is sufficient for my purpose to say that it was accepted by the Government of India, and that this Council endorsed our acceptance. The main debate in 1895 was concerned with the method by which we should carry out that condition. We, the Government of India, certainly thought then, and Council probably thought still more emphatically, that we had amply met our obligation ; but in matters of this importance we are bound to be fair-minded, and it has been impossible for us to refuse to acknowledge that the arrangement which we thought sufficient last year has been inadequate to fulfil our obligation. It then became our duty to re-consider our arrangements. I regret that it was not in our power to act upon the suggestion which those interested in cotton goods in Bombay and Calcutta made to us ; and I join with my Hon'ble Colleague in recognising the

ability, liberality, and fairness of mind which are apparent in the papers in which they embodied their views. There were no doubt advantages to be gained from that proposal, and it was most carefully discussed and considered by us; but we came distinctly to the opinion—and nothing that has emerged since has weakened my conviction—that this particular remedy would fail in what the Hon'ble Mr. Playfair has most truly insisted upon as the all-important condition, namely, some reasonable chance of finality. It is impossible of course to give the Hon'ble Member the pledge he asks. If, as I have said, the imposition of these duties must be ruled by India's financial necessities, he would be a bold man who would undertake to prophesy the duration of those necessities; but we do put forward the present legislation in the hope and belief that it meets the obligation which we undertook when the duties were imposed, that obligation being that the mills in England and the mills in India should compete on equal terms. I have said the mills in England and the mills in India, because it has been attempted to put forward the hand-loom weaver, and I have been somewhat surprised to find this matter insisted upon so strongly in this Council. We have had some suggestions from His Honour the Lieutenant-Governor, based on the statistics of a limited area, which of course I cannot deal with on the spur of the moment; and we have had an ingenious and, if I may say so, an amusing attempt by the Hon'ble Sir Griffith Evans to reconcile his opinion of 1894 with the necessities of his argument to-day.

"The Hon'ble Finance Member and the Hon'ble Mr. Rees have, I think, shown how entirely different is the position of the hand-loom weaver as a competitor from that of one set of millowners competing with another. I cannot but think that the reasonable men in Lancashire (and I venture to say that there are reasonable men there) will be the first to acknowledge this fact. I say so with the more confidence, because I come from a district in Scotland which was the home of hand-loom weaving in the memory of men still living; but all that I can recollect is row upon row of houses, through the dusty windows of which one could see the looms still there, but silent and deserted as an asset of no value, to perish with the roof that covered them. It may be said that these weavers at home had no duty to assist them: no, but they also were not scattered over the vast Empire of India, but were able and knew how to bring their influence to bear on Parliamentary elections, and they had the Scottish 'dourness' (if I may use a Scotch word) that is not easily beaten; yet beaten they were absolutely out of the field, and I have a firm conviction that, if it ever comes to real competition between mills and hand-looms in India, I shall be able to agree with the Sir Griffith Evans of 1894 that it is not $3\frac{1}{2}$ or 5 per cent. that will save the latter.

"The Government must proceed with the legislation they have put before you, and must ask you to pass these Bills. We believe they will effect their purpose and restore to the great trade both in Lancashire and in India the feeling of security which at this moment it solely needs. I venture to hope that, if this most desirable end is attained, the somewhat excited feelings of to-day in certain circles will pass away, and it will at least be acknowledged, as the Hon'ble Sir Griffith Evans has most handsomely said, that the Government of India has had no other object in view but to deal with a most difficult question in the manner which in their judgment is most likely to be effectual."

The motion was put and agreed to.

The Hon'ble SIR JAMES WESTLAND moved that the Bill, as amended, be passed.

The motion was put and agreed to.

INDIAN TARIFF ACT, 1894, AMENDMENT BILL.

The Hon'ble SIR JAMES WESTLAND presented the Report of the Select Committee on the Bill to amend the Indian Tariff Act, 1894. He said:—"The chief amendment that has been made I have already explained to the Council in connection with the Select Committee's Report upon the other Bill, namely, that of introducing a valuation *ad valorem* instead of a specific duty. Another alteration was the incorporation in the Bill of a notification of an alteration of tariff value (relating to rose-water) which was issued after the date of the introduction of the Bill by the Executive Government within its legal powers."

The Hon'ble SIR JAMES WESTLAND moved the President to suspend the Rules of Business to admit of the Report of the Select Committee being taken into consideration.

His Excellency THE PRESIDENT declared the Rules suspended.

The Hon'ble SIR JAMES WESTLAND moved that the Report of the Select Committee be taken into consideration.

The motion was put and agreed to.

The Hon'ble SIR JAMES WESTLAND moved that in article 62, after the word "descriptions" should be added the words "of hides or skins." He explained that this was to correct the Bill in the manner in which it was really

AMENDMENT OF INDIAN TARIFF ACT, 1894.

[Sir James Westland.] [3RD FEBRUARY, 1896.]

passed by the Select Committee. The words were intended to express more clearly and in a manner free from doubt what the real intention of the article was, but they had apparently been overlooked in the reprinting.

The motion was put and agreed to.

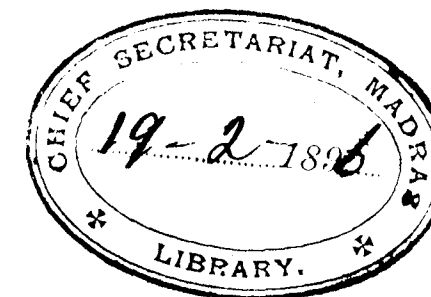
The Hon'ble SIR JAMES WESTLAND moved that the Bill, as amended, be passed.

The motion was put and agreed to.

The Council adjourned to Thursday, the 6th February, 1896.

CALCUTTA; The 5th February, 1896.	} S. HARVEY JAMES, <i>Secretary to the Government of India, Legislative Department.</i>
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NOTE.—The Meeting fixed for Thursday, the 30th January, 1896, was subsequently postponed to Monday, the 3rd February, 1896.



Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892 (24 & 25 Vict., cap. 67, and 55 & 56 Vict., cap. 14).

The Council met at Government House on Thursday, the 6th February, 1896.

PRESENT:

His Excellency the Viceroy and Governor General of India, P.C., G.M.S.I., G.M.I.E., LL.D., *presiding*.
 His Excellency the Commander-in-Chief, G.C.I.E., K.C.B., V.C.
 The Hon'ble Sir A. E. Miller, Kt., C.S.I., Q.C.
 The Hon'ble Lieutenant-General Sir H. Brackenbury, K.C.B., K.C.S.I., R.A.
 The Hon'ble Sir C. B. Pritchard, K.C.I.E., C.S.I.
 The Hon'ble Sir J. Westland, K.C.S.I.
 The Hon'ble J. Woodburn, C.S.I.
 The Hon'ble Mohiny Mohun Roy.
 The Hon'ble C. C. Stevens, C.S.I.
 The Hon'ble A. S. Lethbridge, C.S.I., M.D.
 The Hon'ble M. R. Ry. P. Ananda Charlu, Rai Bahádur.
 The Hon'ble Alan Cadell, C.S.I.
 The Hon'ble J. D. Rees, C.I.E.
 The Hon'ble G. P. Glendinning.
 The Hon'ble Nawab Amir-ud-Din Ahmad Khan, C.I.E., Bahádur, Fakharuddoulah, Chief of Loharu.
 The Hon'ble Rao Sahib Balwant Rao Bhuskate.
 The Hon'ble P. Playfair, C.I.E.

QUESTIONS AND ANSWERS.

The Hon'ble RAO SAHIB BALWANT RAO BHUSKATE asked:—

“(1) Whether the attention of the Government of India has been directed to the surmises contained in some of the daily papers in regard to the suicide committed by Ram Chandra Singh Deo, the late Raja of Patna, in the Central Provinces?”

“(2) If so, has any enquiry been made in regard to that matter?”

The Hon'ble MR. WOODBURN replied:—“The Government of India have had their attention called to this case, but they do not think it necessary to make any further inquiry into the circumstances.”

[Mr. Woodburn.]

[6TH FEBRUARY, 1896.]

"A very full enquiry was made at the time by the Administration of the Central Provinces. The result of that enquiry was reported to the Government of India in the following terms :—

'I am directed to report, for the information of the Government of India, the death, by suicide, of the Maharaja of Patna on the 8th of June. The Maharaja shot his wife dead, and then shot himself. The Political Agent for the Chhattisgarh Feudatories at once proceeded to Bolangir, the Maharaja's head-quarters, and made a detailed enquiry of which the official report has just reached the Chief Commissioner.

'At the time of the murder and suicide the Maharaja was undoubtedly insane. Suspicion of this had before been occasionally hinted. His mother is of unsound mind. The Maharaja himself had, especially since his accession, from time to time displayed eccentricities of conduct and outbursts of temper, only too easily to be accounted for in the light of the present tragedy, but regarded at the time as not unnatural in a hot-headed and self-willed young Chief, new to power impatient of restraint, and forming, in his distant and isolated capital, exaggerated ideas of his own power and importance. For such outbreaks the Chief Commissioner has himself had to take the Maharaja to task. To reproof and counsel he showed himself readily amenable. And his bearing and conversation were so uniformly frank, courteous and amiable as to rebut all suspicion of his character or intellect being seriously warped. The terrible ending came suddenly when after an outbreak of unfounded fear and suspicion of his wife, his servants and his surroundings, he had in a visit to the Political Agent and Commissioner of the Division become apparently calm and reasonable. The Maharani was a sister of the Raja of Kala-handi, a neighbouring Chief, and was a lady held in the highest esteem by all who knew her. There was one child of the marriage, a daughter, who sustained no injury.'

"It may be added that the Political Agent reported that he had reason to believe that the immediate cause which led the Maharaja to shoot his wife was her refusal to give him a sum of Rs. 20,000 from her private purse for the purpose of a trip to England, which he contemplated, and the Government of India have no information which would lead them to doubt the correctness of this report.

"Restrictions were imposed on the powers of the Maharaja, which were not imposed on the two other young Chiefs who were installed along with him in January, 1894. Under these restrictions he chafed, but they were unfortunately necessary, and were imposed, not at the instance of the Political Agent, but by myself as Chief Commissioner. The Political Agent, in his relations with the Chiefs in Chhattisgarh, amply justified the expectations in which I appointed him to the post.

"The Dewan was an officer of the Maharaja's own selection."

6TH FEBRUARY, 1896.] [Babu Mohiny Mohun Roy; Mr. Woodburn; Sir Alexander Miller.]

The Hon'ble BABU MOHINY MOHUN ROY asked :—

"(1) Is Government aware that there is now considerable alarm and agitation in the Chittagong Division arising from an apprehension that the said Division will be transferred from the Province of Bengal to that of Assam?

"(2) Will Government be pleased to state whether such a proposal is now under its consideration?

"(3) If so, will Government be pleased to publish all papers and correspondence relating thereto so as to allow the people of the Chittagong Division an opportunity of submitting representations and reasons against the proposed transfer?"

The Hon'ble MR. WOODBURN replied :—"The Government of India have received representations which show that the idea of the transfer of the Chittagong Division to Assam is regarded with dissatisfaction by some people of the Division.

"The Government of India decided in 1892 that the Chittagong District should be transferred to Assam as soon as settlement operations were concluded in it. It was at the same time decided that the expediency of transferring the whole of the Chittagong Division should be considered by the Lieutenant-Governor of Bengal and the Chief Commissioner of Assam. That question is now under the consideration of those authorities and will be eventually submitted for the decision of the Government of India.

"The Government of India will give attentive consideration to any representations against the proposed transfer which the people of the Chittagong Division may submit through the Government of Bengal; but they do not think it necessary to publish at present any papers relating to the matter."

LEGAL PRACTITIONERS ACT, 1879, AMENDMENT BILL.

The Hon'ble SIR ALEXANDER MILLER moved that the Hon'ble Rai P. Ananda Charlu Bahádur be added to the Select Committee on the Bill to amend the Legal Practitioners Act, 1879. He said :—"The Select Committee originally included the name of the Hon'ble Mr. Mehta, who has since, I regret to say, ceased to be a member of this Council, and therefore I

[Sir Alexander Miller.] [6TH FEBRUARY, 1896.]

desire to fill up the place on the Committee which he has vacated. And I should like to take this opportunity of saying, speaking for myself alone, that I regret exceedingly the absence of the Hon'ble Member, whose extreme fairness and great attention to all the business I have had to transact with him in the Select Committee have, in my opinion, made Mr. Mehta one of the most useful members that I have met at this table. I have indeed more than once been obliged to differ from him in opinion on public matters, but with that I have nothing to do at present, nor did such differences detract in the least from my sense of his legal acumen and judicial fairness on general questions: I think he would have been of very great assistance to us in the settlement of the difficult questions arising out of this Bill, and I desire that this expression of my personal regret at his having ceased to be a member of this Council should be made as public as possible."

The motion was put and agreed to.

NEGOTIABLE INSTRUMENTS ACT, 1881, AMENDMENT BILL.

The Hon'ble SIR ALEXANDER MILLER moved for leave to introduce a Bill to amend the Negotiable Instruments Act, 1881. He said:—"By a known principle of commercial law, or of the common law of negotiable instruments, if a negotiable instrument was not presented within a reasonable time after it became due, the drawer and acceptor were released from liability upon the instrument if their condition had been injuriously changed by the delay. The theory of the law is that, if the document is old, the holder should take all risks in connection with it. That was incorporated, when the attempt was made to codify the common law of such instruments in 1881, in section 84 of Act XXVI of 1881, which provided that when a cheque was not presented 'for payment within a reasonable time, and the drawer thereof sustains loss or damage from such failure,' the holder should have no claim against the drawer, and the drawer was absolutely discharged. When, however, the identical same principle of law came to be codified somewhat later in England, they limited the amount of the discharge of the drawer not to the total amount of the cheque, the presentation of which had been unreasonably delayed, but only to the amount which the drawer had lost in consequence of the delay, which was not always by any means the same amount; and it appears to the Government of India, first, that it is desirable that in a matter of this kind the law regarding these instruments should be the same in India as in England, and, secondly, that the English Act has more accurately expressed the principle of the common law than the Indian

Act does: and therefore I propose to alter the Indian Act not exactly according to the wording of the English Act, which would not altogether fit into the rest of the Act here, but so as practically to produce the same result as is produced in England by the form of the Act there—45 & 46 Vict., cap. 61.

"It is scarcely necessary for me to go through the provisions of the Bill. The practical effect is that when a cheque is not presented within a reasonable time, and when in consequence of its non-presentation the drawer has suffered any damage, he is to be discharged from liability on the cheque to the extent of the damage he has suffered, but no further; and the same principle is of course properly applied to intermediate indorsers when they also have suffered damage; as, for instance, to give an illustration, when a man has received a cheque in payment of a debt and has passed it on to a third party in payment of a debt to him, and then by reason of improper delay in presentation the cheque is dishonoured or only paid in part, it is provided that the holder or indorsee, whether intermediate or ultimate, of the cheque is not to be entitled to fall back upon his indorser in respect of the debt which would have been paid if the cheque had been presented at the proper time. It seems, I think, necessary to extend the protection to intermediate indorsers in that way, and that is proposed to be provided in the alteration we are now making in the Bill. That is the entire effect of the proposal."

The motion was put and agreed to.

The Hon'ble SIR ALEXANDER MILLER introduced the Bill.

The Hon'ble SIR ALEXANDER MILLER moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English, and in the local official Gazettes in English and in such other languages as the Local Governments think fit.

The motion was put and agreed to.

The Council adjourned to Thursday, the 13th February, 1896.

CALCUTTA; }
 The 7th February, 1896. }

 S. HARVEY JAMES,
Secretary to the Government of India,
Legislative Department.

the interval that has elapsed, the Bill as amended has been republished throughout India, and has formed the subject of a good deal of criticism both in India and in England. All these criticisms have been very attentively considered by the Select Committee, and the result is the amended Bill which I have now the honour to submit.

"The passing of the Pilgrim Ships Act, 1895, has rendered necessary the removal of a few sections, but, notwithstanding this curtailment, the Bill remains a lengthy piece of legislation, extending to 341 sections, and the examination and consideration of this extensive body of law has involved a serious amount of labour to those members of the Select Committee—and they form the great majority—who have important duties unconnected with this Council to attend to.

"It is believed that the Report of the Select Committee explains sufficiently most of the more important changes which have been made, but there are several points with reference to which it may be desirable that I should add a few remarks.

"The first in order, and one which has given the Select Committee much thought, is that of native shipping. The earlier definition of 'native coasting-ship,' which, apart from the question of ownership, paid exclusive attention to rig, had been objected to in Bengal, and it was felt that it was unfair to the native shipping in the northern portion of the Bay of Bengal, which is ordinarily square-rigged, while the shipping of precisely the same class on the Western Coast is almost invariably lateen-rigged. This inequality was ultimately got rid of by the omission of all reference to rig in the definition as it now stands.

"The present legislation under which native shipping is registered in the Bay of Bengal is very similar in character and stringency to that of the present Bill, which if passed into law will supersede it, and, as the number of ships affected on this side of India is relatively small, it is not likely that the changes proposed will cause any serious inconvenience.

"But on the West Coast of India, owing to the greater safety of navigation during considerable periods of the year, as also no doubt to other causes, the number of native craft is very great, and in the end of 1895 amounted to more than 11,000 vessels under two hundred tons. These vessels resort not only to Bombay and Karachi, in which ports registration is carried on under the supervision of officers of high rank and efficiency, but belong in many cases to petty ports in which the representatives of Government are officials on low pay and with

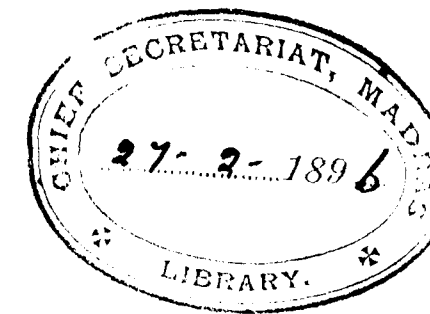
an imperfect knowledge of English, but who, unless great loss and inconvenience are to be caused to the owners, must continue to register such ships.

"Another point is that the present coasting-ship registration law in Bombay is compulsory; 'every such ship employed as aforesaid *shall* be marked,' etc., and neglect to register is punishable with heavy and recurring fines. The Merchant Shipping Act, 1894, on the other hand, only offers the inducement to register, 'that, if a ship required by this Act to be registered, is *not* registered under this Act, she shall not be recognized as a British ship,' and in this respect the English Act resembles Act X of 1841.

"The Bombay authorities dreaded the confusion to which the removal of compulsory registration was likely to give rise, and distrusted the ability of the agency at their disposal in the smaller ports to carry out the more complex provisions of the law applicable to English shipping, with respect to the large number of native craft which plies on the Western Coast of India.

"In these circumstances, and as it was doubtful whether the Indian Legislature had any longer the authority to enact a law similar to Act XIX of 1838, it was decided that it was best to retain that Act upon the Statute book, and to avoid for the present all interference that is not absolutely necessary with the great mass of Indian coasting-craft. The exemption of the smaller native ships from the provisions of the general law affecting merchant ships is analogous so far as those of the smallest tonnage are concerned, with the exemption contained in sub-section (2) of section 3 of the Merchant Shipping Act, 1894. The Colonial Shipping Act of 1868 also furnished until recently an example of exemption from the general law of merchant shipping of vessels employed in the coasting-trade of British possessions, and it was at one time under contemplation that regulations framed under this Act might meet the circumstances of the native coasting-ships of India.

"The next point which I need note is section 34 of the amended Bill, which as originally drafted prevented foreign steam-ships from carrying passengers from one port in British India to any other port in British India, unless they carried master, mate, and engineer, holding British certificates. While still of opinion that the ordinary passenger coasting-trade should be restricted, as was contemplated, the Committee proposes to give power to exempt from the provisions of this section, foreign steam-ships which have been in the habit of calling at Madras or Aden, as an incident in a voyage to or from a foreign port. The relaxation in favour of these foreign steam-ships should not in the opinion of the Select Committee be allowed to affect the general rule with respect to coasting voyages, which it wishes to see upheld.



Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892 (24 & 25 Vict., cap. 67, and 55 & 56 Vict., cap. 14).

The Council met at Government House on Thursday, the 13th February, 1896.

PRESENT :

His Excellency the Viceroy and Governor General of India, P.C., G.M.S.I., G.M.I.E., LL.D., *presiding*.

His Honour the Lieutenant-Governor of Bengal, K.C.S.I.

His Excellency the Commander-in-Chief, G.C.I.E., K.C.B., V.C.

The Hon'ble Sir A. E. Miller, K.T., C.S.I., Q.C.

The Hon'ble Lieutenant-General Sir H. Brackenbury, K.C.B., K.C.S.I., R.A.

The Hon'ble Sir C. B. Pritchard, K.C.I.E., C.S.I.

The Hon'ble Sir J. Westland, K.C.S.I.

The Hon'ble J. Woodburn, C.S.I.

The Hon'ble Prince Sir Jahan Kadr Meerza Muhammad Wahid Ali Bahádur, K.C.I.E.

The Hon'ble Mohiny Mohun Roy.

The Hon'ble C. C. Stevens, C.S.I.

The Hon'ble A. S. Lethbridge, C.S.I., M.D.

The Hon'ble M. R. Ry. P. Ananda Charlu, Rai Bahádur.

The Hon'ble Sir G. H. P. Evans, K.C.I.E.

The Hon'ble Alan Cadell, C.S.I.

The Hon'ble J. D. Rees, C.I.E.

The Hon'ble G. P. Glendinning.

The Hon'ble Nawab Amir-ud-Din Ahmad Khan, C.I.E., Bahádur, Fakharuddoulah, Chief of Loharu.

The Hon'ble Rao Sahib Balwant Rao Bhuskute.

The Hon'ble P. Playfair, C.I.E.

MERCHANT SHIPPING BILL.

The Hon'ble MR. CADELL presented the further Report of the Select Committee on the Bill to consolidate and amend certain Indian enactments relating to Merchant Shipping and the carriage of passengers by sea. He said:—"My Lord, nearly a year has now passed since the late Mr. Clogstoun presented the preliminary Report of the Select Committee, and, during

"The Bengal Chamber of Commerce recommended in connection with section 90 and other sections that the powers of Courts under this Bill should be gathered together and shown in a schedule attached to the Bill, as in the case of the Criminal Procedure Code. The Select Committee could not adopt this recommendation, for the legislation now in hand is not mainly connected with procedure, and the work desired must be left to the annotators, who will no doubt come to the assistance of those who use the law in India, as they have done in England.

"In modifying section 139 to the extent which it has done, the Select Committee was largely influenced by the opinion of the Liverpool Steamship Owners Association and of the Bengal Chamber of Commerce. The latter body observed that 'whilst apprentices are considered as part of the crew, their relations to the master and owner are more permanent than those of seamen, and are of a different character,' and, when the representatives of the owners were anxious to be allowed an opportunity of getting these lads back again, there seemed to be no strong argument against extending the discretion of the Local Government in the direction desired.

"The changes made in Chapter XIX, which deals with the official log, are of considerable importance. The addition made to section 160 authorizes the prescription of different forms of log-book for different classes of ships, and in this way renders possible the exercise of discretion, which, notwithstanding the general exemptions which have been made, can hardly fail to be useful.

"The section of the English Act, which supplied the bulk of section 161 of the Bill, did not need to prescribe the entry of births and deaths, for these were dealt with in another section. As, however, this section was not reproduced in the Bill, it became necessary to make special provision here for the entry in the log-book of births and deaths, and this has now been done.

"With respect to section 171, the Liverpool Steamship Owners Association urged that it was not reasonable to require the same provision of boats, rafts and other buoyant apparatus in the case of natives, who are ordinarily lighter than Europeans. But the clauses objected to were almost identical with the corresponding portion of the English Act, which also deals with ships, many of which carry lascar crews and native passengers. It was decided, therefore, that the law should remain unchanged, and that, if any relaxation were at any time held to be expedient, it should be left to be provided for in the rules

framed by the Executive Government. On the similar ground of the close resemblance of the provisions of the Bill to those of the English Act, and also because of their expediency, the Select Committee was unable to relax the provisions of Chapter XXII as suggested by the Chamber of Shipping of the United Kingdom.

"In the extensive revision of Chapter XXIII, which deals with the survey of steam-ships, the Select Committee has given the fullest attention to the representations made by the Chamber of Shipping of the United Kingdom, by the Liverpool Steamship Owners Association, and by the Bengal Chamber of Commerce, and by adopting the system of separate declarations for hull and equipments, and for machinery, has brought the Bill into closer accord with the Merchant Shipping Act, 1894, than was the case formerly. And it is believed that the hardships in practice which occurred under the existing Indian law, even if they were not warranted by it, will be prevented, if the Chapter as amended becomes law.

"Chapter XXIV, which deals primarily with unsafe ships, but in doing so has to provide for the marking of deck and load-lines, is another portion of the Bill which gave rise to much criticism on the part of various public bodies, and to much deliberation on the part of the Select Committee. In this chapter we have made various necessary alterations and additions in order to give effect to those provisions and regulations under the Deck and Load-Lines Act of 1891 which apply to vessels trading east of Suez and the Cape of Good Hope. By the proviso to section 201 we have, it is believed, while maintaining the directions of the English law with respect to the disc, met in a satisfactory manner the requirements of vessels trading east of Suez and the Cape of Good Hope during the Indian summer season, and loading it may be in fresh water. And the addition of section 236 and the alterations made in section 237 will facilitate the framing of rules which shall be applicable to vessels loading in Eastern waters and at all seasons of the year. The rules adopted will probably follow the lines of those of the Board of Trade, and in this case the certificates granted, and the load-lines fixed and marked under them, will be capable of acceptance by the authorities in England.

"The addition which has been made to section 281 will, it is believed, prove the best practical solution of a difficulty, which was held to be a very serious one by those whose interests were chiefly affected, and which would probably have been felt to a greater extent in past years, if the provisions of the law had

132 *MERCHANT SHIPPING; AMENDMENT OF INDIAN PORTS ACT, 1889.*

[*Mr. Cadell; Sir James Westland.*] [13TH FEBRUARY,

not been relaxed by executive practice. If supplies of food are laid in for people who do not consume them, the cost of the voyage is necessarily increased, without any corresponding advantage, and the Local Government can always ensure by means of an additional supply of rations for the crew or otherwise, that there shall be sufficient food for the native passengers in the event of an unforeseen accident.

"Throughout its deliberations the Select Committee has been in communication, on the one hand, through the Hon'ble Mr. Playfair, with the Bengal Chamber of Commerce and with other representatives of the shipping interest, and on the other with the different officials, who here and in Bombay are chiefly interested in the measure. We trust that as a result of this communication we have succeeded to a great extent in removing from the Bill defects which might have interfered with the smooth working of the law, and that the Bill as it now stands will, subject to such amendments as the Council may see fit to make in it, be found to be a useful practical piece of legislation, which cannot fail to be of essential service to those who have to use the law, and will not at the same time to any serious extent that could be avoided prove detrimental to those whose interests are affected by it.

"It has been our object to provide in a consolidated and amended form the control that is required over the merchant shipping which trades to and in Indian waters, without at the same time unduly harassing the very important interests with which we have been brought into contact, and I trust that to a large extent we have achieved this object.

"The changes which we have made, although numerous and in many cases important, have been chiefly in matters of detail, and have been designed to meet objections which have been made, and in no way tend to excite controversy. And, as this Bill has been so long before the Council and the public, I trust that four weeks will be considered a sufficient time for the consideration of the amended Bill by Hon'ble Members, and that it may be possible to take the Bill into consideration, with a view to passing it into law, at the second meeting of this Council in the month of March."

INDIAN PORTS ACT, 1889, AMENDMENT BILL.

The Hon'ble SIR JAMES WESTLAND presented the Report of the Select Committee on the Bill to amend the Indian Ports Act, 1889. He said:—
"The criticisms which the Select Committee had to consider were, in almost

AMENDMENT OF INDIAN PORTS ACT, 1889; AMENDMENT 133 OF INDIAN VOLUNTEERS ACT, 1869.

1896.] [*Sir James Westland; Lieutenant-General Sir Henry Brackenbury.*]

every case, favourable to the Bill, with the exception of one from the Bengal Chamber of Commerce, and the Bengal Chamber rather criticised the uses to which the Bill might be put than any actual provisions intended to be included in the Bill. I rather think that they got frightened at the remarks made by an enthusiastic health-officer who had visions of his being permitted to roam about the shipping of the Hooghly ordering miscellaneous changes in the form and construction of the vessels there in accordance with his own notions of what was fitting and proper. When we came to look into the details of the Bill we certainly then found that the wording of it did not sufficiently indicate that the powers which the Government intended to take were powers only to impose provisions of a purely temporary character. The task of the Select Committee has been confined mainly to making changes in the wording so as to show more clearly than was done before that nothing whatever is intended in the way of altering the form or structure of the vessels. I think that the Hon'ble Mr. Playfair, when we take up this Report for consideration, will be able to assure the Council that the changes which we have now made have met the objections which the Chamber of Commerce presented to the Bill."

INDIAN VOLUNTEERS ACT, 1869, AMENDMENT BILL.

The Hon'ble LIEUTENANT-GENERAL SIR HENRY BRACKENBURY said:—
"My Lord, the Bill to amend the Indian Volunteers Act which I introduced last season has been referred to Local Governments and has been published in the several Gazettes. The result has been that we have received a number of reports containing suggestions, some of which are of considerable value, and which have led the Government of India to think that the Bill might with advantage be modified in some respects. As the Bill affects not only those in Government service, but a large number of all classes of Europeans in this country, I think it is very desirable that it should be referred to as strong and representative and influential a Select Committee as possible. The Hon'ble Sir Griffith Evans, the value of whose time we all know, has kindly expressed his willingness to serve, as has also the Hon'ble Mr. Glendinning. I therefore beg to move that the Bill to amend the Indian Volunteers Act, 1869, be referred to a Select Committee consisting of His Excellency the Commander-in-Chief, the Hon'ble Sir Alexander Miller, the Hon'ble Mr. Woodburn, the Hon'ble Sir Griffith Evans, the Hon'ble Mr. Rees, the Hon'ble Mr. Glendinning and myself."

The motion was put and agreed to.

134 AMENDMENT OF INDIAN PENAL CODE; AMENDMENT OF
CODE OF CRIMINAL PROCEDURE, 1882.

[Sir James Westland; Sir Alexander Miller.] [13TH FEBRUARY, 1896.]

INDIAN PENAL CODE AMENDMENT BILL.

The Hon'ble SIR JAMES WESTLAND moved that the Hon'ble Rai Ananda Charlu Bahádur be added to the Select Committee on the Bill to amend the Indian Penal Code. He said:—"The reason for this motion is that we have lost the services of Mr. Mehta, who was appointed on the Select Committee at the first meeting of the Council in January."

The motion was put and agreed to.

CRIMINAL PROCEDURE CODE, 1882, AMENDMENT BILL.

The Hon'ble SIR ALEXANDER MILLER moved that the Bill to amend the Code of Criminal Procedure, 1882, be referred to a Select Committee consisting of the Hon'ble Mr. Woodburn, the Hon'ble Babu Mohiny Mohun Roy, the Hon'ble Rai P. Ananda Charlu Bahádur, the Hon'ble Sir Griffith Evans, the Hon'ble Mr. Cadell, the Hon'ble Mr. Rees and the Mover. He said:—"This Bill has been the subject of circulation for opinion, and a very large number of opinions have been received in respect of it, of a character which renders it necessary that in making this motion I should say a few words, mainly in respect to the third section of the Bill. The remainder of the Bill, though I cannot describe it as altogether non-controversial, is practically approved by all the opinions we have received, subject probably to some further alterations, such as are always found necessary in every draft—I should be surprised indeed to find a draft of any importance which when it came to be considered did not require some alteration, greater or less. In fact, I remember one of the most skilled draftsmen I ever had the pleasure of knowing was fond of quoting as a maxim *nihil simul factum est, et perfectum*.

"But as regards the third section of the Bill, which deals with section 303 of the Code of Criminal Procedure, the opinions are very much more varied, and I may say by way of general remark that I think one of the great advantages of the system of legislation which prevails in this country is that we are not obliged, as some other Governments of which we know something practically are, to stick to every proposal which we make, right or wrong, from an instinct of self-preservation; but that we have the opportunity, and freely use it, of discovering, after we have put our proposals into the form that *prima facie* recommends itself to ourselves, what the opinions of persons who are capable of giving advice in the matter from the outside are, and are able and willing to accept the advice we receive from outside persons and bodies so far as it commends itself to our judgment. I know it will be said—I know it has

AMENDMENT OF CODE OF CRIMINAL PROCEDURE, 1882. 135
13TH FEBRUARY, 1896.] [Sir Alexander Miller.]

been said—that that is a weak thing; that having made up your mind you ought to stick to it, right or wrong. I confess that my opinion (and I am glad to feel that it is the opinion of my colleagues in the Government of India) is very contrary, and that obstinacy of the kind described is a sign of weakness, not of strength, and that it is a proof of strength after having asked for opinions to be able to accept them so far as they seem to be well-founded. I say this because I am about to propose a very material modification in the section in question, a modification founded mainly on the opinions we have received from the responsible bodies whose opinions we have asked, and because we feel that whatever may have been the view which led originally to the proposal in question, it is one which ought to be modified in the manner in which I am about to describe in consequence of the concurrent opinions which we have received upon the point.

"But before I go into the details of the clause in question I desire to point out what the existing law and practice on the subject of verdicts is, because I think that that is not altogether understood. First of all, everywhere, as far as I know, where the principle of trial by Judge and jury—because it is not strictly trial by jury—prevails, there is a marked line of demarcation between the functions of the Judge and the functions of the jury. It is the business of the jury to determine all questions of fact; it is the business of the Judge to lay down all points of law. The only exception I know to that anywhere is in the trials in England for libel in which under Mr. Fox's Libel Act the jury have, to a certain extent, the power of entering into questions of law. That distinction is very strongly brought forward in sections 298 and 299 of the Indian Penal Code, and there is no doubt that in India, as in England, it is the duty of the jury to take the law from the Judge in every case, even if they disagree with the law as he lays it down. In fact, the meaning of a 'perverse verdict' is not one which is opposed to the justice of the case, but one where the jury have refused to accept the Judge's ruling as to the law. A verdict may be erroneous without being perverse; such verdicts are to be met with every day and everywhere, but what is a more exceptional case is that a verdict may be perverse without being erroneous. Now, the present law in India is that the jury shall return a verdict on each of the charges on which the accused is tried and the Judge shall so direct them, and that, if the Judge has any doubt as to the meaning of the verdict returned by the jury, he may ask such questions as may be necessary to ascertain what their verdict is, and that every such question and answer shall be recorded. That is the law as

it stands in section 303 of the Indian Penal Code. In the proposed section we break that up into five sub-sections, three of which, with a very slight modification, accurately represent the existing law and practice. The other two, on which I shall have to comment, are new.

"The first provides, almost in the terms of the existing law, that the jury shall be at liberty to return a verdict on each of the charges on which the accused is tried, and the Judge shall so direct them. Then sub-section (2) proposes to do that which is the common practice both in England and in India, but which is not expressly provided for by law in either country, namely, it enables the Judge to require the jury to give a verdict as to their belief or disbelief on any specified issues of fact and to deduce from the findings of fact the result of the trial. I say that is not at this moment expressly the law in either country, but it is the practice in both. At present it is perfectly true that a jury may—I suppose in India, certainly in England—if requested by the Judge to find a special verdict on the facts laid before them, refuse to do so, and bring in a general verdict of guilty or not guilty; but I have never heard of an instance in practice in which any jury has done so. On the contrary, I suppose there is not an assizes in any county in England in which it does not happen at least once that a jury is either requested to state its opinion on the various points of fact which arise in the case and does so, or does so voluntarily of their own accord, and I happen to know that the same thing occurs, if not frequently, at least sometimes, in India also.

"I do not wish to detain the Council at any great length on this point, but I will give two illustrations, one from my own personal knowledge and the other which I came across the other day. In the very first criminal case—a case in which a man was charged with burglary—in which I ever was concerned myself—and the fact has fixed it in my memory—the jury returned the following verdict: 'That the prisoner was found in possession of the stolen articles which he knew did not belong to him, but that there was no evidence as to whether he had taken them out of the house or had found them in the wood where they were found in his possession.' That was distinctly a special verdict: and on that Mr. Baron Platt directed a verdict of 'not guilty' to be recorded. The other day I came across in the course of my reading—I did not take down the reference and I cannot now specify where, but I can easily find the case, if necessary—a case where a jury in this country found that the accused had killed the deceased not in self-defence and without provocation, but that, inasmuch as there was no evidence of a previous quarrel or motive, they declined to find him guilty

of murder: and on that the High Court of Calcutta ordered a verdict of guilty of murder to be entered.* Both of these are instances of special verdicts in which the Judge had entered a verdict in accordance with the facts found by the jury, disregarding any opinion on questions of law given by them. Therefore, I say that sections 1, 2 and 5 of the proposed Bill accurately represent the existing practice. They only vary from the existing law in this: that sub-section (2), if carried, would enable a Judge to require that to be done which in practice constantly is done without his being able to enforce it. At the same time I am bound to say that the variation between the proposal and the existing law is so slight that no very great harm will be done if the Select Committee should prefer to preserve the existing law unaltered, and neither I as an individual, nor as carrying out the views of the Government, would feel bound in the least to interfere with the discretion of the Select Committee if that should be the form which their discretion would take.

"Sub-section (5), however, has at present a very important addition attached to it, which is not part of the existing law of India, and that is, that a Judge shall not in any case enquire of the jury their reasons for any verdict, nor whether they have believed or disbelieved any particular witness.

"That proviso was added to sub-section (5) because it was feared that, if the general power of the Judge to require verdicts on questions of fact were extended as proposed by sub-section (2), he might amongst other questions of fact ask these particular questions, and it was thought not desirable that the minds of the jury should be investigated as to how they arrived at the facts, the only object being to discover what conclusions of fact they had in effect arrived at.

"If, however, sub-section (2) is not passed by the Select Committee, it will not be necessary to introduce the proviso in sub-section (5), and in that case the law may remain as it stands at this moment in the Code.

"Sub-section (4) is really a portion of the same question as sub-section (5); that is to say, the object of sub-section (4) is, if it is not clear what the verdict is, to enable such questions to be asked as will show what that verdict really is. That is, as I say, a part of the existing law, and although it is consi-

* On further reference to the case I find that, though the statement in the speech is substantially accurate, it is not perfectly so. The Judge refused to receive such a verdict and directed the jury to reconsider it: they then, by his direction, found a verdict of guilty of murder: and the High Court held that the Judge was right in his action, and refused to disturb the second verdict.

[Sir Alexander Miller; Rao Sahib Balwant Rao Bhuskute.] [13TH FEBRUARY,

derably elaborated in the sub-section in order to make the process perfectly clear, it does not vary from the existing law in any respect, and I shall leave it to stand or fall with sub-section (2) according to the judgment of the Select Committee.

"There only remains sub-section (3). Sub-section (3) is the sub-section which provides that after a general verdict of guilty or not guilty has been given, if the Judge is dissatisfied, he may then require a special verdict on any question or questions of fact. This sub-section, as the Council will probably recollect I explained when introducing the Bill, is one which, if passed at all, would require to be safeguarded very carefully in order to prevent it from degenerating into a cross-examination of the jury. It is one which I stated the Government of India had put forward tentatively and for opinion, rather in deference to the high authorities who advocated its introduction,—and I may as well state at once that the persons to whom I am alluding are not now directly connected with the Government—in fact, I do not think any of them is even resident in India at this moment; I say it was put forward rather in deference to high authorities who considered that this would be a useful addition to the law than because they had themselves made up their minds upon the question as to how such a sub-section would work. We have found however that, varying as the opinions have been in other respects, the opinions of the responsible officers in the country, Local Governments and others, are almost unanimous against the introduction of any power of requiring a further verdict after a general verdict; and I am authorised to state that, if this Bill goes into Select Committee, I will in Select Committee move for the omission from the provision in question of that particular sub-section. I do so without the slightest hesitation and without feeling that in so doing the Government of India are in any way retreating from the position which they took up in introducing this Bill. Their sole object from first to last has been to improve the operation of the jury system as a means of the administration of justice. I admit that in my own personal opinion that instrument for the administration of justice is so very faulty that it can never be made quite satisfactory; but my desire has been to make it as useful and efficient as it is capable of being made, and, being satisfied that the particular provision in question is not apt for that purpose, we withdraw it without hesitation and without regret."

The Hon'ble RAO SAHIB BALWANT RAO BHUSKUTE said:—"My Lord, the Bill now referred to the Select Committee is, from a different point of view, even more important than the Cotton Duties Bill passed

a few days ago. There never was till now a discussion of the principle of the Bill itself. I certainly agree to the present motion on the supposition that this discussion is reserved."

The Hon'ble SIR GRIFFITH EVANS said:—"After the statement made by the Hon'ble Sir Alexander Miller it is evident that the Bill must go into Select Committee. There is no objection to the Bill going into Select Committee, and I feel that it would be worse than useless at present to discuss the matters raised by the Bill. The statement made by Sir Alexander Miller requires very careful attention. The whole matter will have to be discussed in Select Committee, and it is quite possible that when the Bill emerges from the Select Committee it will contain little or no disputable matter with regard to which there will be any acrimonious feeling."

The Hon'ble ANANDA CHARLU, RAI BAHADUR, agreed with the Hon'ble Sir Griffith Evans that the Bill should go into Select Committee after the excellent observations which had fallen from the lips of the Hon'ble Mover. He should like some explanation to be given with regard to certain other parts of the Bill, but, as the Bill would be before the Select Committee, and as he happened to be upon the Committee also and would have an opportunity of advancing his views, he thought it was undesirable to take up the time of the Council at present.

The Hon'ble BABU MOHINY MOHUN ROY said:—"May it please Your Excellency,—I crave permission to offer a few observations upon this Bill. I had no opportunity of stating my views at its introduction, which took place at Simla. The Bill is now being referred to a Select Committee. This seems to be an appropriate time for making a statement.

"The Bill seeks to introduce three important changes in the law—

First, empowering Sessions Judges to require the jury to return a special verdict and a further special verdict (clauses (3) and (4) of section 3 of the Bill);

Second, enlarging the power of the High Court to deal with cases where the Sessions Judge, disagreeing with the verdict of the jury, makes a reference to the High Court (section 4 of the Bill);

Third, formation of a special jury for the trial of offences which may be specified by the Local Government (section 6 of the Bill).

140 AMENDMENT OF CODE OF CRIMINAL PROCEDURE, 1882.
[Babu Mohiny Mohun Roy.] [13TH FEBRUARY,

"There is nothing objectionable in the second item of change. The Bengal Government approves of it. The Calcutta High Court likewise approves of it and shows it is necessary in that 'it settles the law expressed in section 307 of the Code of Criminal Procedure, about which the judgments of the different High Courts have been somewhat contradictory.' The Bombay High Court is against it, but the Bombay Government is not so adverse. It says, 'any modification of section 307 of the Code is unnecessary. The proposed amendment, however, does not appear to be open to objection.' The Madras Government and the Madras High Court express no opinion upon this point. Reason and balance of authority are certainly in favour of the proposed amendment. The people of the country have more confidence in the High Court than in the Sessions Court and will not grudge an enlargement of the power of the High Court in cases of difference between the Sessions Judge and the jury. The Asansol outrage case is still fresh in their memory.

"The formation of a special jury in districts where practicable seems to be equally unobjectionable. But the proviso that the inclusion of the name of any person in the special jury-list shall not exempt him from liability to serve as an ordinary juror is open to very serious objection. Mr. Stevens, Judicial Commissioner of the Central Provinces, says:

'At best the number of special jurors would be but small, and as presumably they would be called upon to act in those classes of cases which are most serious, most difficult and most complicated, they would apparently have a great deal more than their fair share of work, as compared with the common jurors.'

"The Chief Commissioner of the Central Provinces has expressed his general concurrence with the views of the Judicial Commissioner. I would humbly submit, for the consideration of Your Excellency and Council, that the proviso would be very unfair to special jurors. Without it they would have 'more than their fair share of work.' It would serve no useful purpose to make the special jury service a work of hard labour and an object of dislike to jurors.

"Now I come to the first item of change. The hon'ble and learned mover of the Bill candidly stated when introducing it:

'No doubt there are very grave considerations as regards such a process which might very well be perverted into a kind of browbeating or cross-examination of the jury, a practice which was prevalent in England in the days of the Tudors but has not been known there since then.'

AMENDMENT OF CODE OF CRIMINAL PROCEDURE, 1882. 141
[Babu Mohiny Mohun Roy.]

"Jurors are now, as they ought to be, treated with more consideration. They are not starved into unanimity. Nor ought they to be heckled or browbeaten into a surrender of their independence. The clauses of section 3 of the Bill referred to above will greatly lower the status of jurors and render the entire jury service extremely distasteful. I would always deprecate any change in the law which might lead to such a result. The High Courts of Calcutta, Madras and Bombay are all against such change. The Bengal Government 'considers that this section might be so safeguarded as to be unobjectionable; but, in view of the feeling of the educated Native community in regard to it, it is clearly of opinion that it is not worth while to press the proposal.' The Bombay Government thinks there is no objection to the Judge asking the jury in some cases 'what their verdict is on each essential point for determination.' But His Excellency the Governor of Bombay dissents from his Council on this point. The Government of Madras has expressed no opinion upon it. The further statement which the Hon'ble Mover has made to-day renders it unnecessary that this matter should be discussed at any length.

"In this connection I would draw the attention of the Council to section 319 of the Code of Criminal Procedure and to section 5 of the Bill and point out that under the present law (section 319) 'all male persons between the ages of 21 and 60' are, with certain exceptions, 'liable to serve as jurors or assessors at any trial held within the district where they reside.' Now a district is a large area, and the sadr station, where sessions trials are held, is often two or three days' journey from remote parts of the district. It would clearly be a great hardship to persons residing in such remote parts to have to come up to the sadr station to serve as jurors or assessors. The area of liability to such service may justly be circumscribed to a radius of short and easy distance from the sadr station so that the liability might not entail any great hardship or unreasonable sacrifice of time and money upon the persons subject to it. If there is railway communication, that circumstance may be taken into consideration in fixing the distance. The Madras Government is of opinion that 'the practical difficulty in working the law would probably be met by a provision that only persons resident within five miles of the District Court should be included in the list of special jurors.' There is no reason why a different rule should obtain in regard to common jurors and assessors. In framing or amending any law regarding the jury system, two paramount interests ought always to be kept in view, namely, the interests of criminal justice and the interests of justice to jurors."

[Sir Alexander Miller.] [13TH FEBRUARY,

The Hon'ble SIR ALEXANDER MILLER said :—" It is scarcely necessary that I should, considering the explanation I have already given, say anything further by way of reply again, but I wish to take advantage of my right of reply merely to mention that I originally intended and promised to insert the name of the Maharaja of Durbhanga on the Select Committee and have been in communication with him on the subject, but I have not put on his name on account of his recent illness which would have made it merely an empty compliment to have done so."

The motion was put and agreed to.

INDIAN RAILWAYS ACT, 1890, AMENDMENT BILL.

The Hon'ble SIR ALEXANDER MILLER moved for leave to introduce a Bill to amend the Indian Railways Act, 1890. He said :—"By section 81 of that Act as it was passed, a section which I have reason to believe was intended to be copied from one of the sections of the Railway and Canal Traffic Act, 1873, at home, steamers belonging to or chartered by a railway company are put as regards their liability as carriers on the same footing as the railways instead of being on the same footing as other inland navigation companies. This was felt by the inland navigation companies—and I think justly felt—to be a hardship, and on the matter being duly represented to the Government, and after communication with the Government at home, it was determined that the hardship should be removed, and accordingly the main object of the present Bill is to get rid of that distinction, to repeal the clause of the Act which puts railway companies when they are acting as inland navigation companies on a different footing from other inland navigation companies, and in other respects to do equal justice as between such steamers.

"Advantage has been taken to amend the Act in three or four purely verbal non-controversial particulars where by accident certain words have been omitted that were wanted. To give you an illustration. In section 73, a section which provides that in the case of certain animals being damaged the liability of the company shall not extend beyond a certain amount for each animal, there is no mention of either mules or donkeys, and a question has arisen in consequence whether they must be brought under the general provision of 'other animals,' which would make the limitation a great deal too low, or whether they ought to be classed as 'horses,' which would make the limitation ridiculously high : and it has been thought desirable to introduce 'mules' and

896.]

[Sir Alexander Miller.]

'donkeys' specifically into the section, putting in each case a proper limitation upon their value.

"I only mention that not as exhausting all the matters of detail in the Bill but as a specimen of what the clauses of the Bill amount to, and I think the Council will agree that it is scarcely necessary to trouble them with the details of all the matters of that kind which are disposed of in the Bill."

The motion was put and agreed to.

The Hon'ble SIR ALEXANDER MILLER introduced the Bill.

The Hon'ble SIR ALEXANDER MILLER moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India and in the local official Gazettes in English. He said :—"I would take this opportunity of saying that it may be convenient to Hon'ble Members to know that I do not as at present advised propose in a small matter of this kind to wait for the return of opinions from all parts of the country for consideration, and, unless I find that there is some such serious objection to the Bill as would render it necessary to delay, I would propose to ask the Council to take it into consideration this day three weeks."

The motion was put and agreed to.

PRESIDENCY SMALL CAUSE COURTS ACT, 1882, AMENDMENT BILL.

The Hon'ble SIR ALEXANDER MILLER moved for leave to introduce a Bill to amend the Presidency Small Cause Courts Act, 1882. He said :—"When that Act was being amended by Act I of 1895, section 38 was repealed and a totally new section 38 was introduced having nothing to do with the applications for retrials of small causes which were the subject of the original section 38. By section 71 of the Act certain fees were made payable in respect of these applications under the old section 38, and by an oversight, for which I suppose I was responsible, the words 'section 38 or' in section 71 were left standing, although they had absolutely no application whatever to the subject-matter of the new section 38. The result, however, has been that a question has arisen as to whether fees are chargeable for proceedings under the new section, proceedings for which it would be utterly unreasonable to charge fees, and for which nobody ever intended that fees should be

144 AMENDMENT OF PRESIDENCY SMALL CAUSE COURTS ACT,
1882.

[Sir Alexander Miller; Rai Ananda Charlu Bahádur.] [13TH FEBRUARY, 1896.]

charged. The sole object of the Bill which I now ask leave to introduce is to remove the words 'section 38 or' from section 71, leaving the remainder of the section applicable to cases in which fees are properly chargeable, and thus removing the ambiguity arising out of the reference to the abolished section which is still standing on the face of section 71."

The Hon'ble ANANDA CHARLU, RAI BAHÁDUR, said he was very glad that this alteration was suggested, because there were several instances in which fees had been extorted from the litigant.

The motion was put and agreed to.

The Hon'ble SIR ALEXANDER MILLER introduced the Bill.

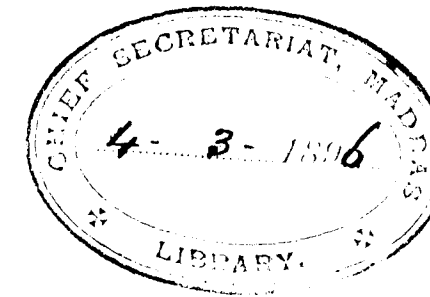
The Hon'ble SIR ALEXANDER MILLER moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India and in the Fort St. George Gazette, the Bombay Government Gazette and the Calcutta Gazette in English. He said:—"Following the same lines with regard to this Bill as to the small Bill I mentioned a few minutes ago, I propose, unless I hear something to the contrary from some of the parties interested or liable to be affected by the Bill, to ask the Council to take the Bill into consideration this day fortnight."

The motion was put and agreed to.

The Council adjourned to Thursday, the 20th February, 1896.

CALCUTTA;
The 14th February, 1896.

S. HARVEY JAMES,
Secretary to the Government of India,
Legislative Department.



Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892 (24 & 25 Vict., cap. 67, and 55 & 56 Vict., cap. 14).

The Council met at Government House on Thursday, the 20th February, 1896.

PRESENT:

His Excellency the Viceroy and Governor General of India, P.C., G.M.S.I., G.M.I.E., LL.D., *presiding*.
His Excellency the Commander-in-Chief, G.C.I.E., K.C.B., V.C.
The Hon'ble Sir A. E. Miller, KT., C.S.I., Q.C.
The Hon'ble Lieutenant-General Sir H. Brackenbury, K.C.B., K.C.S.I., R.A.
The Hon'ble Sir C. B. Pritchard, K.C.I.E., C.S.I.
The Hon'ble Sir J. Westland, K.C.S.I.
The Hon'ble J. Woodburn, C.S.I.
The Hon'ble Mohiny Mohun Roy.
The Hon'ble C. C. Stevens, C.S.I.
The Hon'ble A. S. Lethbridge, C.S.I., M.D.
The Hon'ble M. R. Ry. P. Ananda Charlu, Rai Bahádur.
The Hon'ble Alan Cadell, C.S.I.
The Hon'ble J. D. Rees, C.I.E.
The Hon'ble G. P. Glendinning.
The Hon'ble Nawab Amir-ud-Din Ahmad Khan, C.I.E., Bahádur, Fakharuddoulah, Chief of Loharu.
The Hon'ble Rao Sahib Balwant Rao Bhuskute.
The Hon'ble P. Playfair, C.I.E.

INDIAN PORTS ACT, 1889, AMENDMENT BILL.

The Hon'ble SIR JAMES WESTLAND moved that the Report of the Select Committee on the Bill to amend the Indian Ports Act, 1882, be taken into consideration.

The Hon'ble MR. PLAYFAIR said:—"I think that the amendments proposed by the Select Committee, if accepted by Your Excellency's Council, will remove the principal objections raised to the Bill by shipowners and agents."

The motion was put and agreed to.

146 AMENDMENT OF INDIAN PORTS ACT, 1889; INLAND BONDED WAREHOUSES AND SALT-BONDING; AMENDMENT OF FOREIGN JURISDICTION AND EXTRADITION ACT, 1879; AMENDMENT OF INDIAN PENAL CODE; AMENDMENT OF EXCISE ACT, 1881.

[Sir James Westland; Sir Alexander Miller.] [20TH FEBRUARY, 1896.]

The Hon'ble SIR JAMES WESTLAND moved that the Bill, as amended, be passed.

The motion was put and agreed to.

INLAND BONDED WAREHOUSES AND SALT-BONDING BILL.

The Hon'ble SIR JAMES WESTLAND moved for leave to postpone the presentation of the Report of the Select Committee on the Bill to provide for the establishment of bonded warehouses at places other than customs-ports, and to afford facilities for the bonding of salt in such warehouses.

The motion was put and agreed to.

FOREIGN JURISDICTION AND EXTRADITION ACT, 1879, AMENDMENT BILL.

The Hon'ble SIR ALEXANDER MILLER presented the Report of the Select Committee on the Bill to amend the Foreign Jurisdiction and Extradition Act, 1879. He said :—"I think any observations which I may have to make on the changes made in the Bill by the Select Committee will be better made when I ask that it be taken into consideration."

INDIAN PENAL CODE AMENDMENT BILL.

The Hon'ble SIR JAMES WESTLAND presented the Report of the Select Committee on the Bill to amend the Indian Penal Code. He said :—"This Bill is an amendment of the definition relating to Queen's coin in the Indian Penal Code. An objection was raised in certain quarters to the form in which the Bill had been drawn, namely, that we left the original definition in the Penal Code and afterwards stated that the definition in certain cases would not apply. The Select Committee in considering this objection have thought it advisable to alter the original definition, and now the Bill in its present form is not liable to the objection which has been made to it on the ground mentioned."

EXCISE ACT, 1881, AMENDMENT BILL.

The Hon'ble SIR JAMES WESTLAND moved that the Bill to amend the Excise Act, 1881, be referred to a Select Committee consisting of the Hon'ble Sir Alexander Miller, the Hon'ble Mr. Cadell, the Hon'ble Rao Sahib Bahwant

AMENDMENT OF EXCISE ACT, 1881; AMENDMENT OF INDIAN CONTRACT ACT, 1872. 147

[20TH FEBRUARY, 1896.] [Sir James Westland; Sir Alexander Miller.]

Rao Bhuskute, the Hon'ble Nawab Amir-ud-Din Ahmad Khan Bahadur and the Mover, with instructions to report within one month.

The motion was put and agreed to.

INDIAN CONTRACT ACT, 1872, AMENDMENT BILL.

The Hon'ble SIR ALEXANDER MILLER moved for leave to introduce a Bill to amend the Indian Contract Act, 1872. He said :—"There are two somewhat conflicting principles in English law, one that a man who makes a voluntary payment on behalf of another has no claim to be reimbursed however timely his action may have been, and however much the other may have been benefited by it,—and that has of course always been a principle in Courts of Law,—and the other, which the Courts of Equity have grafted on that a sort of exception—that where the action has been done either by compulsion of law, or because the person making the payment has a certain interest in it, or other circumstances of the kind, he should by making the payment get a right to stand in the shoes of the person on whose behalf he made the payment, and therefore, if any property was saved for the benefit of that person, he, by standing in the shoes of the person who ought to have paid, obtained certain limited rights over the property. Managed as this was until a late period by the somewhat anomalous, as far as appearance went, principle, which nevertheless worked very much better than it sounds, of equity being administered by one Court and the law by another, there never was any real difficulty or hitch in the application of the conflicting principles to the particular cases to which they applied; but the attempt which was made to settle by express enactment the rights of parties under these conditions in India, where the law has always been administered as it is in England now by one set of Courts, overlooked I think a portion of the difficulties and complications arising in the case. By section 69 of the Indian Contract Act of 1872 it is provided that when a person interested in the payment of money which another is bound by law to pay makes payment in default of the other, he is entitled to be reimbursed by the person who ought to have made the payment, but the law only gives a personal right against the defaulter; and, as I daresay in the majority of cases in which a default is made, it is made as much because the defaulter is unable to pay as because he wont pay, a personal right against the defaulter is in most instances an imperfect right, and to try to enforce that right is in many cases only throwing good money after bad. The difficulty which has been felt has given rise to

conflicting rulings in the various High Courts in India on the question whether under certain circumstances, where immoveable property has been preserved by such a payment, the man who makes the payment has or has not a lien or charge upon the property itself. The High Courts of Calcutta and Allahabad have decided—and I am bound to say if you will look only at the words of the Contract Act, I think rightly decided—that no such lien or charge has been given; at the same time neither of these decisions was unanimous, there were dissentient Judges in both Courts. The other two High Courts of Bombay and Madras have taken a different view and consider that they have by their inherent equitable jurisdiction a right to go beyond the letter of the Contract Act and to say that under these circumstances there is a lien or charge imposed upon the property preserved.

“That it is only right that that should be so I think is clear, as I will show by a simple illustration. Take the commonest of all imaginable cases—a case where two persons being tenants in common of a single estate, one of them, *A*, is ready to pay his half of the Government revenue, and the other, *B*, is not; in order to prevent the estate from being sold by the Collector, *A* pays the whole. It is quite clear that the Collector must have the whole sum, and it would not be right to expect him to take the revenue in parcels, to allow one man to pay half and leave the other half to be recovered. His right is to recover the whole, and to recover it by the sale of the estate. Surely under the circumstances it would only be right that *A* should recover back out of the half of the estate belonging to *B* the half of the revenue demand paid by him which *B* ought to have paid on his own account. That is one of the commonest instances of the alteration of the law which is proposed by this Bill. There are other instances, all of a similar kind. I take that as a simple illustration which really exhausts the principle of the Bill, though it does not exhaust all the instances to which the Bill may possibly refer. The Bill has been the subject of a good deal of discussion; it has been circulated and reported upon by the various authorities whom we are in the habit of consulting, and it has after considerable alteration assumed a form which has been generally approved by those authorities and which I hope I may see passed into law without any further substantial alteration.”

The motion was put and agreed to.

The Hon'ble SIR ALEXANDER MILLER introduced the Bill.

The Hon'ble SIR ALEXANDER MILLER moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English,

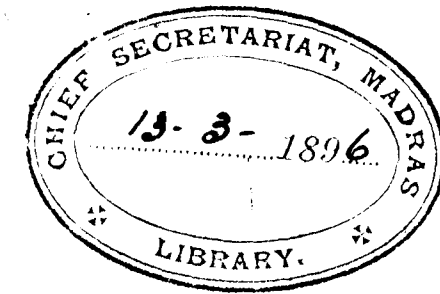
and in the local official Gazettes in English and in such other languages as the Local Governments think fit. He said:—“I would wish to say, in order to avoid misconception, that under the circumstances I have just mentioned I do not propose to ask the Government to ask for any further opinions upon the matter, because all the Local Governments and their officers have given their opinions at large upon the question, and I do not think it would be reasonable to ask them to go to all the trouble and expense over again on a matter on which they have already expressed their views so lately.”

The motion was put and agreed to.

The Council adjourned to Thursday, the 27th February, 1896.

CALCUTTA;
the 21st February, 1896. }

S. HARVEY JAMES,
Secretary to the Government of India,
Legislative Department.



stract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892 (24 & 25 Vict., cap. 67, and 55 & 56 Vict., cap. 14).

he Council met at Government House on Thursday, the 27th February, 1896.

PRESENT :

His Excellency the Viceroy and Governor General of India, P.C., G.M.S.I., G.M.I.E., LL.D., *presiding*.
His Honour the Lieutenant-Governor of Bengal, K.C.S.I.
His Excellency the Commander-in-Chief, G.C.I.E., K.C.B., V.C.
The Hon'ble Sir A. E. Miller, KT., C.S.I., Q.C.
The Hon'ble Lieutenant-General Sir H. Brackenbury, K.C.B., K.C.S.I., R.A.
The Hon'ble Sir J. Westland, K.C.S.I.
The Hon'ble J. Woodburn, C.S.I.
The Hon'ble Alan Cadell, C.S.I.
The Hon'ble Prince Sir Jahan Kadr Meerza Muhammad Wahid Ali Bahádur, K.C.I.E.
The Hon'ble Mohiny Mohun Roy.
The Hon'ble C. C. Stevens, C.S.I.
The Hon'ble A. S. Lethbridge, C.S.I., M.D.
The Hon'ble M. R. Ry. P. Ananda Charlu, Rai Bahádur.
The Hon'ble Sir G. H. P. Evans, K.C.I.E.
The Hon'ble J. D. Rees, C.I.E.
The Hon'ble G. P. Glendinning.
The Hon'ble Nawab Amir-ud-Din Ahmad Khan, C.I.E., Bahádur, Fakharuddoulah, Chief of Loharu.
The Hon'ble Rao Sahib Balwant Rao Bhuskute.
The Hon'ble P. Playfair, C.I.E.

QUESTIONS AND ANSWERS.

The Hon'ble BABU MOHINY MOHUN ROY asked :—

" 1. Will Government be pleased to state the grounds of the proposed transfer of the Chittagong District and Chittagong Division to Assam, so as to enable the people of the Division to meet the same in their representations against such transfer which will be submitted through the Government of

Bengal and to which the Government of India has expressed its willingness to give attentive consideration?

"2. Whether the attention of Government has been drawn to a paragraph in the *Amrita Bazar Patrika* of the 14th February instant, which says:—'While on this subject (transfer of the Chittagong Division) a report that the transfer of Dacca and Mymensingh to Assam is also under contemplation along with the Chittagong Division reached us'?

"3. Will Government be pleased to state whether any such proposal has been made and is under its consideration?"

The Hon'ble MR. WOODBURN replied:—

"The main grounds which led the Government of India to determine that the question of the transfer of the Chittagong Division to Assam should be considered by the Lieutenant-Governor of Bengal and the Chief Commissioner of Assam were the following:—

"The Government of India consider it desirable, if possible, to relieve the Lieutenant-Governor of Bengal of some portion of a charge which, owing to the development of the country and the growth of the population, threatens to become too large to be administered by one Government. Assam, on the other hand, is the smallest province in British India for which there is a separate administration, and the addition to it of the Chittagong Division would not have the effect of throwing too great a burden on the Chief Commissioner. The interests of that province will be materially benefitted by its being brought into direct communication with the sea, while those of the port of Chittagong are likely to receive more attention when it is annexed to Assam than can be given to it as one of several ports connecting the province of Bengal with the sea. It is desirable that the whole of the territory through which the Assam-Bengal Railway will run should be brought under one administration.

"2. The Government of India have noticed the reference in the newspaper referred to by the Hon'ble Member as to the report that the transfer of Dacca and Mymensingh to Assam is under contemplation.

"3. The Government of India have made no proposal that Dacca and Mymensingh should be transferred to Assam, nor is such a proposal at present under their consideration."

INDIAN VOLUNTEERS ACT, 1869, AMENDMENT BILL.

The Hon'ble LIEUTENANT-GENERAL SIR HENRY BRACKENBURY presented the Report of the Select Committee on the Bill to amend the Indian Volunteers Act, 1869. He said:—"My Lord, in March last, in introducing the Bill to amend the Indian Volunteers Act of 1869, I explained that its main object was to give power to the Governor General in Council in case of emergency to call out the volunteers for actual military service, and to enable him to make rules for the payment and provision of supplies for them when so called out, and for the grant of pay, pensions, gratuities, allowances and rewards to them, and that the Bill also provided for the Governor General in Council being able to apply such rules to any volunteers called out by the civil power for the preservation of the peace. I stated also that there were two important subsidiary measures proposed in the Bill, namely, to extend the area within which the volunteers are liable to serve from four miles from their place of enrolment to the civil district or districts within which their corps is enrolled, and to empower Commanding Officers of volunteers to dismiss from the corps for certain specified causes any volunteer other than a commissioned officer.

"A fortnight ago, in asking that the Bill should be referred to a strong Select Committee, I stated that the reports which had been received upon the Bill had led the Government of India to think that it might with advantage be modified in some respects. The Select Committee, whose Report I now present, have carefully considered all those reports, together with the criticisms and suggestions of General Officers, Officers Commanding volunteer corps, and others, and, while retaining the main provisions of the Bill practically untouched, have made very considerable changes in regard to those subsidiary measures to which I have alluded. Their Report deals with certain changes of form in the Bill as well as with the changes in substance which have been made; but I need now only refer to the changes in the substance of the Bill.

"Section 9 of Act XX of 1869, under which Act volunteers are now serving, gives power to Commanding Officers of corps, with the sanction of Local Governments, to convene general courts-martial for the trial of military offences, of which any member of such corps shall be guilty whilst on actual duty. The expression 'actual duty' is also used in section 8 of the existing Act, which places the volunteers under the Army Act 'whilst on actual duty or on parade', and again in section 13 of the existing Act, which enables any volunteer to quit his corps on giving seven days' notice, 'except whilst on actual duty.'

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But the expression 'actual duty' is nowhere defined in the existing Act, though the expression 'actual duty other than drill or parade,' which occurs in section 18, shows that it has a very extended meaning, certainly not less extensive than that proposed to be put upon it by this Bill. In the Bill as introduced last March, actual duty was defined in terms taken almost *verbatim* from section 176, clause (8), of the Army Act, and 'service in aid of the civil power,' to which the volunteers in India are liable, was added to the definition. This Bill, however, creates a new condition of service for the Indian volunteers, namely, 'actual military service,' and the Select Committee have thought it desirable to recommend that this condition of service should be kept separate from the condition of actual duty, and have struck out the words 'when their corps is on actual military service' from the definition of 'actual duty' as it appeared in the Bill as introduced. They have, in consequence of this change, inserted the words 'or actual military service' in the new section 8 of the Act, and also in section 13 of the Act. The result of these amendments, if they are accepted, will be that the volunteers will be under the Army Act whilst on actual duty or on actual military service, that they will not be able to quit their corps on giving seven days' notice whilst on actual duty or on actual military service, but that the power of Commanding Officers to convene general courts-martial, with the sanction of the Local Government, will apply to volunteers only when they are on actual duty, and will not apply when they are on actual military service. For offences committed on actual duty, the power of the Commanding Officer to convene general courts-martial, with the sanction of the Local Government, will continue, and the Local Government will have the power to confirm or commute any sentence passed by such a court-martial or to pardon the offender; but on actual military service the conditions of the Army Act alone will prevail, and courts-martial will be held under that Act with this limitation, that only those provisions of that Act which apply to officers are made applicable to volunteers of any rank. This in no way whatever curtails any existing privileges or rights of volunteers. The condition of actual military service is newly created by the Bill, and it is considered essential that the volunteers should, when on such actual military service, be exclusively under the Army Act.

"I now pass to that section of the Bill which amends section 16 of the existing Act and renders volunteers liable to serve within the limits of the civil district or districts within which their corps is enrolled, instead of, as heretofore, within a radius of four miles from the place of enrolment. In this section the Select Committee have made, as stated in their report, some important alterations.

"To meet certain objections by Local Governments and others, that it might involve hardship on volunteers who belong to a corps consisting of more than one battalion, that they should be bound without their consent to serve in civil districts outside the limits of their own battalion, the Select Committee have recommended that the limit should be applicable to the corps or battalion. And, in order to meet the still further objection that in the case of some corps and battalions even the limit of the civil district is too extended, they have inserted a proviso giving power to the Local Government or the Commissioner of the Division, or other authority to whom power in this behalf may be delegated by the Local Government, to exempt from service any particular corps or portion of a corps, or any individual member or members of a corps by name, such exemption to be whole or partial in respect either of time or of area, or of both, as the empowered authority may see fit to prescribe. While thus retaining the power, which it may be necessary to use in case of some extraordinary emergency, to concentrate a whole corps or battalion at any point within the district or districts in which the corps or battalion is enrolled, it will be open to the Local Government by subsidiary orders to, for example, retain each company at its own head-quarters, or exempt certain companies altogether, and even to exempt individuals from being called out or from leaving any particular locality, should it not be considered necessary to require them to join the unit to which they belong. In this section the Select Committee have also, in deference to opinions expressed, inserted in the Bill a definition of 'civil district' corresponding to the definition in the Civil Procedure Code.

"I now come to the section of the Bill which gave power to Commanding Officers, under certain restrictions, to sentence volunteers, other than commissioned officers, to simple dismissal from their corps for such acts as they now can only punish by fine. In introducing the Bill I said that this measure was in conformity with the law of England, and had been recommended to us by the Commander-in-Chief after consultation with a number of the most experienced Commandants of volunteers. And the Bill fenced round the power thus given to Commanding Officers with conditions which safeguarded every volunteer by stating that no such dismissal should take place until the guilt of the volunteer had been established by evidence, duly taken and recorded in the books of the corps, under the signature of the Commanding Officer and Adjutant, and that every such sentence of dismissal must be reported to, and would be liable to revision by, the Local Government, which might either reverse it or substitute fine for it, or pass such orders on the case as might in

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its opinion be just and proper. Nevertheless several objections have been taken to this clause, and it is evident that there is a strong feeling amongst a considerable section of the volunteers against this power being conferred upon Commanding Officers. The Select Committee have, therefore, decided to recommend its removal from the Bill, and it does not appear in the Bill as amended by them. If this recommendation of the Select Committee is approved, sections 19 and 20 of Act XX of 1869 will remain untouched, and the volunteer will in future, as now, only be liable to dismissal from his corps upon a conviction by a court-martial or by the order of his Commanding Officer in the event of his neglecting or refusing to pay any fine to which he shall have been sentenced by a court-martial.

"Section 5 of the Bill as introduced was consequent upon section 4, which has been struck out of the Bill, and section 5 has, therefore, also been struck out.

"I pass to the section of the Bill which gives power to the Governor General in Council to call out the volunteers for actual military service in case of actual or apprehended emergency and authorises him to make rules for making payments, issuing supplies, and granting pay, allowances, pensions, gratuities and rewards to them. In this section the Select Committee have recommended four alterations. The first of these alterations makes the sections applicable to any portion of a corps as well as to the whole corps. This is in accordance with an Act passed in the Imperial Parliament in 1895 to the same effect as regards the volunteers in Great Britain, following a recommendation made by the House of Commons Select Committee of 1894. The object of this change is self-evident. The second alteration authorises the Governor General in Council to make provision for transport as well as for supplies to the volunteers. The third alteration is merely verbal, changing the words 'for the preservation of the peace' into 'in aid of the civil power' to correspond with the definition of actual duty in the Bill; and the fourth, which is the most important alteration, gives power to the Local Government to exempt any corps or any portion of a corps, or any individual volunteer in respect either of time or of area, in the same way as in the proviso which the Select Committee have inserted in section 3 of the Bill as introduced (section 6 of the amended Bill).

"The Select Committee have also recommended the insertion in the Bill of a new section as follows:—

'Whenever military operations are about to be undertaken or are in progress, any member of a volunteer corps may offer himself for actual military service, and, if the

services of such a number of members of any corps as in the opinion of the Governor General is sufficient to enable them to be separately organised are accepted, then those members may be called out either as a corps or as part of a corps, and this Act shall apply to them.'

"This section is, *mutatis mutandis*, taken from the English Volunteer Act of 1895, and is based upon a recommendation of the House of Commons Select Committee of 1894. In the English Volunteer Act of 1895 this power is given to the Secretary of State whenever an order for the embodiment of the militia is in force. The Select Committee propose that it should apply in India whenever military operations are about to be undertaken or are in progress. On more than one occasion volunteers have in this way offered their services in India. And on one occasion at least, that of operations on the Assam frontier, their services have been accepted, and excellent service was on that occasion rendered by some of the Surma Valley Light Horse. This section simply makes legal the acceptance of such service.

"Such, my Lord, are the alterations recommended by the Select Committee. It will be seen that not only do their recommendations, if accepted, impose no fresh burdens upon the volunteers, but that they very sensibly reduce the obligations required of them by the Bill as originally introduced. They remove the power which was given to Commanding Officers to dismiss non-commissioned officers and men of volunteer corps without previous trial by court-martial. They limit the area of compulsory service, in the case of the volunteers belonging to a battalion which is part of a corps, to the district within which the battalion is enrolled. They enable Local Governments to still further limit that area either for the whole corps or for any part of the corps or for any individual volunteer, and they also enable the Local Governments to limit the time during which any corps or part of a corps or individual shall be retained in actual military service; and I feel confident that the Bill, as thus amended, will be acceptable to the great body of the volunteers.

"The rules to be made under section 7 of the amended Bill were not brought before the Select Committee, as they are for the pleasure of the Governor General in Executive Council. But as these rules were published with the Statement of Objects and Reasons which accompanied the Bill on its introduction, and as a very large number of suggestions and comments have been made upon these rules, I may with advantage here state what alterations the Government of India propose to make in them.

"The objections taken to the rules were generally to the effect that the pay, pensions, etc., laid down in them are not sufficiently liberal, and proposals

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under most urgent necessity. And even then, such a declaration having been made, it is left, under the Bill as amended by the Select Committee, to Local Governments to exempt whole corps or portions of corps of volunteers, or even individual members, from being called out, or to limit the area within which they are to serve, or to limit the time within which they are to remain on service. And it is impossible to believe that Local Governments would call out more volunteers than were absolutely necessary to meet the occasion, in view of the disturbance to trade and commerce, and the loss of revenue to the Imperial and Provincial Governments, which must ensue from the calling out of any great body of Europeans. But, if ever this dire occasion does arise, if ever it becomes necessary to call out the whole or any portion of the volunteers, then, remembering that they are, as laid down by Lord Canning, from whose declaration to this effect the Government of India has never departed, 'a supplement to the European forces of the Crown,' the Government of India holds that they must in all respects be treated in the same way as the European forces to whom they are a supplement.

"But, my Lord, there is one point in which Your Excellency in Council has decided to alter the rules. Rule (b) made a distinction between the pay and allowances to be given to Government servants and those not in Government service. Attention was called to this in some of the reports, and it was said that it made an invidious distinction between Government servants and others. Your Excellency in Council has seen the force of this objection and all such distinction will disappear from the rules, and this rule will, therefore, simply provide 'that all officers, non-commissioned officers and volunteers shall, while on, or proceeding to, or on returning from, actual military service, be entitled to receive pay and allowances admissible to the different ranks in the British army, corresponding with those held by them in the volunteers, and rations in the same manner and on the same scale as authorised for the British troops serving in the military district in which the volunteers are serving.' Rule (i), which admitted Government servants to any higher rate of pension, gratuity or compassionate allowance admissible to them under the Civil Service Regulations, or under any special conditions of service, instead of the rates named in the rules, will also be struck out, and provision to this effect will be made by Resolution.

"My Lord, it was never the wish of the Government of India that there should be any invidious distinction between Government servants and others, and in inserting in the rules clauses, which will now disappear, that Government servants should be entitled to receive civil or military pay at their

option when on actual military service and any higher rates of pension admissible to them under civil rules, it was only their intention to set an example to other great employers under the same circumstances. And, all though this distinction will disappear from the rules, the Government, which is by far the greatest employer of labour in India, will set an example to all other employers, and will issue, simultaneously with the passing of this Bill, a Resolution in the Finance Department having the same effect as those portions of the rules which are being removed.

"My Lord, Your Excellency's Government commends this example to all other employers of labour. I venture to remind them that, by giving every encouragement to those in their service to join the volunteer force, they will be running an infinitely small risk and will be doing their best to protect themselves against an infinitely grave, though, it is to be hoped, a very remote, danger.

"With these remarks I beg to present the Report of the Select Committee upon the Bill."

His Excellency THE COMMANDER-IN-CHIEF said:—"My Lord, as Commander-in-Chief of the Army in India I am glad to have this opportunity of expressing my concurrence in the provisions of the Bill which have been so clearly explained by the Hon'ble Member in the Military Department.

"The extent to which military law should be made applicable to volunteers is limited by two principal considerations. On the one hand, its application should be stringent enough to maintain discipline while they are performing military duty; on the other hand, it should be as little irksome as possible at other times, lest a too serious and too constant responsibility in ordinary times should deter men from joining this valuable force.

"I think a just mean has been arrived at in this Bill between these two somewhat conflicting considerations, without any material deviation from the law under which our volunteers have hitherto served in India.

"Their position will practically be that which obtained under Act XX of 1869, with the exception of one point—they will no longer be exempt by special provision from the penalty of death for such shameful crimes committed in the presence of an enemy as involve that punishment to officers of the regular army.

"I am confident that I am but expressing the feeling of the volunteer force when I say that any such exemption specially framed for our volunteer