



Bombay Government Gazette.

Published by Authority.

THURSDAY, 16TH APRIL 1868.

Separate paging is given to this Part in order that it may be filed as a separate compilation. The paging of this Part commenced with the Number for January 1867.

PART V.

PROCEEDINGS OF THE COUNCIL OF THE GOVERNOR GENERAL 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 27th March 1868.

PRESENT:—

His Excellency the VICEROY AND GOVERNOR GENERAL OF INDIA, *presiding*.
 His Honour the LIEUTENANT-GOVERNOR OF BENGAL.
 The Honourable G. NOBLE TAYLOR.
 The Right Honourable W. N. MASSEY.
 The Honourable Major General Sir H. M. DURAND, C.B., K.C.S.I.
 The Honourable H. SUMNER MAINE.
 The Honourable JOHN STRACHEY.
 The Honourable E. L. BRANDRETH.
 The Honourable M. J. SHAW STEWART.
 The Honourable J. SKINNER.
 The Honourable KHWAJA 'ABD-UL-GHANI.
 The Honourable F. R. COCKERELL.
 The Honourable J. I. MINCHIN.
 The Honourable RAJA SHIORAJ SINGH, C.S.I.
 The Honourable H. CROOKE.
 The Honourable Sir R. TEMPLE, K.C.S.I.

PANJA'B APPEALS' BILL.

The Honourable Mr. BRANDRETH moved that the Report of the Select Committee on the Bill to amend the law relating to appeals in the Panjáb and its dependencies, be taken into consideration. He said that the Bill which was now before the Council was drawn up by Mr. Justice Boulnois, the first Judge of the Chief Court of the Panjáb, at least, only one or two immaterial alterations had been made in it by the Select Committee to which the Bill prepared by him (Mr. BRANDRETH) was referred. The Bill, in the form in which he had

originally intended to ask the Council to pass, it was sent by him for the opinion of the Chief Court at Lahore. He received a reply from the Registrar to the effect that, although the Court was of opinion that the draft forwarded by him contained all the necessary alterations in the Code of Civil Procedure, he was directed to enclose a printed copy of a draft Bill, which Mr. Justice Boulnois preferred to the one prepared by him. That draft was the Bill now under the consideration of the Council. With the exception of one or two not very important points, to which he would presently refer, the only difference supposed to exist between the two Bills regarded the wording and arrangement. His Bill was prepared on the plan of inserting words and adding provisos so as to adapt the appeal chapters of the Code of Civil Procedure to the appeal system proposed for the Panjáb, and thus render that portion of the Code consistent throughout. In this he considered that he was imitating the plan adopted by the Chief Court itself, in extending the other portions of the Code of Civil Procedure to the Panjáb, according to which the several provisos considered necessary were introduced with express reference to the sections to which they related.

In Mr. Boulnois' draft, however, which was now before the Council, it was simply said that all appeals, save as otherwise provided, were to be regulated by the Code of Civil Procedure; and then followed the provisions without any reference to the particular sections of the Code which were superseded or altered: though three or four whole sections of the Code had been entirely superseded by the provisions of this Bill, they had not been expressly repealed. No doubt the Bill now before the Council was neater in form and had a better appearance than the one which he had prepared; but it seemed to him that it was more liable to be misunderstood. He had no intention, however, of asking the Council to pass the Bill prepared by him in preference to Mr. Boulnois' draft. There was no use passing a Bill of this sort unless its wording was entirely approved by the Judges who were to introduce and administer the procedure for which it provided. As Mr. Justice Boulnois did not approve of his Bill he was much obliged to him for drawing the Bill himself, and thus relieving him from the responsibility of bringing forward what he thought was an unsuitable Bill. The Judges of course understood very well what they meant by this Bill, and they were not likely to allow any other meaning to be put on it. The procedure provided for in the Bill will have been introduced and established long before other Judges, who had not known this Bill and who might possibly put different constructions on its wording were likely to come in their place. These he considered to be very strong points in favour of the present Bill. There was only one point of substance in which this Bill differed from its predecessor that he thought he need notice. His Bill provided thirty days as the period for any appeal to the District Court, the same period as that prescribed in the Code of Civil Procedure. Mr. Justice Boulnois, however, had made the period sixty days. It was the object of this Bill to make the Civil Procedure of the Panjáb conform, as closely as the different circumstances of the Panjáb could admit of, to the Code of Civil Procedure, and Mr. BRANDRETH certainly saw no reason from his experience in the Panjáb, why any difference in this respect should be maintained. The Chief Court, however, appeared to have deliberately altered the provision of his Bill from thirty days to sixty; and though he did not concur in this alteration, he certainly should not take on himself to ask the Council to accept his opinion on the point in preference to that of the Chief Court. He had no doubt, however, that this Bill would be a very great improvement on the existing system of appeal, and therefore he had no hesitation in asking the Council to pass it.

The Motion was put and agreed to.

The Honourable Mr. BRANDRETH moved that, in section 4, line 5, the words "in the said Acts and" be inserted after the word "as." He had just said that he thought the Bill now before the Council would be more liable to be misunderstood than the one which he had prepared. As the principal instance of a want of clearness about the present Bill, he would mention that, in the Panjáb Courts' Act and in the Panjáb Chief Court Act, a mode of procedure on certain points in regard to appeals was provided, but in the Code of Civil Procedure, the remaining sections of which would by this Bill be extended to the Panjáb, a somewhat different procedure in regard to the same points was laid down. Again, in the Panjáb Courts' Act, a district was defined to be the local jurisdiction of a Deputy Commissioner, but in the Code of Civil Procedure a district had a different meaning. Now, it was quite certain that the Chief Court did not wish that any of the provisions, either of the Chief Court Act or of the Panjáb Courts' Act should be superseded by this Bill, and it was very likely they would not allow any such construction to be put on the Bill; but if we looked for the meaning of the fourth section of the Bill merely to its wording, without any knowledge of the intention of the Chief Court, it seemed to him that the section could not be read in any other way than as superseding the procedure-provisions of all previous Acts. It was

therefore with a view of removing all possible doubt on this point that he had prepared the small amendment which he now moved.

The Motion was put and agreed to.

The Honourable Mr. BRANDRETH also moved that the Bill as amended by the Select Committee, with the further amendments now adopted, be passed.

The Motion was put and agreed to.

CONTAGIOUS DISEASES' BILL.

The Honourable Mr. MAINE, in moving for leave to introduce a Bill for the better prevention of Contagious Diseases, said that the Bill was intended to prevent the spread of venereal disease in the maritime towns of British India, and, if possible, to extirpate it. It had been recommended by all the Local Governments which had such towns within their territories and it had become matter of urgency through the statistics which had reached the Government concerning the condition of the seamen in those towns. The credit of beginning this description of legislation belonged to that Council. It passed the Act numbered as XXII. of 1864 relating to military cantonments, and under section 19 a system had been established in several great cantonments exactly analogous to that which Mr. MAINE was about to propose to the Council. The first step being taken, the English Parliament avowedly followed the Indian example, by passing the Contagious Diseases' Act, 27 & 28 Vic., c. 85. This statute was found not to be sufficiently stringent, and was followed by an Act of Parliament of last year, 29 & 30 Vic., c. 35. Mr. MAINE had carefully examined the English Acts, and had considered all possible means of adapting them to this country. But he was satisfied that they were not suited to India. The machinery they created was set in motion by an information concerning suspected disease, laid by certain Police officers before a Magistrate. Mr. MAINE was convinced that such a system could not be introduced here without a risk of grievous oppression. He proposed, therefore, to adopt a scheme which emanated from the Government of Bengal, and which was founded on certain proposals from the energetic Health Officer of Calcutta, Dr. Tonnerre. The first step was for the Government to establish lock-hospitals, or to set apart parts of hospitals to be devoted to the purposes of lock-hospitals. This being done, the occupation of prostitution would be rendered punishable when followed by persons who had not submitted to the conditions of the Act. These conditions would now be stated. The Local Government would prescribe a mode of registration, and all women registering themselves would be bound under penalty to submit to rules of inspection which would be made under a power given to the Local Government by the Act. The Local Government would also make rules as to reports by persons appointed to inspect; and, where the inspecting person was not a medical man, breach of such rules would be punishable. The last provision was inserted because it was thought, on good authority, that it might be desirable to employ female agency for inspection. A section taken from the English Act would render it penal in the keeper of a house of ill-fame to allow it to be frequented by unregistered prostitutes. Every registered woman would be compellable to present herself at a lock-hospital on receiving a certain notice, and very strict rules would be laid down as to the discipline to be observed by patients in lock-hospitals. There would also be a provision, to be specially introduced into certain towns by order of the Local Government, under which a certain class of officers, specially empowered, would be able to direct a registered woman either to live or not to live in certain parts of the town. Such a provision was not applicable to Calcutta, but there were maritime towns in India for which it was said to be very desirable. Finally, the Local Government was to prescribe the formalities which were to be observed by women desirous of taking their names off the register.

The principle of the Bill was the delegation to the Local Governments of power to deal with this subject. It would depend mainly on them how it would work. That it would not in certain cases, cause some degree of oppression, Mr. MAINE was not prepared to assert. But the Council would recollect that the sole justification for this sort of legislation was that it should be thorough. At the same time his honourable friend Mr. Strachey, who had just come from the Chief Commissionership of Oudh, would be able to assure the Council (or rather the Committee, for Mr. MAINE hoped that all necessary discussion on this Bill would be confined to Committee) that a strictly analogous system had been established in the cantonment of Lucknow, that it did not work oppressively, and that it was even felt as a benefit by the class directly affected by it.

The Motion was put and agreed to.

REPEAL OF OBSOLETE ENACTMENTS' BILL.

The Honourable Mr. COCKERELL moved that the Report of the Select Committee on the Bill for repealing certain enactments which have ceased to be in force or have become unnecessary, be taken into consideration. He said that it would be seen from the Report of the Select Committee on the Bill that the schedule attached to it had undergone considerable expansion in Committee and that no less than 170 Regulations of the Bengal Code, and upwards of 60 Acts applicable to the whole of India, had been added to it. Most of these Regulations were first selected for repeal by Mr. Justice Hobhouse, a late Member of the Council, and underwent a thorough scrutiny in his hands. On receiving charge of the Bill, he (Mr. COCKERELL) had carefully examined Mr. Hobhouse's list, and had, after much consideration of the whole body of Regulations and Acts, proposed further additions to the schedule of the Bill.

The whole of the Regulations and Acts so selected for repeal were carefully gone over by the Committee, all points on which any doubts could be thought to arise had been fully discussed, and in the settlement of the schedule the Committee had erred, perhaps, rather on the side of over-caution, than in the contrary direction, for he (Mr. COCKERELL) did not overstate the facts of the case in saying that, in a matter of this kind, the Select Committee felt themselves under peculiar responsibility to the Council; as it was but natural to assume that the Council in dealing with a Bill which treated solely of details, the correct preparation of which could only be attained by the most minute and laborious investigation, would be almost obliged to accept the Committee's conclusions. Nearly two months had elapsed since the Report of the Committee was presented, and, in the interim, the widest publication had been given to the recommendations of the Committee. The Governments of those Provinces more immediately affected by the Regulations of the Bengal Code had been consulted, and had given their general approval to the removal from the statutes of the Regulations entered in the schedule. The Government of the North-Western Provinces demurred only to the repeal of Act XXXIV of 1860. He would venture, nevertheless, to submit to the Council that the objections of the Government of the North-Western Provinces to the repeal of that enactment would, on examination of the preliminary clauses of the Bill, be found to be invalid.

The Act in question provided indemnity to certain classes of officers for acts done by them during the mutinies. He thought that the apprehension that those acts could be called into question if that Act were removed from the statute-book was without reason. He would now cite the clause in the present Bill which appeared to him to make adequate provision for the survival of the object and purpose of the Act which it was proposed to repeal, and in so doing, would submit more particularly for the consideration of the Honourable Mr. Maine whether the provision did not fully meet the case.

The clause was as follows:—

“Nor shall this Act affect any principle or rule of law, or established jurisdiction, form or course of pleading, practice or procedure, or existing usage, custom, privilege, restriction, exemption, office or appointment, notwithstanding that the same respectively may have been in any manner affirmed, recognized, or derived by, in or from, any enactment hereby repealed.”

The result of Act XXXIV of 1860 was to confer certain exemptions and privileges on certain classes of officers, and he (Mr. COCKERELL) held that that exemption and privilege were, under a proper construction of the clause above-cited, continued to those officers. If he was correct in that view, it would be unnecessary to alter the schedule as amended by the Select Committee.

Since presenting the Report to the Council further consideration of the subject had led to the discovery of a few additional Regulations and a single Act which it was thought might unobjectionably be added to the schedule. He should presently move, in the form of an amendment, that those additions be made.

If the Bill as amended were passed into law, the result would be that, out of about 650 Acts, 235, or more than one-third, would be repealed; and out of about 350 Regulations of the Bengal Code, 188, or more than one-half, would be removed from the statute-book. This result, he believed would be regarded with satisfaction by those who had to administer the law, as well as by those who were affected by it, if the effect of the Bill was merely to disencumber the statute-book of a large number of useless enactments. But he thought it would do more. It would tend in many cases to remove doubts in cases of those enactments whose provisions had been virtually superseded by other enactments of a more comprehensive

and at the same time to some extent conflicting, character, as to the intentions of the legislature in regard to those earlier provisions of the law which, though by implication overruled and rendered nugatory by the later enactments, had never been specifically repealed.

The Honourable Mr. MAINE would rather have cited the clause in the Bill which provided that "this Act shall not affect the validity or invalidity of anything already done or suffered;" but thought that, in spite of the wide language of the saving clause, it would be safer to omit Act XXXIV of 1860. It was an important and peculiar law, and in enactments like the present it was always better to be on the safe side.

The Honourable Mr. SHAW STEWART, as a Member of the Select Committee, would express his willingness to adopt the Honourable Mr. Maine's suggestion to leave out Act XXXIV of 1860 from the schedule. He had in Committee expressed his doubts of the wisdom of including the Act.

The Motion was put and agreed to.

The Honourable Mr. MAINE then moved that Act XXXIV of 1860 be omitted from the schedule.

The Honourable Mr. COCKERELL then moved the following amendments of which he had given notice. He said there was one alteration which he wished to make. Regulation VIII of 1829 had been included in the notice of amendment by an oversight. He did not wish to include that Regulation in the schedule because it had already been repealed; but he would substitute for it Regulation III of 1831 (for legalizing the circulation of copper half-anna and single pie pieces), the whole of which might be repealed. Its provisions were superseded by certain intermediate Regulations primarily, and also by Act XIII of 1862, which was the law now in force for the regulation of copper-coins. With the alteration he proposed the amendment would stand thus:—

That the following enactments be added to the schedule:—

No. OF ACT.	TITLE OF ACT.	EXTENT OF REPEAL.
XXVIII of 1852	An Act to relieve the Court of Sudder Foujdaree Adawlut at Bombay from the superintendence of the Police in that Presidency.	So much as is not repealed.
No. OF REGULATION.	TITLE OF REGULATION.	EXTENT OF REPEAL.
II of 1793	A Regulation for abolishing the Courts of Maal Adawlut or Revenue Courts, and transferring the trial of the suits which were cognizable in those Courts to the Courts of Dewanny Adawlut; and prescribing Rules for the conduct of the Board of Revenue and the Collectors.	Section 17, and the following words in section 46: "giving land in farm to any European, directly or indirectly or accepting the security of a European for any farmer, dependant talookdar or ryot, or"
IX of 1793	A Regulation for re-enacting with alterations and modifications, the Regulations passed by the Governor General in Council, on the 3rd December 1790, and subsequent dates, for the apprehension and trial of persons charged with crimes or misdemeanors.	Section 62.
XIX of 1793	A Regulation for re-enacting, with modifications, the Rules passed by the Governor General in Council, on the 1st December 1790, for trying the validity of the titles of persons holding or claiming a right to hold, lands exempted from the payment of Revenue to Government, under grants not being of the description of those termed Badshahee or Royal; and for determining the amount of the annual assessment to be imposed on lands so held, which may be adjudged or become liable to the payment of public Revenue.	Section 23.
XXII of 1793	A Regulation for re-enacting, with alterations and amendments, the Regulations passed by the Governor General in Council on the 7th December 1792, for the establishment of an efficient Police throughout the country.	Sections 24, 25, 26, 27, 28, 30, 35, 36, and 39.
XLI of 1793	A Regulation for forming into a regular Code all Regulations that may be enacted for the internal Government of the British territories in Bengal.	The whole.

No. OF REGULATION.	TITLE OF REGULATION.	EXTENT OF REPEAL.
XLVIII of 1793	A Regulation for forming quinquennial Register of the landed Estates in Bengal, Behar, and Orissa, subject to the payment of revenue to Government, and of the amount of the fixed annual revenue payable to Government from each Estate.	Section 2, clause 2.
V of 1795	A Regulation prescribing Rules for the conduct of the Collector of the public Revenue in the Province of Benares.	Section 17.
XXXIV of 1795	A Regulation for re-enacting with modifications, the Rules respecting the pensions payable from the Government and Moolky Treasuries in the Province of Benares.	Sections 5, 12, and 13.
XXV of 1803	A Regulation prescribing Rules for the conduct of the Board of Revenue and the Collectors; and for declaring the proprietary right in the lands, in the Provinces ceded by the Nuwaub Vizier to the Honourable the English East India Company to be vested in the Zemindars and other landholders, under the terms and conditions of the settlement of the Land Revenue formed by the Honourable the Lieutenant-Governor and Board of Commissioners, pursuant to the authority vested in them by His Excellency the Most Noble the Governor General.	Section 16.
LIV of 1803	A Regulation for postponing the operation of Section XX, Regulation XXXV, 1793, within the Zillah of Chittagong.	The whole.
II of 1808	A Regulation for the better security of the property of minors subject to the jurisdiction of the European Court at Chandernagore.	So much as has not been repealed.
II of 1812	A Regulation for levying a Duty on the coinage of Silver-Bullion and on the re-coinage of Rupees and other coins, with certain exceptions, at the Mints established at Calcutta, Furruckabad and Benares; for defining the Weight and Standard of the Benares rupee; for modifying the rates of Duty at present levied on the coinage of Gold-Bullion in the Mint of Calcutta; and also for establishing certain rules for the conduct of the business of the above-mentioned Mints respectively.	The whole Regulation, except sections 1 and 3, so much of section 5 as is unrepealed, and section 6.
XIX of 1812	A Regulation for making certain alterations in the rules before established for the collection of the Government Customs and Town Duties.	So much as has not been repealed.
I of 1813	A Regulation for modifying the Rules established respecting the Settlement of Cuttack, the Pergunnah of Puttaspore, and its Dependencies.	The whole.
V of 1814	A Regulation for amending such parts of the Regulations before enacted as relate to the appointment of the Judges of the Provincial Courts of Appeal and Circuit.	The whole.
IX of 1814	A Regulation for explaining the extent and meaning of Regulation XIII, 1813, and Regulation III, 1814.	The whole.
I of 1826	A Regulation for augmenting the number of Judges of the Provincial Courts of Appeal and Circuit, as may from time to time appear necessary.	The whole.
II of 1827	A Regulation to legalize certain Criminal trials, held in the Division of Bareilly.	The whole.
III of 1831	A Regulation for legalizing the circulation of copper half-anna and single pie pieces.	The whole.

The Motion was put and agreed to.

The Honourable Mr. COCKERELL also moved—

That, in the third column, opposite Act IX of 1859, "section 20" be added.

Also that, in the third column, opposite Regulation II of 1801, the following words be substituted—"The whole Regulation, except sections 7, 14 and 15."

Also that, in the third column, opposite Regulation XXV of 1814, the following words be substituted—"The whole Regulation, except section 15."

Also that Regulation VI of 1826, section 2, clause 2, be omitted.

The Motion was put and agreed to.

The Honourable Mr. COCKERELL also moved that the Bill as amended by the Select Committee, with the further amendments now adopted, be passed. He thought he might confidently assure the Council that, in passing the Bill in its present form, they were not risking the removal of any Regulation or Act of any practical value. He was far from saying that this repeal measure was altogether complete. He felt that it was very possible that, in many Regulations untouched by it, there might be a section or portion of a section that might well be dispensed with; but it must be borne in mind that this was simply a Repealing Bill, and that the alteration of laws, and the striking out of single sections and portions of sections which appeared unnecessary, was the work of consolidation. He trusted that the Bill about to be passed was merely the preliminary to the much more useful and extensive work of the consolidation of the Regulations and Acts; and that whenever the regular business of the Council might admit of that work being undertaken, it would be undertaken, as the present measure would be incomplete unless it was to be regarded simply as a preliminary to that larger undertaking.

The Right Honourable Mr. MASSEY said he had had the honour of sitting on the Committee, and although, of course, he could contribute little to the result of its labours, he had had ample opportunity of observing the extreme care and assiduity bestowed on the measure by the Honourable Mr. Cockerell and the Honourable Mr. Hobhouse, as well as by his friend the Assistant Secretary, to whom the conception of the Bill was due, and whose learning and labours in bringing it to its present form were highly appreciated by everybody who sat on the Committee. Mr. MASSEY thought this measure an important step in simplifying our legislation, and he concurred with the Honourable Mr. Cockerell in the hope that it would lead to more important results in the same direction.

The Motion was put and agreed to.

KING OF OUDH'S DEBTS' BILL.

The Honourable Sir RICHARD TEMPLE introduced the Bill to appoint a Commissioner to enquire into certain claims against the King of Oudh, and for other purposes, and moved that it be referred to a Select Committee with instructions to report in a week. He said, it would be in the recollection of the Council that a draft Bill on this subject had, in the last autumn, been introduced under the auspices of the Honourable Sir Henry Durand. Sir RICHARD TEMPLE had now the honour, by Sir Henry Durand's direction and request, to take charge of the Bill, as representing the Foreign Department. In the Bill as published there were two main objects. One was to appoint a Commission to enquire into the various pecuniary claims brought against His Majesty the King of Oudh: the second object was to preclude His Majesty from entering into any kind of contract involving him in pecuniary obligations. Since the publication of the Bill, the appointment of a Commission had been rendered unnecessary, because the political authority (Colonel Herbert), assisted by the High Court Pleader, Munshí Amír 'Alí, had in a manner highly creditable and honourable to themselves, succeeded in settling those claims. In justice to His Majesty, the members of his household, and its officials, it was fair to say that those claims appeared to have been very much exaggerated, or rather that they were brought in an objectionable manner by the creditors. Claims to the amount of about fifty lakhs of rupees had been adjusted and settled for eight lakhs of rupees, and that to the entire satisfaction of the claimants. For this reason the appointment of a Commission was no longer necessary. But inasmuch as that course had been so far successfully avoided, it seemed desirable to prevent fresh complications occurring in future. It was therefore necessary to introduce the Bill with the view of enacting those clauses that precluded the institution of suits and the obtaining of decrees against the King, and which rendered His Majesty unable to contract pecuniary obligations. The existing state of the law had been exactly described in the Statement of Objects and Reasons published with the Bill, and, with Sir Henry Durand's permission, Sir RICHARD TEMPLE would read a paragraph from that statement:—

“In amendment of Act VIII of 1862 (to protect the personal dignity of His Majesty the King of Oudh); the Bill declares that no suit shall be commenced and no writ issued against His Majesty or his property, unless with the previous consent of the Governor General in Council. As the law stands, though writs cannot be issued against the King's person or property without such consent, suits may be instituted and decrees obtained against him. It is obviously expedient to prevent the accumulation of such unsatisfied decrees.”

The present Bill would supplement previous legislation, by providing that, from the date on which the Act should come into operation, His Majesty should be incapable of entering into any contract which might give rise to any pecuniary obligation on his part. That,

then, was the object with which the Bill was now introduced. The Council were doubtless very well aware that the circumstances of His Majesty the King of Oudh, and of his family and household, were peculiar. It was a matter of public propriety that claims of the kind referred to should not arise. It was a matter of political convenience that His Majesty and his family and household should be maintained in a position of comfort and dignity, and this the Government would be able to effect with the assistance of the Bill which he now had the honour to introduce.

The Motion was put and agreed to.

SUNDRY BILLS.

The Honourable Mr. MAINE moved that the Honourable Mr. Strachey and the Honourable Sir Richard Temple be added to the Select Committees on the following Bills:—

To define and amend the law relating to Contracts, Sale of Moveables, Indemnity and Guarantee, Bailment, Agency and Partnership.

To define and amend the law relating to Promissory Notes, Bills of Exchange and Cheques.

The Motion was put and agreed to.

The Honourable Mr. SHAW STEWART moved that the Honourable Sir Richard Temple be added to the Select Committee on the Bill for the suppression of Frauds in the Cotton Trade.

The Motion was put and agreed to.

The following Select Committee was named:—

On the Bill to appoint a Commissioner to enquire into certain claims against the King of Oudh, and for other purposes—The Honourable Major General Sir H. M. Durand, the Honourable Mr. Maine, and the Mover.

The Council adjourned till the 31st March 1868.

WHITLEY STOKES,

CALCUTTA,
The 27th March 1868. }

Asst. Secy. to the Govt. of India,
Home Department (Legislative.)

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 31st March 1868.

PRESENT:

His Excellency the VICEROY AND GOVERNOR GENERAL OF INDIA, *presiding*.

His Honour the LIEUTENANT-GOVERNOR OF BENGAL.

The Honourable G. NOBLE TAYLOR.

The Right Honourable W. N. MASSEY.

The Honourable H. SUMNER MAINE.

The Honourable JOHN STRACHEY.

The Honourable E. L. BRANDRETH.

The Honourable M. J. SHAW STEWART.

The Honourable J. SKINNER.

The Honourable KHUWAJA 'ABD-UL-GHANI.

The Honourable F. R. COCKERELL.

The Honourable J. I. MINCHIN.

The Honourable RAJA SHIORAJ SINGH, C.S.I.

The Honourable H. CROOKE.

The Honourable Sir R. TEMPLE, K.C.S.I.

CERTIFICATE BILL.

The Right Honourable Mr. MASSEY presented the Report of the Select Committee on the Bill for taxing Professions, Occupations and Trades, and applied to His Excellency the president to suspend the Rules for the Conduct of Business.

The PRESIDENT having declared the Rules suspended,

The Right Honourable Mr. MASSEY moved that the Report of the Select Committee be taken into consideration. He said that, when he introduced the Bill, it was his duty, with reference to the motion of which his Honourable friend Mr. Skinner had given notice, to inform the Council that the Government considered this Bill an essential part of the Budget, and that the adoption of his Honourable friend's motion would necessitate the reconstruction of the financial arrangements of the year; and Mr. MASSEY had also added, what was of minor importance, that if his Honourable friend's motion was adopted, it would not be consistent with his duty to aid in that reconstruction. He thought it more respectful to the Council that he should make that announcement, because, in the event of the failure of the Bill, it would not have been right for him to retire from the Government leaving the financial arrangements incomplete, without having given notice of his intention. He believed that what he had said was understood by Honourable Members in that sense—certainly it was far from his intention to impose any restriction to free discussion of any measure before the Council. But while the Government were obliged to assert their adherence to the Bill as a part of the financial arrangements of the year, they were willing to consult the wishes of the Council in making any amendments in the Bill which were not inconsistent with its main purpose; and not only were the Government so willing, but he had expressly incited the Council to aid the Government in that respect. He had now to express, on the part of the Government, their grateful acknowledgments of the fair and candid spirit in which, without excepting the two Honourable Members who had thought proper to record their dissent from the principle of the Bill, the Committee had approached the question. Mr. MASSEY thought the labours of the Committee had resulted in a considerable improvement in the details of the Bill.

A question had been raised by the Honourable Mr. Shaw Stewart with regard to the word "occupations" in the title of the Bill. The Committee had considered the probable application of that term, and as it appeared to be one of an ambiguous import, and unnecessary for the purposes of the Bill, they had recommended its omission. The title of the Bill accordingly now was "a Bill for taxing professions and trades."

In the existing Act, the partners of a firm were personally taxed. But the Committee considered that that was not exactly a fair mode of arriving at the profits of a partnership, as there might be one or more of the principal partners out of India, and the management of the business might be conducted by a partner having only a small pecuniary interest in it. The Committee, therefore, came to the conclusion that the tax should be assessed on the firms, and not on the individual members of the partnership. The first schedule in the Bill now commenced with persons whose annual profits should be assessed at Rs. 400,000 or upwards; and the second class in the same schedule applied to persons whose profits were from Rs. 200,000 to Rs. 400,000. Those two classes were added to the Bill in order to meet the case of partnerships. With regard to Companies, they were, under the present law, assessed according to their paid up capital. That was found not to be a satisfactory criterion, and the first notion of the Committee was that Companies should be placed on the same footing as partnership firms, and should be taxed on an estimate of their profits. But on consideration it appeared that there were great difficulties in applying that rule to Joint-Stock Companies. The Committee had therefore preferred to fix on Companies a special payment of Rs. 500 in respect of every place in India where they carried on their business. But inasmuch as that mode of taxation might be unfair to some Companies, and might have the effect of exacting a larger amount than was required on the principle on which the assessment was to be made under the Bill, the Committee had left it optional to Companies to be taxed at one per cent. on the amount of their dividends. He did not imagine that the option proposed to be given would be frequently resorted to; but he believed there were cases in which a tax of £50 would operate unjustly if imposed on all Companies without exception.

The Government had had considerable difficulty, under the present law, in arriving at the exact number and position of servants and persons employed by Companies. The Collector had been obliged to ask the officers of a Company for a list of the persons employed by them, but the Companies had not unreasonably been disinclined to accede to the request. The Committee had therefore thought it not unfair to require from Companies a return of the persons employed by them, showing the salaries received by each, with the view of assessing them in the same manner as public servants. The tax due from every servant under the Bill would be deducted by the treasurer of the Company from the salary paid to him, and the amount of such deductions would be made over to the Collector. There was also a provision which the Committee had introduced into the Bill in relief of traders. They proposed to take from traders payment in two equal instalments; and if any person preferred to pay the whole tax in one sum, a discount of 2½ per cent. would be allowed. But as a trader might die or become insolvent, or become incapable of carrying on business, during the currency of the year, if any of those

events occurred in the course of the first half of the year, payment of the second instalment would not be required from him; and, if it had been paid, it would be refunded.

They then came to the subject of penalties. If a trader, after receipt of a notice, failed to pay the sum in which he was assessed, he would be subject to a penal process: he would be summoned before the Magistrate, and, on proof of the service of notice, would be subjected to a fine equal to double the amount in which he was assessed; the payment of such fine, however, would exonerate the person from any further taxation; the duty, in fact, would merge in the fine.

It appeared that some obstacles had been thrown in the way of appeals under the present law, by the imposition of the stamps necessary on such proceedings. The Committee had therefore provided that if the Collector or the Commissioner, on a consideration of the case, should be of opinion that the appeal was well founded, the stamp-fee, as well as the tax, might be refunded.

There was an amendment which the Honourable Mr. Shaw Stewart had placed on the paper, with regard to the exemption of non-commissioned officers in civil employ in the receipt of less than Rs. 6,000 per annum. It was the subject of some discussion in Committee, and was resisted on the general ground that it was not desirable to extend the exemptions under the Bill. Mr. MASSEY however did not think that the proposed exemption could, on its merits, be rejected, and, so far as he was concerned, he was willing to accept it.

He did not know what course his Honourable friend Mr. Skinner proposed to take with regard to the amendment which he had placed on the paper. Mr. MASSEY had had no communication with him on the subject, and it was not for him (Mr. MASSEY) to enquire what were his Honourable friend's intentions. The Council would presently hear what his intentions were; but Mr. MASSEY ventured to hope that, after the ample discussion which took place last week, his Honourable friend would not persist in his opposition.

The Honourable Mr. SKINNER said that the Council were aware of the grounds on which he had opposed the introduction of this Bill. The rules of our procedure did not admit of his speaking a second time upon the Budget in the debate which arose on the introduction of the Bill; and he was equally debarred to-day from reviving that debate, or he would have endeavoured, more clearly than he feared was the case with his previous efforts, to substantiate his objections to the policy on which this Bill was founded. The Honourable Mr. Strachey, who undertook the defence of that policy, succeeded certainly, in the course of his able speech, in throwing some additional light on the intricacies of the Budget-accounts; but Mr. SKINNER could not admit that by his remarks Mr. Strachey had succeeded in conveying to his mind any justification of the principles according to which those accounts had been framed. He sincerely respected the opinions of all of those to whom he was opposed on this question, and he felt all the disadvantage that attached to a position of antagonism, not only to such high authorities in these matters as the Right Honourable member opposite and the Honourable gentleman on his left, but to His Excellency himself. His judgment, however, refused to surrender to the arguments that had been used in support of the necessity for the means of taxation which this Bill provided, and he was bound to state, as he did with all deference, that the debate on the Budget had left him unshaken in his conviction of the needlessness under present circumstances, and of the impolicy, of the proposed measure.

He could not presume to say whether or not the principles on which he had declared his hostility to this Bill would have found acceptance with a majority of this Council had full freedom of discussion been left to it; but, constituted as was the Council, he might fairly say that, if every other argument against him had failed, it could hardly have been expected that he should successfully contend against the threat which the Right Honourable Mr. Massey had thought it right to hold out, of the consequences that would follow from the adoption of his (Mr. SKINNER'S) views,—a threat in which he must assume to consist the principal defence on which this measure rested.

But if the Government were resolved to impose a burden of this sort upon the country, upon what principle was it that particular classes were singled out and fastened upon to bear that burden? Why levy a tax upon enterprise and leave property untouched? Why should the landed and funded interests be exempted from contribution to an impost, from the application of which they derived at least equal benefits? Every stride that was made in the extension and consolidation of good government served but to enhance the value of their property; and if their gain was not greater than that of other classes, it was at all events more permanent.

Had he been permitted to do so, he would have moved certain amendments to this Bill, so that, by extending its provisions to the exempted classes, the taxation might have been more

impartially distributed, and the assessment on all classes thereby been modified; and he would in that case have been prepared to support his proposals with reasons of, as he should hope, adequate force.

It appeared, however, that, by the Statute, the power of making a motion of this sort was reserved entirely to the Government, and it was only left to him, therefore, to express his regret that, in the exercise of that power, the Government should not have assumed the responsibility he was prepared to undertake.

He saw that the sense of the Council was not with him in his present amendment, and to press it under the circumstances would involve a course of action that might seem to degenerate into a factious opposition. With His Excellency's leave, therefore, he would withdraw his amendment. He should not, however, on that account withdraw his protest against the Bill; but it would be sufficient for him that, in the discharge of his conscience, he recorded his vote against it.

The motion was withdrawn.

HIS EXCELLENCY THE PRESIDENT said, he felt himself that morning unable to discuss a matter of such importance; nevertheless he thought it his duty to at once state to the Council his reasons for objecting to the amendment which the Honourable Mr. Skinner had proposed to put to the Council. HIS EXCELLENCY need not say that no gentleman acquainted with the Honourable Mr. Skinner would ever attribute to him anything like a factious motive in the course he had thought proper to take. HIS EXCELLENCY was quite sure that every body would agree that what Mr. Skinner did was done from a high sense of duty. The reasons which had influenced HIS EXCELLENCY in rejecting the amendment which the Honourable gentleman intended to propose were founded on motives of principle as well as of wide expediency. It must be clear to Honourable Members that it would be very inconvenient and very inexpedient that the Government, having deliberately decided on its line of policy, should admit of members not connected with Government moving amendments in the Bill before the Council so as to tax new classes or new descriptions of persons. Such a course might lead to grave and serious inconveniences. But though HIS EXCELLENCY objected to the proposed amendment, there was no objection in his mind to the full and fair discussion of all points connected with the motion of which the Honourable gentleman had given notice; and HIS EXCELLENCY was quite prepared himself, so far to enter on the principles which influenced the Government in the policy which they had adopted.

Practically the points to which objection was raised referred to the relative disadvantages of the license-tax as compared to the income-tax. Now HIS EXCELLENCY was not prepared himself to go into the merits or demerits of an income-tax. He thought a great deal might be said, and fairly said, in favour of such a tax. The Government had had before them various schemes for the taxation of all classes of the community; but after long and anxious consideration they had come to the conclusion that the proper line for them to pursue at present was to maintain the principles of the license-tax. Therefore, while on principle maintaining that tax, we at the same time thought it right, and desirable, and reasonable that the chief points which had been raised as objections to the working of the tax should be altered; and the result had been the preparation of the present Bill, which must be admitted by all impartial persons to be free from the salient objections to the Bill of last year. There was also another advantage in what had been done, which consisted in the fact that if, hereafter, at any time it might be deemed right to adopt an income-tax for the country, what would be done this year would be in furtherance of that object. A good deal had been said out of doors regarding the advantage and importance of an economical administration of the finances of India. HIS EXCELLENCY did not think that the Government of India were fairly open to rebuke on that point. He did not think that any Government had ever more carefully, more frugally, and at the same time more liberally, administered the finances of India than had been the case during the last few years. We had done a great deal to improve the position of various classes of the community; we had done a great deal to improve the condition of the soldiery in India; we had improved the condition of a large section of the civil establishments, of the Native Judges, and the like; and we had undertaken various other reforms and changes, all of which inevitably must cost large sums of money. The rise of prices alone had entailed large expenditure on the Government. Nevertheless, in spite of those circumstances, the general expenditure had been kept within reasonable bounds. One of the many important duties of the Financial Department consisted in hearing and considering schemes, more or less forcibly advanced, of considerable expense, and HIS EXCELLENCY might even challenge criticism on that subject. He had no hesitation in saying that there was no Government in the world, of anything like the same proportions, where the expenditure of

the Government was more fairly, more carefully, and more anxiously considered, than was done by the Government in India. We were all well aware that the revenues of India in one extent were certainly elastic; but so was the expenditure; and it might be said with truth that the expenditure had from year to year increased *pari passu* with the income.

There were one or two points connected with taxation to which the Honourable Mr. Skinner had referred, and regarding which His EXCELLENCY wished to say a few words. As His EXCELLENCY understood his speech on the 20th March, he (the PRESIDENT) understood that, while Mr. Skinner objected to all new taxation, nevertheless, so far as the principle of the license-tax was concerned, he thought that the objections to that tax were one degree less strong than to those against the income-tax. But be that as it might, whatever were the advantages of the income-tax, as regarded one large section of the community, it could not be denied that the burdens which that class bore were very high, and in fact were undeniably greater than any burden which any other class of the community had to bear. His EXCELLENCY alluded to the land-tax. There was no doubt that the land-tax in India, or if his honorable friend liked to call it so, the Government rent for the land, was very large. In fact, the burden in former days, in many Provinces, was so great that it seriously impeded the improvement of the country by preventing the cultivation of the soil and the investment of capital in land. His EXCELLENCY could well recollect the days when, in the Upper Provinces, in Madras, and all over India, except Bengal, our land-tax was so high that it had a most serious effect on the progress of the country and the condition of the people. That day had passed by; but nevertheless it was undeniable that even now the land-revenue of India bore a very high proportion to the rent of the land. Only a few years ago, in the North-Western Provinces, the proportion of the Government demand was equal to two-thirds of the rental: since then the Government proportion had been fixed at one-half. That principle had obtained in all the different provinces, such as the Panjáb, Oudh, the Central Provinces, and so forth, for the last ten or twelve years. Yet, to that share of the rent which the Government took, there had been added a considerable amount in the shape of local charges and cesses. In most of the Provinces in this Presidency which were not permanently settled, the cesses did not fall short of fifteen per cent. in addition to the Government percentage of the rent, so that the demand on the landholder amounted to full sixty-five per cent. of the rent. Though the cesses in the Bombay Presidency did not amount to any thing like that, they were still very considerable. After settlements were made one anna in the rupee was added for educational and road purposes. As His EXCELLENCY had observed before, whatever might be said in favour of a general income-tax, he thought it could not be denied that the land in all the Provinces which he had mentioned was very heavily burdened. This, however, was no reason why the landholders of Bengal, Behar, and Orissa should not be asked to contribute in like manner towards the local wants of their province; and His EXCELLENCY had great hope that His Honour the Lieutenant Governor of Bengal would take that matter into consideration; and that he would induce the landholders of Bengal to meet the wants in those respects of the Lower Provinces.

In speaking of the care with which the finances of India had been administered, His EXCELLENCY might refer to the very considerable reduction made in the Army of India. Since the beginning of 1864, the British Army in India had been reduced by no less than 7,159 men. That Army now amounted to 61,856 men; and such had been the peace and prosperity of the country that, with that reduced force, they had been enabled to contribute to the service of Her Majesty in Abyssinia four regiments of British infantry and several batteries of artillery. The Native Army also had been reduced to 126,623, men which His EXCELLENCY considered the very least that could be maintained for the duties of the country.

His EXCELLENCY would now advert to one other subject. It appeared that there were serious apprehensions in some quarters as to the intentions of the Government in regard to expenditure on account of reproductive public works, and he had even seen it stated in some journals of eminence that the Government had no present intention of expending adequate sums of money in extending irrigation. Nothing could be more mistaken.

This Government had never varied in its determination to do all that was possible to push on the construction of irrigation works in all parts of India; but to wish for their construction was one thing, and to accomplish it was another. The Government of India, it must be remembered, was not concerned in the actual business of local administration, and its duty in respect to the carrying out of public works was of necessity limited to providing the needful funds, and by its orders or exhortations stimulating the several Local Governments to energetic action, and promptly responding to all proposals issuing from those authorities which called for the concurrence of the central Government.

It was from the very first perfectly well known by all the Officers of the Government concerned with the administration of the Public Works Department, that any very rapid prosecution of new irrigation works was not to be expected at first starting. India was the only school for engineers who had the special knowledge which was requisite for making projects for such works, and they must therefore wholly rely upon their own resources in respect to the first designs. At the same time, from the comparatively small number of engineers who had been employed on irrigation works in past years, and from the special qualifications needed for preparing new projects, and from the obligation to maintain all existing works in proper efficiency, there had been an absolute limit put to the number of officers who could be set to work on the preparation of new designs. But considering all these things the progress made since the Home Government finally gave their assent to the proposals of the Government of India relative to the extension of irrigation had been very satisfactory.

The Government of India last year allowed £700,000 to be entered in the estimates as the provision for works of irrigation, to be met from borrowed money. It appeared from the last accounts that had been received that not much more than half of that sum would actually be spent. But the diminished expenditure was not in the smallest degree due to any action of the Government of India in restricting the grants, but wholly to the want of ability of the local public works officers to spend the money assigned for irrigation works, to the extent that had been anticipated at the commencement of the year. It must be explained that the Government, when declaring its intention to provide, by borrowing, all funds needed for the prosecution of irrigation works, felt that it would be essential to take precautions to prevent the thoughtless outlay of the money, and prescribed certain conditions with which it was necessary for every work to comply before it could be aided by borrowed money. First, it was required that the work should be estimated to cost not less than £10,000, and, second, that it should be of such a nature as to be susceptible of having the returns derived from it shown in a distinct manner. It was felt to be a duty of the Government at any future time to be able to show precisely on what specific works the money had been spent, and what was the exact pecuniary result to the State from their operation. It was probable that the Government would reduce the limit of £10,000 to £2,500, but till now there had been no obstruction to the prosecution of any single work ready for execution, so far as the Government of India was informed, from want of funds.

To show generally what had been done in the way of pushing on projects during the last year, the operations of each province would be briefly mentioned.

Beginning with the Panjáb, they had the new project for a canal from the Sutlej, roughly estimated to cost about two millions, which would immediately receive sanction to admit of the exact line being marked out on the ground, and the detailed designs and estimates of the works prepared. It might be hoped that work would actually be begun next season.

Next the remodelling of the Bári Doáb canal, with a view to increasing the supply of water from the Beas river, was under consideration. Also a large project for improving the Western Jumna canal, and for extending it into the arid districts near Sirsá.

Surveys had also been put in hand for projects for canals to be derived from the Sutlej during the monsoon months, for the country between Ferozpur and Multán; and like surveys were also going on for extending the canals on the right bank of the Indus.

There had been some difficulty in finding qualified officers for all these surveys, but they were believed to be going on satisfactorily.

In the North-West Provinces, a new project for a canal from the Jumna, to leave it below Delhi and to irrigate the Agra and Muttra districts, at a cost of about half a million, had been sanctioned in the rough, and was already in great part marked out. The remodelling of the Ganges canal, and the arrangements needed for making it a complete line of navigation throughout its length, were in progress, and some parts of the designs had already been received. When these and other contemplated navigation-lines were carried out, there would be continuous water communication from Lahore to Delhi, Agra, the Doab, and on into Oude.

Plans were under consideration for carrying out extensive works in Rohilkhand on the north of the Ganges, which would combine irrigation and drainage.

Engineers were also at work in Bundelkhand preparing projects for utilizing the water of the three chief rivers which flowed through that province. In connexion with these operations it would be seen whether a further supply of water could be secured from the lower part of the Jumna to be led to Allahabad.

In the province of Oudh, surveys were also in progress for a canal to be taken from the Sardá; this would be a first class work, not smaller than the Ganges canal, and might probably cost two millions or more.

In Bengal, on the North, the engineers were at work in Tirhoot, with a view of utilizing the water of the Gaudak river. Also surveys had been begun in Nuddea, which might lead to the formation of a canal, often talked of, to be led from the Ganges near Rajmahal, perhaps as far as Calcutta. A project was well advanced for a canal from the Damúdáh to serve as a navigation and irrigation work, and communicating between the coal district at Rániganj and the Hooghly. Other designs on some of the other neighbouring rivers of this part of Bengal were also in hand.

The canal from the Soane, which was to have been carried out by the East India Irrigation Company, would probably be handed over to the Government for execution, and arrangements would be made for beginning it as soon as the negotiations with the Company would permit. The works of the same Company in Orissa continued to progress.

In the Central Provinces, an officer had been obtained from Madras for the special prosecution of irrigation works, and two promising projects were well forward, and might probably be in a fit state for submission to the Government of India for sanction in a month or two.

In Madras, the attention of the engineers had been specially directed to the preparation of projects for the completion of the great works connected with the anicuts on the Godaveri and Kistna. Portions of these had already received sanction, and the rest were expected soon to be sent up. Two very large tank works were in course of execution near Madras itself, A large project had lately been sanctioned for the extension of the irrigation from the Pennair river in the Nellore district.

A survey had also been carried out for a canal to turn the water of a river rising in the higher ranges of the Travancore mountains, into the plain of Madura. There were considerable difficulties to be encountered in the realization of this scheme, but it was hoped that they might be satisfactorily met.

Other projects of value were under preparation in the Madras Presidency, and important improvements in the Cauvery works were also contemplated.

In the Bombay Presidency, beginning with Sind, a very large scheme for a canal from the Indus at Roree, to irrigate the Hyderabad collectorate, was under consideration. Other projects were in hand for improvements of other existing canals in that province.

In Guzarát, a project for a canal from the Tapti had just been sent up for sanction by the Government of India, and another project was believed to be in preparation for another valuable work.

In Khandeish, one work of importance was already in operation, and the engineers were employed in preparing for its extension.

In the Deccan there were numerous projects in various stages of progress, and several new schemes of magnitude almost ready for final submission to Government.

Lastly, in Mysore, additional vigour had been given to the progress of irrigation works, and it had been proposed to apply a large sum from the accumulated surplus revenues, in excess of the annual grants from current income, to the prosecution of these works.

To strengthen the hands of the Government in respect to engineers for employment on the new works which would soon begin to be ready for execution, the Secretary of State had at the urgent request of the Government of India, sent out to this country thirty civil engineers of experience, the greater part of whom had already arrived, and would be immediately distributed among the Local Governments, where their services were likely to be most needed. Increased numbers of young officers would also be appointed by the Secretary of State in the course of the coming year, so that it was hoped that no further difficulty of importance would be met with from this quarter.

Generally, it might be affirmed that the Government of India had taken all necessary steps to inaugurate the policy of extending irrigation to the utmost. It had already established, in every province, a separate head to the irrigation branch of the Public Works Department, and would be ready to consider favourably every proposal having in view the improved administration of this class of works. It was the peculiar duty of the Government of India to see that all proper precautions were taken to prevent the hasty or wasteful application of borrowed money to new works; and at the same time to provide all needful funds for the prosecution of works of ascertained utility and satisfactory design; and till the present time, it was

believed that no question had arisen as to the manner in which these duties had been performed by it.

HIS EXCELLENCY hoped that statement would be as satisfactory to the Council and the public as it was to himself. While he considered it of paramount importance that they should not forego any portion of the revenue which they now had, it was not only because he thought that money would be really wanted, but he also wished to affirm and maintain the principle that it was right and proper and reasonable that they should attempt to inaugurate something like a system of direct taxation—a system which would include those who owed much to the Government of this country for the peace and security and order which were maintained, and which enabled them to pursue their occupations and professions with advantage to themselves. HIS EXCELLENCY had heard it said by one gentleman that it was unfair to tax our countrymen who were expatriated in India, and who were employing themselves in increasing the wealth and capital of the country. Another gentleman said that it was very hard and unreasonable and even unjust to tax Government officials. HIS EXCELLENCY not only thought that it was fair and reasonable and right to tax all such classes, and that everybody in proportion to his means should bear a fair proportion of the burdens of the State; but he thought as a matter of honour and duty—and he believed that there were a few of his countrymen who would not regard it as a matter of honour and duty—that European residents should bear a relative proportion of the taxation of the country. It was a remark of the late Mr. Wilson, in which HIS EXCELLENCY heartily concurred, that taxation should be so arranged, and especially new taxation, that the European community should bear a fair proportion to the Natives of this country; and he could not see a stronger argument or stronger ground in the minds of the Natives for objecting to new taxation, than that the European was in any degree favoured in its distribution.

The Honourable Mr. SHAW STEWART said, by the 35th section of the Bill the Local Government was empowered from time to time, with the previous sanction of the Governor General of India in Council, to make rules consistent with the Act for the guidance of Officers in matters connected with its enforcement. There were three points in the Act regarding which he would suggest that rules should be made. First, with reference to the 15th section of the Bill. The Select Committee had inserted in that section a valuable provision that when, on an appeal, an order for a refund was made, the amount of the stamp-duty, together with the whole sum or excess paid by way of tax, should be at once refunded. The object of that provision was to obviate the delays and difficulties now experienced in obtaining refunds. He trusted it would be found possible to make such rules as would admit of the Collector having always on hand a sufficient sum of money for refunds.

The second point referred to the 32nd section. A good deal of discussion had arisen in Committee in regard to that section. It was ruled that persons should be liable to be taken before a Magistrate only after a notice had been duly served on them. There was some debate as to the manner in which that notice should be served. He trusted that the Government would make rules that such service should be as effective as possible, and that, whenever it was practicable, the notice should be served personally.

The third point related to the 20th section, which provided that prosecutions should only be instituted at the instance of the Collector. But by the 31st section the Local Government was empowered to confer all or any of the powers and duties of the Collector on any other person.

Mr. SHAW STEWART thought it very undesirable that any person so invested should have the power of instituting prosecutions under the Act. Under the Stamp Act, no prosecution could be instituted without the actual assent of the Collector of the district. He thought it expedient that no person except the Collector himself should institute any prosecution under the Act. Otherwise we might have, in out-of-the-way districts, a number of prosecutions commenced by sub-divisional officers.

If the Honourable Mr. Skinner had persevered in his intention, Mr. SHAW STEWART would have been at some loss to know which way to vote. On the one hand he thought we must come to an income-tax sooner or later, and on the other hand the Executive Government had maturely considered the subject and with far better means of judging, had decided on its course. He thought no one could have attended the meetings of the Select Committee without seeing how difficult it was to devise an approximately perfect scheme of direct taxation without proceeding on the principle that the tax should be levied not by arbitrary assessment but on returns made by the tax-payers themselves. The principle of calling for returns had been put on one side; we had raised the tax as well as we could, but he thought it would be surer and better to ask the people to return their own incomes. How would it be ascertained

whether the profits of a firm were below or above two lákhs of Rupees, or above four lákhs? To ascertain that would be a matter of great difficulty. If you said that the Collector would do that as well as he could, then you admitted that it was impossible to arrive at such information without returns.

The Honourable Mr. CROOKE said that the Bill before the Council seemed to him to be not founded on true principles; for when it was attempted to redress some of its grievances then an equal default appeared in some other part of it. As the Bill now stood, a firm earning about enough to maintain its partners in decent comfort would have to pay as much as a Company distributing large dividends to wealthy shareholders. This tax had been compared with the Home Licenses; but Mr. CROOKE thought that those were imposed rather for the purpose of controlling and limiting persons dealing in articles specially objects of taxation, or else of intoxicating qualities. It would certainly create great surprise to the frequenters of the Exchange at Home if they were required to produce a certificate for plying their vocation. He was no advocate for an income-tax unequally levied, but he thought even such would be better than this measure, inasmuch as the default would lie with the people rather than with the law.

The Honourable Mr. COCKERELL said he had some amendments to propose, but—

The Honourable Mr. MAINE observed that amendments should be moved afterwards. The motion now before the Council was that the report of the Select Committee be taken into consideration.

The Honourable Mr. MINCHIN said that while, on a measure of this nature, which carried out the financial policy of the Government, the additional Members of the Council were precluded by their official position from anything approaching to factious opposition, they would ignore the reason of their existence if they were to pass them in silence, without offering to subject them to temperate but fearless criticism.

With reference to a measure of this kind, he was of opinion that the Executive Government as a whole, and the Finance Minister in chief, were responsible for the principles, while this whole Council was responsible for the details, of the Bill, for the machinery by which the financial policy of the Government was to be carried out.

With reference to the policy of the Bill now under consideration, it was avowedly a continuation of a system of taxation introduced last year, which appeared to have been unpopular to an extraordinary degree amongst an important section of the community, and yet, in principle, it seemed to him not unsuited to the country at large. He had had no practical experience of the working of the license-tax, having been out of India since it was passed, but he had to carry out the late Mr. Wilson's income-tax in a district extending over seven thousand square miles, in half of which he had to make his own assessments, and in the other half he had to revise on appeal the assessments made by his subordinates. He had therefore a thorough acquaintance with the working of that Act, and was convinced that one more unsuited to the condition of this country was never forced upon the people.

That Act was founded on a system of requiring returns of income from every individual supposed to have £20 a year and upwards. Those returns were of the most complicated nature, and the very sight of them was hateful to the Natives. Their general cry was, "make us pay what you like, but spare us these returns." In his own district, which stood about seventh among all the districts in the Madras Presidency as to the amount of income-tax collected, he believed, speaking from memory, there were not two traders' returns sent in acknowledging an income of £50 a year. He had examined in his time cart-loads of those returns, and soon came to the conclusion—he spoke of returns made by Native traders—that they were mere waste paper. The system of arbitrary surcharge was not the exception, but the necessary rule. Without it, the tax would hardly have produced in his district, £10 a year, independently of official incomes. No revenue officer could look back at his proceedings under that Act without wondering at his own audacity. He had to act as if gifted with omniscience, and declare the exact amount of income of hundreds of persons, of whose affairs he really knew very little, ranging from £20 to £1,000 a year. He did not think in his district he ever ventured higher than the latter sum. To ensure the correctness of those arbitrary assessments, the people had the right of proving, if they could, or if they chose, that the surcharge was wrong. But, in his experience, they rarely did so. Of course, in almost every instance they appealed against the first assessment; but when called on for proof, the universal reply was that to produce such was impossible. Only one case did he remember, where an indigo manufacturer, whom he had assessed on an income of £30 a year, produced his accounts. He was a Mussulman, and he remembered his proving to him fairly that he had worked the business at a loss, and his tax was remitted. Traders, as a rule, would not produce their accounts; they preferred to pay the demand rather than submit to scrutiny.

The result of as intimate and practical acquaintance with the working of Mr. Wilson's Bill as any man in India could have had, had convinced him that last year's License Tax Act, with all its imperfections on its head, was far more suitable to the people of this country. It called for no returns; it permitted no scrutiny, unless asked for on appeal; and arbitrary as its provisions were, and unequal as must have been the result of the taxation under it, he had no doubt that it created far less annoyance to the Natives, and was generally less obnoxious to them, than the Income Tax Act, with all the cumbrous English machinery imported with it. As far as the Natives of this country were concerned, he concurred heartily with the policy of the Right Honourable gentleman, who had deliberately preferred the inequalities of this system of broad classification, to the theoretical fairness of a professed income-tax, coupled as that was with a harassing scrutiny into private affairs, and carried out, as in this country it must be, with equal arbitrariness, though with greater pretensions to accuracy.

But, there was one section of the community, numerically weak as compared with the Natives, but powerful in their energy and their influence, with whom this tax was essentially unpopular, who used the acknowledged inequalities of the license-tax system as a vantage ground for attacking it, and who would never accept the lightness of the general incidence as any answer to those inequalities of which they complained. In the present Bill a slight concession had been made to this feeling; and, with regard to the official classes, the system of classification had given way, and in place of it an income-tax had been imposed. In Committee, this concession, for such he thought it was in English eyes, had been extended to all who drew fixed salaries from Companies; it had been extended, in fact, as far as the Right Honourable gentleman in charge of the Bill considered safe, to all concerning the amount of whose income there could be no doubt, and for the realisation of the tax imposed on which there could be no difficulty. But MR. MINCHIN thought that the natural wishes of the English part of the community on this point might be met without making the system unsuitable to the Natives. As there appeared every prospect of this tax becoming permanent, he would suggest for future consideration the advisability of so far modifying this measure, as to convert it into what he might call an optional income-tax. He was quite opposed to the demand for compulsory returns, which was the most obnoxious feature in the late Income-Tax Act; but he would give an option to the public of submitting returns, if they chose to do so, within a certain date, and if the returns given in by any individual appeared to the Collector to be *bonâ fide* honest returns, he would allow that individual to be charged upon his income at the same rate as might be charged on official salaries. If, on the other hand, the Collector were of opinion that the returns sent in were false, he would have the power of surcharge granted by the Income Tax Act. But instead of having to exercise an absolute omniscience, by pronouncing the exact income, in his opinion, of the party surcharged, he would work on the machinery of this Bill, and require him to take out a license according to the classifications of the schedule. He thought that, in that way, the present Bill might be modified so as to work in the manner most suited to each section of the community, and might be applied by the Government to any class of income which it might be determined to bring within its operation. He came to the strongest argument brought forward by the opponents of this measure, the fact that it did not go far enough, that certain classes were unfairly exempted from its scope. No argument could be brought forward that would satisfy a man paying a tax on his profits from a trade or a profession, why another man who made an equal profit from landed property should go free. The official, with a precarious income dependent on life and health, would not easily admit the reasons that excluded from the tax the certain income derived from funds or other property. The objection was founded on the Anglo-Saxon's hatred of all that he considered unequal dealing. But Fortune did not always bestow her favours fairly; in the rubber of life, they could not all hold honours; in the race of life they could not all win, and they must accept the unequal dispensations which Providence and Governments bestowed. For his own part, he could never support any proposal framed with the object of bringing under taxation classes whom the Government had thought it advisable to exempt. In such matters, Government must have the best information, and should be able to form the best judgment; and he had no sympathy with that selfish feeling which made a man believe his own burden to be lightened, because he saw a like clapped upon his neighbour's back. This Bill would enable Government to bring under its taxation any classes it might choose in its own good time, and he saw no reason to urge it upon this course.

He passed now from questions of principle to those of detail, for which, as he said before, this Council might be considered wholly responsible. There were two provisions contained in this Bill which he must frankly state he did not view with favour. His objections in Committee had a fair hearing, and, like all Englishmen under such circumstances, he could

only bow to the will of a majority, and he did not consider his difference of opinion on these points any reasons against his signing the report of the Committee recommending that this Bill should pass. The first point of detail which he could not approve, was the system which insisted on the payment of the tax previous to any permission to appeal. The plan of enforcing payment first, and enquiry afterwards, did not approve itself to him. In an arbitrary assessment of this nature, there must unquestionably arise cases of hardship, where a party had been classed too highly, and where it might be of great inconvenience to the sufferer to pay the full demand before he could apply for a hearing of his case. The Collector, upon enquiry, might often find that he had fallen into error, which he would be glad of the opportunity to rectify; and he (MR. MINCHIN) would be pleased if this anomaly were removed, and the ordinary principle that regulated the collection of the State revenues were applied to this taxation—the fair settlement of the State demands in first the instance, and their due collection afterwards.

The other point of detail to which he objected was the mode of collection by means of the Magistrates. He had always been opposed to this provision of the Bill, and had been answered by what was, he believed, the English feeling on the subject, that the interposition of the Magistrate was a protection to the public. In the presidency towns, certainly, the Magistrates, and the Collector under this Bill, would always be separate officers, and if anything like scrutiny into the merits of the case were intended on the part of the Magistrate, there would be a protection to the public. But he fully agreed that to make the Magistrate's Courts of Appeal as to the correctness of the assessment would be very objectionable: but when, as they were compelled to do they laid down that the Magistrate was to have no option; that on proof of due service of notice he was bound to inflict a penalty for non-payment in twice the amount of the assessment, it was a mockery to talk of that as a protection; the Magistrate was simply used as a powerful screw for the collection of the revenues of the State. If he shared the opinion of his Honourable and learned friend Mr. Maine, that these Courts in fact were "in one great province actually, and in others potentially, an engine of cruel oppression," he would not at all object to their being turned to some useful purpose; but as he believed nothing of the kind—nor did he think that, in his heart, his Honourable friend believed it any more than he—as he believed that the Courts of the Magistrates were a real protection to the people from wrong and from oppression, he regretted to see this work put upon them. He believed it to be quite unnecessary. He believed that this system in last year's Act arose from its being the mode provided in an old Bill for the collection of a license-tax as part of municipal revenue. But a mode of collection suitable enough for municipal purposes did not appear to him equally proper for the collection of the revenues of the State, which should, he thought, always be realised by the ordinary revenue law. It was true that the Bill, as amended in Committee, allowed the use of the revenue laws for collection outside the limits of the presidency towns, but recourse to the Magistrates formed the main provision of the Bill, and whatever English practice might be, he thought that, in India, those officers should not be employed in such a manner.

The Honourable Mr. COCKERELL was about to say, when he was interrupted by the Honourable Mr. Maine, that he had some amendments of mere detail to propose, but that, before proceeding to move them, he wished to offer a very few remarks on the general principles of the Bill. The debate which ensued on the introduction of the Bill had an effect on him different from what it had on the Honourable Mr. Skinner, for it went to convince him (MR. COCKERELL) that the expenditure entered in the financial statement under the head of "Extraordinary Public Works" was in all probability of an equally, if not more, certain permanent duration than any source of revenue except land. It seemed clear that they were entering on a course of a yearly increasing outlay of no inconsiderable magnitude upon public works of a non-reproductive character, the termination of which was so indefinitely remote that they would not be justified in shifting the burden of ultimately bearing any portion of the present necessary expenditure on this account from the tax-payers of the present day to those who came after them, and who in this view of the enduring nature of these extraordinary charges would, in their time have to bear their share of the burden which those charges imposed. In accepting that conclusion, which he had come to after listening to the very clear statement of the Honourable Mr. Strachey, he was decidedly of opinion that direct taxation in some shape or other was not only fully justified but absolutely necessary. That did not however, altogether remove his original objection to this Bill, which rested partly on the fact that it involved direct taxation of a partial character; that certain important classes, whose material prosperity was due, no less than that of those who would be affected by this Bill, to the advantages resulting from a sound administration, were altogether exempted from the taxation which it imposed—he alluded, of course, to the owners of property in houses and

land. His Excellency had stated that, in his opinion, the land-holders of India generally had already their burdens of a heavy nature in respect of contribution to the Imperial revenue. Of course to his Excellency's vast knowledge and experience of the circumstances of many provinces of this Empire, he (Mr. COCKERELL) was ready to defer; but he thought he might be permitted to say, with regard to those who were possessed of property or interest in land in the Province in which the experience of his official career had been gained, that that was decidedly not the case; and it was in the capital town of that Province—here in Calcutta, where there was a far larger community of European British subjects than in any other part of the Empire—that the partial character of the present Bill was, from the very fact of its seemingly ill-grounded partiality being brought thus, it might be said, into close contact with them, viewed with such strong disapprobation by the community. He meant that the land-owners, and those holding interest in land in Bengal, were in even more favourable circumstances than were those on whom this Bill would directly fall, and yet they were wholly exempted from its provisions. His Excellency had certainly stated that he trusted that His Honour the Lieutenant Governor of Bengal would be able to induce the landed proprietors of those provinces to agree to bear some special form of taxation for expenditure on local improvements.

Mr. COCKERELL hoped that His Excellency's expectation would be realised, for his part he must say he had not much faith in the prospect of any material aid being obtained from that source through mere voluntary action; and in any case, seeing that no scheme for the voluntary taxation of this class was as yet matured or even approximating maturity, it did seem to him that it could not be realised within the period of the immediate operation of the Bill, that was to say, within the period covered by the Budget recently under discussion and towards the income of which the taxation created by this Bill was. Considering that the landed interests had on insufficient grounds been relieved from its due share of the public burden of direct taxation, he had sought in Committee so to amend the provisions of the Bill as to deprive it of its expressly exclusive character in regard to the classes above mentioned. He had endeavoured to induce his Right Honourable friend, the mover of the Bill, to consent to the striking out of the clause which created a special exemption in favour of the cultivators of land who did not keep shops or factories for the sale or manufacture of the produce of the land. He felt that, here at least, the assumption that the landed interests did bear a large share of the taxation could not hold good. For what were the classes to be exempted? Not the mass of ryots and small tenantry, who paid a fair amount of rent for their holdings, for they would in any case be protected by the general exemption which precluded the imposition of the tax upon any person whose annual profits were less than Rs. 500. They were for the most part persons holding land either rent-free or at a mere quit-rent, all cultivating vicariously, and all persons of practically abundant means, and on whom, it would be thought, this taxation might very justly be imposed. He regretted exceedingly that the Right Honourable Mr. Massey was not disposed to accept that class as a fit object for taxation; he nevertheless agreed with the Honourable Mr. Minchin that, if it was not the policy of the Government to include that class in their scheme of taxation, it was not the business of the Members of this Council to press that policy on the Government, otherwise than in the nature of advice. But he (Mr. COCKERELL) did think that much of the unpopularity which undoubtedly attached to a Bill of this kind, would have been avoided if the classes to which he had referred had not been exempted. He thought that the dislike to see any person exempted from any particular burden or obligation, which in the ordinary nature of things should properly fall on all alike, was a feeling common to human nature; that the dislike to special and inequitable, because groundless, preferences and distinctions was inherent in our childhood, and increased with our growth to man's estate; and he apprehended that it was in a great measure from this feeling that the unpopularity of the present Bill, no less than that of the Act for which it was substituted, derived its existence.

The Honourable Mr. SKINNER wished to say a few words in reply to an observation from His Excellency on the apparent discrepancy between his remarks on this occasion, and those he had made in the debate of the 20th March, when comparing a license with an income-tax. The essential difference between the two appeared to him to consist in that the former dispensed with the system of returns and the inquisitorial process which this involved, and in that sense he considered the present measure to be, as he stated before, one degree less obnoxious than an income-tax. But he had no idea of expanding the Bill before the Council into an income-tax Bill. His object in the amendments he had contemplated was simply to extend the provisions of the Certificate Bill so as to bring the landed and funded interests within its operation. He had been told that such a change would necessitate the introduction of the cumbrous machinery required for the working of the Income Tax Act; but to his

humble judgment it did appear strange that it should need greater ingenuity to reach the land and fundholders than was necessary to levy a tax on the professional classes.

The Right Honourable Mr. Massey said the Honourable Mr. Skinner considered himself at a disadvantage in being precluded by His Excellency the President's decision from moving the amendment of which he had given notice. Mr. Massey thought His Honourable friend had not quite correctly stated the disability under which he laboured. The terms of the statute to which he referred were not in dispute. He believed his Honourable friend himself admitted that his motion had reference to the public revenue. The only question was whether His Excellency had properly exercised the discretion vested in him. The Honourable gentleman said he did not desire to convert the Bill into an Income Tax. As far as the present question was concerned, it was immaterial to contest that point. What his Honourable friend avowed himself desirous of doing was, to extend the Bill to other classes of the community, and therefore his object clearly came within the provisions of the statute, which prohibited any Member of the Council from making any motion affecting the public revenue and the public burdens without the leave of the representative of the Crown. Now, that was not a law peculiar to the proceedings of this Council. The provision was taken from parliamentary law and practice. It was a fundamental and invariable rule of the House of Commons, that no motion to impose burdens on the people should be submitted to the consideration of Parliament except on the recommendation of the Crown;—in other words, no measure of taxation could be proposed except on the responsibility of the ministers of the Crown. If, therefore, His Excellency the President had thought proper to exercise the discretion vested in him in the Honourable gentlemen's favour, His Excellency would have conferred on him and the Council a power of dealing with the public revenue which was not enjoyed by the representatives of the people in Parliament assembled. It would not be expected of him (Mr. MASSEY) to vindicate a rule which had existed from time immemorial, a custom which had been appreciated by successive generations, which was most jealously guarded by the House of Commons, and which no one acquainted with parliamentary usage, and with the complications and difficulties that would result if it were in the power of any person of any party to tamper with the revenue, would desire to modify. Therefore, when it was the pleasure of Parliament to constitute this Council, one of the principal provisions introduced into the statute regulating its constitution and practice was this, which precluded the Council from entering on any subject which it was not competent for Parliament to entertain unless introduced by the responsible ministers of the Crown.

It was possible that Mr. MASSEY might be asked what power was left to the Council of dealing with questions of financial legislation? His answer would be that we had the same power in that respect which the House of Commons had. It was true the Council, like the House, could not directly impose taxes; but it might, by refusing to pass measures of taxation, indirectly influence the policy of the Government. But the decisions of the House of Commons, even when they rejected the financial measures proposed by the responsible ministers of the Crown, was not final. There was a power of appeal from the House of Commons to the constituencies; and it had happened before, and would happen again, that the opinion of the people had reversed the verdict of the House. But there was no such power in this country. If the Indian legislature decided against the policy of the Government, His Excellency the President could not appeal to their constituents, because they had none. That was a reason why members of this Council should be most careful and guarded in committing themselves to a course hostile to the policy of the Government. Mr. MASSEY did not say that that should in any way preclude Honourable Members from exercising the most rigorous criticism; but still it was a reason for pausing before putting the Government in a position of embarrassment. He admitted that it was the duty of the Government to consult the opinion of this Council, and as far as possible, to accommodate its measures to their views. With that explanation of the grounds which induced His Excellency to refuse permission to the Honourable Mr. Skinner to introduce his motion, Mr. MASSEY would pass on to some other observations.

The Honourable Mr. Skinner last week announced his intention to oppose the passing of the Bill before the Council. He had, as Mr. MASSEY understood him, departed from that policy to-day, and instead of asking the Council to reject the Bill, he would, if it had been in his power, have asked the Council to extend its provisions to other classes, without, as he averred, converting the Bill into an income-tax. Mr. Massey must compliment his honourable friend on his ingenuity. He had endeavoured to show that his amendments would not have the effect of converting the Bill into an income-tax, simply because the machinery of the income-tax was not to be brought into operation. But it was quite a subsidiary question whether you assessed incomes arbitrarily or by means of returns. The Council had heard one Honourable Member who objected to arbitrary assessment, and thought that that system

should be discountenanced, and that the only fair mode was to require persons to make returns of their income on which they should be assessed and taxed. On the other hand, Mr. Skinner, and Mr. Minchin were opposed to the requirement of returns. Mr. Minchin had given the Council the benefit of his experience with regard to the working of the income-tax. That experience was corroborated by all Mr. MASSEY had heard, and he might appeal to his Honourable colleague Mr. Strachey as to the great difficulty, almost amounting to an impossibility, of collecting the income-tax by means of returns. It was said that, although the Native community were willing to submit to arbitrary assessment, it was antagonistic to the feeling and high spirit of Europeans. But it must be remembered that Europeans were only a handful to the population of the country. We might, therefore, fairly expect from the public spirit of our countrymen, and their sympathy with the Government, that they would yield something of their own objection to arbitrary taxation. He must confess that one strong recommendation of the present measure was that it steered clear of returns. If we resorted to the income-tax, one undeniable difficulty would be the necessity of requiring returns; but even under the income-tax he would apply that principle only when you had to deal with people of that position that you could hardly expect them to submit to arbitrary assessment. He would remind his Honourable friends who objected to the principal of arbitrary assessment that, even in this Bill, it was not of a positive and inflexible character. If a person considered himself unfairly assessed, there was a process by which he could make a return: he could go to the Collector or Commissioner; he might show them the state of his affairs, and might say, "tax me according to the state of my affairs which I expose to you, and do not tax me arbitrarily." Then, if the Collector or Commissioner was satisfied of the truth of the representation, he would tax the person on his own return; but considering the lightness of the assessment, and the character of the persons who would be employed in carrying out the Act, Mr. MASSEY did not apprehend that this privilege would be often resorted to, neither did he believe that much oppression had been exercised in administering the law. He had before him independent evidence on this subject. He referred to the opinion of a body of gentlemen calling themselves the British Indian Association. It was in the nature of an admission by persons who were on the whole unfriendly to the tax. But this was what they said with regard to the working of the law:—

"As a measure of direct taxation which is notoriously repugnant to the feelings of the people of this country, its working during the past year shows that it has the rare merit of being attended with a minimum of oppression, while its financial results have exceeded expectation."

That was the result of the testimony of gentlemen whose opinion on such matters was entitled to some weight; it was spontaneous testimony on their part, on a point which had been much discussed and which had caused the Government great anxiety. If there was one thing more than another which the Government wished to avoid, it was that of raising a revenue by means painful to the feelings of the people. He would not pretend to say that, under the system of arbitrary assessment, some irregularities and oppression might not take place; but as far as he had information, this tax had been collected with moderation, and had not resulted in anything which could be called systematic oppression. With a view to avoid that particular incident of taxation, we had removed from the operation of the Bill the class of tax payers who under the existing law might more than any other class be open to oppression; we had entirely dismissed those whose profits were under Rs. 500.

He would shortly advert to two or three remarks which had been made on the details of the Bill. His Honourable friend Mr. Cockerell had complained that land-owners were not included in the Bill. But His Excellency the President had shown that, in many parts of India, land-owners were not in a favoured position. New assessments had been made, and although the principle on which those assessments were adjusted was one of equity and moderation, yet they involved no sacrifice of the just demands of the Government. In addition to those assessments, the land-holders in Bombay, the North-West Provinces, and the Panjáb were subject to local cesses for roads and education. Those assessments were not inconsiderable; they were not so large as the local charges to which the owners of property in England were subject; but they were charges of a substantial nature and were not likely to decrease. The policy of the Government had been asserted, that some stop must be put to defraying from imperial revenue the wants of localities, and that those wants, such as roads, education and generally requirements of a local character, were to be provided by those who required them,—that was that the local resources of the country must be looked to to provide local wants, and not the resources of the Government. The province of Bengal was in somewhat an exceptional condition. In the early establishment of the British Empire in India it had been found convenient to conciliate the land-owners of the country, and we entered into a settlement

with them to pay certain amount of land-tax in perpetuity. That Permanent Settlement had proved much less onerous than the new settlements; but it was a contract; and Mr. Massey had never heard, and he hoped he never might hear, of any policy inconsistent with the faith which had been pledged. But although we could not especially tax the land-holders of Bengal for imperial purposes, yet there were modes by which they could be justly required to contribute towards the finances of the country. But Mr. Cockerell thought there was an element of inequality because the Bengal cultivator was not subject to the provisions of the Bill. Did the Honourable gentlemen suppose that the assesment of the cultivator had anything to do with the taxation of the landlord? The ryots in Bengal were not in a better position than cultivators in other parts of the country. If we taxed the cultivator, we did not reach the land-owner, but we diminished the profits of a man who was not a fit subject for taxation.

The Honourable Mr. Minchin had adverted to another point. He said it was detracting unduly from the power of appeal conferred by the Bill, if we exacted payment as a preliminary condition. But Mr. MASSEY very much feared that if we relaxed that condition, we should encourage persons to institute false appeals. If a man desired to appeal, he should be prepared to show by first paying the tax that his appeal was an honest one. Mr. Minchin said that it might be inconvenient at that moment for the person to pay the tax. Mr. MASSEY was afraid that in every country it was inconvenient to many people to pay the demands of the State. We knew that, even in England, the revenue could not be collected without inflicting hardship. This was inseparable from any system of fiscal administration. You could not govern a country on the principle of compassion and concession to those who, from circumstances of adversity and difficulty, were unable to satisfy the just demands of the State. His Honourable friend had also objected to the jurisdiction conferred on Magistrates for enforcing payment of the tax by means of fines. Was he aware of the extreme rigour with which excise laws were administered in England? They were enforced by a series of penal enactments imposing fines of large amounts, which must be paid without abatement on peril of immediate imprisonment of the defaulter. From his own experience in the early portion of his official career, when he held a small judicial office, Mr. MASSEY had known how oppressive in some instances was the extreme rigour with which the Excise Acts were worked; and it had been his duty in some instances, to forward representations to the proper authorities for relaxation in favour of particular individuals. If we attempted to collect our revenue on a principle of indulgence and concession, we should encourage a system of fraud which would not only demoralize the people, but injure the revenue.

The Honourable Mr. Skinner had endeavoured to involve the Council in a discussion on the comparative merits of the income-tax and the license-tax. Mr. MASSEY had not one word to say against the income-tax: it was a tax which might be resorted to when the circumstances of the country justified its imposition; all he maintained was this, that the income-tax should not be imposed when the revenues were in a flourishing condition; and therefore without committing the Government to any opinion against the imposition of that tax when necessary we had thought it sufficient at present to ask the Council to agree to this modified tax. His Honourable friend asked him why land-holder, and fund-holders were exempted? Could His Honourable friend have been serious? Was Mr. MASSEY again to repeat that, at present, the landed proprietors contributed nearly one-half of the revenue of the country? But what did the trader pay? He paid nothing; and that was the justification of the Bill. The trader was a very valuable member of the community; he had been encouraged by the policy of every civilized Government. But he was a very expensive member of the community. In order to enable him to carry on his business large provision had to be made by Government in the shape of public works of great magnitude. You must have roads, canals, harbours—things that involved the country in enormous expenditure. What had been the policy of England and other countries which had desired to encourage commerce? One of the earliest classes that were subjected to taxation were traders. Long before the income-tax was thought of, traders had been taxed. Mr. MASSEY could show his Honourable friend a long list of professions and trades, covering more than four pages of the paper before him,—upon which were duties taking the form of a rough income-tax had been imposed. Professions and trades had been subjected to special taxation long before the income-tax was thought of. They were assessed to license taxes in addition to the income-tax, and they would continue to be so assessed when the income-tax should be repealed, if ever the repeal of that tax should take place. Let him ask his Honourable friend what objection could there be to a tax on trades here, that would not equally apply to the tax in England? He could assure his Honourable friend that this was not a question between the income-tax and the trades tax: they had before this, as the Council were aware, been considered conjointly, and when the Government resorted to the

income-tax it would probably be imposed in addition to the trades tax. Mr. MASSEY had said before the tax was a very light one; the maximum assessment would be one and a half per cent., the mean incidence would be about one per cent.—and that was a tax which his Honourable friend desired to share with other classes of the community which already bore their share of taxation.

His Honourable friend would include the fund-holder in his scheme of taxation. But he need hardly remind his Honourable friend that the public creditor stood on very different ground from other classes as regarded taxation. When the income-tax was first imposed, the right of the fund-holder to exemption was confidently asserted; but it was answered, not without reason, that at a time when the existence of England as a nation was in peril, that the fund-holder had as great an interest in the maintenance of her independence as any other class. But under ordinary circumstances, it was difficult to maintain that the fund-holder had an equal interest in the good government of the country with other classes. The land-holder and the trader were immediately concerned in everything which promoted the prosperity of the country. But how did the fund-holder benefit by roads and schools and hospitals and jails? What claim had you on your creditor to aid you in providing these things? so long as you paid him his dividends he had no further claim upon you. If it was necessary for the maintenance of public credit that a comprehensive scheme of taxation should be adopted, every body who owned property under the protection of the State must contribute; but no argument could be justly urged against the present tax because the fund-holder was exempted. If he might presume to say so, His Excellency the President had so fully vindicated the policy of the tax and the policy of the Government—a policy which involved large expenditure and which might lead to still heavier claims on the Government—that the Council would come to the conclusion that the Government had not been exorbitant in asking so small an addition to its resources as this tax would produce.

The Motion was put agreed to.

The Honourable Mr. SHAW STEWART moved that, in place of clause 2 of section 3, the following be inserted:—

“(2). Non-Commissioned Officers and Privates of either of the said forces whose pay and allowances do not exceed Rs. 6,000 per annum.”

The class of officers and persons referred to were of course exempt so long as they remained in the army, but after long service looked forward to receiving employments of a special nature. Those employments were either civil or military. In military employments, such as the Ordnance and Commissariat, they would, under the clause as it stood, be exempted. But when they entered into a Civil Department, such as the Public Works Department or the Medical Department, they would not come under the exemption and would be liable to pay the tax. The condition of persons of that class employed in Military and Civil Departments was nearly the same; their duties in civil employment were often of a more onerous nature than in military employ, and they had quite as good a claim to exemption as the others. He was therefore much obliged to the Right Honourable Mr. Massey for the readiness with which he had accepted this amendment, which would remove a just ground of complaint against the Act on the part of a numerous class of deserving and hard-worked officers.

The Motion was put and agreed to.

The Honourable Mr. COCKERELL said he had a series of amendments to move on matters of pure detail, which he could either move separately or together as most convenient.

The PRESIDENT having intimated that they should be moved together.

Mr. COCKERELL continued—He might state for the information of the Council that, in all the amendments which he was about to propose, he had been in communication and consultation with the Honourable Mr. Maine, who entirely approved of them. He had not had the opportunity of consulting the Right Honourable Mr. Massey, but as they were pure matters of detail connected with the machinery for working the Act, he believed that there could be no objection to them. The first amendment was as follows:—

That the words “and ‘defaulter’ a firm making default under this Act,” be added to Section 1.

It was intended to provide for cases of default by partnership firms. The provisions of the Bill as presented by the Committee simply contemplated the prosecution of the firm before the Magistrate; but there was no provision in the Code of Criminal Procedure which applied to all places outside of the presidency towns, nor was there any provision in the Presidency

with them to pay certain amount of land-tax in perpetuity. That Permanent Settlement had proved much less onerous than the new settlements; but it was a contract; and Mr. Massey had never heard, and he hoped he never might hear, of any policy inconsistent with the faith which had been pledged. But although we could not especially tax the land-holders of Bengal for imperial purposes, yet there were modes by which they could be justly required to contribute towards the finances of the country. But Mr. Cockerell thought there was an element of inequality because the Bengal cultivator was not subject to the provisions of the Bill. Did the Honourable gentlemen suppose that the assesment of the cultivator had anything to do with the taxation of the landlord? The ryots in Bengal were not in a better position than cultivators in other parts of the country. If we taxed the cultivator, we did not reach the land-owner, but we diminished the profits of a man who was not a fit subject for taxation.

The Honourable Mr. Minchin had adverted to another point. He said it was detracting unduly from the power of appeal conferred by the Bill, if we exacted payment as a preliminary condition. But Mr. MASSEY very much feared that if we relaxed that condition, we should encourage persons to institute false appeals. If a man desired to appeal, he should be prepared to show by first paying the tax that his appeal was an honest one. Mr. Minchin said that it might be inconvenient at that moment for the person to pay the tax. Mr. MASSEY was afraid that in every country it was inconvenient to many people to pay the demands of the State. We knew that, even in England, the revenue could not be collected without inflicting hardship. This was inseparable from any system of fiscal administration. You could not govern a country on the principle of compassion and concession to those who, from circumstances of adversity and difficulty, were unable to satisfy the just demands of the State. His Honourable friend had also objected to the jurisdiction conferred on Magistrates for enforcing payment of the tax by means of fines. Was he aware of the extreme rigour with which excise laws were administered in England? They were enforced by a series of penal enactments imposing fines of large amounts, which must be paid without abatement on peril of immediate imprisonment of the defaulter. From his own experience in the early portion of his official career, when he held a small judicial office, Mr. MASSEY had known how oppressive in some instances was the extreme rigour with which the Excise Acts were worked; and it had been his duty in some instances, to forward representations to the proper authorities for relaxation in favour of particular individuals. If we attempted to collect our revenue on a principle of indulgence and concession, we should encourage a system of fraud which would not only demoralize the people, but injure the revenue.

The Honourable Mr. Skinner had endeavoured to involve the Council in a discussion on the comparative merits of the income-tax and the license-tax. Mr. MASSEY had not one word to say against the income-tax: it was a tax which might be resorted to when the circumstances of the country justified its imposition; all he maintained was this, that the income-tax should not be imposed when the revenues were in a flourishing condition; and therefore without committing the Government to any opinion against the imposition of that tax when necessary we had thought it sufficient at present to ask the Council to agree to this modified tax. His Honourable friend asked him why land-holder, and fund-holders were exempted? Could His Honourable friend have been serious? Was Mr. MASSEY again to repeat that, at present, the landed proprietors contributed nearly one-half of the revenue of the country? But what did the trader pay? He paid nothing; and that was the justification of the Bill. The trader was a very valuable member of the community; he had been encouraged by the policy of every civilized Government. But he was a very expensive member of the community. In order to enable him to carry on his business large provision had to be made by Government in the shape of public works of great magnitude. You must have roads, canals, harbours—things that involved the country in enormous expenditure. What had been the policy of England and other countries which had desired to encourage commerce? One of the earliest classes that were subjected to taxation were traders. Long before the income-tax was thought of, traders had been taxed. Mr. MASSEY could show his Honourable friend a long list of professions and trades, covering more than four pages of the paper before him,—upon which were duties taking the form of a rough income-tax had been imposed. Professions and trades had been subjected to special taxation long before the income-tax was thought of. They were assessed to license taxes in addition to the income-tax, and they would continue to be so assessed when the income-tax should be repealed, if ever the repeal of that tax should take place. Let him ask his Honourable friend what objection could there be to a tax on trades here, that would not equally apply to the tax in England? He could assure his Honourable friend that this was not a question between the income-tax and the trades tax: they had before this, as the Council were aware, been considered conjointly, and when the Government resorted to the

income-tax it would probably be imposed in addition to the trades tax. Mr. MASSEY had said before the tax was a very light one; the maximum assessment would be one and a half per cent., the mean incidence would be about one per cent.—and that was a tax which his Honourable friend desired to share with other classes of the community which already bore their share of taxation.

His Honourable friend would include the fund-holder in his scheme of taxation. But he need hardly remind his Honourable friend that the public creditor stood on very different ground from other classes as regarded taxation. When the income-tax was first imposed, the right of the fund-holder to exemption was confidently asserted; but it was answered, not without reason, that at a time when the existence of England as a nation was in peril, that the fund-holder had as great an interest in the maintenance of her independence as any other class. But under ordinary circumstances, it was difficult to maintain that the fund-holder had an equal interest in the good government of the country with other classes. The land-holder and the trader were immediately concerned in everything which promoted the prosperity of the country. But how did the fund-holder benefit by roads and schools and hospitals and jails? What claim had you on your creditor to aid you in providing these things? so long as you paid him his dividends he had no further claim upon you. If it was necessary for the maintenance of public credit that a comprehensive scheme of taxation should be adopted, every body who owned property under the protection of the State must contribute; but no argument could be justly urged against the present tax because the fund-holder was exempted. If he might presume to say so, His Excellency the President had so fully vindicated the policy of the tax and the policy of the Government—a policy which involved large expenditure and which might lead to still heavier claims on the Government—that the Council would come to the conclusion that the Government had not been exorbitant in asking so small an addition to its resources as this tax would produce.

The Motion was put agreed to.

The Honourable MR. SHAW STEWART moved that, in place of clause 2 of section 3, the following be inserted:—

“(2). Non-Commissioned Officers and Privates of either of the said forces whose pay and allowances do not exceed Rs. 6,000 per annum:”

The class of officers and persons referred to were of course exempt so long as they remained in the army, but after long service looked forward to receiving employments of a special nature. Those employments were either civil or military. In military employments, such as the Ordnance and Commissariat, they would, under the clause as it stood, be exempted. But when they entered into a Civil Department, such as the Public Works Department or the Medical Department, they would not come under the exemption and would be liable to pay the tax. The condition of persons of that class employed in Military and Civil Departments was nearly the same; their duties in civil employment were often of a more onerous nature than in military employ, and they had quite as good a claim to exemption as the others. He was therefore much obliged to the Right Honourable Mr. Massey for the readiness with which he had accepted this amendment, which would remove a just ground of complaint against the Act on the part of a numerous class of deserving and hard-worked officers.

The Motion was put and agreed to.

The Honourable MR. COCKERELL said he had a series of amendments to move on matters of pure detail, which he could either move separately or together as most convenient.

The PRESIDENT having intimated that they should be moved together.

MR. COCKERELL continued—He might state for the information of the Council that, in all the amendments which he was about to propose, he had been in communication and consultation with the Honourable Mr. Maine, who entirely approved of them. He had not had the opportunity of consulting the Right Honourable Mr. Massey, but as they were pure matters of detail connected with the machinery for working the Act, he believed that there could be no objection to them. The first amendment was as follows:—

That the words “and ‘defaulter’ a firm making default under this Act,” be added to Section 1.

It was intended to provide for cases of default by partnership firms. The provisions of the Bill as presented by the Committee simply contemplated the prosecution of the firm before the Magistrate; but there was no provision in the Code of Criminal Procedure which applied to all places outside of the presidency towns, nor was there any provision in the Presidency

Towns' Police Acts, so far as he was aware—he was certain there was none in the Calcutta Police Act—for levying fines from a firm as a firm. The following amendment seemed therefore necessary for the proper working of the Act :—

That the following clause be added to section 19 :—

“ In the case of a firm the Magistrate imposing the fine may issue a warrant for the levy of the amount by distress and sale of any moveable property belonging to the firm which may be found within his jurisdiction, and (if the firm has not sufficient property within such jurisdiction whereon to levy the fine) of any moveable property belonging to the members of the firm or any of them, which may be found within the same jurisdiction.”

The next amendment was in section 32, and was as follows :—

That the words “ is dwelling, or, in the case of a firm, in which this business therefore is ordinary carried on,” be substituted in section 32 for the words ‘or, in the case of a firm, in which any member thereof is dwelling.’

The object of this amendment was to provide for posting of the notice, in the case of firms, where a personal service was impracticable. There might be a difficulty in finding the place of residence of the members of the firm, but the place of business of the firm must be known and could always be found.

The next amendment was that the following new section be substituted for section 33:—

“ When any Company such as is mentioned in section 22, or any person, has several places of business in the territories subject to different Local Governments, the Governor General of India in Council shall have power to declare which of such places shall, for the purpose of this Act, be deemed to be the principal place of business, and, when any such Company has several Agents or Managers, which of them shall, for the purposes of this Act, be deemed to be the principal Agent or Manager.

“ When any such Company or any person has several places of business in the territories subject to a single Local Government, such Government shall have power to declare which of them shall, for the purpose of this Act, be deemed to be the principal place of business.

“ The powers given by this section may be delegated to and exercised by such officers as the Governor General of India in Council or the Local Government, as the case may be, shall from time to time appoint in this behalf.”

This amendment was calculated to meet the difficulty that might be apprehended (indeed it had already been largely experienced in the working of the present Act) in dealing with persons who carried on business in different places. Under the present law, they made their returns wherever convenient, and it frequently happened that they made returns where they had the least amount of business and were not well known. It seemed desirable, therefore, that it should be left to the Government to determine what place of business should be considered the principal place of business for the purposes of the Act.

The last amendment was that the following section be substituted for section 35 :—

“ The Governor General of India in Council may from time to time make rules consistent with this Act for the guidance of officers in matters connected with its enforcement, and may delegate to any Local Government the power given by this section so far as regards the territories subject to such Government.”

It was thought desirable to take the power of preparing and promulgating the rules to be framed under the Act from the Local Government, and confer it in the first instance on the Governor General in Council. As the Bill stood, these rules were to be prepared by the Local Government, but required the sanction of the Governor General in Council. The alteration was dictated by the consideration of the necessity of uniformity of practice on many points connected with the working of the Act by officers subordinate to different Local Governments in order to guard against loss of revenue. It would moreover, be found more convenient in the case of those provinces in relation to which the Supreme Government stood in the place of a Local Government.

The Motion was put and agreed to.

The Honourable Mr. MAINE moved that the following clause be added to section 19 :—

“ In determining under which of the classes mentioned in the said schedule A any person holding any such employment and exercising, nevertheless, a profession or trade, shall be assessed, the Collector shall neglect the amount of the pay which such person receives in respect of his said employment.”

The Motion was put and agreed to.

The Right Honourable Mr. MASSEY then moved that the Bill as amended be passed.
The Motion was put and agreed to.

CONSOLIDATED CUSTOMS' ACT AMENDMENT BILL.

The Right Honourable Mr. MASSEY also presented the Report of the Select Committee on the Bill to amend the Consolidated Customs' Act.

The Right Honourable Mr. MASSEY also applied to His Excellency the President to suspend the Rules for the Conduct of Business.

The President declared the Rules suspended.

The Right Honourable Mr. MASSEY then moved that the Report be taken into consideration.

The Motion was put and agreed to.

The Right Honourable Mr. MASSEY also moved that the Bill be passed.

The Motion was put and agreed to.

TIMBER DUTY BILL.

The Right Honourable Mr. MASSEY also presented the Report of the Select Committee on the Bill to exempt Timber and Woods from Import duty.

The Right Honourable Mr. MASSEY having applied to His Excellency the President to suspend the Rules for the Conduct of Business.

The President declared the Rules suspended.

The Right Honourable Mr. MASSEY then moved that the Report be taken into consideration.

The Motion was put and agreed to.

The Right Honourable Mr. MASSEY also moved that the Bill be passed.

The Motion was put and agreed to.

The Council adjourned till the 3rd April 1868.

WHITLEY STOKES,

*Asst. Secy. to the Govt. of India,
Home Department (Legislative).*

CALCUTTA, }
The 31st March 1868. }