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SUPPLEMENT TO
The Gazette of India.

CALCUTTA, SATURDAY, DECEMBER 10, 1870.

OFFICIAL PAPERS.

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GOVERNMENT OF INDIA.

**ABSTRACT OF THE PROCEEDINGS OF THE COUNCIL OF THE GOVERNOR
 GENERAL OF INDIA, ASSEMBLED FOR THE PURPOSE OF MAKING
 LAWS AND REGULATIONS UNDER THE PROVISIONS OF
 THE ACT OF PARLIAMENT 24 & 25 VIC., CAP. 67.**

The Council met at Government House on Friday, the 2nd December 1870.

PRESENT :

His Excellency the Viceroy and Governor General of India, K. P., G. C. S. I.,
presiding.

The Hon'ble John Strachey.

The Hon'ble Sir Richard Temple, K. C. S. I.

The Hon'ble J. Fitzjames Stephen, Q. C.

The Hon'ble B. H. Ellis.

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

The Hon'ble Francis Steuart Chapman.

The Hon'ble J. R. Bullen Smith.

The Hon'ble F. R. Cockerell.

The Hon'ble J. F. D. Inglis.

The Hon'ble D. Cowie.

The Hon'ble MR. INGLIS and the Hon'ble MR. COWIE each took the oath of allegiance, and the oath that he would faithfully discharge the duties of his office.

LIMITATION OF SUITS BILL.

The Hon'ble MR. STEPHEN introduced the Bill for the limitation of suits, and moved that it be referred to a Select Committee with instructions to report in two months. He would not occupy the time of the Council with any further

remarks, as he had said what he thought necessary on a former occasion when he moved for leave to introduce the Bill. The Bill was of a very technical and professional nature, and would receive the careful attention of the Select Committee to which it would be referred. He would not, therefore, occupy the time of the Council by discussing any question of detail.

The Motion was put and agreed to.

CRIMINAL TRIBES BILL.

The Hon'ble MR. STEPHEN also introduced the Bill for the registration of Criminal Tribes and Eunuchs, and moved that it be referred to a Select Committee with instructions to report in six weeks. He said that, when he moved for leave to introduce this Bill a short time ago, he had stated the general circumstances which were connected with the introduction of the measure, and he need not therefore refer again to the subject, more especially as some parts of it were of a very unpleasant nature. He would, however, say a few words about the provisions of the Bill as it had been prepared. It extended to the North-Western Provinces, the Panjáb and Oudh, and would not be passed without the receipt of an expression of opinion from those authorities on its provisions. One section of the Bill applied to the whole of British India: it authorized the arrest of registered persons found out of the district to which they belonged. That was necessary because it was the custom of these tribes to go far and wide in their marauding expeditions. It was, therefore, essential that they should be arrested when discovered in districts other than those to which they belonged. He was informed indeed that some tribes had been known to wander from the northern parts of the Panjáb to the Deccan, to Bombay and to various other parts of India. He might further observe that this Bill provided no means by which the executive officers of the Provinces in which it was to be enforced should communicate with other officers in other parts of India regarding registered persons who had wandered away from the districts to which they belonged. That required no law, for nothing would be easier, especially in these days of Post Offices, Telegraphs, and Photographs, than to get information from any part of India necessary to ensure the arrest of any gang of marauders.

The second Part of the Bill referred to the registration of criminal tribes, and adopted, with a few modifications which he thought would be approved of by the Panjáb Government, the regulations which lately existed on the subject, and which had been supposed to have the force of law until they were declared by the Chief Court to be illegal. The most important part of the work, the registration of the tribes, was to be done under the direction of the Magistrate, and the Local Government was to have the power of making rules prescribing the limits within which persons so registered should reside, the conditions under which they were to be permitted to leave those limits, and the conditions as to answering roll-calls, to satisfy the Magistrate that such persons were present at any given time within the prescribed limits.

The third Part of the Bill, which related to the question of the registration of eunuchs, was one to which he would refer as shortly as possible. He stated at length on a previous occasion the general nature of the evils to be dealt with: no doubt it was a difficult matter to suppress evils of that kind; but there were one or two circumstances in this particular case which rendered it comparatively easy to suppress the evil with a minimum amount of risk of oppression. The cardinal provision in this portion of the Bill was that the Local Governments could frame registers of all eunuchs who were suspected of kidnapping or castrating children, or of committing the crime specified in section 377 of the Penal Code. They could also frame a register of the property of such persons. Eunuchs were to be punished for appearing in public in female clothes, or for darning or playing music in the public streets or in private houses for hire. He believed that, if these provisions were rigorously carried out, they would

put an end to a most horrible system. Of course, it was to a certain extent a strong measure to authorize the registry of private persons, but in this instance we started with the fact that a man belonged to a special class which it was impossible to mistake. Therefore, where there was suspicion that particular members of that small class were addicted to these horrible practices, they would be suspected not without good grounds. That was a subject on which he had nothing to add to what he had already observed on a previous occasion.

The Motion was put and agreed to.

PRESIDENCY SMALL CAUSE COURTS' GENERAL FUNDS BILL.

The Hon'ble SIR RICHARD TEMPLE introduced the Bill to repeal the law relating to the General Funds of the Courts of Small Causes at the Presidency Towns. He said that it would be in the recollection of the Council that, at the last meeting held at Simla, when he obtained leave to introduce this Bill, he stated all that was necessary regarding the reasons and the object of the measure; so he need not occupy the time of the Council on this occasion. As the Bill was one of the simplest character, it did not seem necessary for him to do more than to introduce the Bill in order that it might be published in the *Gazette*.

The Hon'ble MR. CHAPMAN thought it would be satisfactory if the Hon'ble Member would give the public, and especially that section of the public engaged in trade at the presidency towns, some kind of general assurance that the reasonable demands of the Small Cause Courts for suitable building-accommodation would receive preferential consideration.

The Hon'ble MR. ELLIS said that he had taken occasion, at an earlier stage, to express his dissent from some of the provisions of this Bill. He desired to guard against the supposition that he was opposed to the main object of the Bill, for it was based on a proper principle. Small Cause Courts were now no longer experimental and special establishments, but formed part of the general judicial system of the country, and he hoped that by their extension, considerable improvement, both in the way of economy and efficiency, might be effected in the judicial administration. There was therefore no longer any reason for maintaining a special fund. But he had said on a former occasion that it would be better if retrospective action had not been given to this measure. He thought that, in giving legal effect to a principle admittedly sound, it would have been better had care been taken to guard against even the suspicion of there being any sordid motive in doing so. It would have been preferable had there been no possibility of anyone supposing that Government desired to obtain a pecuniary benefit in carrying out this measure. He trusted, therefore, that in the course of the proceedings, some such assurance as that which the Hon'ble Mr. Chapman had asked for might be given by the Hon'ble Member in charge of the Bill, that the public might rest satisfied that there was not any desire to obtain surplus funds and profits for the Financial Department, that next year, or whenever a reasonable demand for buildings for Small Cause Courts was made, it would be promptly attended to, and that advantage would not be taken of this measure to refuse to the Small Cause Courts and those interested in them such conveniences as they might need.

The Hon'ble MR. STEPHEN said that, as his hon'ble friend (Mr. Ellis) had brought up this subject, he thought it would be desirable to explain the nature of the case somewhat more fully. In the meantime he would say again that it was impossible for any one to suppose that any sordid or improper motive had influenced the Government in adopting this measure. When Small Cause Courts were originally established in the presidency towns, it was provided by

the Act that there should be a Fund composed of the fees paid by the suitors, which should be expended as the Government might direct, and should be called the Small Cause Court Fund. Of course, it was one object of the establishment of that Fund to provide for the expenses of the Courts, which were then looked upon as an experiment. But the Fund never was kept as a separate Fund: offices and establishments and buildings were provided, and the fees of the Small Cause Courts were carried to the general revenues of the country. It was stated that this involved a sort of breach of faith. But if the matter were carefully considered, he would ask with whom faith had in any way been broken, or what person was the worse for the transaction? It might be said that the suitors of the Court had suffered, because a part only, and not the whole, of the fees they paid for their litigation was appropriated to the accommodation of their successors in litigation, and to the building of Courts in which subsequent litigants might be heard. It was not asserted that the fees were excessive or that the money had not been expended for the public advantage. Where then was the grievance? Consider what would have had to be done if this Bill had had no retrospective effect. It was his (MR. STEPHEN'S) opinion, looking at the original Act, that if the Government of India, who had the power by that Act to order the Fund to be disposed of as they thought proper, had ordered a portion to be expended for the benefit of the suitors, and the rest to be carried to the credit of the Government of India, they would have been justified in so doing. They did not make that order, consequently there was a sort of a ghost of a Fund existing, which, if it were now embodied, might be applied to-morrow to the very purpose to which in fact it had been applied. Suppose that were done in compliance with the views of the Hon'ble Mr. Ellis, what would be the result? We should have to take an account of all the fees which had been received from the Small Cause Courts ever since their establishment. When we had got the gross amount of fees so received, we should have next to take an account of all the expenses connected with Small Cause Courts, such as the payment of the salaries of the Judges and their establishments, the rent of the buildings in which the Courts were held and the like. Then we should set-off one against the other; we should arrive at a balance, and the Government would then be able under the Act to do whatever it liked with that balance. The effect of the Act was simply this. The Government having done what they might have done with perfect regularity if they had previously gone through a perfectly useless form, the Act dispensed with the necessity for that form. How could there be any "sordid motive" for that?

As for the general notion that any Department in the country (whether it were a Small Cause Court or a Registration Office, or any thing else) was a sort of corporation which could have a surplus or a deficit, which could have a claim on the Government, or suffer a grievance of its own, if the surplus was not expended in extending its establishments, such a notion was to him absolutely unintelligible. He could conceive of no interests connected with any such institution except two. One was the interest of the man who had to pay taxes; the other was the interest of the public in the money raised by taxation. So long as the person who paid the taxes got value for the taxes which he paid (which he did in the case of Small Cause Court fees), and so long as that money was expended according to the best judgment of the Government for the advantage of the public generally, it seemed to him as absurd to say that a body called the Small Cause Court, or the Small Cause Court Fund, had any sort of grievance to complain of, as it would be in MR. STEPHEN'S waistcoat pocket to say that it had a grievance, if he chose to carry his money in his trowser pocket. This illustration might be unsuited to the dignity of this assembly, but it described literally the state of affairs. Any attempt to do justice between one public Department and another on any grounds except the ground of general public convenience, and to consider what part of the revenue ought to be applied to a particular purpose, was exactly like an attempt to decide in which pocket particular articles ought to be

carried, on any other principle than that of the convenience of the man who wore the clothes.

The Hon'ble MR. CHAPMAN did not mean to say that any one was in a position to make a specific claim on the Government to these surplus funds; but he did think the principle ought to be admitted, that a separate branch of the administration, which was in the position of a milch-cow, ought and was entitled to receive more liberal treatment than a sterile one.

The Hon'ble MR. BULLEN SMITH did not suppose that anyone would dispute what had fallen from the Hon'ble Mr. Stephen, or attempt to deny that the Government had the right to do what it was proposed to do; and it would be, perhaps, impossible to lay a finger on any section of the community that could specially complain of it as a grievance. There were, however, many things which, although not absolutely and immediately binding on Government to perform, were yet highly expedient, and the concession now asked of the Hon'ble Gentleman was, he thought, one of them, as there could be no question that the public did consider that the appropriation of the funds in question by the Government was a grievance. The public considered that establishments which contributed considerable surplus revenue to Government, were entitled to receive more attention at its hands in the matter of accommodation. He would instance the Small Cause Court of Calcutta, a Court which, for years, had yielded a large margin, and ask the Hon'ble Member, who lived in its immediate vicinity, to visit that Court in the months of April, May or June, and then report whether he considered it a fit place for the Judges to work during the long days of the hot weather, and whether the public were not entitled to expect better accommodation.

There was building a palace for the High Court; but he (MR. BULLEN SMITH) had it on the authority of the Advocate General that, as far as comfort was concerned in reference to this climate, he would never wish to plead in a better place than the Town Hall. The Judges on the appellate side of the Court did not, he believed, complain of their building, and he thought the claim of the Small Cause Court was much stronger. Whilst admitting the technical correctness of all that fell from the Hon'ble Mr. Stephen, he still would desire to support the Hon'ble Members who had previously spoken.

The Hon'ble MR. RICHARD TEMPLE, in reply, said that he could give no assurance whatever to the effect that a preferential claim would be conceded to Small Cause Courts in respect to the construction of buildings for their accommodation. That matter pertained to the Public Works Department, and was not at all embraced by the present Bill. Nor could he give any assurance, either way, as to whether a pecuniary profit would or would not be made by the State from the establishment of Small Cause Courts. He did not regard the matter in that light. The proceeds of the stamps or fees in these Courts were like all other stamp-revenue. It had never been the practice to calculate whether the administration of justice yielded a profit to the State in the shape of surplus stamp-revenue; in other words, whether the stamp-revenue exceeded the expenditure on Law and Justice, or the reverse. No such balance was ever attempted to be struck. The stamps were regulated without reference to the cost of the Courts: the expenditure on the Courts was allowed without reference to the amount of the stamp-revenue.

It might be (as remarked by the Hon'ble Mr. Bullen Smith) that the Calcutta Small Cause Court was badly accommodated at present. This was a matter for the consideration of the Public Works Department, or of the Local Government, but it did not concern the legislature or the exchequer. He (MR. RICHARD TEMPLE) hoped it might be possible to improve the accommodation, but whether this would be possible, he could not say. It might be

desirable to give the Court a better building, but no special claim could be admitted.

His hon'ble friend Mr. Ellis had said that, if this measure took effect prospectively, it need not take effect retrospectively. But the arguments were really as good for retrospective as for prospective effect. If retrospective effect were not given, the result would be that the sums now in hand in the treasury would have to be paid to the credit of the Small Cause Courts, and would have to be included in the payments of the year. In that case, *to whom* and *to what account* would they be payable? Apparently to the several Courts, each according to its share. But to determine such share, an elaborate account, difficult of preparation, would be necessary, which, after all, might turn out to be unsatisfactory. As he (SIR RICHARD TEMPLE) had explained at Simla, it was contrary to financial rule and principle for any portion of imperial revenues to be set aside for any special purpose whatever. The exchequer received all the income of the State, and defrayed all the expenditure. It was impossible to allow the Small Cause Courts, as regards their stamp-proceeds, to form an exception to so important a rule.

The case was really quite clear. Certain sums had been ordered to be held in suspense by legislative authority, which sums really belonged to the State as stamp-revenue. Without the rescinding of that authority, the due appropriation of this money could not be made. The original granting of that authority was a mistake: if such a proposal were now to be made, it would surely be rejected by the Legislative Council. When, however, it was made and became law, no effect had been given to it, and the sums had not actually been held in suspense. There was, therefore, room for rectification, which the Bill now to be introduced was intended to supply.

His Excellency THE PRESIDENT wished to say one or two words with regard to that part of the question which seemed to excite the greatest interest, namely, as to proper provision being made for the accommodation of the public in the Small Cause Court in Calcutta. This involved the general question of the construction of public buildings in this city. The Council were aware that very large reductions had been made in the grants for last year and for this year for public works. This necessitated a proportionate reduction in that portion of the grant set aside for the construction of public buildings in Calcutta. That being so, the Government of India thought it desirable to suggest to the Local Government that it would be right to finish the buildings in hand before the construction of any new buildings was undertaken. HIS EXCELLENCY thought that any gentleman who walked about Calcutta, and saw the incomplete state of many of the large buildings—an incompleteness which was to a certain extent discreditable to the State—could not doubt that a wise conclusion had been come to. It was to be hoped that the period was not far off when these buildings would be finished. When that had been done, HIS EXCELLENCY was certain that provision for the accommodation of the public in the Presidency Small Cause Courts would be considered along with other claims. In such a matter, the opinion of the Local Governments would have great weight, and if it seemed to them that the suitors in the Small Cause Courts had a claim to accommodation prior to that of other classes of the community, it would of course be attended to, and the necessary buildings would be provided. HIS EXCELLENCY accepted the general expression of opinion that the present accommodation was insufficient. In this respect, as in others, the general wishes and desires of the public would be attended to. Looking to the limited grants at the disposal of the Government, and the great loss arising from leaving half-completed buildings in the state in which they were in Calcutta, HIS EXCELLENCY certainly thought that they should not depart from the decision already come to, that the buildings in hand ought to be finished before others were commenced.

PRISONS' ACT EXTENSION (COORG) BILL.

The Hon'ble MR. CHAPMAN introduced the Bill to extend the Prisons' Act, 1870, to Coorg. He said that this Bill was of an entirely formal nature, and he, therefore, did not propose to move to refer it to a Select Committee.

COMMITMENTS FROM ANDAMANS BILL.

The Hon'ble MR. CHAPMAN also introduced the Bill to authorize the committal of European British subjects by Courts in the Andamans to the High Court at Fort William. This Bill also was of an entirely formal nature, and he would not ask the Council to refer it to a Select Committee.

CHAUKIDARI ACT EXTENSION BILL.

The Hon'ble MR. CHAPMAN then introduced the Bill to authorize the extension of the Chaudhary Act to places where there is no Jamadár of Police, and moved that it be referred to a Select Committee with instructions to report in six weeks. He said that, since he had come to the Council, he was informed that there were some points of principle involved in the Bill, and he would, therefore, propose to refer it to a Select Committee.

The Motion was put and agreed to.

EVIDENCE AND INSOLVENCY BILLS.

The Hon'ble MR. STEPHEN moved that the Hon'ble Mr. Inglis be added to the Select Committees on the following Bills:—

To define and amend the law of Evidence:

To amend the law of Insolvency.

The Motion was put and agreed to.

SUNDRY BILLS.

The Hon'ble MR. COCKERELL moved that the Hon'ble Mr. Inglis be added to the Select Committees on the following Bills:—

To consolidate and amend the law relating to the local extent of the General Regulations and Acts and to the local limits of the jurisdictions of the High Courts and the Chief Controlling Revenue Authorities:

To consolidate and amend the law relating to the District and Subordinate Civil Courts in Bengal:

For repealing certain enactments of the Bengal Code:

To consolidate the law relating to Cattle Trespass:

For the Registration of Assurances.

The Motion was put and agreed to.

The following Select Committees were named:—

On the Bill for the limitation of suits—The Hon'ble Messrs. Chapman, Bullen Smith, Cockerell and Inglis and the Mover.

On the Bill for the registration of Criminal Tribes and Eunuchs—The Hon'ble Messrs. Chapman, Cockerell and Inglis and the Mover.

On the Bill to authorize the extension of the Chaudhary Act to places where there is no Jamadár of Police—The Hon'ble Messrs. Stephen, Cockerell and Inglis and the Mover.

The Council adjourned to Friday, the 9th December 1870.

CALCUTTA,
The 2nd December 1870. }

WHITLEY STOKES,
Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

FOREIGN DEPARTMENT.

**RULES FOR THE GUIDANCE OF THE COURTS OF VAKEELS IN RAJPOOTANA
IN THE DISPOSAL OF CRIMINAL CASES WHICH CANNOT
BE DECIDED BY ANY ONE STATE.**

SECTION I.

Of the object and constitution of the Courts.

I.—Courts of Vakeels sit at Ajmere, Aboo, Oodeypore, Jeypore, Jodhpore, and Deolee. They are established with the special object of securing justice to travellers and others who suffer injury in territories beyond their own Chief's jurisdiction, and they hear and decide on all offences against person and property laid down in the Indian Penal Code and in the Extradition Treaties between the Government of India and the States of Rajpootana, which cannot be decided by any one State.

II.—The Court of Vakeels at Aboo, composed of the Vakeels attendant on the Governor-General's Agent, is under the guidance of one of the Assistants, and is an Appellate Court superior to those at the several Agencies.

III.—The Courts of Vakeels at Oodeypore, Jeypore, Jodhpore, and Deolee, under the guidance of the respective Political Agents of Meywar, Jeypore, Marwar, and Haraotee, are composed of Vakeels attendant on the Agents from each of the neighbouring States, and are subordinate to the Upper Court of the Governor-General's Agent.

SECTION II.

Of the jurisdiction of the Courts.

IV.—The British districts of Ajmere and Mhairwarra are under the same responsibility to these Courts in interjurisdictional questions as the other States of Rajpootana. In cases in which subjects of these districts are concerned, the Deputy Commissioner or his Assistant takes his seat in Court and votes as the representative of the British Government.

V.—The investigation of each case shall be conducted by the Court of that State or Agency within whose limits the crime is alleged to have been committed, unless it be found necessary to bring it into the Upper Court.

VI.—As a rule, six months' domicile will be considered the period to constitute such residence as will preclude claims for compensation before the Courts of Vakeels. In applying this rule the intention of the claimant in leaving his house must be always considered. Special protection must be afforded to persons who are forced to enter foreign territory for purposes which could not otherwise be accomplished.

A person is said to be domiciled in that State in which he habitually resides. If he changes his place of residence for a temporary purpose and with the intention of returning to his former place of residence, his domicile is not changed. The jurisdiction of any State in which a man may be domiciled over any part of his property (in respect of any offence with which he may be charged) is not affected by any change of residence subsequent to the commission of the alleged offence.

SECTION III.

Of the responsibility of States.

VII.—The responsibility may be imposed upon or apportioned between any one or more of the following States as the Court thinks fit, that is to say:—

- (1.)—The State in which the offence was committed.
- (2.)—Any State into which the offender was followed in hot pursuit.

(3.)—The State in which the offender is proved to reside.

(4.)—The State in which the stolen property, or any part of it, is found.

In apportioning the responsibility the Court shall have regard to the degree in which each State may have contributed by negligence to the commission of the crime or the escape of the offender. Provided that no State will be held pecuniarily responsible for the fraudulent mercantile transactions either of its own subjects or of those who may have absconded into it.

VIII.—In all offences committed within the limits of a State of which both the plaintiff and defendant are subjects, should the criminals escape into any other State, the latter shall not on this account be answerable for the offence, nor for blood-money, nor for compensation; but if the criminals or stolen property be pointed out by approvers or otherwise, the same must be given up to the accredited authorities, otherwise the State retaining persons or property of another State will be required to make good all losses.

IX.—When an award has been given against a State on account of any offence committed by an outlaw or other criminal sheltered within its territories, and such person at any subsequent time returns to its allegiance, or is pardoned, the case shall not on that ground be re-opened with a view to the amount awarded being condoned or refunded to the State against which the decree was given.

X.—The State in which an offence of the nature referred to in Section I., Rule I., is committed will be held primarily responsible. Secondly, the State into which the offender or offenders are followed in hot pursuit, or in which they are proved to reside, and which has not surrendered them. Thirdly, the State in which stolen property is discovered, and the inhabitants cannot account for its possession, and have taken no measures to restore it. Local peculiarities of the country, such as rocky ground and configuration of the border, will be duly considered, and it will be the special duty of the Court to decide according to the merits of the case what share of the responsibility should attach to each State. Provided that no State will be held pecuniarily responsible for the fraudulent mercantile transactions either of its own subjects or of those who may have absconded into it.

XI.—Whether tracks are carried in hot pursuit or not, the authorities of a State are bound to take up and carry on a track brought to their border, being duly accompanied by the original trackers and by the plaintiff or his agent. The State into which a track is thus carried, otherwise than in hot pursuit, will not be held responsible on the evidence of the tracks alone, but a refusal to carry on a track, when distinguishable, will render it so liable.

XII.—In cases of cattle theft, or of the pursuit of mounted robbers, a refusal on the part of the village where the tracks are lost to permit search for the animals will be considered opposition, and will render the village liable for the whole value of the stolen property.

XIII.—Rules for the guidance of tracking parties are noted in Appendix A.

XIV.—Rules regarding the restitution of stolen cattle are noted in Appendix B.

SECTION IV.

Of precautionary measures required of travellers.

XV.—To entitle any claimant to compensation, it is necessary that he should have taken sufficient precautions. Any person travelling with valuables or goods must, as a general rule, provide himself with an escort of not less than two armed men for Rupees 1,000 worth of goods, with an additional sepoy for every additional Rupees 1,000 up to Rupees 8,000, beyond which only one additional man will be required for every additional Rupees 2,000 of goods.

XVI.—Travellers must, if possible, halt for the night within the precincts of a village, reporting arrival to the village authorities and occupying the place assigned to them. They should also apply for chowkeydars.

XVII.—Where travellers have a guard of four or more armed men they should place sentries around their property in the proportion of one sentry to every four men. At dawn the village chowkeydars are bound to awaken the leaders of the party and ascertain from them that no thefts have occurred. Chowkeydars and travellers' sentries will be held jointly responsible in proportion to their numbers for the occurrence of theft.

XVIII.—Travellers *en route* should obtain village guides, where the custom prevails, at the rate of one for every five armed men, two for ten, three for twenty, and so on.

XIX.—The armed men above mentioned are to be *bond fide* fighting men, exclusive of camel-men, cart-men, household servants, and other non-combatants.

XX.—A number of armed travellers of fighting castes, joined together for mutual protection, may be considered as coming within the requirements of Clauses 14 and 18.

XXI.—In cases where European gentlemen and others are travelling with their personal effects, cattle, and camp equipage only, but with no merchandize or other property of greater value than is necessitated by their station in life, they shall not be expected to provide themselves with armed guards. They must engage chowkeydars and a guide, the number of the former being proportionate to the value and extent of their property.

XXII.—To regiments or detachments of Her Majesty's service larger than a Havildar's party compensation should be denied, unless thefts are clearly shown to have been committed by the people of the country.

XXIII.—Marriage processions, where the females are usually loaded with valuable ornaments, must be accompanied by armed escorts as before described.

XXIV.—On no account can bullion, jewels, or other valuable articles be entrusted to two or three carriers (Augrias) unprovided with escorts. Compensation will not be given when such men travel singly, or even by twos or threes.

SECTION V.

Of the institution of suits.

XXV.—All complaints are to be submitted primarily to the Political Agent of the State in which the offence complained of occurred, who, if satisfied with the fitness thereof, will send it for adjudication to the Court of Vakeels.

XXVI.—All cases must be instituted within six months from the date of occurrence.

XXVII.—Prosecutors should appear in person whenever possible, but if this be inconvenient owing to distance of residence, or the plaintiff's trade or calling, or for other reasons, the Court may allow the prosecutor to appear by proxy, or to be represented by the Vakeel of the State to which he belongs; but the proxy must be duly provided with a power of attorney, and no case will be re-opened because the plaintiff is dissatisfied with the proceedings of his proxy.

XXVIII.—Insurers may claim compensation for plunder of insured property where due precautions are proved to have been taken.

SECTION VI.

Of procedure of the Courts.

XXIX.—Five Vakeels, inclusive of those belonging to the States interested, form a quorum. When British interests are involved, or at the request of the members, or in cases of importance or difficulty, as dacoitees or robberies with murder, the Governor-General's Agent or his Assistant in the Upper Court and the Political Agent in the Lower Court takes his seat as President with four or more members, and has a casting vote.

XXX.—In all cases relating to offences committed within British territories situated in Rajpootana, or affecting the interests or liabilities of the British Government or any of its subjects, a person, to be nominated by the chief Civil Officer of such district, takes his seat in Court and votes as the representative of the British Government.

XXXI.—The Upper Court of Vakeels is attached to the head-quarters of the Governor-General's Agent; the Lower Courts similarly are with the head-quarters of the accredited Political Agent of the State where the Court sits. But it is competent for the Governor-General's Agent or to each Political Agent to order his Court to assemble at any spot for special reasons. The Governor-General's Agent can transfer any case from the Lower to the Upper Court.

XXXII.—The Governor-General's Agent and Political Agents will usually take their Courts with them on their district tours, taking occasion to decide cases, when possible, on the spot where the outrage occurred, but litigants should not be compelled to follow the camp unnecessarily.

XXXIII.—Political Officers superintend the operations of the Courts of Vakeels, and confirm or cancel their decisions; but do not, as a general rule, interfere with or control their deliberations, except in special cases in which the members of the Court cannot agree.

XXXIV.—The Upper Court is under the superintendence of an Assistant to the Governor-General's Agent, who is usually present at its sittings and conducts the proceedings. The Assistant should take English Notes and submit an Abstract of the Proceedings to the Governor-General's Agent for confirmation with his own opinions.

XXXV.—The numerous and onerous duties of a Political Agent preclude his invariable attendance during the sittings of his Court, but he must bear in mind that it is his duty to be present whenever other avocations will permit of his doing so.

XXXVI.—Superintending Officers may at all times suggest questions for cross-examination, or which may tend to elicit the facts of the case.

XXXVII.—Superintending Officers may at any stage of a trial adjourn any case for special and extraordinary reasons, which should be noted in the register.

XXXVIII.—When Political Agents disapprove of the proceedings of their Courts, the whole file of the case should be referred to the Governor-General's Agent with their opinion for his decision.

XXXIX.—Each Political Officer will notify the decrees of his own Court to Political Agents and Vakeels of States concerned therein. When awards in favour of the plaintiff are approved, he should be warned to attend within two months to receive payment.

XL.—Each Court must keep a regular file of cases instituted, and call them up for hearing in regular succession, unless good reason is adduced for a contrary course. The President of the Court is jointly responsible with the members for the regularity of its proceedings. The President may return cases for additional enquiry or for reconsideration on special grounds to be fully explained.

XLI.—The members of the Court are bound, in the absence of a British Officer, to see that the case is fairly and correctly conducted; that the names of the members and other parties to the suit who are present are duly recorded; to ascertain that parties absent have been warned and the proper time been allowed for them to obey the summons; that the Vakeels of the State concerned are present to watch the interests of their Courts, but that they are excluded from deliberating and voting on the decree; to be careful that the witnesses are fully and fairly examined; that an opportunity for cross-examination is allowed to all parties, and the whole facts are elicited before passing a decree; that all

depositions and evidence be duly taken down, and that the general spirit of these rules is acted upon. They should make known to the Superintending Officer any peculiarities in the case which may strike them.

XLII.—When a complaint is preferred before a Court of Vakeels, the evidence of the complainant and of any witnesses who may accompany him should be immediately recorded in the form of a general narrative of the event; questions should be put by the Court with a view to facilitating the subsequent trial. The names, caste, and appearance of any persons who may have been present on the part of the local authorities should be enquired into, and information gleaned by cross-examination as to the circumstances of any local investigation held after the occurrence.

XLIII.—No case of murder or grievous hurt or of robbery by more than five persons may be compounded. In other cases, should the claim, after registry and before the trial comes on, be settled by the Native authorities, the plaintiffs' razeenamah should be presented to the Superintending Officer in person and be filed in the Office.

XLIV.—Due notice of the time and place of trial must be given in every case to the Vakeels of the States concerned, who are responsible that the notices are served without delay on any of their master's subjects, and a reasonable time must be allowed, according to the distance, for the appearance of the plaintiff, defendant, and witnesses respectively.

XLV.—In each instance of an order being passed by any Court requiring the attendance of any person, or calling for any information, a period should be named within which such person or reply must be produced. Should such requisition not be complied with, the case will proceed, and the onus of want of proof or disproof must fall on the defaulting party. Such period must be regulated by the distance and probable difficulty of obtaining what is wanted. If a person be a resident of Rajpootana, the time allowed for his appearance should not exceed three months, and two months should suffice for either party to procure written information.

XLVI.—When it is alleged that an offence has been committed in any State, or in the districts of Ajmere and Mhairwarra, a copy of the information will be sent by the Superintending Officer of the Court to the proper authorities of the State or district concerned.

XLVII.—The Vakeel of each Court should be authorized to send direct for any persons subject to their respective Princes, without a reference to the capital, which entails delay, but witnesses may be summoned through Political Agents also, if needs be.

XLVIII.—In place of calling on a witness to attend which might cause delay, inconvenience, or hardship, the Court may, at its option, issue a commission of enquiry, the answers to which are to be received as evidence if duly verified, and taken whenever possible before a British Officer or other trust worthy official.

XLIX.—When the prosecutor or his proxy after due warning neglects to be present, the Court may dismiss the case, or, if it thinks fit, to take steps to compel attendance. In the former contingency, a note acknowledging the receipt of due warning should be filed with the proceedings.

L.—In like manner, if the defendant fails to attend after due summons, an *ex parte* decision will be given, and the defendant be liable to such punishment as he would have incurred if present. In such case all available evidence for the prosecution must be taken to guard against the institution of false charges.

LI.—All evidence is to be recorded in the presence of the Court by the Sheristadar, or, in his absence, by the Naib, or by an Agency Moonshree. All questions to be put through the Court, and statements once recorded are not to be expunged.

LII.—Every deposition and cross-examination should be taken down in writing before the Court, and all parties interested, who, as well as the Superintending Officer when present, should have full opportunity of cross-examining every witness.

LIII.—All witnesses to be examined on oath or solemn affirmation, and each separately, except when it may be necessary to confront two or more persons.

LIV.—The evidence shall not ordinarily be taken down in the form of question and answer, but in the form of a narrative. It shall be in the discretion of the Court to take down any particular question and answer if there shall appear any special reason for doing so, or any person who is a prosecutor or a person accused shall require it. When the evidence is complete, it shall be read over to the witnesses in the presence of the accused or his agent, and shall, if necessary, be corrected. If the witnesses shall deny the correctness of any part of the evidence when the same is read over to him, the Court may, instead of correcting the evidence, make a memorandum thereon of the objection made to it by the witness, and shall add such remarks as it may think necessary. If the evidence be taken down in a different language from that in which it has been given, and the witness does not understand the language in which it is taken down, the witness may require his evidence as taken down to be interpreted to him in the language in which it was given, or in a language which he understands.

LV.—If the evidence is given in a language not understood by the accused or his agent, it shall be interpreted to him in open Court in a language understood by him or his agent.

LVI.—As a rule, no written depositions will be received except those taken in the presence of the Court or authenticated by the signature of a British Officer, or by the signature of the original local investigator, and may give due weight to the evidence it contains.

LVII.—No case will be adjourned for the production of evidence except such as the trial alone shows to be necessary, and then only in special cases by permission of the Superintending Officer.

LVIII.—The final Roobacaree containing a summary of the evidence should be carefully drawn up by the members sitting on the Court.

LIX.—One of the most important duties of members of the Court is to weigh the amount of credibility to be given to evidence. Where the Court believes that false evidence has been recorded, or that important facts have been suppressed, the circumstances should always be noted in the proceedings.

LX.—So soon as a decree has been duly confirmed, authenticated copies of the charge, finding, and decree, signed by the Superintending Officer, will be always given to the Vakeel of each State to which the contending parties belong, or which may be otherwise concerned, or to the agents accredited by the parties.

LXI.—All fines realized under the provisions of these rules will be applied in the following manner:—In the payment of the salaries of the officers of the different Courts of Vakeels, in subsistence allowance to witnesses, and in providing proper accommodation for the Courts when required.

LXII.—These rules are to be considered as a general guide for the Courts of Vakeels, but they must not be too inflexibly applied. Their spirit should in many cases be principally followed, and every case should be judged mainly on its own merits, and with reference to local usages. When any deviation may prove necessary, the reason and object should be noted on the proceeding.

SECTION VII.

Of the finding, sentence, and awards of punishment and compensation.

LXIII.—There should be no adjournment between the trial and deliberation of the Court on the finding and decree, which will be made with the Court

closed to every one save the President and voting members. As soon as all have given their votes the Courts will be open, and the decision of the majority will be recorded on the proceedings; individual reasons for verdict not to be given, but the opinion of the majority to be summed up for sentence, award, or acquittal.

LXIV.—The decision with the whole of the depositions and proceedings is submitted by the Upper Court to the Governor-General's Agent, whose decision is final, and by Lower Courts to Political Agents for confirmation, without which no decision is held to be valid. Should the latter not confirm the proceedings, he may either return the case to his own Court for revision or further enquiry, pointing out his objections, or he may refer it at once to the Governor-General's Agent. The Vakeels concerned may be furnished with copies of the evidence and final Roobacaree.

LXV.—The Courts of Vakeels shall have power to decide all cases brought before them by the Superintending Officers, and award punishments of fine and imprisonment, as also compensation and blood-money, according to the degree and nature of the offence, provided that the decree is confirmed by the Political Officer superintending the Court, and in cases tried by any Lower Court, subject to an appeal to the Governor-General's Agent.

LXVI.—In cases of dacoitee or plunder by violence, the delinquents shall be punished by fine or imprisonment, or by both, at the discretion of the Court, in addition to any blood-money or compensation determined on; and should they escape, and the Court consider that it was through the connivance or apathy of the local Police or of the inhabitants of any village, it shall be in the power of the Court, in addition to the compensation awarded, to punish the Police or the village by fine not exceeding in amount the value of property plundered.

LXVII.—In cases in which the delinquents, or the Court, neither the Native State nor any of its subjects shall be subjected to any payment on account of compensation or on any other cause.

LXVIII.—It is deemed expedient not to lay down any regulated scale of punishments for criminals, but to leave the Court which makes the enquiry to be guided generally by the Indian Penal Code, with such modifications as local custom may suggest.

LXIX.—Subject to the conditions of Clause 64, and except as provided for in the following clause, compensation is to be awarded in full in all cases of robbery with violence or dacoitee.

LXX.—The following articles should suffer a diminution of the original cost in estimating compensation:—

Gold and silver ornaments	...	...	one-fourth.
Substantial goods in common use, such as arms, household utensils, &c.	...	...	one-third.
Personal clothing, &c.	...	...	one-half.

LXXI.—In cases of cattle-lifting where the actual value of the animals stolen cannot be proved and the market rate is not fixed, compensation may be awarded at rates which must be determined by each Court for its own jurisdiction with the consent of the Governor-General's Agent.

LXXII.—In cases where it is found impossible to secure the real perpetrators of a violent crime, blood-money may be awarded according to the loss a deceased person may be to his family. Even in the lowest station of life, the amount must never be less than Rupees 150. Blood-money must never be awarded for persons killed or wounded by men defending their own lives or property.

As an inducement to the arrest of actual offenders, no blood-money will be awarded where they are produced in Court.

LXXIII.—Compensation for value of losses will be given, in addition to the remuneration, to the informer (markhaie) or person who proves the robbery.

LXXIV.—Remuneration to the markhaie is not to exceed annas four in the rupee, and proof must be sought as to the amount paid. In cases of murder, however, the Court may at its option award the full value paid, even though it be in excess of the above rate.

SECTION VIII.

Execution of sentences and payment of awards.

LXXV.—Awards of imprisonment for terms not exceeding five years will be carried out by the State to which the offenders belong if it possesses a properly organized jail. For terms above five years, prisoners will be committed to the Jail of Ajmere, or to such place as shall be appointed by the Governor-General's Agent with the concurrence of Government.

LXXVI.—All awards of fine, blood-money, or compensation must be recovered by the Superintending Officer of the Court from the State which is responsible, and not from the individuals found guilty.

LXXVII.—The State which is held liable is required to pay the full amount of the award within two months of the date of confirmation by the Superintending Officer, or, if there be an appeal, after the final orders of the Governor-General's Agent, failing which the amount will be advanced by the Agency Treasurer under the orders of the Political Agent, and the whole sum will be chargeable to the defaulting State with interest at 12 per cent. per annum until repaid. If not refunded within one year, the circumstance to be reported to the Governor-General's Agent for further measures.

LXXVIII.—All payments made under the award of any Court of Vakeels are to be made by the Court to the person or persons claiming or their agents, whose acknowledgment must be recorded on the proceedings.

LXXIX.—It being very desirable that travellers, especially of the poorer classes, who are robbed in their passage through a State should be promptly indemnified, Superintending Officers are authorized to sanction immediate payment of any amount awarded for losses in such instances, or part of it, to the extent of Rupees 200.

SECTION IX.

Of appeals and confirmation of sentences.

LXXX.—All awards by any Lower Court of imprisonment exceeding a term of seven years must be forwarded, with the proceedings and with the recommendation of the Political Agent, to the Governor-General's Agent for approval and confirmation by himself, or for reference at his discretion to the Upper Court. Sentences of death require the confirmation of His Excellency the Governor-General in Council.

LXXXI.—In all cases referred by Political Agents from the Lower Courts the Governor-General's Agent can either dispose of the case summarily, or order a fresh trial in the Upper Court, as he may deem fit.

LXXXII.—Appeals from the decisions of the Lower Courts are permitted to the Governor-General's Agent, who, if he deems the reasons submitted to be sufficient, will direct the Upper Court to investigate the case.

LXXXIII.—Fresh evidence shall not be admitted on appeals, unless the Governor-General's Agent requires it to be taken, but the Upper Court may require the Lower Court to take and to transmit to the Upper Court any further evidence which the Upper Court thinks necessary to be taken.

LXXXIV.—All appeals must be presented within sixty days from the date on which the party appealing received the final order passed by the Political

Agent. The days shall be reckoned exclusive of such time as may be required for obtaining a copy of the order appealed against. Appeals must be presented in person or through an agent or through the Vakeel of the State to which the appellant is subject, but will not be received through the post.

LXXXV.—No appeal will be entertained where Political Agents have sanctioned the immediate payment to poor travellers of compensation for losses by theft or robbery to the amount of Rupees 200.

APPENDIX A.

Tracking Rules.

I.—When a crime has been perpetrated and the tracks of the criminals are followed up, the injured party is invariably to accompany the trackers; when the principal is unable to do so from wounds, ill health, or infirmity, or from urgent business requiring his presence elsewhere, an agent must take his place.

II.—The trackers of the village or locality where the crime occurred, and who traced the foot-prints in the first instance, must also invariably continue with the trail as long as it is possible for them to do so. After the first change of jurisdiction they act as referees should the identity of the trace be disputed.

III.—The trackers of all intermediate villages should continue with the trail as long as the tracks are in the lands of the village next beyond their own.

IV.—The intention of the above Rules is to secure some impartial evidence as to the place and circumstances under which the traces were ultimately abandoned.

V.—If a village has no trackers, the village authorities, or the trackers of the last village and of the village where the crime occurred, who should jointly carry on the trail.

VI.—In ordinary cases, three or four persons only from any village should proceed beyond their own limits, but where there is reason to believe that a large armed band of plunderers is in the neighbourhood, this rule must not be insisted upon.

VII.—When the trace can no longer be found, the complainant, the trackers of the place from where the traces started, and of the last village through which it passed, must all proceed to the nearest responsible local authority if within a distance of three or four *koss*. If no authority resides within that distance, a special messenger should at once be despatched with information of the facts of the case.

APPENDIX B.

Rules for the restitution of stolen cattle.

I.—In every case where cattle have been stolen the owner should give information of the same within five days to the chief local authority, deposing to the description and value of the cattle and the circumstances of the theft.

II.—A Notice in the language of the country should then be published in the surrounding districts in such manner as may be determined upon by Political Officers in communication with the Chiefs; the Notice to contain the date and place of robbery, with a description and valuation of the cattle.

III.—Wherever the owner may find his stolen cattle, he shall, in addition to making such depositions as may be required, and furnishing proof, if necessary, produce a certified copy of the Notice in which his loss has been published to the chief authority of the village to which he has traced his cattle; and on this

authority being satisfied of the correctness of the claim, the cattle should be at once restored to him, intimation being at the same time given to the authorities of the village whence the Notice issued.

IV.—The restitution to be simple, in no way including consideration of a question of compensation on either side.

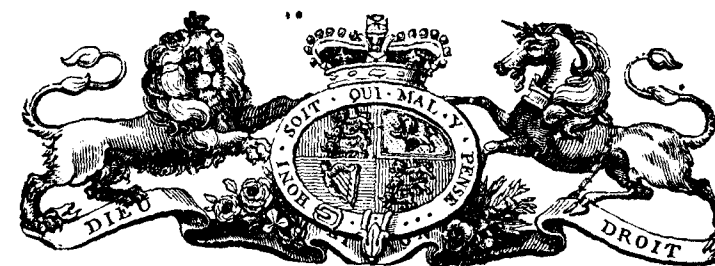
V.—Any claim preferred by the owner against the person in whose possession the cattle was found, or by the latter against the individual from whom he received the cattle, should be adjudicated in the Courts properly constituted, and having jurisdiction for hearing such cases.

VI.—Parties laying claim to cattle, as having been plundered from them, will be liable to be ordered to make good any expense caused to the defendants by such claims in the event of the latter proving unfounded. The liability in each such case should be adjudged by the Court having jurisdiction to decide the claim.

VII.—No demand for the restitution of cattle, under these rules, will be attended to after a period of two (2) years from the date of the robbery.

VIII.—From a period of two months after the publication of these rules a book of registry should be kept in each village, in which should be entered the number and description of all cattle brought into the village, with the name of the person responsible for them. A failure of registration would be regarded as presumptive evidence that the cattle are stolen.

IX.—Persons purchasing cattle from predatory classes or communities should insist on delivery, with the cattle, of a certificate from the Thannadar, or head-man of the village where the seller resides, stating that he is authorized to dispose of the property. Failing in this precaution, they will be presumed to have knowingly purchased stolen goods.



SUPPLEMENT TO
The Gazette of India.

CALCUTTA, SATURDAY, DECEMBER 17, 1870.

OFFICIAL PAPERS.

A SUPPLEMENT to the GAZETTE OF INDIA will be published from time to time, containing such Official Papers and information as the Government of India may deem to be of interest to the Public, and such as may usefully be made known.

Non-Subscribers to the GAZETTE may receive the SUPPLEMENT separately on a payment of six Rupees per annum if delivered in Calcutta, or nine Rupees four annas if sent by Post.

No Official Orders or Notifications, the publication of which in the GAZETTE OF INDIA is required by Law, or which it has been customary to publish in the CALCUTTA GAZETTE, will be included in the SUPPLEMENT. For such Orders and Notifications the body of the GAZETTE must be looked to.

GOVERNMENT OF INDIA.

**ABSTRACT OF THE PROCEEDINGS OF THE COUNCIL OF THE GOVERNOR
 GENERAL OF INDIA, ASSEMBLED FOR THE PURPOSE OF MAKING
 LAWS AND REGULATIONS UNDER THE PROVISIONS OF
 THE ACT OF PARLIAMENT 24 & 25 VIC., CAP. 67.**

The Council met at Government House on Friday, the 9th December 1870.

PRESENT:

His Excellency the Viceroy and Governor General of India, K. P., G. C. S. I.,
presiding.

The Hon'ble John Strachey.

The Hon'ble Sir Richard Temple, K. C. S. I.

The Hon'ble J. Fitzjames Stephen, Q. C.

The Hon'ble B. H. Ellis.

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

The Hon'ble Francis Steuart Chapman.

The Hon'ble J. R. Bullen Smith.

The Hon'ble F. R. Cockerell.

The Hon'ble J. F. D. Inglis.

The Hon'ble D. Cowie.

The Hon'ble W. Robinson, C. S. I.

The Hon'ble MR. ROBINSON took the oath of allegiance and the oath that he would faithfully discharge the duties of his office.

CRIMINAL PROCEDURE BILL.

The Hon'ble MR. STEPHEN introduced the Bill for regulating the procedure of the Courts of Criminal Judicature not established by Royal Charter, and moved that it be referred to a Select Committee with instructions to report in three months. He feared it would be necessary for him to engage the attention of the Council for some time, as the subject of which this Bill treated was

of the first importance. He might begin by stating the occasion of its introduction. In June last the Indian Law Commissioners issued their Seventh Report, which Report related to the revision of the Criminal Procedure Code. They made various recommendations in connection with the revision of that Code and the passing of Act VIII of 1869, by which the Code was extensively amended a year ago; and they concluded their report with these observations:—

“We have endeavoured by this report to complete the revision of the Code of Criminal Procedure in the manner which appears to have been contemplated by the local Government of India.

“We should not have adopted this method of executing the duty entrusted to us, if Act VIII of 1869 had not been passed; but the existing state of the law, as altered by the provisions of that Act, has, in our opinion, rendered this the most expedient course.

“A short Act may be passed, embodying the required provisions on the points regarding which we have reported—

Those were the points which, with certain others, were referred, after the passing of Act VIII of 1869, to the Indian Law Commissioners by the Secretary of State.—

“In that case the original Code XXV of 1861, with the Act VIII of 1869, and such new Act would contain the whole law.

“Should it however, be thought more convenient to consolidate the whole law of procedure in a single Act, this could be effected without difficulty by a process little more than mechanical.”

That was the recommendation of the Indian Law Commissioners. Mr. STEPHEN'S own attention having previously been drawn to various matters in connection with the Code of Criminal Procedure, he had before the report was issued asked leave to introduce a Bill for the consolidation of the two existing Acts on the subject, namely, Act XXV of 1861 and Act VIII of 1869 as a part of the general consolidation scheme now in progress and not very far from completion. However, when this Report arrived from the Indian Law Commissioners, the importance of taking that course was much increased. He therefore proceeded carefully to examine the Code. On examination he was by no means able to concur in the opinion that a proper consolidation could in this instance be accomplished by a mere mechanical process. The more he examined the Code, the more clearly he became convinced that it was ill-arranged, obscure, and confused, and that it would therefore be of the highest importance to re-arrange it. The Code had been in force since 1861, and he had no doubt that it was a vast improvement on the condition of things existing before that time. Since 1861, it had been amended at various times, and the amending Acts were themselves consolidated into one Act in 1869; and it was now proposed by the Indian Law Commissioners that we should have a further amending Act, for it really made little difference whether a separate Act was passed, or whether the three existing Acts were thrown into one by a merely mechanical process. This would in Mr. STEPHEN'S opinion make worse that which was already bad, for the present law was to the last degree confused and ill-drawn. On a careful examination of the Code he arrived at the opinion, that he had very seldom seen a more confused and worse drawn law in his life. That was a strong assertion to make, and he would therefore ask the Council to excuse him if he proceeded to justify it.

The principle on which a Code of Criminal Procedure ought to be arranged was perfectly simple. You would naturally begin at the first steps taken when a crime had been committed or was suspected; you would go on through the various steps from the time when the enquiry was first made till you got to the execution of the sentence of the Court. Exceptional incidents and supplementary arrangements should be separately dealt with. That was the principle on which a Code of Criminal Procedure ought to be framed, and those who compiled the existing Code had arranged the chapters of the Code to a certain extent with reference to this principle; but they had departed from it to a degree which threw the whole matter into confusion.

He would now proceed to show the manner in which the Code had been arranged. In the first place it was thought desirable that the Code should contain provisions relating, not merely to the detection and punishment of crime, but also to its prevention by such processes as the taking of recognizances and security to keep the peace; the taking of security for good behaviour; the taking of measures for the removal of nuisances; the making of orders for the maintenance of wives and children, and the mode of proceeding in cases of disputes relating to the possession of land, or the right of use of any land or water likely to cause a breach of the peace.

He was not prepared to say that these subjects should not form part of a Code of Criminal Procedure, but that was no reason for putting them in the middle of the Code, between the chapters relating to enquiries and trials before Magistrates and the chapter on trials before the Court of Session; so that a student, after following the course of affairs to the committal of the accused for trial, found himself in the midst of provisions regarding local nuisances, the maintenance of wives and children, and other such matters. He had some right to speak with authority on the feelings of students on this matter, for he was one himself. When he accepted his appointment, he naturally wished to instruct himself in the laws in force in this country. When he read the Penal Code, he arrived at a clear notion of what was intended; when he read the Civil Procedure Code, he also obtained a pretty clear notion of its intention; but when he got to the Code of Criminal Procedure, he found himself at a loss to follow the progress of the steps that had to be taken with an offender, and he felt obliged to put off the attempt to understand the Code, until he could obtain oral information about it.

This long parenthesis of five chapters had in itself a certain degree of coherency, though its principle was by no means apparent, but it was followed by other chapters of which the same could not be said. The chapter after disputes about land was followed by a chapter about juries and assessors. Up to that point, nothing had been said about juries and assessors; they naturally belonged to the subject of trials before Courts of Session. This chapter was followed by one about Subordinate Judges and Principal Sadr Amins in Madras. Why a chapter on that subject should form the 24th chapter of a Code of Criminal Procedure for all India he could not conceive, and no one had ever been able to tell him. After the chapter relating to trials before the Court of Session came the subject of the finding, judgment and sentence; after that, the natural course would have been to go to the subject of appeals; especially considering how important appeals were in India; but instead, there was printed a chapter on lunatics.

There were other subjects in the Code equally ill-placed. For instance, the third chapter was entitled “Preliminary Rules,” and the 31st chapter was entitled “General Rules.” There was no sort of distinction between those chapters, and no attempt whatever to arrange either of them. The sections might have been arranged by lot for anything that appeared to the contrary. Thus, the first of the preliminary rules (section 48) provided that complainants and witnesses should be examined upon oath or affirmation according to the law for the time being in force; and the following section (44) authorized the Court to award a portion of a fine in compensation for loss or damage caused. What connection had these two sections? To turn to the “General Rules.” Section 431 provided for the employment of interpreters, section 432 gave the accused a right to be defended by Counsel, and section 433 provided for the confinement of youthful offenders in reformatories.

He would, however, give one or two instances to show that not only were the chapters themselves ill-arranged, but that the arrangement of the sections was still more confusing. He would ask any one who knew nothing about the

matter by experience or conversation to attempt to derive from the Code a clear notion of the law which prevailed with regard to trial by juries and the functions of assessors. The subject was treated of in chapter 23, and the sections were arranged in the following remarkable manner. First, there were sections which provided for trial by jury generally; then sections settling the composition of juries when Europeans or Americans were tried; then sections as to the number of which a jury is to consist, and other sections as to the number of voices required for a verdict; after that followed provisions about jury-lists and the attendance of jurors. Then you went back to the trial, then you went back to a still earlier stage, namely, the summoning of jurors; and then after an interval of about 23 sections, you came back to the subject of the majority of votes. He had to read that chapter three or four times, and to make an index to it, before he got any notion of the law on the subject.

When an attempt had been made to follow the natural order of the subject, it had been thought necessary to put the most complicated proceedings first, and the simpler proceedings afterwards. Thus, the chapters relating to inquiries before Magistrates were put together; the most complicated of these was inquiry with a view to commitment to the Court of Session, and the simplest was the procedure in cases tried upon summons. The chapter relating to commitments came first, the chapter relating to summons cases came last; one result was a good deal of needless repetition and continual cross references. For instance, in the chapter about commitments were provisions as to the mode in which the attendance of witnesses was to be secured. They were embodied in the chapter on summons cases in the following awkward words—"Section 264. The provisions of sections 187, 188, 189, 190, 191 and 192 of this Act shall be applicable to witnesses summoned according to the provisions of sections 262 and 263." Nothing could be more vexatious or irritating to a Magistrate or to a student than the necessity thus created for constant reference from one part of the Code to another.

These were mere illustrations, but they were quite enough to show how ill the Code was arranged. Their number might be considerably increased if necessary.

MR. STEPHEN was quite aware of the gravity of his proposal to re-arrange the Code. When a person had studied and understood one arrangement, it would be by no means pleasant to him to have to learn another. At the same time he felt that these Codes were not to be considered merely with reference to the convenience of those who were now administering their provisions, nor to the transaction of current business. They must also be considered from an educational point of view. They were the great standard enactments by which a knowledge of the law was to be acquired by those who had to administer it, and who ought to be able to learn their duties with as little trouble as possible. If clearly arranged and capable of being grasped as a whole, they might be made to serve as a great means of economising time. The necessity of a good plan on this subject was indeed so obvious that he did not think some degree of inconvenience to which the present administrators of the law might be put ought to be regarded as an objection to the proposed measure.

He would now say a few words of the system on which the Bill was re-arranged, and which at once shortened the Code by about eleven sections. The Bill was divided into two principal parts, that which related to the detection and punishment of crime, and that which related to the prevention of crime. First, as to the detection of crime. The Bill dealt with the subject in the following order: jurisdiction; process to compel appearance; inquiries by the police; enquiries before the Magistrate and trials before the Court of Session; appeal, reference, and revision; the execution of the judgments of the Court. This disposed of the ordinary process in criminal trials, from the first enquiry into the matter down to the final order of the Court and the carrying out of that

order. Next came matters to be separately treated. The most important of these was evidence, which was dealt with in Part VI of the Bill, instead of being as at present scattered all about the Code; then came general provisions regarding the taking of bail, the appointment of juries and assessors, and the provisions regarding lunatics and contempts of Court, which were exceptional cases. Next came what in England is called criminal pleading, the charge and so forth. This would complete the proceedings for the detection and punishment of crime. The Bill then proceeded to define the preventive jurisdiction of Magistrates, as to recognizances and securities, the removal of nuisances, making orders for the maintenance of wives and children, and for the prevention of breaches of the peace arising out of disputes regarding the possession and use of land and water. The Code would conclude with no more than three miscellaneous sections.

The Bill would be published in the Gazette, and His Lordship and the Council would then have an opportunity of seeing how the work had been carried out.

There was only one other matter connected with this subject which he wished to mention; it related to the question of jurisdiction. He was not quite sure that it would not be better to have a separate Bill devoted to the subject of jurisdiction in Criminal Courts throughout the Mofussil, leaving the subject of procedure to stand by itself. As it was at present, there were a good many provisions relating to the power of Courts to try offences, such as those relating to the subordinate judges in Bombay and Madras and some others. It might perhaps be possible to put all these together into a separate Act. He wished to point out, moreover, that in the Code as now drawn, and as it would be published, there really were hardly any substantial alterations from the existing Code. The Bill was simply the Code of Criminal Procedure as it now stood, arranged in the order of subjects, and with such drafting alterations as were incidental to that arrangement.

He might, however, mention three alterations. There was, first, that which related to the jurisdiction which Justices of the Peace in the Mofussil at present exercised over European British subjects. That jurisdiction depended at present on the statute 53 Geo. III, chap. 155, and was wide, though ill-defined, and more or less connected with certain technicalities of the English criminal law. He proposed that the jurisdiction should extend to cases usually disposed of before Magistrates upon summons. This alteration was rather in name than in substance.

The second alteration related to the manner of finally disposing of cases in which European British subjects were concerned. In these days especially, when European British subjects who were not very favourable specimens of their race were wandering about the country, he thought it would be desirable that if a European British subject were brought before a sessions judge, the sessions judge should be able to dispose of the case if the accused did not claim his right to be tried before one of the High Courts. MR. STEPHEN therefore proposed to empower sessions judges to dispose of such cases, unless the European British subject insisted on his right to be tried by the High Court.

The third and last alteration was with regard to trial by juries, the provisions regarding which appeared to be complicated. There were certain specified majorities which might convict a man of an offence; if a smaller majority wished to convict, the prisoner might be tried again. The Indian Law Commissioners observed, that this was an extremely intricate way of proceeding, and that the concurrence of the judge was a far better guarantee of the justness of the conviction than any specified majority of jurors; and the Bill was altered accordingly thus:—that if not less than two-thirds of the jury convicted a man, and if the judge agreed with them, the accused was to be convicted; if there

was not such a majority, or if the judge did not agree with them, the accused would be acquitted.

Act I of 1849 had been consolidated with the Code under the head of jurisdiction, and part of the Whipping Act under the head of execution, and some other minor alterations had been made which had been thought desirable.

That was the state of the draft as it stood. But he proposed to make some observations on possible alterations or improvements of the general system of criminal procedure; alterations which he did not venture to recommend on his own authority, but which he threw out as suggestions, in order that Government might receive the views of those who were accustomed to the administration of the general system of criminal procedure.

In the first place, it occurred to him that there were many parts of the Code which might with advantage be condensed or simplified. He had observed in a great number of Indian Acts, and in the Code of Criminal Procedure more than in any other, that much difficulty had been found in drawing the line between legislative and executive functions. The consequence was that a large number of provisions found their way into the law, which, he thought, could be better dealt with by the executive Government from time to time as occasion required. He would give a single instance of this unnecessary legislation. There was a chapter in the Code about preliminary investigations by the police. That chapter, as it stood in the revised Draft Code, contained twenty-seven sections, and after reading it through and carefully criticizing it, it appeared to him (MR. STEPHEN) that those twenty-seven sections might be reduced to eight or nine, if nothing was kept except the provisions for which some positive law was required. The rest fell under one or other of these three heads: some authorized the police to do things for which no legislative authority was necessary; for instance, to question people about a crime and to make memoranda of their answers for their own use: others prohibited things prohibited and punishable under the Penal Code; for instance, using unnecessary restraint, although the Penal Code made that a crime and subjected it to a severe punishment: others required the police to do things (without any penalty for non-compliance) which the executive Government might very well do at their own discretion, by an executive order; for instance, the police were required to keep certain diaries and reports and forward them to the proper officers at certain times. These diaries and reports might very probably be necessary. But no law was wanted to ensure their being kept. The police authorities had simply to tell their men that they were to do these things, and that if they did not, they would be turned away or their pay would be stopped. To turn such provisions into positive law was to ensure endless litigation about their non-fulfilment. That particular section with regard to diaries had given rise, he was afraid to say, to how many decisions of the High Courts, and to elaborate discussions among the executive authorities as to the legality of a course taken upon the subject by one of the Local Governments. If the matter had been left to be regulated as a question of administration, all difficulty would have been avoided.

Another matter was this. There were certain parts of the Code which appeared to him to repeat without necessity the various technicalities of the English law, as to the district in which an offender should be tried. It was altogether too long a story to tell how the English law on this subject came to be as intricate as it was. The whole of those provisions might be replaced by a simple provision to the effect that the offence was to be tried in the district in which the crime was committed, unless there was some reason to the contrary, such as the convenience of witnesses. Some section of that kind would save about ten sections of the Code. Then there were provisions relating to criminal pleading, pointing out the way in which charges were to be framed, and dealing as the English law dealt with the case of a man tried for one offence

and proved to have committed another. The English law upon such subjects was in a strange state. It might be said to consist of rigid technicalities modified by sweeping exceptions.

MR. STEPHEN thought that it had been too closely followed in the Code of Criminal Procedure, and that nothing was really required beyond provisions which would secure to a man such notice of the nature of the charge against him as would enable him to make a full defence to it, and would form a memorandum of the trial when it was over. It appeared to MR. STEPHEN that there need be no great difficulty in providing for this in a short and simple manner.

The Bill contained a number of provisions relating to evidence. He thought they might certainly go out of it as they would find a place in the general law of evidence which was under consideration. In short, it was his impression that, if the Code were carefully examined from end to end with a view to the suppression of all extraneous matter, it might certainly be shortened by some sixty or seventy sections, and possibly by many more. So much with regard to improvements in the Bill as it stood. He now came to consider the substance of the present system.

There was a great danger in attempting to undertake too much in regard to a matter of this kind, and he would be the last to suggest it. We had a system of criminal procedure such as it was. He did not know that it worked badly. It was understood, and no doubt we had to struggle with very great difficulties indeed in a country where it is necessary to administer justice by foreigners in a foreign language, and amongst a people who certainly did not give very great facilities for collecting trustworthy evidence, and also where the safe-guards of the public Press and public discussion hardly existed at all. Under these circumstances it was impossible not to feel that any system which could be devised by the wit of man must yield results which could not be considered absolutely satisfactory. Therefore, any system which had been found to work reasonably well, ought to be criticised with great respect, especially by a person situated as he (MR. STEPHEN) was. He mentioned this by way of preface to some remarks which he thought it desirable to make on the general features of the system, which he put forward in the hope that those who were acquainted with its working might see how the system struck a man educated under the English law, and might explain and justify matters which to such a man appeared questionable. He wished to throw out these suggestions in the hope that, while the Bill was under consideration, information might be furnished for the consideration of the Committee on the Bill.

The first matter to which he had to refer was this. The cardinal point of the whole system was the law of appeal. The whole system was based on the principle that the great safe-guard for the proper administration of the law was that the superior Courts should keep in order the Courts below by revising their judgments. Several remarks suggested themselves on that practice. One was that the system devised was very intricate. There were no less than three kinds of appeals. The first was the appeal proper, which lay in the cases specified in the Code; then, the process of reference in cases of capital sentence; and thirdly, the more general process of revision, which included the general supervision exercised by Court over Court, each in its degree, and by the High Courts over all the rest. The intricacy of such an arrangement was objectionable if it could be avoided. Where there were three ways of doing a thing they were sure to interfere with each other. For instance, a regular appeal was both on the facts and on the law of a case. But revision was a process which applied to law only; and he must confess that the inclination of his mind, judging from English experience, would be that this distinction between fact and law would be sure to produce great intricacy and not a little injustice. He could imagine many cases in which the Court of revision might see that the law was right, though the facts had been

wrongly found, and in which they would thus be obliged to pass by an injustice without supplying any remedy for it.

There was another point connected with appeals. If an appeal was admitted absolutely at the option of the defeated party, the Court of first instance became a mere instrument for collecting evidence for the opinion of the Court above. The judgment of the Court of first instance in such cases was binding only if both parties acquiesced in it. Otherwise not. Surely this was a mistake. If a man was not fit to decide a case, he should not be allowed to try it. But if we allowed him to try the case, his judgment ought to be allowed weight, and people should not be allowed to appeal from it without showing in the first instance some ground for supposing that he was wrong. There was another difficulty in this matter. He had heard it said by a person well acquainted with this procedure, that the effect of the system was that, though a man was put on his trial three times, he was never tried at all. That was rather a caricature upon the system, but still there was something in it which required attention. When the accused was before the Magistrate, the Magistrate enquired into all the circumstances of the case; he saw the witnesses and heard what they had to say, and recorded the evidence. He finally committed the man for trial before the Court of Session. He had thus a good opportunity to form an opinion on the guilt or innocence of the prisoner; but his province in the matter was simply to say whether he thought the man should be put upon his trial. This might be called the first trial. Then the Sessions Judge tried the case, with the knowledge that the Magistrate thought the man guilty, and with no better—perhaps with a worse—opportunity than the Magistrate of forming a sound opinion. The Sessions Judge passed sentence, and this might be regarded as the second trial. But his sentence was not final. The accused appealed to the High Court. The High Court pronounced a final judgment, but that judgment proceeded entirely on hearsay evidence—on some one else's report of what the witnesses had said. This was the third trial. The result was that the man who had the best opportunity of forming an opinion on the matter pronounced no sentence at all; that the Court which first pronounced sentence tried the case, not when it was fresh, but after a very rigorous examination by a Magistrate had coloured all the proceedings, and that the Court which pronounced the final sentence, had the worst opportunity of the three for forming an opinion. Moreover, each Court was dependent to a certain extent upon the Court below, not only for evidence, but for an estimate of the way in which the evidence was given, for both the Magistrate and the Sessions Judge had to record any remarks which they thought material as to the manner, &c., of the witness; so that the High Court decided the case finally upon reports of evidence which they did not hear, and accounts of demeanour which they did not see, and that, although they were constantly protesting against hearsay evidence. A case lately came to his notice officially in which the Magistrate recorded his opinion, that a particular witness knew a great deal more than he chose to tell. From the peculiar circumstances of the case MR. STEPHEN entirely agreed with the Magistrate. But, when that deposition, with that remark, went before the Sessions Judge, was he likely to hear that man's evidence in an entirely unbiased spirit? Was the High Court likely to do full justice to that evidence? The result of the whole system was that no one ever had before him the real merits of the case, being at the same time under the responsibility of deciding what the judgment ought to be. Unless we got those two things together, we could not get a sound and unbiased judgment. Of those three tribunals, impressing one another with their opinions, it seemed to MR. STEPHEN that it might be said that the man was really tried by no one of them, but by all three together in confusion. That might be right; it might be the best way to struggle with the difficulties that were to be overcome. But he should have thought that a far simpler and more solid form of trial might have been

devised if the attempt had been made. It seemed to him that the great object was to get a really good trial as soon as ever you could, because if you had a rotten foundation to stand upon, he (MR. STEPHEN) did not see how you could ever arrive at a satisfactory final result. If it were the duty of the Magistrate to take down the evidence, to see the spot on which the crime was committed, to look, in short, into the whole matter when it was fresh, and the opinion he formed was wrong, he did not see how it was possible for any Court of appeal ever to set it right. He would wish to strengthen in every possible way the first Court which dealt with the transaction; to have as good an enquiry as the nature of the case would permit; to let that be the basis of the whole transaction, and let it be distinctly understood that in most cases that investigation would be final.

He was quite aware of the difficulties connected with this, and that there were many things which would have to be considered, but that object ought to be kept in view. The trial by the man who saw and heard the witnesses and went to the spot ought to be the really important matter. He (MR. STEPHEN) was quite aware at the same time that in this country you must have control; you must have the power to set to rights errors of judgment, or of over-zeal or of too little zeal. He recognized that as fully as anybody, but he thought that that control ought to be made as direct, as simple, and as stringent as it possibly could be. It ought not to be fettered by distinctions between fact and law, and it ought, he thought, to apply to acquittals as well as convictions. He would not give a man a positive right to appeal in any case, but he would let him show that there was a probability that the judgment against him was wrong. He would make the lower Courts as good as possible, so that the presumption would be that the conviction was right; but he would not let there be an appeal of right. If the question was to be re-opened, first let the man interested show that the question ought to be re-opened. When you had decided that, MR. STEPHEN would give the superior Court power to do full and complete justice between the parties.

As the matter stood at present, there were all sorts of restrictions. He would adduce one. Although the prisoner might appeal, the Crown could not appeal. Frequent attempts had been made to establish a system of criminal appeal in England. One argument against it had always been that, if there was an appeal at all, there ought to be an appeal on both sides, and so strongly had that been felt that it had been one of the principal reasons why no appeal at all was allowed, except in a most anomalous shape in England. In point of fact the Secretary of State for the Home Department was a Court of Appeal; a very bad one in some respects, and a good one in others. He was a bad Court of appeal for reasons which MR. STEPHEN did not think it necessary to explain, but if he exercised his function of recommending a pardon in a different way, as proposed by Lord Penzance in a Bill introduced into the House of Lords' last Session, he would be as good a Court of Criminal Appeal as we could have. The arrangement proposed by Lord Penzance was, that the Secretary of State and a judge who tried the case should have power, if cause were shown, to go into the whole of any case tried, and either to direct that it be tried again, or to vary or quash the sentence, or to do whatever might be necessary in order to remedy any mistake which they had cause to suspect. We had an opportunity of introducing a system of that kind into this country by throwing the processes of appeal and revision into one. If you empowered a superior Court, should cause be shown why the matter should be re-opened, to re-open the matter on both sides, you would have all that was now done in a very irregular way by the Secretary of State and something more; and he (MR. STEPHEN) should be very glad to receive suggestions from those more acquainted with the existing system than he was, whether such a plan could be adopted in this country. That might possibly raise the question as to the executive control which the High Courts at present exercised over the subor-

dinate Courts. About that executive control much might be said if necessary; he would throw out as a suggestion that it should be separated from the judicial functions of the Court, but the subject was one which he could not at that time discuss fully.

Another subject to which he wished to refer was the subject of trial by jury. He should be very glad to be informed as to the degree of success which so remarkable an experiment had obtained. There were certainly some considerations which had led him to suspect that the institution of trial by jury was not adapted to this country, and it would be very desirable to know what experience had to say about the success of the experiment. Many points in the present system were singular. It was unhappily notorious that oral testimony in this country was of little value. You could place little confidence in the veracity of witnesses. Why, then, did you place so much confidence in the impartiality of jurors of the very same class, from whom you did not even take the security of an oath, whatever that might be worth? Why in particular put more confidence in the verdict of such a jury than in the opinion of a Magistrate or Sessions Judge? An appeal lay from their decisions, but from the verdict of a jury, however monstrous the conviction or acquittal might be, there was no appeal. The experiment might have succeeded, and it might be quite right; but all that he (MR. STEPHEN) could say was that it was extraordinary.

Another circumstance seemed very remarkable. Whenever you had trial by jury, the goodness or badness of the verdict must depend on the summing up of the judge. Now, he greatly doubted whether many of the Sessions Judges were qualified to sum up in a Native language. Hardly any of them had had any practice at all in public speaking, and however well a man might know a foreign language for common purposes, it was quite another thing to sum up in it; upon, it might be, numerous and intricate facts. He (MR. STEPHEN) had heard thousands of summings up by Judges of all sorts, professional and unprofessional. Nothing could be more difficult than to sum up at all well in one's own language, and he did not believe that any one could do it who was not very much accustomed to public speaking. To sum up well or even intelligibly in a foreign language appeared to him difficult in the extreme, not to say impossible. Even this, however, was not all. The Sessions Judge had to record his summing up and to transmit it to the High Court. Of course he could not both speak and write at once. He must therefore write it out from memory. Could there be any moral doubt that he would record neither what he actually did say, nor what the jury supposed him to have said, but what he meant to say, which might and probably would be quite a different thing? As the whole success of trial by jury depended upon the summing up of the Judge, if that security were wanting, all that he could say was, that the system of trial by jury in this country must be in a very singular state. MR. STEPHEN did not presume to pass an opinion on such a subject; but it was very well worth consideration, and it would be desirable to have some information of the degree of success which had attended the system.

He had now gone through the main points which he wished to be considered. He wished to state, in conclusion, that he made these observations, not as indicating any policy of the Government, but as the personal criticism of one who had paid considerable attention to the subject of the administration of criminal justice; and he made them in order that the Committee might receive information from persons competent to give it, and that the questions raised might be considered with the attention that their great importance deserved.

The Motion was put and agreed to.

PAPER CURRENCY BILL.

The Hon'ble SIR RICHARD TEMPLE introduced the Bill to consolidate the law relating to the Government Paper Currency, and moved that it be referred to a Select Committee with instructions to report in a month.

The Hon'ble MR. BULLEN SMITH said that there were one or two remarks with reference to this Bill which he had intended to bring forward in the Committee, on which he had no doubt he would have the honour to serve. But it had been suggested to him, since coming into the room, that, as the points in question were important, it would be more in accordance with the custom of the Council that they should be brought forward at this stage of the proceedings: he would, therefore, beg leave to make a few remarks on the subject, although he was not prepared as he should wish to be in submitting anything for the consideration of the Council.

The first point to which he would advert was that this Bill would cause a good deal of disappointment out-of-doors, if amendments were not made in sections six and seven. He meant that the time had now come when some very considerable modifications might be made in the number and extent of the circles of issue, which had been fixed at their present limits ten years ago, if indeed they might not be altogether abolished. At that time the paper currency was new and tentative: the only paper currency previously known was the currency of the Presidency Banks, which was small and confined to restricted limits. When Mr. Laing introduced the paper currency, he said that we should proceed very cautiously, and the chief reason for the constitution of so many circles of issue was the position of the country as regards the facilities for transmitting bullion. It was felt that the inability to send bullion speedily to any particular place in which there might be a run on the treasury might be attended with very great inconvenience. Without wishing in any degree to undervalue the opinions of those who spoke on this subject with authority, it seemed to him that the same causes which produced a run on any one treasury, would imply mistrust of the Government which would extend to every other treasury in the country, and therefore a run would not be confined to any one place. Admitting, however, the danger of a run on one treasury as possible, he thought that sufficient reason could now be found for greatly modifying the existing provision regarding circles of issue. He thought that, with a line of railway extending from Calcutta to Lahore, it was only reasonable to think that the Government was in a position to meet speedily any unforeseen demand at any one of the places of issue, and that the great inconvenience felt by the currency not being convertible at any place other than the place of issue might be removed. It did seem now unreasonable that a traveller carrying notes of the Government of India from Calcutta should find himself twenty-four hours after in a district where he could not insist on those notes being cashed, and that he could only obtain change as a favour or by paying a discount. He trusted, therefore, that in Committee the sections affecting circles of issue would be so modified as to give to the Government currency note a much wider area in which it should be payable.

The second point to which he wished to refer was still more important. It was whether the time had not come when the Government of India might give the public the great advantage which would result to them, and themselves take the legitimate profit which would accrue, by reducing the minimum size of the note below the point of rupees ten at which it now stood. He had read over very carefully all that was said in this Council on this subject in 1861, and he found that there was a very considerable difference of opinion on the subject; but that, on the whole, the balance of opinion was in favour of a smaller note than that now in force. His Excellency the present Commander-in-Chief, and Sir Bartle Frere, late Governor of Bombay, held that a note of five rupees ought to be the minimum; and both of those officers knew the country so well that he thought their opinion ought to be of great weight. There were others also who were in favour of the five-rupee note, but who did not press their opposition, because Mr. Laing held out hopes that the Government would at no distant date be in a position to give a gold currency which would, in some measure, obviate the inconvenience which was undoubtedly felt by the absence of any note of smaller value than rupees ten.

MR. BULLEN SMITH did not at all mean to say that the paper currency as it now stood had not been successful. On the contrary, the Chief Commissioner of Currency lately issued a table, which he had no doubt most Hon'ble Members had seen, showing to what extent the paper currency was used in daily transactions at the presidencies, by the local banks, by members of the Chamber of Commerce, and by the Trades' Association. If his memory served him rightly, this was something like thirty-six per cent of the whole monetary transactions of the parties in question. That could not be considered otherwise than satisfactory, as we were only in the tenth year of the Act. But he (MR. BULLEN SMITH) believed that even in such a return, the existence of five-rupee notes would very materially raise that average, especially as regards the daily transactions of the members of the different Trades' Associations. But if we came to consider whether we had got the currency in circulation among the people, whether it had really taken hold of the country generally, it seemed clear that we must admit that in this respect it was almost a total failure. Speaking from his own experience, and information derived, he found that the currency notes sent out of the presidency went up chiefly for the purpose of paying rent and such like purposes: they were paid away at once by planters and others either directly to the Collector, or to the zamindár, who paid them to the Collector on account of revenue, and there the so-called circulation ended. There was no circulation in the sense of percolating through the country, and entering into the daily transactions of the mass of the people. On the contrary, one might go through the length and breadth of Bengal, without scarcely seeing such a thing as a currency note, even in important háts and places of trade. Other Hon'ble Members could say whether this was true also of other districts; but he had been told that, within ten miles of Lahore, a respectable inhabitant of a village did not know what a currency note was, on its being shown to him, and said he thought it was a parwána. With such facts as these he did not think that we ought to rest satisfied. If we had a smaller note, which would be more within the available means of the people, more proportionate to the sums of money they were accustomed to deal with, it would be an advantage to the people and a profit to the State. His idea of what real circulation was, or ought to be, was to be found in Scotland, where the great bulk of the people positively preferred the one-pound note to the sovereign simply because they were more accustomed to it. The one-pound note of Scotland much more nearly represented the weekly earnings of the lower classes of the people in that country, than did a ten-rupee note the monthly incomings of the bulk of the population here, and he believed that, had there been in Scotland such a disproportion between the lowest currency note and the means of the people as we found in this country, a circulation so successful would not have been attained. He did not in the least entertain the opinion, or wish to represent, that there was no difficulty in lowering the value of the note; he was fully alive to the responsibility of making any change; but from all he could learn he thought that, on the whole, the proposed change was desirable, and that the five-rupee note would prove to be an advantage to the people and a benefit to the State.

The Hon'ble MR. COWIE said that he wished to endorse the opinion of the Hon'ble Mr. Bullen Smith with regard to the advisability of issuing notes of a lower denomination than those now in circulation. He believed that they would gradually prove of very great advantage to the public as well as to the Government.

The Hon'ble SIR RICHARD TEMPLE said that as this was merely a consolidation Bill, he did not come into the Council prepared to enter into the consideration of the points that had been adverted to. But as the Hon'ble Mr. Bullen Smith had made these valuable observations, SIR RICHARD TEMPLE hoped he might be permitted very briefly to advert to them.

The two points noticed by the Hon'ble Mr. Bullen Smith, and the one point in corroboration by the Hon'ble Mr. Cowie, had been for the past two years occu-

pying his (SIR RICHARD TEMPLE'S) attention. Personally his own opinion had always coincided with the views that had been set forward. If he could have had his own way, he believed that the suggestion which the Hon'ble Mr. Bullen Smith had so justly made would long ago have been carried out. But as His Lordship in Council was aware, in these matters, a great number of authorities had to be consulted in a great variety of provinces, and though there might be unanimity amongst the Hon'ble Members of the Legislative Council, there was not that unanimity everywhere, and that was the sole reason why full effect had not already been given to the measures indicated. These two very points were under the immediate consideration of the Financial Department, and it was his intention to bring forward, in another branch of the Government, propositions to the effect of that which the Hon'ble Mr. Bullen Smith desired. He (SIR RICHARD TEMPLE) would wish, not perhaps exactly what is commonly called the "universal note," that is, a note of which payment could be demanded by law at every treasury in India, but a note of which payment could be demanded at the principal public treasuries of each Presidency; for instance, a note of the Calcutta circle, the holder of which could cash it at the principal treasuries throughout the Bengal Presidency. There was nothing in the law to prevent us from arranging that.

The other point referred to by the Hon'ble Mr. Bullen Smith was perhaps a more difficult one, namely, whether we should lower the minimum denomination of the notes. SIR RICHARD TEMPLE'S own opinion had been, for the last two years and more, that we should have a note of a smaller denomination than ten rupees, that is, a note of five rupees; and it was possible that before the Bill passed through Committee he might be able to submit some proposition to this effect. That being the case, he was extremely glad to hear the opinions expressed by such competent judges as the Hon'ble Mr. Bullen Smith and the Hon'ble Mr. Cowie. Whether or not their anticipations would be fulfilled he could not say;—namely, that the issue of these notes would cause the circulation of the Paper Currency to expand. He was sorry to be obliged to corroborate what had been said as to our circulation, though highly successful in the presidency towns, not being equally successful in the interior of the country. He had now under preparation a Resolution in the Financial Department, directed to the several Local Governments, calling their attention to the fact that the circulation in what were called Mofussil circles did not evince the vitality which we desired. Possibly the issue of five-rupee notes might cause an improvement; but he was not sure, because if a ten-rupee note was beyond the means of the mass of the population, a five-rupee note was also beyond their means. Then, could we issue notes of a lower denomination than five rupees? He believed not. Still the issue of a five-rupee note was an experiment that ought to be made, and the proof of the experiment would consist in this, as to whether the people applied for those notes or not. If they did, he presumed that it would be desirable to meet the want.

There was one more observation which he wished to make. He understood the Hon'ble Mr. Bullen Smith to make some allusion to the prospect of our issuing a gold currency, which had in a manner been promised by Mr. Laing. As the Council were aware, there was no gold coin in India which was a legal tender. Nevertheless, for the last twenty-five years, there had been going on a coinage of gold pieces of the value of fifteen rupees; but until quite recently it had not been in the power of the Government of India to issue gold coins of the value of ten or five rupees, for the simple reason that we had not got the mechanical means for coining them. It took a long time to get out machinery from England. It had taken a year and a half to get dies and other necessities for coining these pieces. The Mint Master now reported, however, that he had got all that he required, and would be able to supply gold coins of those denominations; that was to say, whenever merchants or others sent their bullion

for coinage, they might receive in return gold pieces of the value of ten and five rupees.

The Motion was put and agreed to.

EMIGRATION OF NATIVE LABOURERS' BILL.

The Hon'ble MR. CHAPMAN moved for leave to introduce a Bill to consolidate the law relating to the Emigration of Native Labourers. He said that the law relating to Emigration was now scattered over five Acts. The proposed Bill would be a further step towards the completion of the general work of consolidation now in progress. With the exception of some improvements in arrangement and wording, the existing law remained unaltered. The Bill would be referred to the Local Governments and the Protectors of Emigrants at the several presidency towns, and other authorities acquainted with the subject. Any suggestions they might have to make for improving the substance of the law would be duly considered by the Committee.

The Motion was put and agreed to.

SUNDRY BILLS.

The Hon'ble MR. STEPHEN moved that the Hon'ble Mr. Robinson be added to the Select Committees on the following Bills:—

To define and amend the Law of Evidence:

To amend the Law of Insolvency:

For the Limitation of Suits.

The Motion was put and agreed to.

SUNDRY BILLS.

The Hon'ble MR. COCKERELL moved that the Hon'ble Mr. Robinson be added to the Select Committees on the following Bills:—

To consolidate and amend the law relating to the local extent of the general Regulations and Acts and to the local limits of the jurisdictions of the High Courts and the Chief Controlling Revenue Authorities:

To consolidate and amend the law relating to the District Munsifs in the Presidency of Fort St. George:

To consolidate the law relating to Cattle Trespass:

For the Registration of Assurances.

The Motion was put and agreed to.

The Hon'ble MR. COCKERELL also moved that the Hon'ble Mr. Cowie be added to the Select Committee on the Bill for the Registration of Assurances.

The Motion was put and agreed to.

The following Select Committees were named:—

On the Bill for regulating the procedure of the Courts of Criminal Judicature not established by Royal Charter—The Hon'ble Messrs. Cockerell, Inglis and Robinson and the Mover.

On the Bill to consolidate the law relating to the Government Paper Currency—The Hon'ble Messrs. Stephen, Bullen Smith, Cockerell and Cowie and the Mover.

The Council adjourned to Friday, the 16th December 1870.

CALCUTTA,
The 9th December 1870.

WHITLEY STOKES,
Secy. to the Govt. of India.

GOVERNMENT OF INDIA.
PUBLIC WORKS DEPARTMENT.

COMPARATIVE ABSTRACT OF TRAFFIC ON THE INDIAN RAILWAYS FOR THE 1st, 2nd, AND 3rd QUARTERS OF 1869-70.

	EAST INDIA.				MADRAS.				Great Southern India.		Carnatic.		Great Indian Peninsula.		Khamgaum Branch.		Bombay, Baroda, and Central India.		Sindh.		TOTAL OF ALL LINES.	
	Jubbulpoor Line.		Main Line.		S.W. Line.		N.W. Line.		1870.	1869.	1870.	1869.	1870.	1869.	1870.	1869.	1870.	1869.	1870.	1869.	1870.	1869.
	1870.	1869.	1870.	1869.	1870.	1869.	1870.	1869.	1870.	1869.	1870.	1869.	1870.	1869.	1870.	1869.	1870.	1869.	1870.	1869.	1870.	1869.
FIRST QUARTER.																						
Total Receipts ...	718,404	709,630	38,996	30,924	41,969	48,006	2,023	2,338	6,572	5,700	27,523	29,540	58,748	50,726	97,260	94,623	30,491	23,099	17,336	16,346	767	1,024
Mean Mileage open ...	1,131	1,131	223	223	113	113	28	28	48	48	246	246	246	174	492	492	215	165	168	168	19	19
Average receipts per week ...	55,263	54,572	2,945	2,379	3,231	3,306	156	172	505	445	2,117	2,372	4,519	3,883	7,460	7,291	2,345	1,776	1,333	1,267	66	79
Average per mile open	48.6	45.2	12.9	10.7	26.5	29.5	5.6	6.1	13.0	10.6	8.6	9.2	15.9	13.5	15.2	14.8	10.9	9.6	7.9	7.5	3.1	4.2
SECOND QUARTER.																						
Total Receipts ...	703,694	685,617	32,143	23,767	30,099	38,905	1,915	2,410	6,016	5,139	31,766	27,967	65,146	53,776	97,267	104,692	27,961	25,186	18,233	17,189	1,064	1,669
Mean Mileage open ...	1,131	1,131	223	223	113	113	28	28	48	48	246	246	246	174	492	492	215	165	168	168	19	19
Average receipts per week ...	54,123	48,739	2,473	1,927	3,005	3,092	147	185	463	395	2,143	2,151	6,011	5,213	7,262	8,053	2,143	2,707	1,403	1,322	81	128
Average per mile open	47.9	43.1	11.1	8.2	26.5	26.5	5.2	6.6	11.0	9.4	9.9	8.7	16.3	12.7	15.2	16.3	10.0	14.6	8.4	7.8	4.3	6.7
THIRD QUARTER.																						
Total Receipts ...	648,923	491,870	16,314	16,700	44,164	41,669	1,519	1,460	5,768	4,972	72,137	63,678	147,476	127,571	17,976	17,976	17,976	17,976	17,976	17,976	780	979
Mean Mileage open ...	1,131	1,131	223	223	113	113	28	28	48	48	246	246	246	174	492	492	215	165	168	168	19	19
Average receipts per week ...	41,766	37,336	1,255	1,294	3,306	3,306	116	112	443	369	5,549	3,360	11,344	10,374	1,388	1,388	1,388	1,388	1,388	1,388	56	75
Average per mile open	36.9	33.4	5.6	5.7	30.1	28.3	4.1	4.0	10.5	8.5	9.9	7.8	11.4	16.3	8.2	8.2	8.1	2.9	3.9	14.0	17.6	17.6

GOVERNMENT OF INDIA.
PUBLIC WORKS DEPARTMENT.

IRRIGATION OPERATIONS OF FUSLI KHURREF, 1870-71, IN THE N. W. PROVINCES UP TO 31ST OCTOBER.

CANAL DIVISIONS.	WATER DISTRIBUTED DURING OCTOBER 1870.				NAVIGATION RETURN, GANGES CANAL.				LAND IRRIGATED (APPROXIMATE).		RAIN-FALL. Total from 1st April to 31st October 1870.	Average of ten previous years for the same period.	REMARKS.		
	DEPTH IN CANAL AT REGULATING GAUGE.		GROSS CONSUMPTION, CUBIC FEET, PER SECOND.		NATURE OF TRAFFIC.	UP.		DOWN.		TOTAL UP AND DOWN.				ZILLAK.	Acres.
	Full supply.	Actual throughout.	Estimated full.	Actual throughout.		Mds.	No.	Mds.	No.						
GANGES CANAL.	Northern	9-00	6-75	482	GRAINS:— Wheat	...	...	3,965	...	...	Saharunpore	45,016	33-6	34-2	
	Meerut	6-80	5-45	821	...	...	...	3,605	...	...	Moozuffernuggur	56,677	34-3	26-0	
	Futtehgurh	6-50	1-65	41	...	...	...	731	...	...	Meerut	77,168	38-0	23-0	
	Booldundshurh	Not known	...	204	...	...	...	915	...	...	Booldundshurh	31,016	30-1	18-2	
	Allygurh	6-00	4-67	222	...	...	...	50	...	...	Allygurh	37,089	23-9	25-1	
	Etawah*	4-80	2-24	455	...	...	...	300	...	...	Muttra	5,714	26-7	23-6	
	Cawnpore	6-00	4-69	856	...	...	...	150	...	...	Agra	500	22-1	24-0	
EASTERN JUMNA CANAL.	...	...	...	...	...	...	...	...	...	...	Etah	9,164	23-5	28-3	
	...	...	...	...	...	...	...	...	...	...	Mynpoory	13,290	37-3	30-7	
	...	...	...	...	...	...	...	...	...	...	Futtehgurh	10,526	41-2	30-6	
	...	...	...	...	...	...	...	...	...	...	Etawah	12,107	46-2	29-1	
	...	...	...	...	...	...	...	...	...	...	Cawnpore	29,062	40-6	29-8	
	...	...	...	...	...	...	...	...	...	...	Dehra Doon	5,276	83-3	67-3	
	...	...	...	...	...	...	...	...	...	...	Bijnour	552	40-1	28-4	
DOON CANALS.	...	...	...	...	...	...	...	...	...	...	Teral	2,571	57-9	40-5†	
	...	...	...	...	...	...	...	...	...	...	Bareilly	19,082	50-4	37-1	
	...	...	...	...	...	...	...	...	...	...	Jhansie	143	30-1	34-5	
	...	...	...	...	...	...	...	...	...	...	Humeerpore	211	41-9	31-9	
	...	...	...	...	...	...	...	...	...	...	TOTAL	355,114	...	...	
	...	...	...	...	...	...	...	...	...	...	...	...	...	...	
	...	...	...	...	...	...	...	...	...	...	...	...	...	...	
ROHILKHAND CANALS.	...	...	...	...	...	...	...	...	...	...	...	...	...	...	
	...	...	...	...	...	...	...	...	...	...	...	...	...	...	
	...	...	...	...	...	...	...	...	...	...	...	...	...	...	
	...	...	...	...	...	...	...	...	...	...	...	...	...	...	
	...	...	...	...	...	...	...	...	...	...	...	...	...	...	
	...	...	...	...	...	...	...	...	...	...	...	...	...	...	
	...	...	...	...	...	...	...	...	...	...	...	...	...	...	

R. E. FORREST,
Asst. Secy. to Govt., N.W. P., Irrigation Branch.

* The Etawah and Cawnpore Branches have alternate weeks of high and low supply. The gauge reading shows the mean for the month.
† Average for the past six years. Rain-fall previous to 1864 not given.

ALLAHABAD,
The 25th November 1870.

Printed and published for the GOVT. OF INDIA, at the Office of SUPER. GOVT. PRINTING, 8, Hastings Street, Calcutta.



SUPPLEMENT TO The Gazette of India.

CALCUTTA, SATURDAY, DECEMBER 24, 1870.

OFFICIAL PAPERS.

A SUPPLEMENT to the GAZETTE OF INDIA will be published from time to time, containing such Official Papers and information as the Government of India may deem to be of interest to the Public, and such as may usefully be made known.

Non-Subscribers to the GAZETTE may receive the SUPPLEMENT separately on a payment of six Rupees per annum if delivered in Calcutta, or nine Rupees four annas if sent by Post.

No Official Orders or Notifications, the publication of which in the GAZETTE OF INDIA is required by Law, or which it has been customary to publish in the CALCUTTA GAZETTE, will be included in the SUPPLEMENT. For such Orders and Notifications the body of the GAZETTE must be looked to.

GOVERNMENT OF INDIA.

ABSTRACT OF THE PROCEEDINGS OF THE COUNCIL OF THE GOVERNOR GENERAL OF INDIA, ASSEMBLED FOR THE PURPOSE OF MAKING LAWS AND REGULATIONS UNDER THE PROVISIONS OF THE ACT OF PARLIAMENT 24 & 25 VIC., CAP. 67.

The Council met at Government House on Friday, the 16th December 1870.

PRESENT:

His Excellency the Viceroy and Governor General of India, K. P., G. C. S. I.,
presiding.

The Hon'ble John Strachey.

The Hon'ble Sir Richard Temple, K. C. S. I.

The Hon'ble J. Fitzjames Stephen, Q. C.

The Hon'ble B. H. Ellis.

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

Colonel the Hon'ble R. Strachey.

The Hon'ble Francis Steuart Chapman.

The Hon'ble J. R. Bullen Smith.

The Hon'ble F. R. Cockerell.

The Hon'ble J. F. D. Inglis.

The Hon'ble D. Cowie.

The Hon'ble W. Robinson, C. S. I.

COMMITMENTS FROM ANDAMANS BILL.

The Hon'ble MR. CHAPMAN said that, with reference to the first motion which stood in his name, he had to move that, in section 1 of the Bill to authorize the committal of European British subjects by Courts in the Andamans to the High Court at Fort William, the words "(other than an

offence punishable with death under the Indian Penal Code)" be omitted. This suggestion had been made by the learned Chief Justice of the High Court, to whom the Bill had been referred for consideration.

The Motion was put and agreed to.

The Hon'ble MR. CHAPMAN moved that the Bill as amended be passed.

The Motion was put and agreed to.

EMIGRATION BILL.

The Hon'ble MR. CHAPMAN also introduced the Bill to consolidate the law relating to the Emigration of Native labourers, and moved that it be referred to a Select Committee with instructions to report in six weeks. He said that this Bill, as he had before observed, merely consolidated and re-enacted, with sundry improvements in wording and arrangement, the existing law, which was now contained in no less than five Acts.

The Motion was put and agreed to.

ARMS BILL.

The Hon'ble MR. ROBINSON moved for leave to introduce a Bill to consolidate the law relating to the manufacture, importation and sale of Arms and Ammunition, and the right to keep and use the same. He said that this Bill proposed to gather the law relating to arms and ammunition in India, now contained in three Acts, into one enactment. The new measure would re-enact the existing law without any alteration of its policy or principles or executive details. The Bill would be referred for early report to the local governments and administrations.

The Motion was put and agreed to.

The following Select Committee was named :—

On the Bill to consolidate the law relating to the Emigration of Native Labourers—The Hon'ble Messrs. Stephen, Cockerell, Inglis, Cowie and Robinson and the mover.

The Council adjourned to Friday the 30th December 1870.

CALCUTTA,
The 16th December 1870. }

WHITLEY STOKES,
Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

HOME DEPARTMENT.

CULTIVATION OF CINCHONA AND MANUFACTURE OF QUININE IN BENGAL.

No. 3088, dated 4th November 1870.

From—H. S. BEADON, Esq., *Offg. Under Secy. to the Govt. of Bengal,*
To—The Secy. to the Govt. of India, HOME DEPARTMENT.

I am directed by the Lieutenant Governor to forward, for the information of His Excellency the Governor General in Council, the accompanying copy of the correspondence noted on the margin, relating to the cultivation of cinchona and the proposed manufacture of quinine in Bengal.

1. From Officiating Superintendent, Botanical Gardens, and in charge of Cinchona Cultivation in Bengal, No. 202, dated the 1st July 1870, and No. 220, dated 14th September.
2. To Officiating Superintendent, Botanical Gardens, and in charge of Cinchona Cultivation in Bengal, No. 3087, dated the 31st ultimo.

No. 202, dated 1st July 1870.

From—C. B. CLARKE, Esq., M. A., *Offg. Supdt., Botanical Gardens, and in charge of Cinchona Cultivation in Bengal,*
To—The Secretary to the Government of Bengal.

I have the honor to report to you, with reference to several questions which have lately arisen regarding the cultivation and manufacture of cinchona in Bengal, and which are so closely connected together, that they may advantageously be dealt with as a whole.

2. Among these matters for present consideration are the questions, how far the area of cultivation of each species shall be extended in the Government Sikhim plantations? whether any of the land reserved for cinchona in Sikhim shall be abandoned? whether the manufacture of quinine shall be undertaken upon the plantations either wholly or partly?

3. In March and April last, I visited (by order of Bengal Government, No. 476 of 21st February 1870) the Government Nilgherry cinchona plantations, and also then saw the Government quinine manufactory under Mr. Broughton in operation. I have also received Herr Von Gorkom's report of the Java Government cinchona plantations, dated 1st July 1868, Mr. Howard's late treatise on Indian Quinology, the letters to the Government of Bengal of Dr. T. Anderson, dated 20th November 1869, and of Drs. Anderson and Simpson, dated 1st April 1870, and numerous other papers.

4. I commence this report with a description of the present state of the Government Sikhim cinchona plantations. This will be to a considerable extent a recapitulation of matter already published in scattered reports. I wish to bring out the radically different position of the Sikhim plantations from those in the Nilgherries and Java, and I shall not attempt to call attention tediously to the innumerable points in which the experience and practice of Sikhim are in direct opposition to theirs, especially to Javan experience and practice. It will be understood that when my statements are discrepant with those of Herr Von Gorkom, I am aware of the discrepancy.

5. The Government cinchona plantations in Sikhim are Rungyroong, which I estimate to contain 1,000 acres, and Rungbee, measured as 37,162 acres. With a view to economy, I have concentrated all the work at Rungbee, and it will be sufficient to state about Rungyroong that it contains 9,000

plants of cinchona succirubra and 80,000 of officinalis in permanent plantation, and that the forcing houses are all at Rungyroong, which is distant six miles from Rungbee.

6. The annexed map shows the Rungbee cinchona reserve. It is bounded on the north by the river Rungjo, on the east by the river Teesta, on the west and south by the line of water-shed which separates the feeders of the Mahanuddy from the feeders of the Teesta.

This line of water-shed from the Darjeeling path to the mountain Sitong is at a great height, probably 6,000 to 7,000 feet for nearly its whole length. On the east of the Teesta rise the mountains of Bhootan, but between Sitong and the Teesta there is a view over to the plain of Bengal, which commences immediately south of the river Sivok, and through this gap sweeps the moisture-laden air from the plain from south-east to north-west.

7. The reserve naturally divides into three portions, viz.:—

- (a.) The valley on the right bank of the Rungjo.
- (b.) The valley of the Ryang.
- (c.) The broken ground between the valley of the Ryang and the river Sivok.

It is seen by a glance in the map that the whole of the present permanent plantations are in the Rungjo valley. It must be understood that the large patch, colored green, is not one continuous forest of cinchona succirubra; the nature of the ground does not admit of uniform planting, but in the whole sweep of the green patch there exists 1,000 acres of *C. succirubra*.

The umber patch has two prolonged lines, which show the direction in which the permanent plantation of *C. calisaya* is about to be continued. The upper part of the *C. succirubra* plantation near B was originally planted with *C. officinalis*, but this prospered so little, that last year *C. succirubra* was planted also on the same ground, and the *C. officinalis* will doubtless soon disappear there.

8. The plantation has, generally speaking, been pushed from west to east, and the soil has been found to get continually better as we have descended the Rungjo valley. This accounts (irrespective of improved experience in management) for the superiority of the later planted portion of the plantations. The soil where the extension is now being pushed is very good, but probably the right bank of the Ryang valley is still better. The *C. succirubra* is planted from 2,000 to 3,500 feet of elevation; the small outlying experimental patch on the right bank of the Ryang extending from 450 to 900 feet elevation. This species (*C. succirubra*), it is found, cannot here be grown advantageously above 3,500 feet elevation, but it may be grown down to 1,000 feet; and even at 500 feet elevation it grows very fairly.

C. calisaya is found to thrive best at 1,000 to 2,000 feet elevation, and does not do well at elevations much exceeding 2,500 feet.

With respect to *C. officinalis*, I can only say that as yet it does not thrive or show any signs of becoming a tree at any level on the Rungbee reserve; it has been tried at every level, and where it now stands, viz., 3,500 to 5,000 feet, seems the best suited to it.

9. It will be at once observed that though the area of ground contained in the cinchona reserve is very large, the area available for extension of our two species, i.e., the area of good soil between 1,000 and 3,500 feet elevation, forms but a small fraction of it. And considering *C. calisaya* only, which being our best species, is principally desired to be extended, and which requires ground between 1,000 and 2,500 feet elevation, there is probably not room for more than 1,000 acres of it in the Rungjo valley. It will appear further on that a much larger quantity of *C. calisaya* will almost certainly be required.

10. One reason probably why *C. officinalis* has never thrived here is, that no very good soil is known to exist on the reserve within the limits of elevation

which it requires. But it is the opinion of Dr. T. Anderson, in which, after seeing the Nilgherry *C. officinalis*, I concur, that the real reason this species does not thrive here is because the climate of Rungbee is too wet for it.

The head gardener in charge of the Government cinchona reserve at Nunklow, in the Khasiya hills, reports that *C. officinalis* "does first rate on the Nunklow slopes."

11. The climate under which cinchona thrives is now become a matter of wide interest. Instead of republishing *in extenso* tables of the meteorological observations made on the plantations, or of reducing the whole of these to means, I think a more clear and more truthful idea of the climate under which the cinchona is actually thriving can be got from the subjoined small extracts and accompanying remarks:—

MONTHS.	RUNGBEE. ALTITUDE 3,300 FEET. BELOW MR. JAFFREY'S HUT.			RISHAP. ALTITUDE 2,550 FEET. AT MR. KENNEDY'S HUT.		
	Mean temperature.	Maximum temperature.	Minimum temperature.	Mean temperature.	Maximum temperature.	Minimum temperature.
January 1867	51	68	40	57	71	42
February	56	69	40	60	78	41
March	65	79	52	69	81	56
April	68	80	59	69	89	51
May	68	81	55	75	91	61
June	70	81	58	78	94	63
July	72	82	64	79	92	69
August	72	83	62	78	90	68
September	73	88	60	78	94	66
October	66	81	49	72	88	53
November	59	75	44	66	84	50
December	55	68	42	...	...	...
Mean	64	...	...	71	...	...

These are the actual observations for the year 1867; they are selected because I believe they are very correct, while I have reason to suspect some of the readings made in subsequent years. The Rishap annual mean of 71° is about 1° too high, owing to the absence of the December observations.

MONTHS.	Rungbee. Altitude 5,000 feet. At inspection bungalow.	Rishap. Altitude 2,000 feet. At Mr. Kennedy's hut.
	Rainfall in inches.	Rainfall in inches.
January 1869	1.05	1
February	0.95	
March	1.90	2
April	6.30	
May	11.85	6
June	25.05	17.2
July	31.05	16.9
August	47.65	27.3
September	28.90	18.8
October	3.00	2.4
November		
December		
Total	157.70	91.6

These tables are not parallel with the temperature tables above, being not only for a different year, 1869, but taken at a different upper station. Probably the rainfall at Rungbee at 3,300 feet altitude is about a mean between that at Rishap at 2,500, and that at Rungbee at 5,000.

12. One year at Rungbee is very like another, both in the temperature and in the general distribution and quantity of rain. The proper climate for *C. succirubra* and *C. calisaya* appears to be a warm, equable, and excessively moist one. Though the rainfall at Rishap is so much below that at Rungbee, yet the humidity is almost as excessive, the warm air from the plains sweeping through the gap at Sivok from the south-east across Rishap, and depositing its vapor as rain on the spur of the Rungbee inspection bungalow.

13. The Rungbee plantations are visited on the average once a year by hail-storms; these are generally very partial, and have never done serious damage, though by cutting the leaves they may have checked the growth at times of portions of the plantation.

14. One very essential advantage of the Rishap and Rungbee plantations is their freedom from violent winds. Situated as they are, in a lateral valley within the Himalayas, from no quarter can a wind reach them. The air is nearly always still, and in seven years' experience no damage from wind has been met with. The cinchona trees are very brittle and have leafy heavy heads, and one of the chief difficulties with which the Nilgherry plantations have to contend is, that they are fully exposed to the violence of the monsoon, which strips the trees of leaves and breaks the young shoots exactly at the time—the commencement of the rains—when the trees are prepared to make their best growth.

15. At this point, I may mention once more that the cinchona trees are now grown at Rungbee entirely in the open. At first it was supposed, on the faith of Javan experience, that cinchona trees absolutely required shade. Mr. McIvor, than whom no one knows better that a grain of theory is worth a ton of experience, declared from the first, before he had ever seen a cinchona tree a foot high, that the Javan experimental result must be wrong. Circumstances have more than justified Mr. McIvor's boldness in staking his theory, and to him is due the credit that the Indian plantations have been started on the only plan by which they could have attained their present success.

In Java (as appears from Herr Von Gorkom's report), the practice of shading the plantations is still resorted to, and from this fact alone I feel convinced that those Javan plantations can never hope to compete with Rungbee in the price at which they can produce bark.

16. For several years the species on which we shall have to rely at Rungbee will be *C. succirubra*. The 1,000 acres of this were planted under the dates subjoined, viz.:—

In 1866	...	...	...	...	25	acres.
" 1867	...	...	...	...	185	"
" 1868	...	...	...	...	265	"
" 1869	...	...	...	...	350	"
" 1870	...	...	...	...	175	"

The 25 acres planted in 1866 are, for various reasons now understood, no better than the Rishap plantations of 1867.

Of the 185 acres planted in 1867, nearly 60 acres were planted across the Ryang, *i. e.*, too low, and nearly 40 acres were planted at Rungbee, *i. e.*, somewhat too high. On the whole, there will not be at the close of this season more than 100 good acres at Rishap for pruning and thinning. These will produce not less than 200 lbs. of dry bark an acre. I estimate therefore the produce of the current financial year at not less than Rs. 15,000 in value.

As regards the financial year 1871-72, there will not merely be 265 acres (nearly all good acres at Rishap) to thin and prune, but, moreover, the acreage thinned this year will require thinning afresh.

17. This leads me to the question of the most advantageous way of managing these plantations from the woodman point of view. They may undoubtedly be coppiced, and as we know pretty well what can be made of them on that system, we generally assume that plan of working in our financial

calculations. But it is the opinion of Mr. Gammie, the head gardener here, that it will be found more profitable to work the plantations forest-fashion, *i. e.*, never to clear any acre, but to continually thin out the worst trees, and never cut a good tree so long as it keeps growing. In this way, we might hope ultimately to see trees here, which would rival their American progenitors in size, and yield several hundred pounds of bark per tree. This forest plan of working the plantations would require a larger area for the production of a given weight of bark per annum than the coppicing.

18. *General remarks on extension.*—Cinchona can now be cultivated in many places, and also in many places at a profit, assuming the present price of the bark to hold. But it is perfectly certain that the price of bark must under these circumstances fall, and it will be the policy of Government to extend cultivation now only where the bark can be produced most cheaply.

19. As regards the amount of extension to be carried out, Government will have to consider whether the Government plantations shall be worked merely to supply sufficient quinine for the Government service, or whether, by the sale of quinine or of bark, Government will extend the benefits of the medicine among the public. On one point there should be no misapprehension. Quinine is an article of which a great value travels within a small weight. If Government can, therefore, in Bengal provide itself with a cheaper quinine than the European manufacturers can furnish Government out of American bark, then Government can also under-sell the European manufacturer in the home market. Similarly, it cannot pay Government ultimately that the quinine for the Madras Presidency should be grown in the Nilgherries, and the quinine for the Bengal Presidency in Sikhim, except on the improbable contingency that the cost of production at each place be found exactly the same; and even on this hypothesis, it would probably be economical to concentrate the work at one place, in order to diminish the expense of manufacture.

20. Another consideration with regard to extension is the position of private cinchona plantations. There are about 3,000 acres of private cinchona in the Nilgherries, and about 500 acres of private cinchona in Sikhim. These plantations will probably be highly remunerative if bark maintains its present price; if, however, bark be reduced to one-sixth its present price by the large produce of Government plantations, they hardly could be remunerative. The *C. succirubra* bark, at from three to five years old, from this plantation, is now worth 1s. 8d. per lb. in the London market. We believe that we see our way to growing it here in almost any desired quantity at 3d. per lb.; so that a fall in the price of bark to one-sixth its value is at least conceivable.

21. On the other hand, I believe that cinchona cultivation may be very largely extended here before any such fall in price as this can take place. A fall in the price of quinine to half its cost would far more than double the consumption; it might very probably quadruple the consumption, not merely in India, but in Austria, Prussia, &c., where quinine is now almost a prohibited article by its high price. Moreover, a very large fall in the price of quinine might enable it to be employed by manufacturers for the creation of the unrivalled dyes of which it is the base.

22. The quantity of quinine issued from the Government medical stores for the official year 1869-70 (for Bengal, North-Western Provinces, Punjab, and Central Provinces) was 2,671 lbs.

Suppose that the existing 1,000 acres of *C. succirubra* at Rungbee are worked coppice-fashion (which we know can be done, though we do not know it to be the most profitable manner of working), at least 150 acres could be cut annually. These would produce at least 2,000 lbs. of bark per acre, and if this bark produced 2 per cent. of amorphous quinine, or 1 per cent. of crystallizable sulphate, this would give 6,000 lbs. of amorphous quinine, or 3,000 lbs. of crystallized sulphate annually, *i. e.*, more than enough to satisfy the present Government wants.

23. These figures are extremely uncertain and speculative, but they are, I believe, certainly within the mark. We expect to cut 3,000 lbs. of bark on an acre worked coppice-fashion, and even from this class of bark I should hope to get 3 to 4 per cent. amorphous quinine instead of the 2 per cent. assumed above.

24. It would appear, therefore, that if Government is disposed to grow cinchona only to meet its own local requirements, it is not necessary to extend further the cultivation of *C. succirubra* at present; and this is, I believe, the opinion both of Mr. McIvor and of Mr. Broughton.

25. But as I understand the official papers, Government did not commence the cultivation of cinchona in India with any definite intention concerning the manufacture, but with the design of keeping down the price of bark in the London market, and thus diminishing the price of quinine, not only as against themselves, but as against the general consumer. The parties who will be really injured by the large growth of bark here are not the London manufacturer, but the barbarous governments of South America. Their treatment of the bark monopoly deprives them of all title to consideration. (I am here, for simplicity, considering the question of extension apart from all questions about local manufacture).

26. But as long as Government continues extending its area of plantation, it can hardly be expected that private enterprise will do much, and this is, so far as I can see, the only consideration that is much worthy the attention of Government in considering how far the general extension of quinine shall be carried.

27. *Particular extension.*—Government having determined the question of general extension, the next point will be to determine in which locality it will be economical to extend each species. The three species demanding present consideration are *C. officinalis*, *C. succirubra*, and *C. calisaya*.

(A.) *C. officinalis.*—The most successful plantations of this in India are undoubtedly Mr. McIvor's on Dódabetta in the Nilgherries; the plants are growing into trees, a great number being now 20 feet high. These trees are nevertheless very poor-looking compared with plants of *C. succirubra* or *C. calisaya*, and will never give a yield of bark per acre comparable with that given by *C. succirubra* or *C. calisaya*. At the same time, the high quality of the bark, and the comparative facility with which it can be worked into the crystallized sulphate, will make the species always worthy of attention.

I believe that the Government of India has finally decided not to abolish the establishment of the cinchona nursery at Nunklow in the Khasiyas. In this case it will be in my power to carry on the growth of *C. officinalis* on the small scale at Nunklow. If it continues to "grow first rate there," as it is reported to be doing now, I expect it will be found ultimately that it can be grown cheaper in the Khasiyas than in the Nilgherries. This is, however, at present a mere speculation against the established success already exhibited in the Nilgherries.

(B.) *C. succirubra.*—The Nilgherry plantations of six, seven, eight and nine years' growth are successful examples of cultivation, and there are no plantations of similar age at Rungbee for the institution of immediate comparison therewith. But in calculating at which place future extension can be most economically carried on, it is not required to compare the early attempts at the two plantations, but to estimate what can be done now.

With this object, I observed with great attention the last three years' planting of Mr. McIvor, and weighed the results with those obtained on the Rungbee plantations. In these later plantings, Mr. McIvor has brought his method very nearly down to that pursued at Rungbee, that is, he cultivates much less than in his earlier plantations, and he plants his trees 6 feet by 6 feet. The best trees three years out in permanent plantation at the Nilgherries are 12 feet high; on the Rungbee plantations the best trees pass 20 feet high in

Anchora Reserve of the Government of Bengal at Rungbee in Sikkim.

Total area 377 1/2 English Acres.

