

Saturday, July 13, 1861

***INDIAN LEG.
COUNCIL
DEBATES***

Vol. 7

1 June - 16 Nov.

1861

ceed with the Bill "for imposing a Duty on Arts, Trades, and Dealings, and to require dealers in Tobacco to take out a License," and the Bill "to provide for a Government Paper Currency," and also that he would, on the same day, move the first reading of a Bill to amend Act XXXII of 1860 (for imposing Duties on Profits arising from Property, Professions, Trades, and Offices).

MR. HARINGTON said, with reference to that part of the notice of the Honorable Member of Government which related to the Currency Bill, he hoped that, in the event of the Government having it in contemplation to propose any alterations in the Bill as settled in Committee of the whole Council, the proposed amendments would be printed and circulated to Honorable Members in sufficient time before Saturday next to admit of their being fully considered.

SIR BARTLE FRERE said that the suggestion of the Honorable Member would be adopted.

The Council adjourned.

Saturday, July 13, 1861.

PRESENT :

The Hon'ble the Chief Justice, *Vice-President*,
in the Chair.

Hon'ble Sir H. B. E. Frere.	C. J. Erskine, Esq., Hon'ble Sir C. R. M. Jackson,
Hon'ble Major-Genl. Sir R. Napier,	and
H. B. Harington, Esq.,	W. S. Seton-Karr, Esq.
H. Forbes, Esq.,	

STAGE CARRIAGES ; AND SUGAR DUTY (N. W. P.)

THE VICE-PRESIDENT read Messages, informing the Legislative Council that the Governor-General had assented to the Bill "for licensing and regulating Stage Carriages" and the Bill "to amend Act XIV of 1843 (for regulating the Customs Duties in the North-Western Provinces)."

CUSTOMS (STRAITS SETTLEMENT).

THE CLERK reported to the Council that he had received by transfer

from the Home Department a communication from the Governor of the Straits Settlement, regarding the frequent departure of vessels from Ports in that Settlement without Port clearances, and forwarding a draft Act to be substituted for Regulation III. 1833, with a view to prevent the evil.

SIR BARTLE FRERE moved that the communication be printed.

Agreed to.

COURTS OF REQUESTS (STRAITS SETTLEMENT).

THE CLERK reported that he had received by transfer from the Home Department a communication from the Straits Government, regarding the extension of the powers of the Courts of Requests in that Settlement.

MR. FORBES moved that the communication be printed and referred to the Select Committee on the Bill on the subject.

Agreed to.

RECOVERY OF RENT (BENGAL).

THE CLERK reported a further communication from the Government of Bengal to the address of Mr. Seton-Karr, forwarding a copy of a correspondence relative to the difficulty experienced by Zemindars, under Act X of 1859, in the measurement of lands.

MR. SETON-KARR moved that the communication be printed and referred to the Select Committee on the Bill to amend that Act.

Agreed to.

SALTPETRE.

THE CLERK reported a further communication from the Government of Bengal to the address of Mr. Seton-Karr, regarding the proposed taxation of salt obtained in refining saltpetre.

MR. SETON-KARR moved that the communication be printed and referred to the Select Committee on the Bill to which it related.

Agreed to.

INCOME TAX.

The Order of the Day being read for the first reading of a Bill to amend Act XXXII of 1860 (for imposing Duties on Profits arising from Property, Professions, Trades, and Offices—

SIR BARTLE FRERE said,—Before referring more particularly to the subject of the Bill which I propose to ask the Council to read a first time to-day, it will be well that I should advert very briefly to those changes which have taken place in the financial position of Government since our Honorable colleague, whose absence from among us we all very deeply regret, made his financial statement on the 27th April last.

The most prominent cause of difference is one which the Council will have anticipated from the great fall in the price of Opium. The revenue from this source was estimated at £6,107,561, and this, at the time the estimate was made, was a perfectly safe calculation, for it took the selling price of Opium at the average rate of the year previous, namely, 1,748 Rupees per chest, whereas the then selling price was over 2,000 Rupees per chest; and had my Honorable colleague taken the prices which then ruled and had been ruling for some time previously, he might with perfect fairness have added a million and a half to his estimate. Indeed the sale which next followed in May, indicated a still higher range of prices than had been attained for years past, and there were not wanting those who considered that he should have taken a higher estimate of the Opium revenue for the year. But cautious as was the estimate, it was lower than was justified by the result, and that within a much shorter period than he could possibly have anticipated. The great rise of prices in May was followed by a still greater fall in June, and at the last sale the price realized was little over 1,400 Rupees a chest; and whether we look at the state of the market here or in China, there appears little ground for confidence that prices will rule much higher for some time to come. At any rate, according

to the best opinions we can obtain, 1,400 Rupees would be as high an estimate for the price of the year as it would be safe to take.

This would leave, after allowing for the unexpectedly high prices in May, a loss in Bengal of £685,000 on the quantity of Opium expected during the twelve months. It does not follow that the loss will be so great in Bombay, where the revenue from Opium depends, not as in Bengal on the price paid to Government for the Opium of which Government are the sole manufacturers, but on the number of passes taken out at a fixed rate of charge, which is now 700 Rupees per chest, the supply being entirely in the hands of private manufacturers and Government exercising no control whatever beyond the levy of the pass or export duty. But the same causes which affect prices here must affect them at Bombay, and may cause a falling off in the quantity sent to China, and if the revenue suffered to a similar extent in Bombay, Government might lose about £265,000. There are many reasons to justify a hope that the loss may not be so great: low prices in China may stimulate consumption, and there may be some compensation for lower prices in increased sales, but it must be borne in mind that the quantity of Opium in the market does not admit of sudden increase, and it is only prudent to be prepared for a loss under this head, including both Bengal and Bombay, of about £950,000.

But this is not all. Owing to the great rise in wages and in prices of produce of all kinds, it has been found necessary to raise the amount of advances to the cultivators of Opium, from 4 to 5 Rupees per seer in Bengal, which will add to the cost during this year of providing the Opium for next season, a sum of not less than £250,000. This necessity was foreseen by Mr. Wilson, and a considerable advance was made last year. But the Lieutenant-Governor found it was not sufficient to prevent a falling off in the cultivation, and a further advance to the extent stated has been found unavoid-

able. The necessity for this was not known to Mr. Laing at the time he made his estimate.

We must then be prepared for an Income less than we had in April every reason to expect from Opium, by a sum little short of £1,200,000; and, instead of £6,100,000, at which Mr. Laing took the net Opium revenue, it will stand at little more than £4,900,000.

We may hope that this is an extreme estimate of our probable loss, but it is one for which precisely the same reason exists at this moment as for the more favorable view taken by Mr. Laing less than three months ago, and the fact deserves the gravest attention of the Council. First, because it proves that we cannot, for some time to come, relax our exertions for the extinction of the deficit, and, 2ndly, because it shows how just are the apprehensions which have been entertained that the Opium revenue is not a source of Income on which the Government of India can safely rely to the same extent as in former years; and that the time has come when, without reference to the financial exigencies of the hour, it behoves the Government of India to provide for a more secure Income than that for which it is now so largely dependent on the price of Opium.

There is another considerable item of charge which does not appear under any separate heading in the Estimate for '61-62. I mean the loss by exchange on Railway Capital, regarding which Mr. Laing observed as follows:—

"But I shall save the £473,334 set down last year for loss by exchange on Railway Capital, for, as nearly as I can estimate, the interest due by Railway Companies on advances made by Government, will balance any loss by exchange from further payments under existing contracts, and I take it for granted that the Home Government, on whose attention it has been urged, will not think of extending a single contract with this most objectionable clause."

(Vide p. 10 of the printed report of his speech.)

His intention was that, in all those cases in which Government came for-

ward to furnish funds to those Railways which were unable to provide funds for themselves, the Government would enter into new arrangements which should save them for the future from the loss which has been heretofore incurred by the difference between the market range of exchange, and the rate at which the exchange is calculated in the contracts with the guaranteed Railway Companies. The Council is aware that the contract rate of exchange is 1s. 10d. the Rupee, while the market rate has been for some time considerably higher, and a corresponding loss has accrued to Government in accounting with the Railway Companies at the lower rate. Thus, when the market rate was 2s. the Rupee, every Rupee which the Government advanced on account of Railways in India, was worth at the market rate 2s., but it was only accounted for between the Government and the Railway Company at 1s. 10d. which of course entailed a loss of 2d. in the Rupee on Government, and the loss under this head in 1860-61 was estimated at £473,000. It was proposed that, in any fresh arrangements with the Railway Companies, steps should be taken to guard against this loss in future, and by this means, coupled with some fresh arrangements regarding interest on sums overdrawn, Mr. Laing calculated on saving the whole of this item of loss on Railway exchange. After mature consideration, however, the Secretary of State did not think it desirable to propose any alteration in the terms of the existing contracts with the old guaranteed Railway Companies, and it would therefore have been necessary to have added a sum of £495,000 to the estimate of expenditure for the current year. But this will not affect the total of the estimate, for each Government had charged itself with the loss by exchange on Railway capital, and the whole sum was included in the £3,096,916 there set down for "Civil and Political charges, including contingencies," and, in consequence, the total of expenditure as shown at the foot of the statement, which is appended to the printed

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report of Mr. Laing's speech, needs no correction.

There are some further items of expenditure which have been omitted from the estimate, of which the principal are £183,000 on account of postage charges, which should have been entered by various departments in their separate estimates, but which were omitted, and other smaller items aggregating £165,000, making a total of £348,000, which must be added to the sum above shown as deduction from our expected Opium revenue, so that we must be prepared either to save expenditure or to provide increased revenue to the extent of fully a million and a half sterling, in order to ensure the result of a balanced budget next year, as hoped for by Mr. Laing.

The Government of India desired to take the earliest opportunity of stating this result, as soon as it became aware of the facts; and in stating them fully as I have done, I am only performing a duty which would have been discharged and doubtless far better than I have done, had Mr. Laing been here to speak for himself.

After having thus stated the unfavorable side of the picture, it is satisfactory to be able to assure the Council that this heavy addition to our liabilities will in no way materially affect the present financial position of Government, nor, I trust, falsify the hopes which were held out by Mr. Laing, that he would not require to raise money in India during the current year.

The cash balances which Mr. Laing estimated at £12,850,000 for the end of the year just closed, were in many cases estimated on a calculation of expenditure which had been so effectually reduced, that the cash balance in hand at the end of the official year actually amounted to £14,286,000, without including bullion remittances lately received from England. It was thus £1,416,000 more than the sum Mr. Laing had estimated, and had considered as a more than ample working balance. This it will be remembered is an actual result, while the £1,200,000 of loss on Opium

revenue is, we may trust, an outside estimate of a probable loss.

For the future I trust there will be no cause whatever for despondency. The facts I have just stated will show that our task is not so nearly accomplished as we had reason to hope, that for several months longer we must persevere in the course that has hitherto been so successful, that we cannot afford to relinquish any item of taxation which Government has hitherto declared its intention to impose, and that we cannot yet relax the pressure which has been put upon all departments to enforce the most rigid economy. But I trust that, by devoting its attention to the development of the sources of revenue already existing, the Government of India may be able to dispense with new taxes other than the License Tax which has been so long under discussion, and any local taxes which the Local Government may desire to introduce for purely local purposes; and as regards further reductions, we have every reason to hope that by a perseverance in a course of rigid economy very considerable further saving may be effected in all departments, without danger to the security of the country or injury to the efficiency of any branch of the administration. Above all, it is the Governor-General's earnest hope that we may not be obliged to curtail any of the increased assignments to Public Works granted on the strength of the favorable view taken of our financial condition in April last, and if seconded, as I feel assured we shall be, by the local Governments, I see no reason whatever to doubt that the expectations which have been held out will be fully redeemed. We cannot conceal from ourselves that the task is somewhat more difficult than we had supposed three months ago, but of final success we feel confident.

I have made no allusion to any increase of charge on account of the four millions which the Secretary of State has lately taken power to borrow in England on Railway account, because in point of fact there will be little or no charge to the State on that account.

The Railway Companies who will require it, will pay interest on it to Government, so that the State will not have to bear the burden.

I come now to speak of the Bill which I asked the leave of the Council to introduce this day for the amendment of the Income Tax Act. The course which Mr. Laing proposed, was stated by him in his speech in this Council on the 27th of April last, and will be found detailed at pages 13 and 14 of the printed report of his speech. It was, briefly, to hold over the License Bill until he could combine it with an amended Income Tax Bill. The principle of taxation embodied in the Income Tax Bill he would have reserved for the higher classes of Income, such as are "fixed and certain" and can be ascertained without prying into people's private affairs, while he would have greatly raised the minimum limit of the Income Tax and the maximum limits of the License Tax, so as to transfer from the former to the latter all smaller incomes, and the greater part of those derived from trades and professions. He would, in fact have assimilated his measure much more to the Bill originally introduced by my Honorable friend the Member for the North-Western Provinces than to the two measures intended by the late Mr. Wilson.

There can be no doubt, that *this* plan had much to recommend it, and had time admitted of a thorough recasting of our system of direct taxation, and had not we been to a great extent pledged to the Income Tax and License Tax as they stand, such a plan as Mr. Laing alluded to in his speech, would have commended itself to the judgment of those who have seen most of the weak points of the Income Tax. But I cannot subscribe to the doctrine that the Income Tax has been, financially speaking, "a failure." On the contrary, I believe that, when the measure has been fairly worked out, it will prove a most valuable addition to our financial system, even if it do not realize all that its able authors hoped for from it. It must be recollected that the tax has not yet been a whole year in nominal

existence, and that—owing to the unavoidable haste in which it was passed, the necessity for altering the forms of notices and returns, for making many translations into different languages, and other causes which I need not specify—it was some time before it came into full operation in those districts which were best prepared for it, and that in some of the more backward districts the tax can hardly yet be said to be fully at work. I hold here an imperfect return of collections up to May. In the four first months they did not amount to more than 11,61,235 Rupees altogether, or less than three lakhs of Rupees per mensem. In

December	they rose to...	Rs.	4,32,000
January	" " ... "		10,89,000
February	" " ... "		13,04,000
March	" " ... "		15,24,000
April	" " ... "		20,59,000
May	" " ... "		25,55,000

giving an aggregate of upwards of a million sterling for the first ten months of the tax, during six only of which the tax can be said to have been in effective operation. So that we may trust Mr. Laing's estimate of a million and a quarter for the net annual produce of the tax, will be within the mark.

But though I cannot consider it as a financial failure, there cannot be a question that, whatever its financial results, its effect in a great majority of cases is far more demoralizing here than it is in England, where, as we well know, this inevitable tendency of all direct taxation of Incomes forms one of the prominent objections to this mighty engine of finance. Moreover, the political tendency, if I may so call it, of the Income Tax, is not what can be desired. The demand on a great multitude of people ill acquainted with the objects and usages of our Government, in requiring them to tax themselves, by stating the amount of the Income on which they are to be assessed, was more calculated to puzzle and irritate them than to reconcile them to a new impost. For these and many other reasons, it would have been very de-

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sirable to have substituted for the machinery of the Income Tax the more simple and intelligible expedient of a License Tax, which, without previous direct enquiry, tells a man what he is to pay, and leaves him, if he can, to prove that he ought to be placed in the lower class and be assessed at a lower rate. But to this course there were the great objections that time did not admit of re-casting the whole system of direct taxation, nor was it possible to attempt such a task without keeping up, for many months longer, the harassing uncertainty which it is most desirable to allay.

Any new arrangements, whatever they are, will have to date from the 1st August, and, however much latitude the Council might leave to the local Governments in arranging the details of the system, it must of necessity be several months before the local officers could know what they were to demand and how they were to demand it and from whom, and before the tax payers could tell what they were called on to pay.

Great as may be the evils of the present system, there can be little doubt that the evils of a fresh re-settlement of the whole question would be far greater. Some months must elapse before the people in the remoter districts could learn how they were to be taxed—for whatever we may settle in this Council-chamber, could not be effectually or intelligibly explained to the great body of rural tax payers, until the cessation of the rains permits the revenue officers to travel about the country, and we should but have had another season of that doubt, discussion, and alarm which the imposition of a new tax, or even of an old one in a new form, must ever create.

Under these circumstances, the Government of India resolved that the best course for raising a larger amount by direct taxation was to proceed with the License Bill, which has been long discussed and fully explained, which is expected throughout the country, and for which people generally are as well prepared as they can be for any tax

which they have not actually been called on to pay.

The Bill, as the Council will remember, only awaits the third reading, and we propose no alteration in it beyond the omission of the Clauses imposing a separate duty on Tobacco. The Council is aware how much trouble has been taken to carry out the design of the late Mr. Wilson for laying the foundation of a large revenue from Tobacco, but it has been found impracticable to frame any general measures which promised to produce an income at all proportioned to the annoyance which would be caused by any new measure, taxing what is almost a necessary of life to so many of the poorest class. And we have, therefore, resolved to leave Tobacco to be dealt with locally by the several Governments, who have the means of adjusting their measures, so as to meet the peculiar circumstances of the populations with which they have to deal. Should the Council concur in this view we propose to strike out the Tobacco Clauses, and to pass the remainder of the Bill without further delay.

As regards the Income Tax, the Bill which I propose to ask the Council to-day to read for the first time, is intended to legalize such modifications as the experience of the past year has shown to be most necessary to make the tax as productive and as little irksome as possible. A great mass of information on this subject has been collected by the several Governments from their most experienced local officers. There are few, if any, who would not prefer the mode of proceeding provided by the License Bill, if we were now discussing this question for the first time. But, taking matters as they stand, there seems little room for doubting that a very great improvement may be effected in the working of the Income Tax simply by recognizing for another year those assessments which have been fairly made and enabling the revenue officers to devote more attention to the assessment of incomes which have been heretofore untaxed, or either inadequately or over-taxed. In other words, by con-

tinuing for the next twelve months all that has been fairly and equitably done in the way of assessment during the period since the tax may be said to have been in actual operation, which no where exceeds eight months and is generally under six; relieving all tax payers who have been so dealt with from further harassment; and suspending, as far as they are concerned, any fresh issue of notices. There can be little doubt, I think, that this will be a great relief to a vast mass of the population, while it will enable the fiscal officers to do justice where the tax has been over-assessed, and to perfect their arrangements for reaching those who have hitherto escaped through inadvertence of the taxing officials, or by successful evasion. Before the end of the twelve months for which we propose to enact this law, we shall be better able to see whether any modification of the process prescribed in the Income Tax Act of last year, can be devised, which shall free it from the formidable objections to the English system, of a notice to the tax-payer—a Return by him of his Income, and Assessment thereon, with powers of surcharge vested in the fiscal officer—or whether it may prove the preferable course to dispense with all this process, and to direct the fiscal officers to classify Incomes as best he can, giving to the tax-payer powers of appeal, with liberty to prove, if he can, that he ought to be placed in a lower class of tax payers—or again, whether there may not be possible some combination of the two systems, such as was suggested by Mr. Laing, which shall better secure the great object of a maximum amount of revenue, with a minimum of that harassment to the tax-payer which is in some degree inseparable from all direct taxation. Power will be reserved to all who desire it to claim assessment under the Act of last year; and assessment under that Act will be legal when no assessment was made last year, or when there is reason to suspect fraud, provided there has been no surcharge. Where any surcharge has been made, it will serve to stereotype

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the assessment for another twelve months without fresh process unless at the instance of the tax-payer. We propose that the Bill should not be general, but should be applied only to those districts where Government may be satisfied that it will not act unjustly either to the public revenue or the tax-payers. We propose to ask for power to continue it for future years, should it be found to work well. We further propose to give the same power of modifying the forms of notice, &c., to the local Governments which the Act of last year gives to the Governor-General in Council.

These are the principal provisions of the Bill which I now move should be read for the first time.

Before concluding, I must express the obligations of Government to my Honorable friend the Member for the North-West. Had Mr. Wilson lived, he would have acknowledged the valuable advice and assistance he received from my Honorable friend on the first introduction of this great measure; and I am confident that, had he been spared, he would have done justice to the soundness of opinions, which the experience of the past year has proved to be correct. It was in compliance with Mr. Laing's strongly expressed wish, that, when his own health failed, the enquiry into the complaints and objections against the Act and the preparation of a measure for its improvement was entrusted to my Honorable friend; and I cannot omit the opportunity of bearing testimony to the conscientious and disinterested spirit in which the task has been performed, and to the value of the service which has thus been rendered to the Government and the country.

MR. HARRINGTON seconded the Motion, and in doing so he begged to thank the Honorable Member, who had made the motion, for the manner in which he had expressed himself in respect to his (Mr. Harrington's) services in connection with the Income Tax and License Bills. He was not sensible of having done any thing more than his duty, much less to deserve the eulogium which the Honorable

Member had been pleased to pass upon his conduct.

The Motion was then put and carried, and the Bill read a first time.

BRANCH RAILWAYS, &c.

MR. SETON-KARR moved the second reading of the Bill "to provide for the construction, by Companies and by private persons, of Branch Railways, Iron Tram-roads, common roads, or Canals, as feeders to Public Railways."

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

EMIGRATION (SEYCHELLES.)

MR. FORBES moved the second reading of the Bill "relating to Emigration to the British Colonial Dependency of Seychelles."

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

LICENSING OF ARTS, TRADES, AND DEALINGS.

The Order of the Day being read for the third reading of the Bill "for imposing a Duty on Arts, Trades, and Dealings, and to require Dealers in Tobacco to take out a License—"

SIR BARTLE FRERE moved that the Bill be recommitted to a Committee of the whole Council for the purpose of striking out of the Bill the portions referring to the Tobacco License, and of altering the date of commencement of the Act from the 1st January 1861 to the 1st August 1861.

Agreed to.

After the necessary amendments had been made in the enacting part of the Bill, and before the Committee came to the consideration of the Schedules—

THE CHAIRMAN said,—I have thought much upon this subject, and have considered with great anxiety what is the proper course to be adopted on the present occasion,—whether I should vote against the third reading of the Bill or move an amendment. The Bill has been looked upon and considered by the Council as a supple-

ment to the Income Tax Bill. That Bill has been passed, and I think it would not be right to vote against the third reading of this Bill, which is merely supplemental. I should be averse to do anything which might hamper the Government or throw any difficulties in their way in the present state of the finances of the country, and the more so after the statement which we have heard to-day from the Honorable Member of Government. It was not until Thursday night I was aware of the course which the Honorable Member of Government intended to pursue with regard to the Bill now under consideration,—whether he intended to re-commit the Bill for the purpose of amending it, or to move the third reading of it in the state in which it was left in September last by a Committee of the whole Council. I was therefore unable to give notice of my proposed amendment; but as it involves an important principle, I am quite willing, after stating what it is, to postpone any discussion upon it until our next meeting, if any Honorable Member wish it, or I am ready to proceed with it at once. The Council will recollect that on the 15th of December last I moved for information relative to a grant alleged to have been made to the Mysore family, and to which the attention of the Council had been called by a petition presented I believe in the same month and signed by a large number of the inhabitants and Tax payers of Calcutta. On that occasion I made the following motion :

"That the Government of India be requested to lay before this Council, a copy of the account in which the stipends which have, from time to time, been paid to the descendants of Tippoo Sultan are debited, or such an abstract thereof as will show the total amounts paid and credited in each year, from the year 1799 to the present time.

Also a copy of any Resolution or Order of Government by which the stipends now payable to such descendants were fixed, and of any correspondence between the Government of India and the late Honorable Court of Directors, or the Right Honorable the Secretary of State for India, in consequence of which the same was passed.

And also a copy of any Despatch or Despatches received during the present year from the Right Honorable the Secretary of State

for India, by which any sum of money has been ordered to be paid or secured to any of the descendants of the said Tippoo Sultan, and of any document or documents showing the grounds on which such order was made.

And further, that the said Government of India be requested to inform this Council, whether any sums of money so ordered to be paid to the descendants of Tippoo Sultan, are included in the estimate for the year 1860-61."

I stated upon that occasion that I did not ask for the information in consequence of the petition which had been presented to the Council, but that I asked for it to enable me to perform my duty as a legislator properly when the Trades License Bill came before the Council, and because I wished to assert the right of the Council to ask for such information. I stated that I had a public duty to perform, and that I should endeavour to discharge it even though it might lead to the dissolution of the Council. The right of this Council to ask for such information was disputed by some of the Honorable Members of Government then present. The matter was fully debated, and upon a division, the votes being equally divided, I, as Vice-President, gave my vote for the affirmative. A message was accordingly sent to the President in Council, asking for the information, and on the following Saturday the Council received this message in reply :—

"In reply to the Message from the Legislative Council, No. 182, the President in Council, with the concurrence of His Excellency the Governor-General, informs the Legislative Council that the interests of the public service forbid his ordering that the papers asked for by the Resolution which accompanied the Message, should be laid before the Legislative Council, with the exception of the account specified in the first clause of the Resolution, which will be prepared and furnished to the Council as soon as practicable.

The other papers specified in the Resolution relate to a correspondence with the Secretary of State for India, which is yet incomplete; and the President in Council does not therefore feel that he would be justified in transmitting them to the Legislative Council.

The request of the Legislative Council will, however, at once be made known to the Secretary of State.

The President in Council has the honor to inform the Legislative Council, in reply to the concluding clause of the Resolution, that no

payment beyond what has been usual of late years to the family of the late Tippoo Sultan is provided for in any account or estimate, of which the results have hitherto been laid before the Legislative Council."

We were told in that message that the request of the Legislative Council would at once be made known to the Secretary of State. From that day to this we have received no further answer. Whether the Right Honorable the Secretary of State considered that we have exceeded our powers, or that we are not worthy of an answer, I cannot say; but on a subsequent occasion when the Honorable and learned Judge (Sir Charles Jackson) asked a question as to the state of progress which was being made in the erection of the jail in the Neilgherries for the reception of Europeans under penal servitude, it was stated by the Honorable Member (Mr. Laing)—who, I regret to say, has been obliged to go to England on account of his health—that the question was then under consideration of the authorities at home. Thus the matter stands, and we are now called upon to pass this Bill without any further allusion having been made to the subject. I do not even now know whether the payment has been made to the Mysore family; whether Government securities have been issued for the amount proposed to be capitalised; or whether, if issued, the amount of capital has been secured by Government promissory notes drawn up in the usual form, acknowledging that so much money has been received by Government from the Mysore family, and promising to pay the amount within six months after notice given by Government, with interest thereon at 4 per cent. per annum, in the meantime, or promising to pay the amount as a gratuity or pension. The Honorable Member (Mr. Laing) who is unfortunately absent, lately made a very luminous financial statement; but he did not inform the Council whether his estimate included the grant to the Mysore family, whether the payments ordered to be made have been added to the expenditure side of the account, and

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the amount capitalised has been added to the amount of the public debt, and the interest thereon has been included in the "3,316,180 Interest on debt" or whether those operations have yet to be performed. Now, it is a remarkable fact that the grant to the Mysore family, made or proposed to be made, amounts in value to something between £400,000 and half a million—and that the Honorable Member should have been obliged to state "that he wanted £500,000 to weather his deficit and get into smooth water with a small surplus." Was this sum wanted in consequence of the grant, or is the amount of the grant to be added to that sum? is a question of no slight importance. It is not a sound argument to say that the annual amount to be paid has been capitalised, and that the amount of interest only is payable at present. If the proposed grant has been carried into effect, the amount of Government debt has been increased *pro tanto*, and the same amount of debt, if incurred on account of cash brought into the public treasury by way of loan, instead of being incurred as a gratuity to the family, would have produced an amount of actual cash according to the market value of the securities. It looks favorable at first sight that the annual amount payable was to be capitalised at the low rate of only 4 per cent. But when the operation is examined, it will be seen that it is more disadvantageous to Government, than if the same annual amount had been capitalised at 5 or 6 per cent. The annual amount to be paid by way of interest is the same either way; but the lower the rate of interest, the greater the amount of debt to be paid whenever the Government may desire to pay off the principal or to redeem it. If £50 a year is to be capitalised, it will require a debt of only £1,000 to be incurred, if capitalised at 5 per cent.; whereas it will require a debt of £1,250 to be incurred in order to produce the same annual amount at 4 per cent. I say this to show that at least there was no benefit to be derived by Government by capitalising the amount at a

lower rate of interest than the fair market value.

Three or four months ago I read in one of the Weekly Reviews published in England an article on the subject of this Mysore Grant, containing the following passages:—

"As for the assertion that the lands transferred by the treaty were only intended to provide for the dethroned House, it is a flagrant instance of the perversities into which an English lawyer may be led when he is taken out of his proper sphere."

Then after alluding to me as "a lawyer of the peculiar English special pleading stamp," the writer proceeds:—

"If indeed he set at nought by his opinion the higher obligations of Imperial honor, we have no right to blame him, for it was not his business to attend to them. If these were forgotten in *Lord Dalhousie's* minute, it was Lord Dalhousie's own fault, and it was an instance of his habitual failing."

I read that statement with pain, because I knew that it was unfounded, and it grieved me to think that such an attack should be made upon the character of a nobleman just after his decease and when it was out of his power to defend himself. But my mouth was closed. The Minutes had not then been produced, and they had not then been published. All the knowledge which I then possessed upon the subject was acquired whilst I was a Member of the Executive Government over which that Nobleman so ably presided—a man noble, not only by birth, but noble in mind, and ennobled by his own deeds. That article was of course anonymous. I know not whether the author of it was behind the scenes and had seen the minutes or not. I hope that he had not; for if he had read them before he wrote the article, he could not, in common fairness, have made the statements contained in it, and I do not envy him whoever he may be. "The instruments of the churl are evil, but the liberal man deviseth liberal things, and by liberal things shall he stand."

On the 8th February last an explanation was given by the Secretary of State in answer to a question put to him by Mr. Vansittart in the House of

Commons. He is reported to have made the following statement :—

"When Tippoo Sultan was killed, Lord Wellesley determined not to reinstate his family on the throne of Mysore, but to substitute the descendants of the old Rajah. A treaty was made with the Nizam, who had been our partner in the war, for dividing equally between them these territories, which they had determined to take away from the Rajahship of Mysore. The Governor-General undertook the custody and maintenance of the family of Hyder Ali and Tippoo Sultan, and in order to enable him to do that a territory producing in round numbers 70,000*l.* a year was assigned to the Government of India, over and above their half of the conquered territory. The engagement into which they entered was :—

'To provide effectually for the suitable maintenance of the whole of the families of the late Hyder Ali Khan and of the late Tippoo Sultan, and to apply to this purpose, with the reservation hereinafter stated, an annual sum of not less than two lacs of star pagodas, 70,000*l.*'

The spirit in which this arrangement was regarded by those who were most cognizant of the circumstances, and had most to do with the matter at the time, will be shown by two short extracts which I will read, one from a letter from Lord Wellesley and the other from a letter of the Duke of Wellington. Lord Wellesley wrote to the Court of Directors :—

'I determined at the same time to grant to the families of Hyder Ali Khan and Tippoo Sultan a more magnificent maintenance than either had enjoyed during the late reign.' It has been contended by some persons that it was incumbent on the Government to allot for the maintenance of these families the whole of the revenue of the ceded territory—that is to say, 70,000*l.*, and it is quite clear that the Duke of Wellington entertained some such idea. The sum allotted to them was nothing like that, and the Duke of Wellington writes to his brother :—

'The family don't now spend more than half the sum allotted to them by treaty, and there surely can be no grounds for this shameful breach of faith with persons in our power.'

I don't at all concur in that view. I only quote it to show that the Duke of Wellington, who had a large part in these transactions, and was cognizant of all that took place, did entertain a view which might justify the supposition that at that time at least they were entitled to the produce of the whole of the ceded territory. They received, in fact, much less. The Government of India engaged to apply to the purposes of their maintenance the produce of those territories subject to two reservations—one, that the Government should have the right of making a reduction in the stipend on the decease of some members of the family; the other was that if the family were guilty of disloyalty

to the Government of India, or attacked the territory of the Rajah of Mysore, the stipend might be withdrawn altogether. In 1806 occurred the mutiny of Vellore, the mutiny of the native troops arising from circumstances totally unconnected with political motives; but the troops availed themselves of the presence of one of the sons of Tippoo Sultan, took him from the barracks, and placed him at their head. That is the foundation of the assertion referred to by the honorable gentleman, that the family had been guilty of mutiny, and had thereby forfeited all claims on the Government of India. The circumstances were inquired into at the time by the then Governor-General, Lord Minto, and he recorded his deliberate opinion that they did not affect the claims of the family to a liberal maintenance from the British Government. Lord Minto said—'It still becomes us to show as much generosity towards these families as is consistent with public security under present circumstances.' The public security was the only limit which he considered could be put on their claim to a generous treatment, and that security was taken by removing them to Russapuglah, near Calcutta. At this place they have lived ever since, shut up by themselves, and intermarrying among themselves, and every gentleman who is aware of the mode in which Mahomedan families live, shut up in this way, and intermarrying among themselves, will not be surprised to learn that the social and moral state there is not one which it is desirable to perpetuate. The produce of the territories allotted for the maintenance of the families was kept entirely apart from the general revenue in a separate fund, which was called the Mysore Deposit Fund, and the sums spent upon the family were so much less than the produce of the territory than in 1855, when the money was merged into the general receipts of India, there had accumulated from the savings in that respect no less a sum than 600,000*l.* In 1852, Prince Gholam Mahomed addressed a memorial to the Court of Directors claiming that the whole sum of 70,000*l.* a year should be spent on the families, and that the 600,000*l.* which had accrued up to that time should also be paid over to them. The Court of Directors very properly refused to admit that claim, saying that the family had no claim either to one or the other, but that to which they were entitled was a fair, suitable, and liberal maintenance. Gholam Mahomed came over to this country in 1854, and was here for some time. The Home Government directed then, as now, that an addition should be made to his allowance, and to that of certain other members of the family, and these directions were transmitted to Lord Dalhousie. It is perfectly true that Lord Dalhousie did not think there was any such claim. Sir Barnes Peacock, who has borne a prominent part on the present occasion, recorded his opinion that inasmuch as these persons were no parties to the treaty of Mysore they had no legal claim under that treaty. Lord Dalhousie thought it exceedingly desirable to support that opinion, and

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proposed to cut short some part of the disbursements, and that after the fourth generation they should cease altogether. So far as the legal claims of the parties under the treaty goes, no doubt they have no claim at all. But that does not seem to me in the slightest degree to impair the equitable and moral claim of these persons, who are the descendants of those whom we dispossessed of their territories, to that which was recorded in the treaty, and to which Lord Minto and every other Governor-General considered them entitled. The next question was, whether it was possible to discontinue these payments at any time, and of this point the Home Government took the more just and equitable view, and they stated that they could not consent to these people being turned out loose on the streets destitute of all means of subsistence, and that such a course would be utterly unjust and incompatible with all sound notions of the policy which ought to be pursued towards the descendants of deposed princes. They asserted that in their view they were entitled to fair and liberal consideration, and they entirely declined to adopt the views of Lord Dalhousie, which I think were most impolitic, harsh, and unjust. So matters stood until 1858, when my noble friend (Lord Stanley) became President of the India Board. Gholam Mahomed then addressed a letter to him, and came over to this country again. He arrived a short time before I became Secretary of State. There was another question pending at the same time, and a Committee was appointed to consider both cases. A good deal of communication took place, and the result was the arrangement which has been made. I should perhaps have said that during the whole of the time both the Government of India and the Government at home felt the importance of putting an end to the existing state of things, which was extremely detrimental."

With respect to the letter from the Duke of Wellington to his brother, it does not seem to have much to do with the subject, inasmuch as the Secretary of State does not concur in that view; but as it was referred to, I think it right to say that I hold in my hand a letter written by the Duke of Wellington on the 26th September 1803, which shows that by the word "family" in the letter to his brother, he could not have meant the descendants of Tippoo for ever, but the then existing members of the family. The letter to which I refer is published in the 2nd vol. of the Dispatches of the Duke of Wellington by Colonel Gurwood, p. 345. It shows that the Duke of Wellington considered that the pensions ought to cease after the death of the children of the Princes who were then living. I do not think it

necessary to read the whole letter. The following is the part which materially relates to this question :—

"It is my opinion that the pensions allotted to the princes ought to be continued to their families in the following manner—

One half of the pension of each ought to be allotted to the support of his mahal, and this half ought to fall to the Company as soon as there should be no longer any woman in the mahal to be supported, in the same manner as the sum now allotted to the support of Tippoo's mahal will fall to the Company. Care ought to be taken that after the death of any of the princes no woman should be introduced into his mahal. The other half of the pension ought to be allotted to his children, to be divided among them in equal proportions according to the Mussulman law—

The children ought to remain in the mahal to be supported and educated at the expense of the Company, till fifteen years of age, at which period they ought to be removed from it, and their share of the father's pension allotted to them together with a sum of money to set them out."

Now as to the statement that "Sir Barnes Peacock recorded his opinion that *inasmuch as these persons were no parties to the treaty of Mysore, they had no legal claim under that treaty, and that Lord Dalhousie thought it exceedingly desirable to support that opinion,*" I must say that if I had read that statement without knowing any thing of the real facts, I should have thought that the whole question of the moral or equitable claims of the family had been wholly disregarded by Lord Dalhousie and myself, that I had originated the point, and that Lord Dalhousie had thought it very desirable to avail himself of it and to support my opinion.

At the time when this explanation was made by the Secretary of State the papers had not been published or laid upon the table of the house, and it was impossible without them to form a correct judgment upon the merits of the case. No one reading the statement of the Secretary of State would have imagined that a Despatch had been sent from the Court of Directors to the Government of India, as far back as the 4th of January 1854, upwards of a year before either Lord Dalhousie's Minute or mine was writ-

ten, and before the matter had ever been brought under my consideration, containing the following paragraphs :—

"The provision made for them in 1799 was not the subject of any engagement with themselves. It was an act of spontaneous liberality on the part of the British Government, and a matter of arrangement between the Government and its ally the Nizam; and even as such it was made expressly dependent upon a condition which has not been observed. The Nizam, moreover, by the treaty itself, left the British Government the sole judge of the failure. All the promises ever made to the family have been far more than fulfilled; there is a point at which liberality must stop, and it would be contrary to our duty, when the public faith is in no way pledged, to continue a gratuitous assignment of the public revenue in favour of individuals for an indefinite series of generations. The living members of the family have a just claim on us for support, but not so their unborn descendants."

Such a Despatch would be found at page 25 of the printed papers, and it is expressly stated in that Despatch that "the Vellore mutiny in which one at least of the sons of Tippoo was proved to be implicated, constituted such a case as was contemplated in" that article of the treaty which reserved to the British Government the right "to limit or suspend entirely the payment of the whole or any part of the stipend" in the event "of any hostile attempt on the part of the family, or of any member of it, against the authority of the contracting parties or against the peace of their respective dominions." That Despatch was written in consequence of a petition which had been presented by Prince Gholam in 1852. Here allow me to remark that no Political Despatches of that nature could be sent by the Court of Directors to the Government of India without the previous sanction of the Board of Control. When the Despatch of 1854 was written, Sir Charles Wood was the President of the Board.

I have not attempted to occupy the time of the Council by going into statements merely for the purpose of vindicating the opinion of Lord Dalhousie and myself, nor should I do so now unless we were asked to pass a Bill for taxation. I wish

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to satisfy the Council that the opinion which I expressed on a former occasion is correct; that the Mysore family had no claim, legal, equitable, or moral, to the provision which has been made or is about to be made for them, at an expense to the State of between £4,00,000 and £5,00,000, and that their just and equitable claims were not overlooked in the Minutes to which reference has been made by the Secretary of State. On the 21st May 1854, Prince Gholam Mahomed being then in England, wrote to Lord Dalhousie a letter in the nature of a petition, and for a third time asserted the claim of the family of Tippoo to the whole amount, prospectively and retrospectively, of the sum set apart under the Treaty of 1799, and he relied upon a Minute of Lord Minto as the charter of his claims and as the basis of all arrangements for the benefit of the family. He stated that one important benefit was obtained by the family in the year 1841, when the Honorable Court of Directors was pleased to sanction the allotment of a provision for sons arrived at maturity during the lives of their fathers (printed papers, page 27), and it was to that petition and principally to that statement that the paragraph in my Minute respecting the Treaty being *inter alios* referred. A copy of that Memorial was sent by Prince Gholam Mahomed to the Court of Directors, and in February 1855, he again wrote to the Court of Directors and also presented to them another Memorial.

Lord Dalhousie was at that time Governor of Bengal, but the matter was referred to the Government of India for consideration. On the 24th January 1855, Lord Dalhousie wrote his Minute, in which having stated that he had carefully studied the treaty, the Minutes referred to in the memorial, and the history of the transactions between the Government of India and the Mysore family, he proceeded—

"I am wholly unable to see that Prince Gholam Mahomed or his family has any ground of just complaint, or that any change should be made in the footing upon which the family has been placed. In truth I conceive

that nothing can be added to the Despatch No. 1 of 1854, in which the Honorable Court discussed and disposed of the alleged claims of the family of Tippoo Sultan."

That is the Despatch of the 4th of January 1854 to which I have before alluded. Lord Dalhousie then proceeded to consider, 1st. Whether the Mysore family had a right, by the treaty of 1799, to the full stipend allotted to it by that treaty—and 2ndly. Whether if it had no such right by treaty, it had such a right by virtue of any other document. And he declared that he had no hesitation in saying that in his opinion the family had no right to the full stipend either by treaty or by any other pledge. So far then from Lord Dalhousie thinking it desirable, as alleged by the Secretary of State, to act upon my opinion "that, inasmuch as the family were no parties to the treaty, they had no legal claim," he adopted the opinion expressed by the Honorable Court of Directors in the Political Despatch of January 1854. Mr. Dorin and General Low concurred. Mr. Grant wrote a long and very able Minute and went very fully into the whole matter (page 65.) He treated the letter of Prince Gholam Mahomed to Lord Dalhousie as a request to have the question reconsidered. With reference to the decision of the Court of Directors contained in the Despatch of 1854, he says:—

"In March 1853, the Superintendent of Mysore Princes, at the earnest request of Prince Gholam Mahomed, sent up a duplicate of the Prince's former Memorial which was forwarded to the Honorable Court for reconsideration of the matter. The Honorable Court upon this second occasion went fully into the merits of the claim, and in their Despatch in the Political Department No. 1 of the 4th January 1854, absolutely negatived its validity whether on the ground of the treaty relied upon, or upon the ground of a resolution of Lord Minto's Government in 1807, which had been adduced by the memorialist as strengthening his case."

He says:—

"We have now before us a letter dated 21st May 1854 for disposal, which Prince Gholam Mahomed, dissatisfied with the Honorable Court's decision upon his claim, has written to the Governor-General from London. In this letter the Prince says that he has been told the

substance of the decision to which the Honorable Court of Directors has come, and that he apprehends that the Honorable Court must have been under a misapprehension in respect of the real nature of the position and claims of the family. On this ground he proceeds to re-argue his case.

Having studied the papers I am unable to perceive that the Honorable Court has misapprehended in the least degree the grounds upon which their decision has been based."

He then proceeds fully to consider and discuss the whole question as regards the legal and moral claims of the family.

The case then came to me. I read and considered the whole of the documents, and discussed the question as to what was the proper construction to be put upon the treaty. Having considered what was the meaning of the word "families," and expressed my opinion that it was not intended to mean descendants for ever, I said:—

"But even if the word 'families' in the first article of the treaty could by any possibility be considered to mean the descendants of Hyder Ali and Tippoo Sultan for ever, which the clear and forcible arguments of Mr. Grant have proved to be utterly untenable, there can be no doubt that by the participation of one of the members of the family in the mutiny at Vellore, the East India Company were entirely released from their obligation to provide for the family. Their contract was with the Nizam and not with the Mysore family, and it was one of the stipulations of the contract that in the event of any hostile attempt on the part of the family, or of any member of it against the authority of the contracting parties, the East India Company were to be at liberty to limit or suspend entirely the payment of the whole or any part of the stipend stipulated to be applied to the maintenance and support of the said families.

The event provided against happened, and the Company were no longer bound by any obligation to provide for a single member of the family.

But the liberality of the Company induced them to abstain from acting upon their strict rights, and from visiting upon the innocent members of the family the crime of the guilty member. They never entered into, nor intended to enter into, any new engagement with the Nizam; and it is unreasonable to suppose that either Lord Minto or the East India Company intended to bind themselves by any contract or pledge to the Mysore family after the insurrection at Vellore, when in fact they were not bound by any such contract or pledge previously entered into with them.

* * * * *

That Lord Minto never could have entertained the idea that every descendant of Tippoo was to be maintained for ever at the expense of the State, is, I think, clear from the following extract from His Lordship's Minute.

He says :—

'It cannot but be felt on the bare statement of the proposition that to retain twelve families composed at present of upwards of 300 persons and subject to the natural growth of all societies, especially when favoured by polygamy and an unlimited number of females to retain, I say, such a multitude in that condition and to provide for them on the footing of State prisoners of rank, must be an undertaking of such difficulty, complexity, and embarrassment as to become in the end impracticable.' It may be said that the above remark applies merely to providing for the family upon the footing of State prisoners of rank, but the argument applies equally to maintaining them in any manner at the expense of the State."

It had been suggested by the Bengal Government that no new pension should be granted to any of the descendants of Tippoo then unborn, and that, except in special cases, no allowance in the form of a life pension should be granted after the 1st May 1860, exceeding in amount what might be sufficient to secure a decent subsistence. It was considered both by Mr. Grant and by me, that that rule might operate too harshly upon the issue of a very worthy and excellent member of the family, Prince Gholam Mahomed. It was pointed out that such a rule would exclude any child of Prince Gholam who might thereafter be born—that, even as worded, the rule might cause anxiety and distress in the mind of Prince Gholam as to the course which Government might pursue in the event of his death, with reference to the provisions for his widows and descendants, as he would not be sure that they would be treated as exceptional cases. As soon as this was pointed out to Lord Dalhousie, he readily conceded the point—and remarked—

"My Honorable colleagues, Mr. Grant and Mr. Peacock, both considering that those recommendations are too stringent and are likely to be regarded as unnecessarily abrupt, and harsh in their operation, I readily defer to their opinions."

I mention this to show that at that time the mere legal view of the case

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was not alone considered, but that the just and equitable claims of the family were fully discussed and considered both by Lord Dalhousie and his Council, having reference to every reasonable expectation of the family, arising from the manner in which the liberality of the Company had been extended to them.

On the 29th June 1855, the Secretary to the Court of Directors wrote to Prince Gholam Mahomed, informing him that

"they felt bound to record their adherence to the promises and principles of Lord Minto's Minute, as well as the gradual extinction of the family's position of dependence, that the Government of India would be instructed to deal as liberally with the members of the family as might appear strictly consistent with that view."

He added :—

"In recognition of your position and the respectability of your character, the Court have determined to direct the Government of India to make an addition of 1000 Rupees per mensem to your pension, to commence from the date of your arrival in India, and as a further mark of their approbation, and to enable you to return to India in a manner suitable to your position in society, they have resolved to present you with the sum of £3000."

On the 6th August 1855, Lord Dalhousie wrote from Ootacamund to the Court of Directors :—

"Whilst I am compelled to negative the claim which the Prince has advanced as of right on the part of himself and the Mysore family, I feel confident that I am only expressing the sentiments of my Honorable colleagues at the Presidency, when I assert that any consideration which your Honorable Court may now be disposed to show to the Prince himself, will be received with satisfaction by the Government and the Community."

Prince Gholam Mahomed is now the only surviving son of Tippoo. In his life and character he has set a praiseworthy example to all his countrymen and specially to princes and chiefs in positions resembling his own. He is universally respected and esteemed by the whole European community as well as by his own countrymen, and I have long been happy to regard him as a personal friend. I am convinced, therefore, that the entire public would be not less gratified than myself if your Honorable Court should now be pleased to bestow upon the prince some increase to his personal stipend, which at present amounts to

2,096 Rupees, as an additional proof of your kindness and generosity."

On the 20th February 1856, the Court of Directors, in answer to Lord Dalhousie's letter of the 6th August 1855, wrote as follows :—

"We observe that every Member of your Government concurs to the fullest extent in the opinion expressed in our letter No. 1 of 1854 respecting the entire absence of any obligation by treaty or engagement on the part of the British Government, either to appropriate to the benefit of the descendants of Tippoo Sultan, the whole of the money specified in the first article of the treaty of Mysore, or to support the family at the public expense. The able discussion of the whole subject contained in these papers has even strengthened our view of the case by additional proofs, and the letter which has been addressed by the Secretary with the Governor-General is an elaborate summary of the argument. We are much gratified to find that the Governor-General and other Members of your Government had determined to recommend to us the increase of the stipend of Prince Gholam, which our Political letter, dated 4th July last, will have subsequently apprised you that we have already granted."

Further correspondence took place between the Court of Directors and the Government of India. In a Political Despatch, dated 4th July 1855, the Court of Directors said :—

"The first point is the inequality of the pensions allotted to members of the family, who are by descent of the same relation to their common ancestors. Gholam Mahomed is the only surviving son, and he has furnished us with a list of the grandsons, who it seems are 25 in number, all of advanced age, and receiving pensions varying from 543 Rupees per mensem the highest, to 132, the lowest amount. He asks for all these a uniform rate of 600 Rupees per mensem. He also asks for a similar equality of pension for the grand-daughters at the rate of the highest existing allowance, viz., 261 Rupees a month.

Under the assurance afforded by the present condition and limited number of grandchildren and especially the advanced age of all of them, we think a revision may now be made of the pensions they enjoy. All children being by Mahomedan law equal in civil rights, you have hitherto in granting pensions made no distinction in this respect, and we are willing to concede, if no objections occur to you, the uniform rate of pension of 600 Rupees per mensem to the grandsons; but in granting this boon we desire you to intimate to all the members of the family that children born of Khowasses shall be placed on an entirely different footing and shall not be entitled to pension. In readjusting the pensions of the grand-daughters and such of

the great grandsons and their sisters as are not dependent upon their father, we should wish them to be treated with corresponding liberality. * * *

While thus increasing the pensions of many members of the family who are more immediately connected with the former Rulers of Mysore, we think it right, in conformity with the principles laid down in previous Despatches, to direct your attention to the expediency of devising a scheme for the eventual discontinuance of the present system and for the future absorption of the descendants from Tippoo in more remote degree among the mass of British subjects in India, and the scheme which we suggest for your consideration is the following : On the death of any of the grandchildren of Tippoo you should ascertain the relations of such deceased persons and grant to them *suitable pensions, with a notice that each pension shall cease with the life of the grantee.*"

The whole matter was taken into consideration by the Government of India, and they framed certain resolutions which were transmitted to the Court on the 8th April 1856. By the first resolution Prince Gholam's pension was increased from 2,096 Rupees per month to 3,096 per month from the 1st of August 1855. By the 2nd the allowances of the grandsons, then varying from 543 to 132 Rupees a month, were equalised, and a uniform stipend of 600 Rupees a month (*the full amount asked for by Prince Gholam on their behalf*) was assigned to each grandson for his life, lapsing at his death. By the 3rd the allowances of the grand-daughters, then varying from 261 to 66 Rupees per mensem, were equalised, and a uniform stipend of 261 Rupees (*the full amount asked for on their behalf*) was assigned to each of the said grand-daughters for her life, lapsing at her death. The 4th provided that, on the death of any grandson or grand-daughter, the Superintendent should report the number and names and relationship of those relations who had been supported on the stipend of such deceased person, and that it should be competent to the Government of India, on a consideration of all the circumstances then existing, to assign to each or any of them such pension or pensions as they might think proper. By the 7th Resolution the allowances then received by the great grand-

sons, varying from 190 to 50 Rupees each, were equalised, and a uniform stipend of 200 Rupees per mensem was assigned to each of such great grandsons for his lifetime, lapsing absolutely and finally at his death. By the 8th Resolution, in like manner, the allowances then received by the great grand-daughters varying from 90 to 21 Rupees per mensem, were equalised, and a uniform allowance of 100 Rupees per mensem was assigned to each of such great grand-daughters for her lifetime, lapsing absolutely and finally at her death. It was also provided that, whereas by the 7th and 8th Resolutions the existing stipends of great grand-sons and great grand-daughters were to be raised to 200 and 100 Rupees respectively, it was resolved that on the decease of any grand-child the Government should be at liberty to assign to the sons and daughters then living, and not being sons and daughters born of Khowasses of such grand-child, pensions of 200 Rupees and 100 Rupees a month respectively, granting to the other relations who might have been supported on the stipend of the deceased such allowances as it might think proper, provided that all pensions granted to sons and daughters and other relations of such deceased grand-child, should lapse absolutely and finally on the death of the grantee.

On the 2nd January 1857, the Court of Directors replied to that Despatch. They said :—

“ In the general tenor of the provisional Resolutions submitted to us in the Despatch under reply, we fully recognize your attention to the policy indicated by us in former communications. The first, second, and third of these resolutions are indeed in strict conformity with the orders or suggestions of our previous Despatches, and therefore have our entire approval.

The fourth Resolution declares that, on the decease of any grand-child of Tippoo Sultan, the Superintendent shall report fully upon the circumstances of his or her surviving family and that it shall then be in the discretion of the Government to assign to each or any of them a pension not exceeding in amount that assigned by the proposed Resolutions to any person standing in the same degree of relationship to Tippoo Sultan. And after adverting by anticipation to the 7th and 8th Clauses, by

which it is proposed to fix the stipends of the great grand-sons and great grand-daughters of Tippoo Sultan respectively at 200 Rupees and 100 Rupees per month, you have inserted in the Resolutions a proviso that ‘ all pensions and allowance, so granted to the sons and daughters and other relations of such deceased grand-child of Tippoo Sultan shall lapse absolutely and finally on the death of the grantees.’

This Resolution has been framed in accordance with our Despatch of the 4th of July 1855, in which we said : ‘ On the death of any of the grand-children of Tippoo Sultan, you should ascertain the relations who have been supported on the pension of such deceased person, and grant them suitable pension with a notice that each pension must cease with the life of the grantee.’ But we did not desire by these instructions to direct the absolute and final withdrawal of all support from members of family beyond the fourth generation. When we undertook to maintain the families of Hider Ally and Tippoo Sultan, no specific limit was assigned to the number of generations for which we were to make provision. On the other hand the assignment of stipends in perpetuity to generation after generation of the Mysore family without reference to the continually increasing number of stipendiaries, is an evil never contemplated and against which it is manifestly necessary to guard. But we are of opinion that the claims of legitimate descendants cannot in all cases be equitably ignored. We consider therefore that it will be expedient to omit the proviso of absolute lapse, and by your practice to establish the principle that beyond the fourth generation the members of the family must expect only such assistance from the British Government as may at the time appear to be called for on a full consideration of the circumstances of each individual case.”

Thus the matter seemed to be finally settled.

The stipends of all the family from Prince Gholam down to those of the great grandsons and great grand-daughters of Tippoo had been fixed at the highest amount asked by Prince Gholam Mahomed. They had been approved by the Court of Directors and Board of Control; but it was considered by the Home Authorities that, instead of providing for the absolute lapse of pensions which might be granted to children of great grand-children, or descendants in the fourth degree, the proviso for absolute lapse should be omitted, and that the Government, instead of binding themselves by a proviso to that effect, should “ by their practice establish the principle that beyond the fourth genera-

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tion the family must expect only such assistance from Government as might at the time appear to be called for on a full consideration of the circumstances of each individual case." But Prince Gholam Mahomed, emboldened by success and encouraged by the great liberality with which his Memorials had been met—both by the Government here and by the authorities at home—again went to England, and on the 1st June 1859 presented a further Memorial to the Secretary of State. •

Now in the year 1859 the finances of India were in a most deplorable condition, so much so that it was thought necessary towards the end of that year to send out a financial Minister. In the early part of 1860, the late Mr. Wilson estimated the deficiencies up to the 30th April at upwards of nine millions sterling, and stated that he could not reduce the deficit of the next year below £6,500,000. He spoke of the land revenue and of the revenue derived from Opium. He pointed out the nature of the taxes then paid, namely, Customs, Excise, Abkaree, Salt, and Stamps. He called upon this Council and the public to aid the Government; and in order to place the finances of the country in a sound and healthy state, he amended the Customs Act and proposed two new taxes, the Income Tax, and a Trades License Duty. This Council willingly lent their aid. The Income Tax Bill was passed. The present Bill went through Committee of the whole Council—and every one appeared willing to assist, as far as he could, to meet the emergency. It was disheartening to find that, whilst this was being done here, the authorities at home had been adding to our difficulties, by ordering a lavish expenditure of the value of nearly half a million sterling in the face of the dissents of three of the Members of the Council of India, and against which (as now appears from the printed papers) the Governor-General and every Member of his Council thought it to be their duty to protest as soon as the orders arrived in this country.

Now let us examine the grant. The stipends of each of the grandsons,

which by the Resolution of this Government in 1856 were raised to £720 a year, are raised to £1,200 a year—of which, one-half was to be capitalised and to go to his heirs for ever. In like manner, the stipends of each of the fatherless great grandsons, raised in 1856 to £240 a year, were increased to £360 per annum, of which two-thirds were to be capitalised and to go to his heirs for ever. Any holder of the capital stock, if he died without legitimate issue, was to be at liberty to bequeath it to any member of the Mysore family, but to no other person—a privilege which never existed before, and is novel and unheard of as regards pensions for personal maintenance. Further, it having been represented to Her Majesty's Government that, *owing to the high price of provisions* and other causes, the members of the family were generally involved in debt, each grandson, whether in debt or not, was to have 15,000 Rupees and each great grandson 5,000 Rupees paid to him immediately, with a view to relieve him from present embarrassment. Whereas, by the 7th Resolution of Lord Minto's minute, it was provided that, if any debts or arrears of payment should be incurred by any of the princes, their liquidation should be provided for by retaining a sufficient sum for that purpose out of the allowances for the ensuing month. Lord Minto in his Minute says:—

"The knowledge of this on the part of the families, will no doubt serve to give an early check to irregular or prodigal dispositions."

By the 3rd Resolution of Lord Minto's Government, the allowances were to defray expenses of every kind, including house-rent, purchase of houses, &c. But as the removal from Russapugla was thought desirable and would be attended with additional expense, Sir Charles Wood wrote in his letter of the 11th June 1860:—

"I have intimated to Prince Gholam Mahomed that I am prepared to sanction the payment to each of the grandsons of the sum of

15,000 Rupees, and to each of the great-grandsons being heads of families of 5,000 Rupees, to be expended in providing a permanent residence in some other locality. It is also the desire of Her Majesty's Government that, if requested by any proprietor of houses at Russapugla thus evacuated, you should purchase their property at the market value."

He says further :—

"There is little room to doubt the ready concurrence in every head of a family in the proposed arrangements."

In the possible event, however, of any Member declining to accept the proposed terms, the present state of himself and his family will be strictly maintained."

It was provided by Lord Minto's Resolution—

"that on the decease of any of the persons to whom the allowances were then assigned, Government reserved to itself the power of making such provision for their widows, descendants, or other members, as should be deemed proper under the circumstances then existing."

But I find nothing either in Lord Minto's Minute or in his Resolution which requires the assent of any member of the family to any provision which the Government might think proper to make for his children after his death. It appears to me to be wholly at variance with the stipulation of Lord Minto's Resolution, which leaves it to the Government to make upon the recipient's death such provision for his family as should be deemed proper under the circumstances which might then exist. If the Government were not under any legal or moral obligation to provide for the heirs, whether then born or unborn, of a recipient of a stipend, they were surely not bound, either morally or legally, to obtain the consent of the recipient or of the family generally to any arrangement that might be made by them to secure a provision for such heirs. Still less could there be any necessity to increase the stipend of a recipient, in order to obtain his consent that the Government might capitalise for the benefit of his heirs an annual sum which it was at the option of Government to give or withhold. Yet in the 18th paragraph of the letter from

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Sir Charles Wood to the Governor General in Council, dated 4th February 1861, he says :—

"Your Lordship will perceive that the then capitalisation of existing stipends in whole or in part for the benefit of posterity *would have been little inducement to present incumbents to accept the proposed terms, but coupling it with some immediate increase of their stipends for their lives*, a boon which Prince Gholam Mahomed, whilst asking nothing for himself, earnestly solicited for them on the score of the distressed condition of many members of the family, I had no doubt of the willingness of the principal members to accept the proposal. I therefore consented to raise the stipend of the grandsons of Tippoo Sultan from £720 to £1,200 a year, of which one-half was to be a personal allowance terminable with their lives, and the other half to be paid to them as interest on the capital stock funded for their families. At the same time I raised the stipends of the existing great grandsons being heads of families from £240 to £360 a year, of which one third was to be considered as personal allowance."

The same observation applies to the reasons given for not consulting the Government of India previously to making the grant. In the same letter of the 11th June 1860 from the Secretary of State in Council to the Governor-General in Council, the Secretary of State says :—

"I must first, however, inform your Lordship that, in thus re-opening a question which the Court of Directors and your Lordship's Government had considered to be definitely settled, I by no means intended to question the justice of the previous decisions or the liberality of the last arrangements which had been made for the increased endowments of the Mysore family. But it appeared to me that the presence of the head of the family in England afforded a favorable opportunity for ascertaining their views with respect to a scheme by which I hope to realise the frequently expressed desire both of the Indian and the Home Governments, to place the descendants of Hyder Ali and Tippoo Sultan eventually in a position of independence. The prospective benefit of such an arrangement might, I thought, be advantageously purchased by some present sacrifice of revenue."

Even if the consent of Prince Gholam to the proposed arrangement, if approved by the Government of India, were necessary, there would have been no difficulty in obtaining it by letter had he returned to Calcutta before the

opinion of the Government of India had been received at home.

I think I have shown that there was no violation of the national honor in the arrangement made by Lord Dalhousie's Government in 1856; that the Government of India did not then deal with the question, or propose to deal with it, upon the basis of the strict legal rights of the family under the treaty. They took a broad and liberal view of the whole question, and the terms upon which it is admitted that both the Court of Directors and the Government of India considered that the question had been definitely settled were in my opinion most liberal. I was glad in 1856 to see Prince Gholam Mahomed's stipend increased from 2096 Rupees to 3096 Rupees a month, it having been fixed in Lord Miinto's time at only 716 Rupees a month. But I cannot help thinking that the late grant is a useless and lavish expenditure of the public money.

I should not have been called upon to express my opinion upon this subject if the ordinary revenues of the country were sufficient to meet the expenditure. But when we are called upon to vote in support of extraordinary taxes, I think that I have a right to consider why they are required, and how they are to be expended.

I feel, therefore, that I am justified in asking the Council to take care that, when they vote for the imposition of new and extraordinary taxes, they provide some security that those taxes shall be expended for the purpose for which they are raised. I lay no claim on the part of this Council to act in the nature of a Grand Inquest of the Nation, or to stop supplies, or any other absurdity of that kind; but I do claim the right on behalf of this Council to take care, when they are called upon to vote for taxes for one purpose, that those taxes shall not be used for a different purpose. We ought to have some sort of control over the taxes which we grant. I do not propose to pass a general Appropriation Act. That would be far beyond our duty and our powers. We have not been entrusted with Executive duties, and have not the means

of judging of or controlling the ordinary expenditure of the country. Then how are we to obtain this control? The question has caused me some anxiety and much thought. We might declare that the taxes are not to be spent in the payment of new or extraordinary pensions or stipends, but that would be useless unless we have the control of all the other revenues; for the ordinary revenues would be applied to the payment of the pensions, and the proceeds of the taxes applied to make good the deficiency thus caused. We might say that these taxes shall not be given away without consideration, but the ordinary revenues might be given away, and the taxes would have to make good the deficit. The Council should bear in mind that, when they pass an Act, they have no power of themselves to repeal it. The repealing Act cannot come into force without the assent of the Governor-General—and, even if such consent were given, the repealing Act might be disallowed at home, and the original Act might thus be retained in full force. I do not propose to pass an Act to restrain the Secretary of State in Council from granting extraordinary pensions or gratuities. We cannot alter the constitutions of the country as settled by the Charter Acts. But I think it is inconsistent that new taxes should be levied on the people of this country, whilst large sums of money are being granted by way of new and extraordinary gratuities and must indirectly fall upon such taxes. If the ordinary finances of the country were in a state to pay such pensions without creating a deficit, well and good. It was not our duty to interfere. But we had a right to say that, as soon as it is considered necessary by the Executive authorities either here or at home to make such grants, then the taxes which depend upon our votes shall cease. I am willing to treat all the taxes named by Mr. Wilson, such as Customs Duties, Excise, Abkaree, and Salt, as ordinary revenues like the receipts from Opium and Land Revenue. But I look upon the Income Tax and the Trades License duties, which are merely temporary taxes

granted under special circumstances, as not included under the head of ordinary revenue, and I propose that, except as to arrears due, those taxes shall cease if at any time the revenues of India shall become chargeable with any new or extraordinary pensions or gratuities granted during any one period of twelve calendar months exceeding in the whole two lakhs of Rupees or £20,000, or with the payment of the principal or interest on any Government Promissory Notes or other Government Securities issued after the passing of this Act and made payable to any person or persons by way of pension or gratuity or without adequate consideration given or paid for the same, unless the Governor-General in Council lawfully constituted for the purpose of making laws, shall by an Act declare that such pensions or gratuities or such Government Securities or the principal or interest thereof ought to be charged upon the taxes derived from the Income Tax or Trades License duties, either alone or jointly with the other revenues of India. I am ready to consider the question, whether the sum of two lakhs or £20,000 is too much or too little; but when the principle is determined, the Clause may be altered in that respect. The Clause provides that pensions, gratuities, or retiring or superannuation allowances, granted in pursuance of any law or of any general regulation now in force relating to pensions, gratuities, or superannuation allowances, are not to be deemed pensions or gratuities within the meaning of the Section. What I intend to strike at are grants in the nature of that made to the Mysore family. It may be said that this Clause, if carried, will throw some difficulty in the way of Government. I am willing to vote for taxes to meet the exigencies of the State, and the people are willing to pay them when they see that they are necessary. But I am not willing to tax incomes in this country down to £20 a year, when the stipends of men who have £720 a year, are unnecessarily increased to £1,200 a year. If the proposed check had existed last year, and the Secretary of State

had known that the Income Tax would be stopped by the grant to the Mysore Princes, and that he would have to go to Parliament for a new loan to make good the deficiency, I believe he would have paused before he ordered that grant to be made. When we are told of the grandsons of Tippoo, with pensions of £720 a year, being in debt partly on account of the high price of provisions, and of giving out of the revenues a sum of £1,500 to each of these debtors to relieve him from his difficulties, and not only to him, but the same amount to every other grandson, whether in debt or not, it is unreasonable to expect us to pass such Acts as the Income Tax and the Bill now before the Council without opposition and without remark. It may be said that another such grant is not likely to be made; but whether so or not we ought to be jealous. Every legislator ought to be jealous when he is called upon to grant taxes or to give extraordinary powers, lest the taxes should be misapplied or the powers abused. It was to prevent the abuse of a Governor-General taking out a number of his friends and appointing them to offices in the Civil Service that a Clause was inserted the other day in the East India Civil Service Bill providing that the officers to be appointed under the provisions of the Act must have resided seven years in India. Yet no one supposes that a Governor-General would venture to do so. I, therefore, propose a check against lavish expenditure as long as these taxes are considered necessary. I feel that I should not be discharging my duty if I were to omit to do so. The check is that the Acts shall cease if extraordinary pensions above a certain amount shall be granted without an Act of the Governor-General in Council, declaring that they ought to be charged upon these taxes either alone or jointly with the other revenues of India. When I speak of an Act of the Governor-General in Council, I mean the Governor-General in Council competent to make laws for India. I wish to place the check in the hands of the Legislature of this country, and

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to vest those, who for the time being may have the power of raising taxes in this country, with some check over the expenditure of them. Such taxes ought not to be raised except in cases of necessity, and when raised they ought to be used for the purpose for which they are granted. The constitution of the legislative body for this country is about to be altered. In all probability this Council will shortly cease to exist, and I rejoice to see that non-officials are proposed to be introduced as Members into the Council which is to succeed us. There are many gentlemen amongst that class of the highest character and independence, men of ability, and men of experience. For my own part, I shall cheerfully resign the trust which has hitherto been committed to me, and shall look with confidence to those whom Parliament in its wisdom shall appoint to succeed us. This Council has been called a "Mock Parliament" and a "debating Society," and I have been charged with being the leader of the opposition. I care not for such charges. As long as I have the honor to hold a seat in this Council and am called upon to assist as a Member of the Legislature of the country, I shall, through good report and through evil report, pursue that course which I conscientiously believe to be right; and then, when the time arrives for relinquishing the trust, I shall have the consolation of knowing that I can lay my hand upon my heart and truly declare that I never gave a vote in this Council which I did not at the time believe to be just and correct.

With these observations I beg to move the introduction of the following Section:—

"Except so far as relates to arrears of duties or taxes or to offences committed or to acts previously done, the provisions of this Act and of Act XXXII of 1860, and of Act XXXIX of 1860, shall cease to have any force or effect, if at any time the revenues of India shall become chargeable with any new or extraordinary pensions or gratuities or with any increase of any extraordinary pensions or annuities granted in any one year or in any one period of twelve calendar months amounting in the whole to more than 200,000 Rupees or to £20,000 sterling, or with the payment of

principal or interest on any Government Promissory Note or other Government Security issued after the passing of this Act and made payable to any person or persons by way of pension or gratuity or without adequate consideration given for or paid for the same by such person or persons, unless it shall be declared by an Act of the Governor-General in Council lawfully constituted for the purpose of making laws that such pension, gratuity, or annuity, or such Government security, or the principal or interest thereof, ought to be charged upon the taxes and duties levied under this Act or under Act XXXII of 1860 or Act XXXIX of 1860 either alone or jointly with the other revenues of India. Nothing in the foregoing Section shall extend to any pension or gratuity or retiring or superannuation allowance granted in pursuance of any law or of any general rule or regulation now in force relating to pensions, gratuities, or retiring or superannuation allowances."

SIR BARTLE FRERE said, he could safely say that he never rose in this Council with greater reluctance than he now did to reply to the Honorable and learned Chairman. He would gladly have remained silent regarding remarks which he had heard with unmitigated sorrow, because he believed the course adopted by the Honorable and learned gentleman was not calculated to give effect to the objects which he had in view—objects in which he (Sir Bartle Frere) entirely concurred with the Honorable and learned Chairman—objects which he thought were dear to all Members of this Council and to every one interested in the welfare of India and desirous of seeing the country well and economically governed—but objects which would not be gained and would most certainly be prejudiced by the course of conduct which we had this day witnessed. He felt, however, he should not be doing his duty without taking the earliest opportunity of making a few remarks upon some of the observations of the Honorable and learned Chairman. He would beg to call the attention of the Council to the distinction which, when these discussions first commenced, it was the endeavour of his Honorable colleague (Mr. Bendon) and himself to draw between the power of any individual Member of this Council to ask for any information

tion which he required from the records of Government for his own satisfaction—and the power of the Legislative Council in its collective capacity to pass resolutions requiring papers to be placed on its table with the almost necessary consequence that they should be made public. It was then pointed out by his Honorable colleague, in terms which he thought could not be mistaken, that we sat here representing the Governor-General in Council assembled for the purpose of making laws, and that any Member of this Council had the same power that the single Legislative Member had before this Council was constituted, to ask for any information which bore upon any subject of legislation which he had in hand; but that it was not competent to the Council in its collective capacity to pass resolutions calling for papers to be laid on its table and so made public. He thought that the wisdom of this distinction could hardly be doubted, if we considered what would be the result of the opposite course. It might happen that his Honorable and gallant friend (Sir Robert Napier) or himself might differ from a majority of the Governor-General's Council on what might be a most difficult and delicate point, on some diplomatic question, perhaps on a question of foreign policy, which it might be fatal to the interests of the country to make public, and yet it was contended that it ought to be in the power of any such Member of Government to come over to this Council and to obtain a resolution for placing the whole of the papers on the table of this Council. But whether this distinction between the power of individual Members to ask for information for their own satisfaction and the power of the Council to enforce the production of papers by a resolution in its collective capacity, was or was not clearly drawn in the case of the Mysore Grant, there could have been no doubt after the discussion about the Prison at the Neilgherries took place. He then stated, and it was not denied, that it was obviously not for the sake of information or for the personal satisfaction

of any Member that that enquiry was made by his friend the Honorable and learned Judge opposite (Sir Charles Jackson), because we all saw that at the moment the Honorable and learned Judge knew more of the matter than any of us knew: and more than was on the records of the Government. It was then simply to ensure publication and to raise a public discussion that the enquiry was made, and he (Sir Bartle Frere) now referred to it only to show that the Government was not open to any charge of having unnecessarily withheld any information which any Member of this Council sought for to enable him to discharge his legislative duties conscientiously and with satisfaction to himself.

With regard to that part of the Honorable and learned Chairman's speech in which he discussed the powers of this Council, the Honorable and learned Member spoke of the necessity of the Council having a control over the expenditure and not leaving it to others to spend the proceeds of the taxes which the Council had imposed, and that it was desirable to devise some means of controlling the repealing powers of the Home Government. He (Sir Bartle Frere) would not enter into any discussion on the abstract point as to how far the power of making laws could be pushed, or what was comprehended when the power of law-making was once given and used to its fullest extent and with all its possible consequences. But he would ask any Honorable Member present whether the powers which had been defined by the Honorable and learned Chairman, were not purely Executive powers. It might be quite proper that such powers should be exercised here. He (Sir Bartle Frere) did not pretend to discuss that question. But he would only remind the Honorable gentleman that they were, in practice, far in excess of the powers exercised by Parliament, and that the moment those powers were so transferred, this Council ceased to be a Council specially constituted for the purpose of making laws. It would exercise far more extensive Executive powers than the present,

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Council of the Governor-General, which in that case must necessarily be absorbed in it and cease to exist.

It was not his purpose to follow the Honorable and learned Vice-President in discussing the Mysore Grant. But he could not admit that the Government was open to any charge of withholding any information which might have been expected in accordance with the promise contained in the message from the President in Council. If the Honorable and learned gentleman who had read so largely from the Parliamentary Blue Book had continued to read from where he stopped, he would have found the whole correspondence which had passed between the Government of India and the home authorities ; and he would have seen that every Member of the Government of India had minuted against this Grant, and that if anything in the power of the Government of India could have stopped that Act, their unanimous opinion would have stopped it. He would have further seen that the whole case had been fully considered by the Secretary of State in Council and the Grant had been approved—the minority of the Council who dissented from this opinion, recording formal protests against it. All this had been laid before Parliament, and Parliament had not thought it necessary to interfere. In bowing, therefore, to the decision of the Secretary of State in Council, the Government of India only bowed to the decision of the supreme power which the Parliament of England had placed over them, and without whose sanction, as the Honorable and learned Vice-President well knew, the Government of India could not grant a single shilling as pension. He would ask, after this, what possible objection the Government of India could have had to the production of those papers ? If the Honorable and learned Vice-President had reminded them that the information on this or any other point was still desired, or if he or any other Honorable Member would only have applied to the Secretary, he would have had the information in the fullest details. There was no desire or object

for secrecy, but so far as he (Sir Bartle Frere) could judge, he should have thought that the Parliamentary Blue Book would have been sufficient for all purposes. In declining earlier to state the views of the Government and the course they had taken, when the question was first discussed, Government had acted from precisely the same motives as the Honorable and learned Chairman, in abstaining from quoting his own Minute on the subject recorded some years previously. The papers had not reached the Secretary of State, or had not been replied to, and it would have been obviously improper under such circumstances to have given publicity to the views of Government or to any portion of an unfinished correspondence.

There was only one other point on which he would beg to make a few remarks. It was proposed to alter the limitation of this Act. He (Sir Bartle Frere) could not vote for the amendment proposed by the Honorable and learned Chairman. He should have preferred to pass the Act as the late Mr. Wilson had proposed, namely, as a permanent measure. But the Council had already decided that it should, like the Income Tax Act, be limited to five years. It was evident that, on the expiration of the period of limitation, the Legislative Council would have it in their power to consider the question of re-imposing it, and he thought that that was ample security for ensuring the Council an opportunity of seeing that the powers granted by the Act were not misapplied.

SIR CHARLES JACKSON said, he should support the amendment of the Honorable and learned Chairman inasmuch as, so far as he understood it, it proposed to prevent money raised from the tax-payers of this country from being squandered away without the acquiescence or even the knowledge of the Governor-General and this Council. Now the two questions to be considered were : 1st, whether, as the Honorable Member of Government who had just sat down had put it, this amendment involved an assumption by this Council of the

duties of the Executive Government ; and *2ndly*, whether the amendment provided for too remote a probability. As he understood the amendment, it provided, whenever public money to a certain amount was granted away without any consideration, and the consent of the Governor-General in Council for the time being was not obtained to such grant, that then and from that time these tax Acts should absolutely cease and determine. Now, how could it be said that such provisions were an usurpation of the functions of the Executive ? The amendment simply stated when and under what circumstances the operation of the Act should cease, which was strictly within our Legislative powers, and did not in any way interfere with any of the functions of the Executive Government. Then were we providing for too remote a contingency ? The Honorable and learned Chairman had gone into the subject of the Mysore Grant, and he (Sir Charles Jackson) understood that the object of his doing so was to show that large sums of money had been squandered, without the knowledge of the Governor-General or this Council, by persons over whom neither the Council nor the Executive Government had any control. He had before him the Parliamentary papers relating to the Mysore Grant, but he should not follow the Honorable and learned Vice-President at any length in his examination of them, and would not do more than read one short passage from those papers. It was unnecessary to dwell on this part of the case, for it was clear from a perusal of the papers that he had the authority of the Governor-General in Council for saying that that was an unjustifiable grant. The perusal of these papers also showed, *1st*, that it was admitted by all parties and even the Secretary of State that the Mysore family had no legal claim ; and, *2ndly*, that the supposed check of the British Parliament on the Secretary of State was not a sufficient protection for this country. It being admitted that the Mysore family had no legal claim whatever, then what did their case

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amount to ? With that admission all arguments founded on the terms of the treaty, and the way in which the accounts of the assigned Districts had been separately kept, fell to the ground ; and the question was reduced to one of mere generosity on the part of the Government. One would, under such circumstances, expect to find in these papers some statement showing how and in what respect this was a case for generosity, or some proof that the pensions previously granted to the Mysore family were insufficient for their support, or some other grounds for their relief. But, on the contrary, their poverty and the necessity for the grant were assumed throughout the papers. It was stated that some members of the family were poor ; but we all knew very well that some were not, and that some of them were in fact the largest householders in the town of Calcutta. There was a total absence of enquiry as to how some of them were rich and others poor, none of them having entered into business to increase their means ; and there seemed therefore no ground of compassion on which the grant could rest, and that being put aside, he could not understand on what principle it could be sustained. To show how generous people could be with other persons' money, he would read one passage from the Despatch of the Secretary, which would serve as an illustration of the style of reasoning throughout it. Sir Charles Wood observed :—

“ The advantages of the scheme, both social and political, indeed, were so many and so great that, when I was apprised of Prince Gholam Mahomed's willingness, on the part of the family, to accept it, with certain supplementary arrangements, I thought it right to make some addition to the scheme, so as to ensure the accomplishment of the plan.

“ Your Lordship will perceive that the mere capitalisation of existing stipends in whole or in part, for the benefit of posterity, would have been little inducement to present incumbents to accept the proposed terms ; but coupling it with some immediate increase of those stipends for their lives—a boon which Prince Gholam Mahomed, whilst asking nothing for himself, earnestly solicited for them, on the score of the distressed condition of many members of the

family—I had no doubt of the willingness of the principal Members to accept the proposal.

“I therefore consented to raise the stipends of the grand-sons of Tippoo Sultan from £720 to £1,200 per annum, of which one-half was to be a personal allowance terminable with their lives, and the other half to be paid to them as interest on the capital stock funded for their families. At the same time I raised the stipends of the existing great grand-sons (being heads of families) from £240 to 360 per annum, of which one-third was to be considered as a personal allowance terminable with their lives.”

Now, just apply that reasoning to an analogous case in England. Suppose any one of the noble families to whom Parliament had granted an amount of £2,000 a year for three generations. He would name one for the sake of perspicuity merely. Suppose the case of Lord Keane, whose next heir was provided for, but there was, of course, no provision for his remoter descendants. Suppose an English Minister were to tell Lord Keane that he intended to capitalize his £2,000 a year, so as to provide for his posterity for ever. He (Sir Charles Jackson) apprehended that His Lordship would think his lines had fallen in pleasant places; but how much more would he be astonished, and the House of Commons too, if the Minister told him that, by way of an inducement to him to accept his capitalization project, he would double his own annuity, or give him say £3,600 a year instead of £2,000, and that was in effect what the Secretary of State had done for the present Mysore annuitants. He could read other passages, but would not detain the Council longer, and would content himself with observing that the more he read the papers the more did the grant appear to be a wasteful expenditure. He therefore thought that it was perfectly justifiable in this Council, considering that it had in its keeping the interests of a large number of tax-payers, to attempt to contrive some check or control so as to prevent the recurrence of a similar grant. The principle of the amendment for which the Honorable and learned Chairman contended was, he thought, quite unobjectionable, and calculated to strengthen the hands of the Government of this country.

In conclusion, he would guard himself against a charge which had often been made, that this Council was assuming the functions of the House of Commons. On this occasion, at all events, they were doing no such thing, for not long hence this Council would cease to exist; and all its rights and privileges, such as they were, would be swept away, and the consent of the Legislative Council which would be hereafter in existence, and not of this Council, would have to be asked. With regard to the observation of the Honorable Member of Government that he could not be charged with withholding information, he (Sir Charles Jackson) would only say that personally we were all indebted to that Honorable Member for his uniform courtesy in giving the Council every information in his power. But that was not the point. As had been already said by the Honorable and learned Chairman, this Council had asked the President in Council for information as to this Mysore grant, and had received a very courteous answer, communicating a part of the information so called for, and stating that certain other papers would not be furnished because the correspondence was incomplete, and that the request of the Council with regard to other information would be referred to the Secretary of State. What they now meant to say was that the remaining information so withheld at that time had not yet been sent, and that message still remained in fact unanswered, and no one ever dreamt that any further notice or request of this Council was necessary to admit of its being sent.

MR. SETON-KARR said that he had come down to Council this day entirely unprepared for the important subject broached by the Honorable and learned Vice-President. He had, however, listened attentively to his able, manly, and eloquent exposition of the part he had played in the whole of the Mysore grant. No one who had heard it could doubt for a moment that the Honorable and learned Vice-President had acted throughout the whole affair with consistency, with truthfulness,

with justice, and even with leniency towards the Mysore Princes. He (Mr. Seton-Karr) sympathised with much that had fallen from the Honorable and learned Vice-President, and he had further listened to his full vindication of himself with lively interest and satisfaction. He had listened, too, with even greater pleasure to the Honorable and learned Vice-President's spirited defence of a deceased Nobleman, who was not more remarkable for his strong and even stern sense of justice, than he was for the wisdom of his measures, and the general vigor of his administration. But with all respect and sympathy, he did not think that the course recommended by the Honorable and learned Vice-President would attain the desired end, and it might cause greater evils. The Mysore grant and the License Tax were not practically connected at all. Moreover, the Government of India itself had protested against this grant, and acted in this matter so as to obtain the commendation and approval of all official and non-official men. The amendment looked to him like an attempt at a retaliation on an irresponsible authority 7,000 miles off, but in reality the blow would fall on the authorities here. Therefore, with such views, he should support the Government on this point. Indeed, any other course at this time of financial pressure might seriously hamper the Government, cramp its energies, contract its operations, and endanger its credit. Accordingly, without going into abstract questions of the power of the Council for which this was hardly the occasion, or without discussing the features of the Mysore grant which had been clearly and ably expounded by the learned Vice-President and the learned Judge on his right, he should support the original proposal, and give the Government his vote.

MR. ERSKINE said that, like the Honorable Member,* who had just spoken, he had been quite unprepared for the important amendment which the Honorable and learned Chairman had moved. As, however, his (Mr. Erskine's) position in respect to the general question involved in that amend-

ment was different from that of other Honorable Members, he must say a few words in explanation of the vote which he should feel it his duty to give. On a former occasion, during discussions to which the Honorable and learned Chairman had referred, he (Mr. Erskine) had expressed his opinion that a public duty lay on every Member of that Council to satisfy himself that the taxes which he was instrumental in imposing were not largely misapplied, either in India or in England. He still adhered entirely to those opinions. He did not think that, as Legislators, they could be relieved of the obligation he referred to, or that they could properly discharge their duties to the public under other conditions. He sympathised, therefore, with the anxiety of the Honorable and learned Chairman that some measures should be adopted to establish the authority of the Supreme Legislature in India to exercise a general control over the entire Indian Expenditure. But the amendment, now proposed, went beyond this, and proposed at once to determine what should hereafter be regarded as misapplications of the public revenues, and to provide that, in certain cases, a large portion of the public supplies should be stopped. He was not prepared to support such a proposal so made. As already stated, if the question now at issue—as to the right and duty of the Supreme Legislature to exercise some control over the public expenditure—had been brought forward as a separate question, in the form of a substantive Motion, or in any other form admitting of a mature consideration and discussion of the merits of the proposal in the usual manner in all its bearings, he (Mr. Erskine)—as he entered fully into the views of those who wished to see this control established—would have done his best to support their endeavors in as far as the particular proposals seemed judicious. But now it was proposed suddenly to insert in an important money Bill, in one of its later stages, a Section, the effect of which could not but be to prevent the final passing of that Bill altogether;

Mr. Seton-Karr

and the *object* of which was, on the occurrence of certain contingencies—which might not depend on the action of the Government in India—to suspend one productive tax which had been in operation for a year, and another tax not less important, the principles of which had been so often considered and sanctioned in the Council that the Government might well regard them as pledged to its passing. Whatever his general views therefore as to the control of public expenditure might be, he could not support such an amendment introduced in this way, by which they would unsettle a large portion of the revenues required for the public service in a time of financial pressure, and so weaken the general administration of the country. It did not appear to him that that course was recommended by considerations either of prudence or of public spirit. There were two considerations only, which it seemed to him would now justify an interference with the main provisions of this Bill; one was, if it should appear that the Government was mistaken in believing that the revenue to be raised by it was required for public uses, and the other was, if it should appear that the requisite amount of revenue could be more advantageously obtained by other means. Neither of these arguments had even been urged in the course of this discussion, and he felt it impossible therefore to give his support to the amendment, but should, on the contrary, support the Bill as it originally stood.

SIR BARTLE FRERE said, he desired to say a few words in explanation before the Council divided, as to the powers which the Honorable and learned Chief Justice wished to exercise, being, in fact, executive powers and far beyond those exercised by any legislative body. He did not mean to say that there should be no check to any waste of public money, but that the remedy proposed for the evil was one which went far beyond any that it was in the power of this Council to entertain. He would ask, by what legal right did the Crown rule in India? He presumed by Act of Parliament. He would

ask, by what legal right did we sit here? He presumed by Act of Parliament. He would ask, by what legal right did the Secretary of State in Council direct and control the expenditure of public money in India? He presumed by Act of Parliament; and he conceived that any attempt to limit this power was in opposition to that Act. He did not discuss whether it was right or wrong to limit that power. He only meant to say that to do so was entirely beyond our power.

With regard to what had fallen from his Honorable and learned friend opposite (Sir Charles Jackson), he would only observe that if his Honorable and gallant Colleague (Sir Robert Napier), or himself, wished to know any thing of the proceedings of the Executive Government in a case which they had not previously seen, what course did they pursue? They did not move a Resolution of Government calling for the production of the papers. The papers were open to them, and they would go and ask for them in the proper Department. Honorable Members of this Council were at liberty to ask for information in a similar way; and if any Member could say that he had asked for information in that manner, and had been refused the information he required, then he (Sir Bartle Frere) must confess he was mistaken. Till then he must maintain that no case had been made out for such a proceeding as asking for papers by a vote of the Council in its collective capacity.

SIR ROBERT NAPIER said that, as far as he understood the constitution of the Council, it was a branch of the Government placed there especially to make laws, and it had nothing to do with the execution of them. If, therefore, it should "refuse supplies" in order to effect or prevent any particular measures, it would usurp a power not vested in it by the State.

THE CHAIRMAN said, he was afraid he had been misunderstood in his observations as intending to cast blame upon the Executive Government of this country. It was far from his intention to blame the Government of

India either for refusing the information asked for in December last, or to impute any blame to the Government of India in regard to the grant to the Mysore Family. He knew that the Governor General and every Member of his Council had acted nobly in this matter, and had strongly protested against the grant. He had been told that, if he wanted the information, he might have gone to the Office and asked the Secretary to Government who would have given it. But how could he have done so? The Council had been told that the papers specified in the Resolution related to a correspondence with the Secretary of State for India which was then incomplete; that the President in Council did not therefore feel that he would be justified in transmitting them to the Legislative Council; but that the request of the Legislative Council would at once be made known to the Secretary of State. At that time the correspondence was not complete, and it was not considered proper by the President in Council to communicate it to this Council.

SIR BARTLE FRERE explained that that was with reference to the motion to lay the papers upon the table of this Council—not as regards any information which individual Members might wish to have.

THE CHAIRMAN proceeded—Could he with any degree of honor or propriety have gone to any of the Secretaries to Government and asked for the information after that reply of the President in Council? He was not a Member of the Executive Government. He was only a Member of the Legislative Council, and this was the only place in which he could properly ask for the information. Suppose this Council had been sitting with closed doors, and he had asked for information which the Executive Government thought they could not give, could he have gone to the Secretary and asked him for the information? Or even if he could have made up his mind to do so, would the Secretary have been justified in giving the information? The fact that this Council did not sit with closed doors could

not make any difference in principle. Before, however, the answer of the Secretary of State arrived, this Council was now called upon to pass this Bill.

SIR BARTLE FRERE begged to explain that he did not intend that the information should be obtained in any secret or under-hand manner. He meant simply that the Honorable and learned Vice-President should have gone and asked the Secretary for the information in the same way as his Honorable and gallant friend (Sir Robert Napier) or himself would go. He thought that he had clearly drawn the distinction between an application by an individual Member of this Council for information required by him for his own satisfaction, and an application by the Council collectively calling for papers for the purpose of being made public.

THE CHAIRMAN resumed. He did not understand the Honorable Member to say that he (Sir Barnes Peacock) ought to have gone to the Secretary and obtained the information in a secret or under-hand manner. But the Secretary to the Government of India in the Home or Foreign Department was not the Secretary to the Legislative Council, and would not be justified in giving him the information without the consent of the Governor-General in Council. He had asked the Governor-General in Council, or rather the President in Council during the absence of the Governor General from the Presidency, for the information and it had been refused. We all knew that questions were determined by a majority of votes, and that in this Council every Member had a vote. He had no vote however in the Executive Council, and no control over the papers either in the Financial or Foreign Departments, or in any Department except the Legislative, and if he had gone to the Secretary and asked for the information, the information ought properly to have been refused by the Secretary, and he could not have gone farther.

But the Honorable Member had asked by what right did we sit here, and by what right did the Governor

General in Council act in his Executive capacity? It was true that this Council sat by Act of Parliament and only for the purpose of making Laws and Regulations. For the last two years, the Financial Member of Government (and this was a new appointment) had made a Financial Statement in order that this Council might know the state of the finances of the country. We had been told by the late Mr. Wilson in 1860 that there was a large deficit, and we were called upon to pass taxes beyond what were called the ordinary taxes. He said that the ordinary revenues were not sufficient to meet the expenditure of the country, and asked us to pass laws imposing new taxes to enable the Government to meet the expenditure. Supposing the Right Honorable gentleman had said, "There is a deficiency of £500,000 and I ask you to pass a particular tax to meet it." Suppose every Honorable Member of this Council, anxious to relieve the State in its necessities, had agreed to the passing of the Act under the impression that it would enable the Government to meet the deficiency. But suppose that, when the taxes had been collected, we had been told that the Secretary of State had granted a gratuity of £500,000 to the Mysore Family, and had expended the whole of the money raised by the new tax in paying it; or that the gratuity had been paid out of the ordinary revenues; and that, therefore, with the aid of the new tax, there was still the same deficit of £500,000 to be made good, and that we were in the same position as we were when the new tax was granted. Suppose that, after this, the Council had been asked to pass another Bill to raise £500,000 more to meet the deficit. Would any one contend for a moment that the Council ought to have passed the new Bill without further enquiries, without comment, and without endeavoring to prevent the new tax from being applied to discharge another gratuity of the same nature? It made no difference in principle whether the sum to be raised was small or large, or whether

it was precisely of the same amount as that of the deficit to be cleared off or not. If Mr. Wilson had asked for an income tax to raise £500,000 to pay the Mysore grant, he (Sir Barnes Peacock) for one should have voted against the Bill. Were we not then justified in saying, "If you choose to make these grants, don't ask us to pass laws imposing new taxes to meet them?" Though the Secretary of State in Council might have the power to grant new stipends, he could not order us to vote for taxes to pay them. He did not ask this Council to control the Executive Government. But when the ordinary revenues of the State were insufficient to meet the ordinary expenses, he thought that they ought not to be burthened with the payment of new and unnecessary stipends. He did not think it consistent to raise extraordinary taxes, whilst voluntary grants were made to which they must indirectly be applied. If such new grants were to be made let the taxes cease. When we found that such extraordinary grants could be made without consulting the authorities in this country, it behoved us to provide that the taxes should cease if any such grants should be made beyond a certain amount without the consent of the Governor General in Council in his Legislative capacity, whatever the constitution of that Council might be.

He would rather leave it to the Governor General in his Executive Council than have no check at all. But if there was to be any check in this country in which the taxes were passed, he thought it ought to be in the Legislature of this country for the time being, that is, with the Governor General in a Council so constituted as to have authority to make laws. He thought this Council had a right to say, "If you make such grants as these, you must raise the money in some other way to meet them. We do not think it right or consistent to raise money for the purpose of extraordinary taxes upon the people."

SIR ROBERT NAPIER observed that it was with much diffidence that he opposed the opinion of the Honorable

and learned Vice-President, but that he considered the view entertained by him to be incorrect. The Council was placed there to make laws, and to see that they were just laws suited to the people, and that the people could bear them. If the tax-payers objected to the way in which the taxes were spent, they could assemble and address the Government, and it would be the duty of the Council to support their petition with all the weight it might deserve. But if the Council could interfere in any question relating to the grant of pensions, it might as well control the Military or Civil expenditure. It seemed to him that it was beyond the power of the Council to say, "We will not pass this law because you will not promise not to spend it in a particular way." If the Council were a representative body, then he (Sir Robert Napier) would go heart and soul with the Honorable and learned Vice-President in endeavouring to control the expenditure. But it was not a representative body; it was placed there for a special purpose, and had no power to go beyond it.

THE CHAIRMAN said, he was much indebted to the Honorable and gallant Member for the manner in which he had explained his views. He (Sir Barnes Peacock) desired to observe that by pensions he did not mean ordinary pensions to Civil or Military Officers, for he had in his amendments introduced a proviso to that effect. The proviso enacted that "nothing in the foregoing Section shall extend to any pension or gratuity, or retiring or superannuation allowance granted in pursuance of any law or of any general rule or regulation now in force relating to pensions, gratuities, or retiring or superannuation allowances." Therefore, superannuation allowances granted by virtue of any law would not fall within this Clause. The Clause would only prevent new and extraordinary pensions in the nature of that granted to the Mysore Princes, and which we now found had been ordered by the Secretary of State to be made contrary to the opinions of three Mem-

Sir Robert Napier

bers of his Council in England, and which would have been contrary to the unanimous view of the Government of India in this country if they had been previously consulted upon the subject.

The question being then put, the Council divided—

Ayes 2.
Sir Charles Jackson.
The Chairman.

Noes 5.
Mr. Seton-Karr.
Mr. Erskine.
Mr. Forbes.
Mr. Harington.
Sir Robert Napier.
Sir Bartle Frere.

So the Motion was negatived.

The rest of the amendments were then put and carried; and the Council having resumed its sitting, the Bill was reported.

Sir Bartle Frere moved that the Bill be read a third time and passed.

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

PAPER CURRENCY.

The Order of the Day being read for the third reading of the Bill "to provide for a Government Paper Currency"—

SIR BARTLE FRERE moved that the Bill be recommitted to a Committee of the whole Council for the purpose of considering the amendments of which he had given notice, and which had been circulated to the Members.

Agreed to.

SIR BARTLE FRERE moved the substitution of "five Rupees" for "ten Rupees" in Section III, as the lowest denomination of Notes. He said: This question has been so often discussed that, in moving this Amendment, I will but very briefly advert to the arguments in favor of empowering the Government to issue Notes of so low a denomination as five Rupees. It is to be borne in mind that the time of issuing and the amount of such Notes to be issued will be left, as in the case of all other Notes, to the discretion of Government, and that it will be their interest, no less than their duty, to take every care that their arrangements regarding them shall be such as to

render the Notes as popular as possible, and to prevent loss or inconvenience to the public. They will be, like all other Notes, a legal tender, and will have this advantage over Notes of higher denomination, that for one man who has to pay a debt to his neighbour, or a Tax to his Government amounting to ten Rupees, there are scores who have to pay a debt or a Tax of five Rupees. Much stress has been laid on the necessity for securing the convertibility of Notes within easy reach of all holders. But I submit that if every holder of these Notes can find in every village in the country a man who wants Notes to pay his debts or his Taxes—even if he have himself no debts or Taxes to pay—he is less likely to lose by his Notes than if there were Offices for cashing Notes at every Police Thannah in the country. It cannot be many weeks after such Notes appear in the country before the most ignorant peasant discovers that they are just as available and more convenient than silver rupees, that his zemindar or mahajauns is obliged to take them just as he would rupees, while the zemindar and mahajaun will discover the many additional advantages which paper possesses in the smaller bulk and greater security against loss by theft.

I submit that as long as they are a legal tender, and as long as almost every man in the country is either a borrower or a lender, and the great bulk of the population are Tax-payers to Government in one form or another, it is next to impossible that the holder of a five Rupees note should find himself worse off than the holder of five Rupees in cash.

If he has to pay a small premium for changing his note into smaller coin, he is not worse off than the holder of the silver rupee, who must pay a premium to the shroff who changes his Rupees into pice or cowries. No employer can inflict an unlooked for loss on him by paying him twice in a depreciated currency; for if the laborer once suffer by such injustice, he will make his own terms as to the currency in which he will be paid, and the obvi-

ous certainty that the injustice would thus recoil on his own head will deter the most short-sighted employers of labor from making the attempt.

It is I believe very generally the wish of the mercantile community to have notes of this denomination.

As compared with England or Scotland, five rupees is, it must be remembered, the full month's wages of an able bodied laborer, and is therefore more nearly analogous to a £5 than to a £1 Note or Sovereign in England.

For all these reasons I think it very desirable to fix five Rupees as the lowest limit of the Notes to be issued rather than ten Rupees.

Mr. FORBES said : When this Bill was before the Council for a second reading, I stated some objections which I had to some of its details, and particularly to notes of a small amount being made a legal tender. I maintained the same view as a Member of the Select Committee on the Bill ; and when the Bill was in Committee of the whole Council, I did not vote in the division which took place on the question of whether the issue of ten Rupees notes should form part of the Bill, only because my absence from Calcutta prevented my being present at the Debate. Had I been present, the question would probably have been lost, as my vote would have made an equal division, and it may be assumed that the Vice-President's casting vote would then have been given on the same side as his original vote. Since the second reading, since the Select Committee sat, and since the Debate in Committee of the whole Council, I have heard nothing which has induced me to change the opinion I had formed of the extreme inpolicy of introducing a Paper Currency of a very low value, and as a legal tender, over the length and breadth of India, and I shall not be able to support the Honorable Gentleman who has moved the present amendment. The general question of the policy of a small Paper Currency declared to be a legal tender, has been now so often and so fully discussed in this assembly, that there is little new left to be said ; but policy and impo-

licy, as if the question were merely a financial one, seem to me to be hardly the terms to be used, and I cannot but take a wider view of the question, and say that it appears to me to be little short of cruelty to force on the poorer classes of this country by law a Currency which must, in practice, entail upon them constant and serious pecuniary losses. When I talk of forcing this Currency on the country, I would not be misunderstood. I know that the Government have no wish to force it, and no intention of doing so. I know that they have given an assurance that they will proceed tentatively, and I quite confide in that assurance; but I say that, when once this small Paper Currency is made a legal tender, the Government will lose all command over it, and that although they may not be willing to force it, others will be able to do so in spite of them. Great Railway Companies, Great Coal Companies, or Great Tea Companies may obtain any number of five Rupees notes from the Office of issue, and pay their laborers with them month after month, and this would force the small Paper Currency on the country as fully and effectually as it could be forced by the Government. Sitting in this Council, acquainted with India and with long experience of the ways and means and habits and customs of the people, we cannot contract our view of the question to the limit in which it may appear to any one resident in England, and surrounded by, and accustomed to, all the accessories of a more perfect monetary system; we must look at the question as it will affect our own people, and consider what will be the result to the millions of our laborers, the millions of our peasantry, and the millions of our artisans, to all of whom a small sum of money is great riches, what, I say, will be the result to them of forcing on their acceptance, a Paper Currency convertible only at distances of hundreds, and it may be of thousands of miles.

I have heard it argued that, considering the difference in the value of money, a five Rupees bank note in India rot would be so small a Currency as a

£1 note is in Scotland, and that as there is no objection made to the £1 notes in Scotland, so there need be none to the five Rupees notes in India. But the class of persons among whom each of those notes would circulate are very widely different. In Great Britain the wages of laborers and of artisans are paid weekly, and as no laborers and few artisans earn £1 a week, they can never be paid in paper; but in India wages are all paid monthly, and many a laborer and many an artisan earns five Rupees a month, and will be paid, if the amendment be adopted, in paper. Now how does our experience tell us, that a native of the poorer classes keeps his money? He either ties it in a corner of his cloth or buries it in the floor of his house. In the one case a shower of rain would reduce his month's wages to a useless pulp, and in the other the white ants would destroy it; and it is this that led me to say just now that a five Rupees paper legal tender would be more justly called a cruel than merely impolitic measure. If the poorer classes were to try to keep their Paper money, they would be pretty sure by some accident to lose it; and if they attempted to change it, as from the fear of loss they certainly would, advantage would be taken of their anxiety to be freed from so fugitive a treasure, and a heavy discount would be exacted, so that, take the question in what way we will, it seems to me that a heavy loss must fall on the poorer classes by paper legal tender of small value.

It may possibly be asked, whether my objections to this measure would be removed if these small notes were introduced and not made a legal tender. This would certainly diminish my objections, although it would certainly not remove them. If the question were regarding notes of larger amount, my objections would be wholly removed, because they would circulate only amongst the better classes, whose intelligence would enable them to discern between what was, and what was not a legal tender. But the question assumes a different aspect when it regards notes of very small amount which would circulate

among the poorer classes who would not be able to discern between one note that was a legal tender, and another note that was not a legal tender. Therefore, although I should prefer a small note that was not a legal tender to one that was, I should prefer to either to have no very small note at all.

When I spoke upon this question at the second reading of the Bill, I endeavored to show the extreme inconvenience that would arise from the great size of some of the circles of issue—a size so great that, in one instance which I particularized, a note could be cashed at par at the Office of issue only by undertaking a journey out and home of 1,400 miles. I have heard nothing since of any disposition to reduce the size of those circles. On the contrary, I have heard it hinted—on second hand authority, it is true, but I have heard it hinted—that it is in the contemplation of the Honorable Gentleman who superintends the Finances of the empire, to limit the circles to one for each Presidency. If there be any thing of this sort in contemplation, I think that it very greatly strengthens all arguments against a five Rupees paper legal tender, and the impossibility of any one at Peshawur or Lahore, or even at Delhi or Mirzapore, obtaining cash at par for a note at the Presidency office of issue, is so manifest that we cannot doubt that the rates of discount would be terribly raised on the unfortunate holders of paper—a discount which would fall with terrible severity on the poorer classes, whose whole monthly income would be included in one five Rupees note.

I observe from our printed Proceedings, for I was not present myself, that the former lowest denomination of note was changed from twenty Rupees to ten Rupees at the desire of the mercantile community who were unwilling to part with the convenience they now have in a ten Rupees note. But we have no request made to us now by any community or any person to legalize a five Rupees note, nor will our omission to do so withdraw any convenience now enjoyed by the pub-

lic. On all the grounds which I have stated, and others which I do not refer to because they have been already stated at length in former Debates and need not now be repeated, I shall vote against the amendment.

Mr. HARRINGTON said, he entirely concurred in all that had fallen from the Honorable Member for Madras, and with that Honorable Member he should consider it to be his duty to vote against the amendment which had been proposed for their adoption. He should not have deemed it necessary to address the Committee after what had been said by the Honorable Member for Madras with whom he fully agreed as regarded the objections urged by him to the proposed amendment, but he wished particularly to notice that part of the remarks of the Honorable Member of the Government (Sir Bartle Frere) in which he said he understood there was a very general desire for Bank Notes of the value of five Rupees. He thought that the Honorable Member must have been misinformed, and in proof that such was the case, he, too, would refer, as the Honorable Member for Madras had done, to the Petitions presented to the Council by the Calcutta Chamber of Commerce and the Trades' Association, reminding the Committee that these Petitions were given in after it was known that the Select Committee, to which the Bill was referred for report, had recommended that notes of a lower denomination than twenty Rupees should not be issued. The Petitioners took no objection to the reasons upon which this recommendation was based, in so far as notes of the value of five Rupees were concerned, and it might be inferred that they admitted their force as respected notes of that denomination; but they urged that those reasons did not apply to notes of the value of ten Rupees, and adverting to the fact that the Presidency Towns had long enjoyed the use of notes of that value, they pressed upon the Council the great inconvenience which would be experienced in the Presidency Towns if these notes were withdrawn from circulation and no

notes of the same denomination substituted for them in the new Bill. It was chiefly in consequence of what was stated by the Petitioners that the Council yielded the point, and agreed to reduce the lowest denomination of notes to be issued under the Bill from twenty to ten Rupees. The Petitioners did not ask for notes of the value of five Rupees, though they must have been aware that the Bill, as it was originally drawn and introduced, included notes of that value. They merely asked to be allowed to retain what they had already got, namely, notes of the value of ten Rupees, and, as already mentioned, the Council assented to the prayer of their Petition. It was only yesterday that he was talking to one of the first merchants in Calcutta on the subject, and from what fell from that gentleman, he gathered that the Calcutta community were quite content with the Bill as it stood—he meant as regarded the lowest denomination of notes to be issued under it—and that they desired no change in this respect. The Section, as it now appeared, was settled after full consideration and discussion, and he could see no sufficient reason for altering it or disturbing the decision formerly come to.

MR. SETON-KARR said that he concurred, on the whole, in what had been stated by the Honorable Members for Madras and the North-Western Provinces. We had to introduce a kind of Currency liable to injury from fire, damp, insects, and climate. We had to encounter and to surmount the credulity of the natives, their aptitude to distrust the motives of the Government, the possibility of evasion, and a sheer inability to understand that a dirty piece of paper really did represent five Rupees worth of good sterling coin of the realm. Moreover, it was impossible not to read Sections 8 and 16 of the Bill together; the one ruling that these notes would only be cashed at certain Agencies or Offices of issue, and the other declaring emphatically that these notes were legal tender when offered by Government, by any Company, by any Society, or Railway con-

tractors, or private individuals, on any occasion when any money payment could by any possibility be made. If this were the case, and five Rupees notes were introduced, then the consequence would be, either that the poor men would resort to the nearest money lender in the bazar and pay discount for their silver just as they had paid discount when requiring copper for silver; or else the Zemindars and great Mahajuns would derive a regular and profitable trade by cashing these notes, when presented by the poor people, for a certain consideration. It had further been brought to his notice by a gentleman of intimate practical knowledge of mercantile and monetary matters, that, just one hundred years ago, it had been found necessary in Scotland to abolish the use of notes of twenty shillings on account of the intolerable hardship which they inflicted on the people. Now, granting that in diversity of interests, mercantile enterprise, and in a certain kind of civilization, Bengal was now ahead of the Scotland of a hundred years ago, still he thought that ten Rupees was a limit beneath which it was not right or safe to go. We had to overcome distrust or the possibility of evasion or panic, and to take heed that we did not inflict serious distress and loss on the poor; and in this view, looking to all the reasons adduced and to the arguments on both sides, the amendment proposed by the Honorable Member of Government was none to which he could give his support.

MR. ERSKINE said, he had only a very few words to say in regard to this amendment. From the first occasion on which this question had come before the Council, it had appeared to him that the limit of ten Rupees was as good a minimum denomination of notes as the Council could adopt in the outset. One strong argument at least in its favor was that it would leave the classes of notes as they now were. For his own part he did not share in the apprehensions expressed by the Honorable Members for Madras and Bengal, that large contractors and other employers of labor would force smaller notes on their workmen against their will; for he could hardly con-

ceive that any one would have a more direct interest than these large employers of labor in making their payments as acceptable as possible to those whom they employed ; or, in other words, in making their payments in the form in which they could most easily and cheaply satisfy their workmen. At the same time, no doubt, it must not be forgotten that the prejudices and suspicion of the people in the interior might be excited by anything that could be represented to them as an attempt to force upon them new kinds of notes under the auspices of Government. Although, therefore, in a merely monetary point of view the introduction of the smaller notes might be desirable and convenient ; still, since the Council could not regard the question solely in its monetary aspect, but must feel their way cautiously with this measure ; and since it would be easy, as the Honorable Member for Bengal had observed, to make provision for the issue of notes of a lower denomination than ten Rupees hereafter, if experience should prove that such a step might safely be taken and was required to meet a real and felt want ; he thought it right to support the Bill as it stood, and to object to the amendment ; especially as the limit already adopted had been agreed upon deliberately by the Council after the fullest discussion.

SIR CHARLES JACKSON said, he must also vote against this amendment, although he felt it was not very easy to reconcile such a vote with principle. Applying the ordinary principles of political economy to the question, one would say that, if a servant or cooly experienced any difficulty in getting his five Rupees note cashed, he would indemnify himself by asking for an increase of wages. That would be the result in England, no doubt ; but still we ought not to ride principles to death, and fancy that, because a principle was sound in Europe, it might be safely acted on in a country like this. We were legislating for persons in an uncivilized condition ; and, judging from his experience, he was not satisfied that the

relation of master and servant, or ryot and planter in the Mofussil, was such that the ryot and the servant were in a position to fight their own battle, and compensate themselves by a demand for an increase of wages. He must say that his objection would be removed if these five Rupee notes could be made payable at the Deputy Collectors ; but he supposed that any arrangement of that kind on the part of Government was practically impossible. Something had been said, in a Despatch we had all read, about the Scotch notes. The reasoning employed in that Despatch was that, because £1 notes had not been found inconvenient in Scotland, therefore a note which, looking to the different circumstances of this country, would be equivalent to a £1 note—say five Rupees—would not be found inconvenient in this country. He must say that that was a very narrow argument, and could only have been raised by a person resident at home. In Scotland a £1 note was gladly taken whenever presented, and cashed without discount, but that would not be the case here. It had been said that these five Rupee notes were much desired by the commercial classes. He must say he was surprised to hear it, for a gentleman who conducted one of the largest Banking establishments in this place, and who had been sitting on the Visitor's bench all the morning, had told him just before he left that five Rupee notes were not required at all.

THE CHAIRMAN said, he entirely agreed with what had fallen from the Honorable Members who had preceded him in the debate on this Motion. He would make only one or two observations with regard to £1 Bank Notes in Ireland and Scotland. We must bear in mind that those Notes in Ireland and Scotland were not a legal tender ; every one had an option to take or refuse them. When the late Mr. Wilson brought forward this measure, he fairly told us that Bank Notes below £5 were not legal tender. He had seen an opinion in which a 10 Rupee Note in this country had been compared with a Sovereign which

was said to be the lowest gold coin in England. He could not understand how there could be any comparison between a 10 Rupee Note and a Sovereign. A Sovereign was bullion and the current gold coin of the country, and how it could be compared with a Paper Currency was a matter which he must say he was quite at a loss to comprehend. We had been memorialized by the Bengal Chamber of Commerce to reduce the limit of 20 Rs. to 10 Rs. and that had been done. He did not therefore wish to undo it. But he did object to reducing the limit to 5 Rs. when the distances, within which they could be cashed without paying a discount, was so great. It had occurred to him whether 5 Rupee Notes might not be issued if not declared to be a legal tender. But he thought that it could not be done in this country, whilst you had Notes of a different denomination which were a legal tender; for if you had 10 Rupee Notes a legal tender and 5 Rupee Notes not a legal tender, it would be a long time before the poorer classes would understand which were a legal tender and which were not.

SIR BARTLE FRERE said, he was afraid there was very little use in replying to the arguments used against the amendment proposed by him. But as his Honorable friend the Member for Madras seemed to think that there was no answer to the objection made by him of the difficulty that would be felt by a man who would be obliged to travel 1,400 miles before he could have his note changed, he would beg to remind him that there was hardly a village in any part of Madras where persons were not paying taxes to Government, the greater part of them in sums considerably above five Rupees. There could be no doubt, therefore, that the holder of the note would find some person in his own immediate neighborhood who had to pay taxes and would much rather pay them in a bit of paper than in the shape of silver. A good deal had been said by way of objection of the notes being eaten up by white ants or destroyed by the damp and rain. But he thought that something ought to be said *per contra*

as to its advantages. It was very much easier for a laborer to tie up ten or twenty Rupees in that way, and it would be far more secure from robbers; and if he would take the precaution of getting the village writer to write down the number of his note, he could stop payment of it in the event of its being lost. Employers would be certain to use that Currency which was the most advantageous. If Paper Money made its way and became popular, they would pay in Paper Money. But it was quite impossible to attempt to force the notes on the laborers. The first time the attempt was made, the laborer would be sure to make his own terms as to his future mode of payment. He (Sir Bartle Frere) had commenced by saying that he could not deny that a man would probably have to pay something in the shape of discount for getting his notes changed into Rupees. But he would have to do the same thing in changing his Rupees into pice and his pice into cowries. With regard to making these notes legal tender, he considered that that was the great security of a poor man, and he should certainly object, unless they were made a legal tender, to issue notes of so low a denomination as five Rupees. The example in Scotland and Ireland was favorable to the view which he had taken. There the £1 notes had made their way from their intrinsic convenience, and if the five Rupees notes were introduced into this country, he was sure that they would in a very short time be found to be far more advantageous to the poorer classes than to any others.

The question being put, the Council divided.

Ayes 2.
Sir Robert Napier.
Sir Bartle Frere.

Noes 6.
Mr. Seton-Karr.
Sir Charles Jackson.
Mr. Erskine.
Mr. Forbes.
Mr. Harington.
The Chairman.

So the Motion was negatived.

The rest of the amendments were then put and carried; and the Council having resumed its sitting, the Bill was reported.

Sir Barnes Peacock

SIR BARTLE FRERE moved that the Bill be read a third time and passed.

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

POSTPONED ORDERS OF THE DAY.

The following Orders of the Day were postponed :—

Adjourned Committee of the whole Council on the Bill “for simplifying the Procedure of the Courts of Criminal Judicature not established by Royal Charter.”

Committee of the whole Council on the Bill “to amend Act VIII of 1859 (for simplifying the Procedure of the Courts of Civil Judicature not established by Royal Charter).”

Committee of the whole Council on the Bill “to make certain amendments in the Articles of War for the Government of the Native Officers and Soldiers in Her Majesty’s Indian Army.”

Committee of the whole Council on the Bill “to amend Act III of 1857 (relating to Trespasses by Cattle).”

EMIGRATION (SEYCHELLES).

MR. FORBES moved that the Bill “relating to emigration to the British Colonial Dependency of Seychelles” be referred to a Select Committee consisting of Mr. Harington, Mr. Seton-Karr, and the Mover.

Agreed to.

BRANCH RAILWAYS, &c.

MR. SETON-KARR moved that the Bill “to provide for the construction, by Companies and by private persons, of Branch Railways, Iron Tram Roads, common Roads, or Canals, as feeders to Public Railways” be referred to a Select Committee consisting of Mr. Harington, Mr. Forbes, Sir Charles Jackson, and the Mover.

Agreed to.

RECOVERY OF RENT (BENGAL.)

MR. HARINGTON moved that a communication received by him from the Government of the North-Western Provinces be laid upon the table and referred to the select Committee on the Bill “to amend Act X of 1859 (to amend the law relating to the

recovery of rent in the Presidency of Fort William in Bengal).”

Agreed to.

INCOME TAX.

SIR BARTLE FRERE gave notice that he would on Saturday next move the second reading of the Bill to amend Act XXXII of 1860 (for imposing Duties on Profits arising from Property, Professions, Trades, and Offices.)

LICENSING OF ARTS, TRADES, AND DEALINGS.

SIR BARTLE FRERE moved that Sir Robert Napier be requested to take the Bill “for imposing a Duty on Arts, Trades, and Dealings” to the Governor-General for his assent.

Agreed to.

PAPER CURRENCY.

SIR BARTLE FRERE moved that Sir Robert Napier be requested to take the Bill “to provide for a Government Paper Currency” to the Governor-General for his assent.

Agreed to.

The Council adjourned.

Saturday, July 20, 1861.

PRESENT :

The Hon’ble the Chief Justice, *Vice-President,*
in the Chair.

Hon’ble Sir H. B. E. Frere,	C. J. Erskine, Esq.,
Hon’ble Major-Genl. Sir R. Napier,	Hon’ble Sir C. R. M. Jackson,
H. B. Harington, Esq.,	and
H. Forbes, Esq.,	W. S. Seton-Karr, Esq.

LICENSING OF ARTS, TRADES, AND DEALINGS ; AND PAPER CURRENCY.

THE VICE-PRESIDENT read Messages from the Right Honorable the Governor-General, communicating his assent to the Bill “for imposing a Duty on Arts, Trades, and Dealings,”