M.R.O. 14—10,000—21-4-22.

MADRAS RECORD OFFICE.

Government of Madras.

Revenue **DEPARTMENT.**

G.O. No. 666–668 Press / Mis.–

127–131

Dated 27–4–1866.

Not to be folded or roughly handled

Proceedings of the Madras Government, Revenue Department, for the month of April 1860.

Read the following letters :—

No. 127. From J. D. SIM, Esq., Secretary to the Board of Revenue, to J. D. BOURDILLON, Esq., Secretary to Government, Revenue Department, dated 21st April 1860, No. 1,958.

G. O. No. 501, 31st March, in Con. 2nd April 1860, No. 1,493.

With reference to the Order noted in the margin, I am directed by the Board of Revenue to submit the following brief remarks on the Bill for Licensing Trades and Professions.

Section II, Regulation V of 1832.—"The Motarafah Tax is declared to be payable by all persons exercising arts, trades or professions, which, according to the custom of the country, have hitherto rendered persons exercising such arts, trades or professions, liable to that Tax.

2. The Board beg to point out that the Bill is, to all intents and purposes, the "Motarafah," simplified in so far as four fixed rates of taxation are substituted for the numerous varying rates now prevailing, but extended in its application and declared perpetual. Some items of the Motarafah, such as the House Tax, which it is desirable to retain for Municipal and Police purposes, are of necessity abolished by the new Bill, and the larger payments now made by persons taxed to the Motarafah will be reduced, but the pressure of the new Tax will fall heavily on the poorer classes, and injuriously depress the springs of Trade.

3. The abolition of the Motarafah has been sanctioned by the Home Authorities; has been promised to the people, and announced in Parliament. It is for Government to consider the position in which it will be placed towards the people by this virtual re-enactment and perpetuation of the Tax without hope of, at any future time, lightening the burden or redeeming the pledge.

4. In the Madura District there is no Motarafah at all, and in other Districts various trades and classes are and have for years been exempt from it. The application of the new Tax in such cases cannot fail to be most unpopular, although in principle there would be no injustice in taxing them in common with others.

5. As the Bill now stands the only classes exempt from the Licensing Tax are Raiyats and Agricultural menials. Every other class apparently have to pay; every Soldier, every Servant in Government or private employ, every Coolie; in fact every person earning his livelihood by other means than the cultivation of land comes within the scope of the Bill. The Board cannot but consider taxation of such a sweeping character impolitic, and likely to engender extensive and serious discontent.

6. The Rates of Tax for Artisans and petty retailers are, in the Board's judgment, too high for universal adoption in this Presidency; some classes of Artisans and retailers are able to pay more, but a large proportion earn a bare subsistence and certainly cannot meet the proposed Tax. As Government are aware, many exemptions from Motarafah have of late years been allowed on this ground, and others have been deferred merely for financial reasons. All the former classes will under this Bill be re-taxed, and that to a higher amount than formerly, although they have been exempted because they could not pay a lower rate.

Brinjaries and wandering Tribes.
Pagoda Priests, &c.
Village schoolmasters.
Professional Mendicants.
Money changers.

7. A definition of the term "Profession" seems to the Board to be absolutely necessary, especially as the determination of the class under which a person is to be assessed is wholly left to the Collector. There are many cases in which it is not easy to determine how a person should be classed. A few of these are noted in the margin.

8. The disability to be enforced under Section XII opens the door to much oppression and injustice. If the License be not granted on application, and it will be impracticable to meet without delay the numerous applications for Licenses which will pour in at the commencement of the year, a contract cannot be entered into, or if entered into before the issue of the License, will be voided. No Court could entertain the excuses of parties that they had applied but could not obtain Licenses, for the admission of such excuses would lead to endless evasions of the Law.

9. If the present Bill is not wholly abandoned, the Board would earnestly recommend at least such a modification of it as will exempt the poorer classes, and confine its operations to the more lucrative Trades and Professions.

No. 128. From J. D. SIM, Esq., Secretary to the Board of Revenue, to J. D. BOURDILLON, Esq., Secretary to Government, Revenue Department, dated 24th April 1860, No. 1,993.

Dated 31st March 1860, No. 501, R. D., in Con. 2nd April 1860, No. 1,493.

With reference to the Order of Government noted in the margin, I am directed by the Board of Revenue to submit the following observations on the Income Tax Bill :—

2. First.—As regards the Bill generally.

I. The Board consider the Bill, as drawn up, to be too complicated and technical. It will be impossible to ren der it in any of the vernaculars of this Presidency, so as to be intelligible to the people ; and the Board apprehend that but a small portion even of the European community will understand many of its provisions. The Board have observed with regret the gradually increasing technicality and obscurity of our recent Legislation ; but this Bill seems to them to surpass its predecessors in this respect. The plea for such technical phraseology in general is the alleged difficulty of precisely drawing up a law in other than legal terms ; but the object of this Act is the very simple one of declaring all incomes above a certain limit taxable, and the Board can see nothing in its object, its procedure, or any other matter connected with it, to require such phraseology as has been adopted. Moreover, they observe that the interposition of Legal practitioners, the class which makes such technicalities its study, is excluded as far as it can be by this Act. The Board submit that it is a matter of the highest importance that a law of this nature, affecting so many persons, including a large body of the illiterate and ignorant population, and attended with such heavy penalties, should be easily intelligible to the people, and they apprehend that the mere length and obscure character of this Bill will go far to increase the difficulty of introducing it. The legal maxim, that ignorance of the law is no justification, necessarily rests on the assumption that the law is intelligible ; and to attach penalties to the breach of a law which is not so, is only to offend the natural sense of justice of the people. Numerous attempts at evasion of the new Tax will doubtless be made, but there will also be many unintentional breaches of the law, and the mass of the community will be very much at the mercy of the Assessors, who in the rural Districts will be liable to little real check. In illustration of their assertion that the Bill is unnecessarily technical and complicated, the Board would refer to Section CIV. The meaning of this Section is simply that incomes between 200 and 500 Rupees per annum shall be assessed at 2 per cent. The terms in which this is expressed are given in the margin.

Vide Section LIII, Clause 5.

CIV. Any person who shall be charged or chargeable as aforesaid to any of the duties granted by this Act, or shall have paid the same either by deduction or otherwise, and who shall prove before the said Commissioners, in the manner hereinafter prescribed, that his total income from every source, although amounting to 200 Rupees or upwards, is less than 500 Rupees for the year of the assessment of his profits or gains, shall be exempted and relieved from the whole of the duty of 1 Rupee in every 100 Rupees for local purposes mentioned in the 2nd Section of this Act, and from so much of the duty of 3 Rupees in every 100 Rupees assessed upon, or paid by him, under the 1st Section of this Act, as shall exceed the rate of 2 Rupees for every 100 Rupees of his profits, and shall be entitled to be repaid the amount of all deductions or payments on account of the said duty of 1 per cent., or of the excess of the said duty of 3 per cent. from which he shall be so exempted as aforesaid, except as in the last preceding Section of this Act is excepted.

Exemption of persons from the duty of 1 per cent. from excess above 2 per cent. of 3 per cent. duty, whose income is less than 500 Rupees annually.

II. The Board would earnestly press on Government the injustice of taxing incomes derived from lands held on the *Raitwári* principle. This system is little understood out of the Madras Presidency, and to this is probably owing the proposition to tax persons holding lands under it. Under the Zamíndáry system of Bengal and Madras, the Zamíndár's Assessment or Peshkash was fixed on the rent of the land then cultivated or occupied, *less* a varying per centage for expenses of collection, profit, &c., and *less* the future rent of all waste land. Under the village system of the North Western Provinces the whole of the waste is thrown in, free of Assessment for the period of the Settlement, viz., 30 years. Under the Raitwári system even the "moderate" Assessment now being

imposed absorbs two-thirds of the *net* produce, and every acre is taxed from the outset. With the exception of the remissions granted for improving leases and topes, which are comparatively insignificant, the "Raiyat" of this Presidency has not the free use of waste land, like the Zamíndár of Bengal and the village Proprietor of the North West. To tax the former, therefore, on the same principle as the latter, without reference to this material difference in their position, is manifestly unjust. Moreover, the tax will virtually be an enhancement of the Land Tax, while Government have, during the last few years, reduced the Assessments because they were to high. That they were too high, and by absorbing too large a share of the Raiyat's profits, repressed cultivation, has been abundantly proved by the beneficial result of the reductions which have led to a very large increase of Revenue, and placed the Agricultural population in a position of contentment and comparative independence. To re-impose any portion of the Land Tax is simply to undo to that extent the good already done, and to raise unpleasant doubts in the minds of the Agricultural population of the permanency of the Land Assessment. It is no answer, the Board submit, to this objection, to say that it is only the more affluent Raiyats, those paying an Assessment of Rupees 400 or £40 per annum, who will now be taxed. The income, whether £40 or more, is not drawn from a valuable untaxed reserve of waste land as in Zamíndáris, but from land every foot of which is taxed at two-thirds, at least, of its net produce. Equally futile is it to maintain that the " Raiyats" of Madras are like the Tenant Farmer of England paying only a rent for his land. The Government here strictly occupies the position of Landlord and State, and the Raiyat pays what can only be called a combination of rent for the land and tax to the State. To impose an Income Tax on the profits of land held on this tenure is clearly to tax a second time and in a peculiarly vexatious way, land, which experience shows, is in general too highly taxed already. Further, the Raiyat will indubitably regard the imposition of the Income Tax as a breach of faith. They have repeatedly been assured by the Home and Local Governments that they may do what they please with their lands, and enjoy the full benefit of any improvements made by their own means, provided they pay the regulated Assessment. On this assurance they have acted, investing capital largely in the improvement of their lands, in full confidence that the pledge would be respected. They cannot but regard this fresh tax on their profits from these lands as a breach of the pledge voluntarily given, and their confidence in the faith of Government cannot but be shaken. Unrepresented in the Government, and unable to influence the Imperial Legislature, they will also see the frail tenure on which their rights depend ; they will apprehend that if necessity—a plea the correctness of which they have no means of testing—can only be urged, the Income Tax may be indefinitely prolonged ; its rates enhanced ; its incidence enlarged and that the same plea may lead to other taxation. Future reduction of Assessment and other concessions will be regarded as dictated by interested motives and preliminary to future taxation, and that confidence in the moderation of Government, which it has taken years to secure, will be seriously shaken. Lastly, the Board would remark that the proceeds of the tax from Raitwári landholders will be very small, and unworthy of consideration even if it could be collected without a breach of faith and violation of the principles of the Settlement. The number of those liable to the tax does not exceed 4,000, and their payments will not amount to Rupees 30,000, adding, for argument sake, as much more for Raiyats having incomes from other sources the whole proceeds will be under £6,000. In all probability they will be less, for the tendency of the Act will be to induce families to divide their Estates and to resort to other expedients in order to escape its operation. The Board trust that these reasons will lead to the entire exemption of incomes derived from Raitwári lands.

III. The Board would submit that the Bill is too extensive in its application. The more the incidence of a tax can be enlarged, the better in *principle* no doubt, but the application of a principle, however sound, must depend in practise on other considerations. In a country like India, where Education has made very little progress, where the people are not represented, and where, as recent events have lamentably proved, the governing power is often utterly ignorant of their feelings, the Board apprehend that the adoption of a principle must depend on its safety and acceptability to the people as much as on its wisdom. These considerations must often lead to the postponment of measures which may be excellent on abstract principle. A Tax on all incomes above £20 per annum, unaccompanied by any alleviation of other heavy burdens, seems

to the Board a hazardous experiment, if viewed in this light only. An Income Tax, however, is peculiarly unsuited to this Presidency. It will operate very injuriously on the Native character and revive the old distrust of Government, and the frauds and the expedients practised in former days to conceal the existence of wealth, lest it should excite the attention of the ruling power and lead to further taxation. The inquisition into private affairs, inseparable from a Tax of this nature; the numerous and complicated requirements of the law, and its heavy penalties cannot fail to render the measure extremely unpopular. It must also be borne in mind that so far as regards the mass of the people it is an *additional* burden altogether. The Land Tax and the Abkari and the Motarafah remain unchanged, the Salt Duty has been increased, the Stamp Duty will shortly be largely augmented, and the reductions of the recently imposed Customs Duties will be counterbalanced by a revision of the Tariff. The Income Tax will thus be an entirely new drain on the people. It is not resorted to as the means of removing taxes which impede industry or restrict consumption, but is presented to the people as an additional and to most of them a wholly novel impost.

IV. The Board have not touched on the necessity of this additional taxation, considering such a question to be beyond their province. For the same reason they abstain from expatiating on the probable effect on the Native mind, of the numerous schemes of taxation now in contemplation, the simultaneous imposition of which, unaccompanied by any relaxation of existing burdens, cannot but afford reason for serious apprehension.

Licensing Bill.
Income Tax.
Tobacco Tax.
Stamp Duties.

3. Secondly.—The Board will now proceed to offer a few remarks on different Sections of the Act.

PART I. *Schedule* 2.—The Board presume that this Schedule applies only to profits *realized* in India; so that, for instance, the interest on English Funds or the Indian Loans raised in England will not be taxed if not drawn in India, and similarly that the profits of landed property in England will be exempt, if applied to the support of a family or any other purpose *out* of India.

Schedule 3.—The Board conclude that the "Public Revenue" hear alluded to is solely *Indian* Revenue.

Section IX.—The Board are unable to see the expediency of requiring the consent of the Supreme Government for the removal of a Commissioner who is not in the service or employment of Government. The Local Government is empowered by the Act to appoint such Commissioners, and it seems undesirable to deprive it of the power of removal.

Secton XXXIII.—Non-compliance with the general notice by proclamation, prescribed in this Section, should not, the Board think, be rendered penal, except as regards persons on whom the "particular" notice required by Section XXXII has been served. The disregard of the proclamation is punishable by Section CLXXXVIII with a fine not exceeding Rupees 200 and double duty. It seems to the Board that by such means as a general proclamation, Government may fairly require any person, on whom by accident, oversight, &c., a "particular" notice had *not* been served, to make the omission known to the Assessor; but they think it is going too far to require the people, on such a proclamation, to make out and deliver all such statements as may be required. The usual mode of proclamation in the Provinces is by beat of drum, and the complicated requirements of this law can scarcely be made known by such means, especially as the generality of the people would not have it in their power to procure the Act, and even did they become possessed of it, would not be able to understand its provisions and requirements.

Sections XXXV and XXXVI.—The Board fear these Sections will be incomprehensible to Natives.

Section XXXIX.—The Board think it an objectionable feature of this Bill that so many acts are to be verified on oath. Unless the Assessors are very numerous indeed, it is impossible they can deliver the notices or even insure their delivery and to require an Assessor to swear that the notices have been duly served "to the best of his knowledge," is worse than a mere formality. No weight would be attached in any Judicial proceeding to so qualified an oath.

Section XLI.—The "full and just Assessment" of lands in the Provinces will only be ascertained with the utmost difficulty; in fact, no more than a probable estimate is possible.

Section XLIV.—The Board apprehend, that, with his numerous other duties, a Collector will find himself wholly unable to discharge the duties required of him under this Act.

Section XLVII.—The Board do not see the advantage of allowing the Assessor to object, in the formal manner proposed, to any modifications made in his Assessment by the Collector. It seems sufficient that this should be left to the party affected by the change.

Section XLIX.—The word "public" seems to be a misprint for "general."

Section L.—The Board do not see the object of compelling an Appellant to give notice of his appeal in writing to the Assessor.

Section LII.—See remark on XLVII.

Section LV.—The Board apprehend that this provision will induce much perjury. False returns will often be made on the chance of verification on oath not being required, and will be sworn to from fear of consequences, when verification is required, notwithstanding the proviso attached to the Section.

PART V. Almost the whole of this Part requires simplification to render it intelligible by the people.

Section LXXVIII.—The Board presume that Raitwári Proprietors come under Clause 1; Zamíndárs and Inamdárs under Clause 4.

Clause 5 appears very complicated indeed, and absolutely requires elucidation. It may often happen that the deduction of the Jumma from the Gross-rent, will exempt a person coming under the rule, but he would still appear to be liable to pay the tax on the Gross-rent, and afterwards have his payment refunded.

Clause 6. This, the Board presume, is intended to apply to sub-tenants of all kinds.

Clause 16. (7.) The receiver of documents should be bound to give a receipt for them.

Clause 17. (1.) There is some omission in this Clause, rendering it unintelligible.

PART VII. Section LXXIX. First case 1. (1.) Many Native Traders keep no books, and it will be extremely difficult to ascertain their real profits.

3. The provisions of this Rule seem quite unsuited to the transactions of Native Traders and will be unintelligible to them.

4. The principle of this Rule is not apparent. It will be no easy matter to estimate the value of a doubtful debt or a dividend. Moreover, it seems unjust that debts should be taxed at all until realized, when only they take the form of income or profits.

PART VIII. Section LXXX. 2. The utility of allowing the Collector to object to the Assessment is not apparent. The party affected may be left to appeal.

PART IX. Section LXXXI. *Schedule* III.— The Board understand this to apply only to Loans the interest of which is payable or paid in India.

PART X. Section LXXXII. 2.—The duration of the Assessment in this Clause seems at variance with that assigned in Clause 3.

3. The meaning of this Clause is not obvious, and simplification is needed.

PART XI. Section LXXXIII.— The approval of the Governor General in Council, before Assessment by Panchâyat can be resorted to, seems unnecessary and likely to cause delay. The same remark applies to Section LXXXIV.

Section XCI.—The advantage of Panchâyats is not obvious, if the Collector can set aside their Assessments and revert to the ordinary procedure of the Act.

Section XCVIII.— This will involve a vast amount of labor. Moreover, the justice of a new distribution of the Panchâyats' Assessment is not apparent. Their total Assessment must necessarily be the aggregate of each individual's Assessment, and it does not follow by any means that, because they have over-assessed one person, they have, to the extent of that person's over-assessment, under-assessed every one else; and, therefore, that the over-assessment should be imposed on the rest by a re-distribution, against which every person affected by it may formally appeal.

Section CIV.—This Section, as already remarked, needs simplification.

Section CVIII.—The Commissioner for general purposes might apparently grant the order of discharge, as in Section CX.

Section CXIX.—The proviso at the close of Clause 3 seems unjust. If the one-sixth for which abatement is allowed be *bonâ fide*, it should, the Board think, be allowed also to entitle to exemption, when the income is thereby reduced below 200 or 500 Rupees.

Section CLVIII.—The Board remark that by Regulation V of 1804, the period of minority expires at the age of 18, and their powers as a Court of Wards then cease. The liability of representatives and guardians should be limited, the Board think, to the extent of the property under their control.

Section CLXV.—The sanction of the Governor General in Council seems unnecessary for such a matter of detail as a Division of Districts.

Section CLXXII.—The terms of this Section need careful revision. "Partiality" can only be inferred and "unfairness" may admit of very various interpretations; yet on such inferential charges a Commissioner, or Collector, Assessor or Member of a Panchâyat may be sentenced to imprisonment with or without hard labor, for a period not exceeding one year, and a fine not exceeding 1,000 Rupees! The Board think it highly undesirable and inexpedient that Officers of high standing should thus be rendered liable to prosecution on groundless and vexatious charges of this nature before the local Magistracy and Courts, which will be the effect of this Clause as it now stands.

Section CLXXIV.—Mere negligent conduct in a Clerk seems unworthy of figuring as a penal offence in a Legislative Enactment.

Section CLX XIX.—The Board would advise a reference to the Sadar Adalut as to the expediency of vesting such powers without discrimination in Justices of the Peace, especially as by Section CXCII their proceedings are to be summary.

4. The Board consider the Act defective in attaching no penalties to false charges.

No. 129. ORDER THEREON, 27th April 1860, No. 666.

Ordered that these Reports be forwarded immediately to the Government of India, and also to the Secretary of State by the next Mails.

(Signed) J. D. BOURDILLON,
Secretary to Government.

Ordered in consequence that the following letters be despatched.

No. 130. From J. D. BOURDILLON, Esq., Secretary to the Government of Fort Saint George, to W. GREY, Esq., Secretary to the Government of India, Home Department, dated 27th April 1860, No. 667.

With reference to your letter of the 22nd March, No. 604, I am directed to forward for submission to the Government of India, the accompanying Reports from the Board of Revenue, containing their views on the Bills "for imposing Duties on profits arising from Property, Professions, Trades and Offices," and "for Licensing of Arts, Trades and Professions."

2. This Government has already fully stated its views upon the proposed Taxes in general. The time fixed for the further consideration of the Bills in the Legislative Council does not allow of their examining the provisions of the Bills in detail, and they content themselves, therefore, with forwarding the Board's Reports.

No. 131. From J. D. BOURDILLON, Esq., Secretary to the Government of Fort Saint George, to H. FORBES, Esq., Member of the Legislative Council of India, dated 27th April 1860, No. 668.

I am directed to forward for your information copy of a letter of this date, No. 667, to the Government of India, with its enclosures, on the proposed Income Tax and License Bills. I am directed also to remind you that if the latter Bill is proceeded with, the Tanjore House Tax must of course, be remitted as well as the Motarafah Taxes.

No. 1,958.

From J. D. SIM, Esq., Secretary to the Board of Revenue, to J. D. BOURDILLON, Esq., Secretary to Government, Revenue Department.

SIR,

G. O. No. 501, 31st March, in Con. 2nd April 1860, No. 1,493.

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3. The abolition of the Mohturfa has been sanctioned by the Home Authorities; has been promised to the people, and announced in Parliament. It is for Government to consider the position in which it will be placed towards the people by this virtual re-enactment and perpetuation of the Tax without hope of, at any future time, lightening the burden or redeeming the pledge.

4. In the Madura District there is no Mohturfa at all, and in other Districts various trades and classes are and have for years been exempt from it. The application of the new Tax in such cases cannot fail to be most unpopular, although in principle there would be no injustice in taxing them in common with others.

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6. The Rates of Tax for Artisans and petty retailers are, in the Board's judgment, too high for universal adoption in this Presidency; some classes of Artisans and retailers are able to pay more, but a large proportion earn a bare subsistence and certainly cannot meet the proposed Tax. As Government are aware, many exemptions from Mohturfa have of late years been allowed on this ground, and others have been deferred merely for financial reasons. All the former classes will under this Bill be re-taxed, and that to a higher amount than formerly, although they have been exempted because they could not pay a lower rate.

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Pagoda Priests, &c.
Village Schoolmasters.
Professional Mendicants.
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9. If the present Bill is not wholly abandoned, the Board would earnestly recommend at least such a modification of it as will exempt the poorer classes, and confine its operations to the more lucrative Trades and Professions.

I have the honor to be,
Sir,
Your most obedient servant,
(Signed) J. D. SIM,
Secretary

REVENUE BOARD OFFICE,
Fort Saint George,
21st April 1860.

Exd. J. Wright.

All that we can do with the Reports of the Board of Revenue is to send copies of them to the Government of India with the observation that this Government has already so fully ~~communicated~~ ~~declared~~ its views upon the proposed Taxes that any further expression of opinion would be superfluous, even if time permitted. Which it does not.

Copies should also be sent to the Secretary of State by next Mail.

No Notes should be issued for the Licensing Tax is proceeded with, the Tanjore House Tax should of course be remitted.

[illegible]
Guindy Farm
25 April 1860.

N. 666

Proceedings of the Madras Govt.
Under date the 27th April 1860.

Read the following letter
from the Secy. to the Govt.
of Madras.

Submitting with Ex. 6
the Order of Govt 31 March 60
N. 591, the Board's remarks
on the Petn of Inhabitants
under Consideration —
and on the Premises
Tax bill —

} there enter 21st April 1860
N. 1958.

} 24 April 60
N. 1993.

Ordered that
these papers be
immediately
forwarded to the
Govt of India, and
to the Secy. of State
by the next Mail.

also

Recd

P. 2.

No. 667

H. Grey, Esq

Secy. to the Govt. of India

Home Dept

Sir

With reference to
Your letter of the 22d
March 1862. I am
directed by Secretary
for Submission to the
Govt of India the accom-
panying Reports from
the Board of Rev. con-
taining their views on
the Bills "for improving
duties on Profes-
sions from Property,
Professions Trades
and Offices" and "for
the Licensing of Arts
Trades & Professions"

I have

2 the Govt. has already ~~by~~ fully stated ~~commenced~~ its views upon the proposed taxes. ~~It contains the reasons of~~ ~~the Council the~~ ~~Superintendent, even~~ ~~if they permitted~~ ~~which I trust~~ in general. The time fixed for the further consideration of the Bills in the Legislative Council does not allow of their considering the Provisions of the Bills in detail, and they contend themselves therefore with forwarding the Board's Reports.

Fort St. Geo. 27th April 1866

N. 9

N. 668.

To

H. Forbes, Esqre.
Member of the Legislative Council
of India.

Sir,

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Weekly Cover enclosures.

Fort St. Geo. 27 April 1866.