

Tuesday, August 30, 1859

LEGISLATIVE COUNCIL  
OF  
INDIA

VOL. 5

JAN. - DEC.

1859

P . L .

#### ACQUISITION OF LANDS FOR PUBLIC PURPOSES.

MR. SCONCE moved that the Bill "to amend Act VI of 1857 (for the acquisition of land for public purposes)" be referred to a Select Committee consisting of Mr. LeGeyt, Mr. Forbes, Sir Charles Jackson, and the Mover.

Agreed to.

#### ARMS AND AMMUNITION.

MR. HARRINGTON moved that the Bill "to make perpetual Act XXVIII of 1857 (relating to the importation, manufacture, and sale of Arms and Ammunition, and for regulating the right to keep or use the same)" be referred to a Select Committee consisting of Mr. LeGeyt, Sir Charles Jackson, Mr. Sconce, and the Mover.

Agreed to.

#### POLICE (PRESIDENCY TOWNS AND STRAITS SETTLEMENT).

MR. FORBES moved that a communication received by him from the Madras Government be laid upon the table, and referred to the Select Committee on the Bill "to amend Act XIII of 1856 (for regulating the Police of the Towns of Calcutta, Madras, and Bombay, and the several stations of the settlement of Prince of Wales' Island, Singapore, and Malacca)."

Agreed to.

#### CUSTOMS DUTIES (BOMBAY).

MR. LEGEYT gave notice that he would, at the next Meeting of the Council, move for a suspension of the Standing Orders, in order to carry the Bill (as consolidated by the Select Committee) "to amend Act I of 1852 (for the consolidation and amendment of the Laws relating to the Customs under the Presidency of Bombay)" through its remaining stages.

#### CONSERVANCY (PRESIDENCY TOWNS AND STRAITS SETTLEMENT).

THE VICE-PRESIDENT moved that Sir Charles Jackson and Mr. Sconce be added to the Select Committee on the Bill "to amend Act XIV of 1856." Agreed to.

The Council adjourned at  $\frac{1}{2}$  past 4 o'Clock on the Motion of Sir James Outram, to Tuesday, the 30th Instant, at 11 o'Clock.

*Tuesday, August 30, 1859.*

#### PRESENT :

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

Hon. Lieut.-Genl. Sir James Outram,	Hon. Sir C. R. M. Jackson,
Hon. H. B Harrington,	and
P. W. LeGeyt, Esq.,	A. Sconce, Esq.
H. Forbes, Esq.,	

#### TRADES AND PROFESSIONS.

The adjourned Order of the Day for the second reading of the Bill "for the licensing of Trades and Professions in India" being read—

MR. HARRINGTON said, the adjournment of the Debate on this Bill, at the last meeting of the Council, arose out of two suggestions which fell from the Chair. The first of those suggestions was that he should withdraw the Bill, and, if he deemed it right, bring in a new Bill, which should be free from what were considered to be the imperfections of the present Bill. The second suggestion was that, if he objected to withdraw the Bill, it should be read a second time by consent, and then submitted before publication to a Select Committee, with instructions to consider whether certain alterations should not be made in it. What those instructions were to be was not said. To the first suggestion he had no hesitation in at once declining to accede. Violent though the attacks made upon the Bill by the Honorable and learned Vice-President and the Honorable Members opposite (Sir Charles Jackson and the Honorable Member for Bengal) had been, not a single reason, to his mind, had fallen from them to render the adoption of the first course, either proper, necessary, or expedient. As regarded the second suggestion, he had some difficulty in dealing with it, seeing that the purpose for which the Bill was to be referred to a Select Committee was altogether undefined. The treatment which the Bill had met with at the

hands of the Honorable and learned Vice-President afforded no ground to believe that the instructions to the Select Committee, if they emanated from the same source, would be conceived in a kind or friendly spirit to the Bill, as now framed, and there was every reason for the anticipation that, whatever the Honorable and learned Vice-President proposed, would receive the support of the other two Honorable Members to whom he had alluded, so that had he, in ignorance of what was intended to be done, acceded to the second suggestion of the Honorable and learned Vice-President, he might have had his Bill returned to him "transmogrified,"—to use a word which he remembered to have seen in an old play, though he did not believe it was to be found in any modern Dictionary—from a Bill for licensing Trades and Professions into an income-tax, or a poll-tax, or a tax on everybody and everything. He did not choose to run the risk of this. He was quite willing to let the Motion for the second reading of the Bill go to the vote, and to abide by the decision of the Council on that Motion; but he was not willing then, any more than he was willing now, to incur the hazard which he had just mentioned. Of course, had the Motion before the Council been put to the vote, it was open to the Honorable Members opposite to throw out the Bill, even though by so doing they might, to some extent, if he might so express himself, stop the supplies, which was one of the functions of the House of Commons which Honorable Members opposite seemed disposed to assume. He would, however, suggest for the consideration of those Honorable Members whether, if they were really prepared to insist upon all that the Honorable and learned Judge opposite (Sir Charles Jackson) mentioned in the speech delivered by him on Saturday last (assuming that speech to have been reported with tolerable accuracy), and to require what the House of Commons required under somewhat similar circumstances, and which, it was not necessary for him to say, amounted to a direct control over the public expenditure and other matters of detail, even as to the number of men to be employed in the Army and Navy, they should go a

*Mr. Harrington*

little farther and take upon themselves the responsibilities of the House of Commons, as well as its powers of control over the public purse. But he would remind Honorable Members that this was simply impossible under the existing constitution of this Council. Whatever Honorable Members might consider to be their duty to the public, when financial measures were proposed for their consideration, he could have no hesitation in telling them that it was the Governor-General of India in Council in his Executive capacity, and not the Governor-General of India in Council in his Legislative capacity, who was responsible for the good Government of India; who was answerable for the right administration of the public finances; and that this responsibility could neither be arrogated by this Legislature to itself, nor could this Council relieve the Governor-General of India in Council in his Executive capacity from it. If functions, such as it appeared to him they seemed to be on the verge of assuming, were really vested in this Council, he could not but apprehend the greatest amount of public danger from the exercise of them. At any moment the Government might be brought to a dead lock by a vote of this Council in respect to a financial matter, particularly when, as at present, three of what might be considered its own Members were absent, and it seemed to him that the consequences which would ensue, even so far as the Honorable Members themselves were concerned, would be poorly compensated by any amount of popularity or public applause, as the reward of that spirit of independence which was at last declared to have exhibited itself within the walls of this Chamber.

But this was a digression. When he broke away into these remarks, he was explaining the difficulty in which he had found himself placed by the second suggestion which fell from the Chair, and he thought that it was no unreasonable request which he had made that some time should be allowed him for consideration before he intimated to the Council what course he intended to pursue. He had since had a conversation with the Honorable and learned Vice-President, and he now found that, with exception to some mere matters of

detail calculated to render the enforcement of the law more easy, and the law itself more effectual, to which the Government could not of course make any objection, and to the inclusion in the Bill of the Officers of Government, on which point some difference of opinion existed between himself and the Honorable and learned Vice-President, the instructions which the Honorable and learned Vice-President had intended to propose should be given to the Select Committee, embraced only two alterations in the Bill. One of these he (Mr. Harington) had himself asked the Council to allow to be introduced before the Bill was read a second time. He alluded to the addition of three higher classes in Section VIII of the Bill; and the other, which had reference to the rating of parties, or to the manner in which this should be done, he had stated his willingness to introduce when the Bill was in Committee, should such appear to be the general wish of the Council. So that, after all, he could have safely adopted the second suggestion of the Honorable and learned Vice-President, and by so doing, have saved the Council the necessity of an adjournment and the loss of time consequent thereon, which he much regretted.

He would now proceed to explain the course which he was willing to pursue, in order to meet, as far as he could do so with propriety, the wishes of the Council, or rather of the Honorable and learned Vice-President, and the Honorable Members opposite, who, while they stated their intention to vote for the second reading, spoke against the Bill, and intimated their intention of doing their best to prevent its passing into law, unless greatly modified in Committee.

He was willing that the Bill should be read a second time in its present form, on the understanding that it should at once be referred to a Committee of the whole Council, to whom he would propose certain alterations which the Committee might adopt, or reject, as they pleased. He was willing that the point regarding the inclusion of Government Officers in the Bill, on which point, as he had said, he differed from the Honorable and learned Vice-President, should be discussed, and should be decided by the vote of the

Council, on the understanding that, whatever was the result, the Bill should still go on; but he was not willing that the Committee should have power to add to the Bill any subjects of taxation other than what he had just mentioned. The particular subjects which he had in his mind he would mention presently; and rather than they should be added, he would abandon the Bill or prefer that it should be thrown out on the motion for the second reading, whatever might be the consequences. But he would first explain the alterations which he was willing should be made in the Bill before it was published for general information. These perhaps he had better read, commenting upon them as he proceeded.

The first alteration related merely to a law of the Madras Presidency, which, by a mistake, had been omitted to be included in the repeal Section, and to the inclusion of which now in that Section no objection, he thought, could be made. The law to which he referred was Regulation IV. 1818, which prescribed rules for the assessment and collection of the Veasabuddy or tax upon the profits of trade in the provinces known by the appellation of the Ceded Districts, or the Zillahs of Bellary and Cuddapah.

The next alteration was in Section VIII, or rather in that part of the Section which contained the Schedule of sums payable on licenses. The first class it was proposed to assess at 5,000 Rupees, the maximum amount mentioned by him on Saturday last; the second at 4,500 Rupees; the third at 4,000 Rupees; the fourth at 3,500 Rupees; the fifth at 3,000 Rupees; the sixth at 2,500 Rupees; the seventh at 2,000 Rupees; the eighth at 1,500 Rupees; and so on, according to the Bill as originally introduced; the number of classes being increased from ten to seventeen. Upon the alterations proposed in this Section, he wished to remark that, although it had been said that, by proposing the addition of higher classes, compared with the Bill as published, he had altered the character of the Bill, he believed he should be guilty of no breach of confidence in stating that the Honorable and learned Vice-President had suggested this alteration. He (Mr. Harington) might have been

wrong in adopting the suggestion. He might have acted unwisely in taking the Honorable and learned Vice-President's advice, though those who knew the Honorable and learned Member as well as he did, and who had been as closely associated with him as he had been in official matters, would, he thought, agree with him that, in acting upon the Honorable and learned Member's suggestion, he was not likely to have erred very greatly.

The Honorable and learned Vice-President objected strongly in his speech on Saturday last to the distinction made in the Schedule of the Bill between Bankers and Traders, and he believed the Honorable and learned Vice-President said that, if Messrs. Wilson and Co.'s profits equalled those of the Bengal or Agra Bank, or of any other banking institution, he could not see why they should not be assessed equally with them. Neither could he (Mr. Harington) see why any difference should be made, and the distinction was accordingly proposed to be done away with. Whether Messrs. Wilson and Co. would concur with the Honorable and learned Vice-President, or whether the Calcutta tradesmen generally would approve of the alteration which had been made on the Honorable and learned Vice-President's suggestion, might admit of question. The Government would undoubtedly benefit greatly by it, and as for the rest, they might perhaps say, "save me from my friends."

The next alteration was in Section IX. He proposed after the word "person" in line 11, to insert the following words:—

"And the amount of the annual net profits or gains accruing therefrom; and in such manner that the sum to be paid for the license shall approximate as nearly as may be to three per cent. on such annual profits or gains."

In alluding to this Section on Saturday last, he observed that the provision which it contained might be considered too vague, and that it might be objected to the Section that, if so large a discretion were left to the Taxing or Licensing Officer, it might lead to considerable diversity of practice, and to a greater degree of inequality, if not in the same district, still in different districts, than he had contemplated, and, although he had endeavored to prevent this by giving

*Mr. Harington*

the Governor-General in Council power, in a later Section of the Bill, to lay down rules for the guidance of the local Officers in all matters connected with the enforcement of the law, he stated that, if the Council at large thought that, whatever rate or rule of assessment was to be followed, should be made to appear on the face of the Bill, he was quite willing, when the Bill got into Committee, that a Clause should be added for this purpose. In proposing the present amendment, therefore, it was possible that he was only anticipating matters. For his own part he must say that he preferred the Section as it stood. In so far as Native traders were concerned, he thought it would be better to leave the Collectors to make the assessment with the assistance of Chowdries of trades, or of a Panchayet, and he believed that the Section, as framed, would work well. Although it had been stated that there was no principle in the Section, it was only the other day that they passed a Bill in which a precisely similar power to that proposed to be conferred by the Section on the Taxing Officer was given to Magistrates, without any objection being taken to it. He alluded to what was called the Moplah Bill. Under that Bill the Magistrate was left to assess a fine which he might impose upon a body of men, according to what appeared to him to be the circumstances of the several parties composing the body. This showed that he was proposing nothing new.

After Section IX he would move the introduction of the following new Section, which was rendered necessary by the addition proposed to be made to that Section:—

"Any person who shall satisfy the Collector or other Officer authorized as aforesaid that the aggregate annual amount of the net profits or gains of the trade, business, or profession carried on by such person (estimated according to the provisions of the last preceding Section), is less than a sum which, so estimated, would render him liable to assessment under Class 17 of Section VIII, he shall be exempted from taking out a license under this Act."

Section X he proposed to omit, as it was not thought right to make any distinction between Bankers and Traders.

He proposed to introduce the following new Sections after Section XI. For these Sections he was indebted to the Honorable and learned Vice-President. Their object, it was scarcely necessary for him to say, was to enable the Taxing or Licensing Officer to arrive at a proper determination of the class under which every person required to take out a license should be assessed.

"The Collector or other Officer authorized as aforesaid, may summon any person whom he shall think able to give evidence for the purpose of enabling him to determine under which of the classes mentioned in Section VIII of this Act any person should be assessed, and may examine such person as to any such matter. The Collector or other Officer, as aforesaid, may also require the person summoned to produce any books or documents in his possession or power relating to the trade, or business, or profession of any person supposed to be liable to assessment, or to the amount of the annual profits or gains accruing therefrom. If the person summoned shall refuse to answer any lawful question of the Collector or other Officer as aforesaid, or shall knowingly give any incorrect answer, or shall refuse to produce any such books or documents as aforesaid, he shall be liable to a penalty not exceeding five hundred Rupees, or if he be a person liable to be assessed, the Collector or other Officer as aforesaid may assess him under any of the classes mentioned in Section VIII of this Act, and no appeal shall lie from such assessment, on the ground that such person had been assessed under too high a class with reference to the provisions of Section IX of this Act.

"In order to enable the Collector or other Officer authorized as aforesaid to determine under what classes persons requiring to be licensed shall be assessed, and what sums shall be paid in respect of licenses granted under this Act, he may cause to be sent to any person supposed to be liable to the payment of the tax hereby imposed a Schedule to be filled up with such information respecting the trade, business, or profession carried on by such person, and the amount of the annual net profits or gains accruing therefrom, the number and names of persons holding any office or employment under him, and their salaries, fees, and wages, as the Collector or other Officer authorized as aforesaid may judge necessary for the purpose of such assessment. The Schedule shall be filled up in writing, and dated, and shall contain a declaration signed by such person that, to the best of his belief, the Schedule is a true return of the matters therein contained. Such return shall be delivered to the office of the Collector or other Officer as aforesaid, by every person to whom it is sent, whether or not liable to the payment of such tax; and whoever refuses, neglects, or omits duly to fill up and return such Schedule within twenty-

one days from the receipt thereof, or knowingly gives therein any incorrect or false return, shall be liable to a penalty not exceeding five hundred Rupees."

He proposed after Section XVIII to introduce the following new Section, which had also been suggested by the Honorable and learned Vice-President, namely :—

"No person required by this Act to take out a license shall be allowed to recover in any judicial suit or proceeding any money, debt or charge claimed by him in respect of the trade, business, or profession carried on by him, unless such person shall prove to the satisfaction of the Judge or Officer presiding at the trial, that at the time when the cause of action accrued he had duly obtained a license in conformity with this Act."

The last alteration which he proposed to make was in Section XX. To this Section he wished to add the following words. They would, of course, apply only to persons holding situations in private establishments :—

"And shall be assessed (with reference to the provisions of Section IX of this Act) upon an estimate of the annual salary, fees, wages, perquisites, and profits of such offices or employments. Provided that, if any person holding any such office or employment shall satisfy the Collector or other Officer authorized as aforesaid, that the salary, fees, wages, perquisites, and profits of his office or employment do not exceed one hundred Rupees per mensem, such person shall not be required to take out a license under this Act."

These were the alterations which he proposed to move after the Bill was read a second time, and before it was published and referred to a Select Committee. As he had already said, it rested with the Council to adopt them or not, as it deemed proper.

He now came to the classes or subjects of taxation which he thought should not be included in the Bill, and he would prefer to abandon the Bill altogether rather than give his consent to their being so included. These were Houses, Land, and the Government Securities.

With reference to the comments which had been made by the Honorable and learned Judge opposite (Sir Charles Jackson) on the Statement of objects and reasons circulated with the Bill,

he must remark that he thought the Honorable and learned Judge would have behaved more generously, if, instead of commenting upon a Statement which was put in merely to comply with the forms of the Council, he had taken the speech which he (Mr. Harington) delivered in moving the first reading of the Bill, and which, although possessing no merit as a composition, contained, he submitted, as full information as could be desired, and had made his remarks upon that. The Honorable and learned Judge had been long enough in the Council to know that the Statements of objects and reasons circulated with Bills were generally very short. On the very day on which the Honorable and learned Judge commented in so sneering a manner upon the Statement of objects and reasons circulated with the present Bill, he (Mr. Harington) had occasion to refer to the Statement of objects and reasons of a Bill introduced by the Honorable and learned Vice-President, in which all that was said was—"The objects of this Bill are stated in the Preamble." The Honorable and learned Vice-President, in moving the first reading of the Bill, entered into a full exposition of his reasons for introducing it, and in the debate which ensued, Honorable Members referred to what was said by the Honorable and learned Vice-President on that occasion, not to the Statement of objects and reasons. What was there, he would ask, to have prevented him from copying into the Statement of objects and reasons circulated with the present Bill the whole of what he had said when he introduced the Bill to the Council; but as he knew that Honorable Members had been furnished with a copy of the remarks made by him on that occasion, he did not wish to impose upon them the trouble of reading a long Statement of objects and reasons, and he therefore purposely made that Statement as brief as possible.

In addition to the subjects of taxation embraced in the present Bill, he stated in his introductory remarks that the Government had had under consideration other modes of increasing the public revenue. He mentioned that in Bengal the Governor-General in Council had already the power, without any new law, to raise the duty on Salt from Rupees 2-8 per maund, the amount now

*Mr. Harington*

paid, to Rupees 3-4 per maund, and that a reference had been made to the Government of Bengal on the subject. He referred to the Bills brought in by the Honorable Members for Madras and Bombay, the effect of which would, he hoped, be to increase the Revenue derived from Salt in those Presidencies, or at least in Bombay. He stated that in the Punjab steps had been taken with a view to increase the Salt Revenue of that territory. He stated that in the North-Western Provinces a duty of 2 Rupees per maund was levied on all Salt crossing the Frontier, and a further duty of 8 annas per maund on any Salt passing Allahabad; and that it had been proposed to levy a uniform duty of Rupees 2-8 per maund on all Salt crossing the Frontier, the extra duty now taken at Allahabad being abolished. He also stated that some Officers had proposed to increase the duty to 3 Rupees per maund all round, and he mentioned that the question of increasing the duty on Salt in the North-Western Provinces would have to be considered in connection with the newly acquired Province of Oude, which produced a good deal of Salt, and that reports had been called for from the Lieutenant-Governor and the Chief Commissioner in Oude, on the receipt of which it would be decided whether any alteration should be made in the rates of duty now charged on Salt crossing the North-Western Frontier. Then he alluded to the Bill relating to Stamps which was introduced by the Honorable Member for Bengal, and in respect of which he stated that it was impossible to say what would be the effect of that measure on the public Revenue, but that it was expected that the sale of Stamps other than judicial would produce a large additional Revenue, though in judicial Stamps there would probably be a falling off of Revenue, if certain measures then under the consideration of the Council were adopted. He proceeded to notice certain taxes which it had been proposed to introduce, namely, a tax on tobacco grown in the country, a tax on houses, an income tax, and a succession duty. With regard to all these he had mentioned that the Government hesitated, from political considerations, to introduce them. He had referred parti-

cularly to the Land Revenue in Bengal, and stated that a doubt had been raised whether the holders of permanently settled estates could legally be subjected to further taxation. That was a question on which he had offered no opinion. As regarded the taxes above-mentioned, he stated that the Government deemed it advisable that there should be further enquiry and a more full consideration before a decision was come to either one way or the other. Although the whole of these taxes might at some future time be imposed, so far as he was aware the Government had no intention of having recourse to any of them at present. He did not think that the Government ought to give any pledge in the matter; he considered that it would be most impolitic for the Government to bind itself in any way, particularly in the present state of Europe and of this country. Who could say what a day might bring forth, or what might happen on the morrow?

Government was making every effort to reduce the public expenditure. A deficit of thirteen crores of Rupees had been reduced to seven crores, and a further reduction of forty lakhs had been effected during the current financial year. There was no objection to placing before the Council every information which might be really useful to it consistently with the object and purpose for which the Council was constituted. But the Government itself was not in a position at present to form an estimate as to what would be the future expenditure in various Departments. Take for instance the Native Army of Bengal. The question of the re-organization of that Army, as the Council was aware, was before the Home Authorities, and until it was decided by them how many European and how many Native Regiments were to be kept up, it was impossible for the Government to know what would be the future expenditure of India under this head. Not very long ago they were told that twelve Battalions of Royal Artillery were to be despatched to India, the pay and other expenses of which would have had to be provided for in this country; then they were told that only six Battalions were to be sent, and now they were informed that none were to come. At present, therefore, much uncertainty prevailed.

He had mentioned in his introductory remarks, that a Commission was sitting at Bombay for the purpose of ascertaining what reductions were practicable in the Military Department, and that the Commission, after completing its enquiries at Bombay, would proceed first to Madras and afterwards to Calcutta. It was impossible to say what reductions might be proposed by that Commission; or to what extent the Government might be prepared to adopt its recommendations. In fact, it was almost impossible at this moment to form any idea what the expenditure of India would be this day twelvemonth. He thought that all who heard him would agree, that to whatever extent it might be found practicable to reduce the present expenditure, it was quite impossible to hope for the reduction of the large existing deficit from the existing revenues of the country, and there seemed therefore no alternative but to have recourse to further taxation.

He hoped he had made himself clear as to the alterations which he was willing should be made in the Bill before it was published for general information, and as to the subjects of taxation, to the inclusion of which in the Bill he could not consent. It would be open to any Honorable Member who thought proper, to move that Government Servants should be included, though if such Motion was made, it was his (Mr. Harington's) intention, for reasons which he had already given, to vote against it.

SIR CHARLES JACKSON said, he had no doubt that the amendments proposed by the Honorable Member who had just sat down were great improvements upon the Bill as originally introduced, and would greatly assist in rendering it a working measure. Indeed, the introduction of some such Clauses appeared to him to be absolutely necessary, in order to allow the Bill to work at all. But, whatever the Bill might be called, whether entitled a Licensing Bill, or anything else, it was, in fact, nothing more or less than an income tax of three per cent. on certain trades and professions. The great objections to the Bill in its present state were grounded on the omission of those classes of income from the operation of the Bill, to which the Honorable Member had himself

adverted. These were the incomes derived from land, interest derived from Government Securities, statutable salaries, and all incomes derived from the rents of houses. It also omitted, but that was a question left open for the consideration of the Council, all Civil Servants and all Military Officers. Now, he wished to guard himself against its being said hereafter, if he allowed the Bill to go to a Select Committee, that he approved of the exemption of any of these classes. His objection was not to an income tax, but to an Act which affected certain classes of income, and not others. With respect to land, it seemed that the Zemindars who held lands under the Permanent Settlement thought they were entitled, under the terms of that settlement, to hold their zemindari free from all taxation for ever. It was true that this land was vested in them and their heirs for ever at a certain fixed rental which could never be altered, but it could never have been the intention to free them from sharing in the burden of a general personal tax applicable to all classes, although no specific tax on the land or on the landowners as a particular class, could legally or morally ever be imposed. He would refer to the land tax in England. This was a long time ago redeemed by an Act of Parliament, and a pledge was then given to the owners that they would be liable to no further tax on their land. But did that afterwards exempt them from a general tax? Since that time the income tax had been imposed, and they had never heard of any breach of faith. On the same principle, he saw no reason why landholders in this country could not be taxed, notwithstanding the decennial settlement.

Then, as to lakhiraj or rent-free tenures, he did not see on what principle they had been omitted. It was quite true that they held their lands to them and their heirs for ever free from payment of income to Government; but that did not mean they should be exempt from all taxation, but only that no tax should be henceforth imposed upon the land itself specifically.

Then, as to Government Securities, he certainly expected to have seen some Clause inserted in the Bill taxing all Government Securities. The taxation of this class was most easily levied,

*Sir Charles Jackson*

and the class included many natives who were mere drones, and who were enjoying large and princely incomes, without contributing one farthing toward the exigencies of the country. Why, and on what principle were these and all other holders of Government Securities to be excluded from the operation of the Bill?

Then there were the men who derived large profits from the rents of houses, and he did not see why they should escape. It was quite preposterous to contend that such a measure would operate as a house tax, and he was at a loss to imagine on what ground this class was excluded, who amassed large fortunes, and contributed little or nothing towards the pressure which was now being felt.

With regard to statutable salaries, it was said that the Government had been advised by their Law Officers, that the salaries of Judges, Bishops, Members of Council, Lieutenant-Governors, Governors, and Governors-General, could not be taxed, because their salaries were fixed by Act of Parliament. But he apprehended that, if such an opinion was given to Government, it must have been with reference to a Bill for licensing trades and professions. There could be no doubt that a Bishop or a Judge could not be expected to obtain a license for the exercise of his calling. Suppose the learned Chief Justice should omit to take out a license, would the Collector be justified in stopping his ingress into the Court, and telling him that he could not carry on his occupation as Chief Justice, although possessed of Her Majesty's Patent, and appointed under an Act of Parliament?—He (Sir Charles Jackson) imagined that the Chief Justice would indulge in the pleasurable excitement of committing the Collector for contempt of Court. But if this licensing apparatus were abandoned, and the Bill made a regular income tax, they would be able to remedy this, and get at the salary of the Chief Justice and all other statutable salaries.

The other two classes which the Honorable Member (Mr. Harington) was quite willing to leave to the decision of the Council, were the Civil and Military Services. With respect to the former, he thought it absolutely necessary that they should be included in this Bill, and he certainly did not see any

good ground existing for the exclusion of all Military Officers, of whatever grade, although he thought the Regimental Officers of the grade of Captain, and under that rank, might be excluded from the operation of the Bill.

With regard to the exemption of the first four classes, then, namely, the landholders, holders of Government Securities, proprietors of houses, and statutable salaries, he understood that the Honorable Mover had put it distinctly on the grounds of political considerations—that for certain political reasons, the Executive Government did not think it expedient to tax them. He was not prepared to say that this Council was so constituted that the consideration of such questions of political expediency did come within their province. He for one was not prepared to take upon himself the responsibility of insisting upon that which the Executive Government considered inexpedient for political reasons. He must be content, therefore, to leave the responsibility of this most exceptional measure with the Government. But he objected to the length to which the Honorable Member had carried this part of the case, by saying that he and other Honorable Members, in discussing such matters, were assuming and arrogating to themselves the functions which belonged only to the House of Commons, and that they considered they had a right to stop the supplies required by Government. He would ask the Council whether a single word which fell from him, when he last addressed them on this Bill, justified that observation of the Honorable Mover. All he did say, and would say again, was that, when any Bill was brought before that Council, they had a right to be furnished with sufficient information to guide them in their legislation, and enable them to discharge their duties honestly and efficiently; and he really thought that the Government had no reason to thank the Honorable Member for raising such a discussion in that Chamber. Either they were the Legislative Council, or they were not. If they were expected to pass enactments in the way that the Honorable Member would wish them, the Clerk of the Council might just as well draw up and correct the Bills himself. But if

they were a Legislative Council, they ought to weigh every measure carefully before they gave it their sanction, and they had a right to demand every information they considered necessary to form a correct opinion on the subject, otherwise they would merely be a Council for the purpose of blindly registering whatever the Executive Government might think fit to propose. It would indeed render the existence of that Council a mere farce, and he thought that the doctrine of the Honorable Member was most unconstitutional, if he might apply that term to the present system.

Then, with regard to the Honorable Member's remark about parties seeking popularity and public applause. He should very much wish to know to whom that remark was intended to apply. He for one repelled such an observation with perfect scorn. He did not know what possible ground the Honorable Member could have had for such an insinuation, unless indeed he was so blind to the faults of his own measure as to be unable to appreciate the motives of those who took a different view of it. He for one was satisfied that he was only doing his duty in the position he was placed, and he thought that those who had agreed with him in the course he had pursued, had only exercised that right which they were bound to defend in their responsible situation as Legislators.

MR. HARRINGTON explained that he did not intend to charge the Honorable and learned Judge opposite (Sir Charles Jackson) or any other Honorable Member, with having courted popularity in the opposition offered to the present Bill. What he wished to point out was that, if the Council took upon itself to call for information in the same manner as the House of Commons, it must be with some ulterior object; it could not be merely to gratify curiosity, but with a view to take some action upon the information required to be furnished. But he would ask what could be the character of that action? For instance, this Council could not take upon itself to say how many Regiments of Infantry, or how many Regiments of Cavalry, or how many Troops or Battalions of Artillery were to be kept up for the defence of the

country. The House of Commons undoubtedly had a right to call for every kind of information, because the responsibility of every measure which it sanctioned lay entirely with Parliament, which was responsible to the country for what it did ; whereas here the Executive Government was responsible. The Council were there merely to pass laws to meet the exigencies and requirements of the country. It was very far from his intention in what he had said to give offence to any Honorable Member, and if he had done so, he begged to apologize for the same.

Mr. SCONCE said that he also, like the Honorable and learned Judge on his right, had reason to feel offended at the tone of the remarks of the Honorable Member opposite, but happily was conscious of having exhibited none of the hostility towards the Bill which the Honorable Member imputed to him. He (Mr. Sconce) was not disposed to question the theory of the constitution of this Council, which the Honorable Member had laid down. He had admitted himself on Saturday last, that the functions of the Council were limited and undefined. Nevertheless, it seemed to him that, when a Bill of this nature was submitted to them, they could not adequately express their assent or dissent to the measure, without being furnished with the amplest information. He could not walk in the dark or speak in the dark. It was not enough, it appeared to him, to declare generally the amount of the deficit for this year ; but the Council were entitled to expect from the Government some explanation of the nature and origin of that deficit, by showing how the deficits in the preceding years had arisen. It was the income and disbursement of one year that helped them to know what the income and deficiency of another year were likely to be. In referring to the Debates, he found that in the year 1356-57 disbursements and income nearly balanced each other. They also knew that last year there was a deficit of thirteen crores, and this year a deficit of seven crores. It seemed to him a matter of much importance to this Council to know to what particular circumstances these varying deficits, if on no other ground than from the interest

*Mr. Harington*

involved in the information, were owing. It was of great importance to know the reason of this great difference between the deficits of immediately succeeding years. Suddenly the excess charge fell from thirteen to seven crores, making a difference of six crores. No doubt it could be well accounted for. But what it was desirable to have information upon was such an exposition of the financial history of past years as would instruct the Council regarding the financial position of the present year, from which they were called upon to legislate—though they might not expect to fall back upon the condition of 1856-1857, when the public income and charges were nearly balanced. He (Mr. Sconce) was now willing to leave this subject. He felt conscious of having shown no hostile spirit against the Bill. He knew no higher duty, as a Member of this Council, than so to shape his course as that the Queen's Government should be most effectually carried on, and he conceived he had taken no steps calculated to encumber Her Majesty's Viceroy, or to detract from the respect and deference which he always desired to pay him in the administration of the Government.

With respect to the Bill itself, he was ready, as he had said before, to vote for the second reading, and willing to consider the Bill in Committee. He was not unwilling to accept the principle of the Bill. Nevertheless, he thought that it was somewhat misnamed, and that when it came to the form into which the Honorable Member had expressed his readiness to convert it, it would be substantially a tax on the profits of trades and professions. One inducement held out to them to accept the Bill on this ground was that persons engaged in mercantile transactions would have the opportunity of throwing the charge upon outside customers. In some respects this might be the case, but only in an indefinite degree ; substantially it would affect profits. By the very terms of the Act, all trades would be taxed ; now, when the profits of all trades were taxed alike, it was vain to expect that one trader could reimburse himself for the amount of the tax, by charging that amount to his customer. He might indeed raise the price of his goods upon his neighbors ;

but so also his neighbors would raise the price of their goods upon him, and the result would be that his own additional price would be swamped by what he paid. An exception might exist as regards those consumers who were not traders, or who, at all events, were not subjected to taxation under the Bill. But, undoubtedly, he believed, as a general rule, a tax upon the profits of trade fell directly upon the trader.

He then came to the question as to the competency of this Legislature to tax Zemindars holding permanently-settled estates. Perhaps he might ask, what were the facts of the case, and whether the revenue paid by Zemindars was in its nature a tax? It was incontestibly the constitutional maxim of the Revenue system of this country, that the State was entitled to a share of the produce of every beegah. Taking the land as it stood in 1790, three parties were interested in it, the Ryot, the Zemindar, and the Government. The rights of the Ryot and the State were indefeasible rights. The rights of the Zemindar might be the same. He (Mr. Sconce) would not say that they were less. It was enough for his purpose to say that they were not more. The revenue taken from Zemindars was no tax. The revenue was taken by the State by virtue of its own right. The Zemindar could not withhold the revenue imposed, for the Government took its own share of the produce of the land, not the Zemindar's share. There was nothing in the shape of a condition, compromise, or purchase between the Government and the Zemindar, at the time that the Permanent Settlement was concluded. It was essential, therefore, to keep in mind that the revenue charged on permanently-settled estates was not by any means a tax on the private profit or rent of the Zemindar, in any right sense of the term, and certainly the manner in which the Permanent Settlement was concluded afforded no argument for exempting them from being included in a general law of taxation. Whether the Zemindars of Bengal should be brought within the provisions of the present Bill or not, was another question; but what he was assured of, was that exemption could not be claimed upon the ground that they were taxed by the settlement of 1790. The object,

as he understood, of the Governor-General at that time was not to relieve them from all eventual aid in the way of taxation, but simply to promote the good of the people, and of the Zemindars themselves, by giving encouragement to the cultivation of the land and developing the resources of the country. The Honorable Member (Mr. Harington) had reserved the expression of any opinion as to the legal liability of the Zemindars holding under the Permanent Settlement to be subjected to the present Bill; so no proposition to that effect being before them, he (Mr. Sconce) reserved his own; but in the remarks which he (Mr. Sconce) had just made, he had adverted to the historic character and constitution of the Permanent Settlement, and to the fact that the revenue by that settlement assessed was not a tax upon the resources of the Zemindars.

Probably this was not the time to discuss at any length the details of the measure. He feared he had very imperfectly expressed himself last Saturday concerning a doubt which had occurred to him, and upon which he thought it necessary to have some explanation. They knew that a tax of 2 Rupees might be imposed upon any shop-keeper, but the Bill gave no clue as to the class of shop-keepers who would have to pay it. No one in this room would object to pay it, but there were many shop-keepers to whom a yearly tax of 2 Rupees would be a material object. Upon the present scale of the Bill, supposing a tax of three per cent. on net profits, any shop-keeper whose yearly profits amounted to 66 Rupees would have to pay a tax of 2 Rupees. But supposing the tax to be an income tax, 66 Rupees was equivalent to £6 12s. They knew, however, that at home they carefully abstained from taxing any man under £100 or 1,000 Rupees. He did not say that a shop-keeper, whose net gains amounted to 66 Rupees a year, could not afford to pay 2 Rupees under this Bill; but it was a matter for careful deliberation whether the tax should be brought down to such low profits as 66 Rupees, or, whether, following the English scale, all should not be exempted whose profits were not over £100 or 1,000 Rupees. In connection with the

same lower grades of taxation, he would now only further advert to the exemption taken to personal incomes. Incomes which did not exceed 100 Rupees per mensem, or 1,200 Rupees per annum, were not to be assessed, that is the clerk who receives 100 Rupees per month, or 1,200 Rupees a year, would pay nothing, while the shop-keeper whose annual profits amounted only to 66 Rupees was to be taxed. This distinction might or might not be justifiable, but no doubt, at the proper time, it would receive the attention of the Council.

In admitting the limited and imperfect character of the Bill, he would state in a few words the grounds which induced him to assent to its second reading, and to give it his co-operation. He believed the characteristics, and he might say the advantages, of the Bill to be these: it was experimental; it was of limited local application; it was said to be moderate, though upon that matter there was more or less doubt; and, above all, he believed it must be temporary. He was entirely of opinion that the duration of the Bill should be limited, and that the Legislature should be again called upon to discuss both the principle of the law and the amount of revenue which it was designed to supply.

MR. FORBES said that he should have no hesitation in voting for the Motion for the second reading of this Bill. It might be that the Bill was not altogether perfect, but he was very sure of this, that, if they were to wait until some tax was proposed, to which no possible objection could be urged, they should have to wait a very long time indeed.

But, besides this, he was quite prepared to admit that, in matters of taxation, fiscal considerations were not all that was to be taken into account, and that questions of general policy would force themselves on the consideration of the Government, and oblige them, in prudence, to adopt the measure which might, on the whole, be most expedient in preference to that which, considered only in the abstract, might be a better and more productive tax.

In preferring one tax to another, the statesman would be partly guided by political considerations, and not solely

by strict views of financial expediency, and nothing would be more likely to determine his choice than the prospect of carrying with him the cheerful acquiescence of the people.

Now he thought that no one could have lived for many years in habits of constant intercourse with the people of India, without having observed how very much custom and habit influenced all their thoughts and feelings and actions, and he could not doubt that it had been a wise policy which, in imposing additional taxation, had decided to impose it in a form which was familiar to many by actual experience, and which was known to all by tradition.

He wished to be allowed to say a few words on what had fallen from the Honorable Member who had introduced this Bill, on the occasion of its introduction, and again in this day's debate regarding the Salt tax at Madras. The Honorable gentleman had stated on both occasions, that additional revenue was anticipated to follow the passing of a Bill which he (Mr. Forbes) had lately introduced, but this would not be the case. The Bill referred to by the Honorable Member was intended simply and solely to substitute an Excise Duty for the present Salt monopoly, and it was not intended, in any way whatever, that the Bill should raise the Excise Duty above what were the present monopoly profits.

By Act VI of 1844 the monopoly price of Salt in Madras was fixed at not more than one and a half Rupee a maund, power being reserved to the Governor-General in Council to reduce the price at pleasure. Actually, the price had for some years been one Rupee a maund, and although it was true that the Government of India had lately directed that the price should be raised to one Rupee two annas, that was an act of the Executive Government under an existing law, and the Bill which he (Mr. Forbes) had introduced, and to which the Honorable Member had referred, merely substituted one mode of collecting the revenue for another.

The Council had heard it said in the course of this debate, that the present measure was not what it professed to be; that it professed to be a tax on trades and professions, while it was, in fact, an income tax limited to certain

classes. He must however say that the matter did not present itself to his mind in this point of view. He thought that the Bill really was what, in its title, it professed to be, and could not in any proper sense be said to be an income tax. He would illustrate his view of the matter by his own case. His profession was the Civil Service of India, and for his service in that profession he received a salary, which salary would be subjected to tax ; but he might also hold Government Securities, the interest on which would tend to increase his income ; but this addition to his income would not be taxed by this Bill, and he therefore thought that the measure was truly called a tax on professions, and could not be called a tax on income. In the same way he might assume the case of a wealthy native, whose total income was a lakh of Rupees a year, half of which he made in trade, and half of which he received as the profits of a landed estate ; the fifty thousand Rupees received from trade would be liable to tax, while the fifty thousand received from the estate would be exempt, and he thought that, as in the former case, the tax was on the profession only, so in this case it was only on the trade, and in neither was general income made liable to the provisions of the Bill.

As regarded what fell from the Honorable and learned Chief Justice at the commencement of this debate on the question of including Military Officers among those to whom the provision would apply, he thought that, however good as an abstract question the argument might be that the Colonel and the Major received as much pay as many Civil Officers who would be liable to the tax, there were circumstances which, when the question was looked at somewhat more in detail, afforded good ground for supporting the view which the Government had taken. He approached the subject with the diffidence which he always felt when he was so unfortunate as to hold an opinion at variance with that held by the Honorable and learned Chief Justice ; but still he would state to the Council the light in which the question presented itself to him.

In the first place, he thought it must be remembered that, while all Civil Offi-

cers of every grade, whether Covenanted or Uncovenanted, received their appointments without having to pay a single Rupee for them, very few Officers in the Army ever obtained a step in rank without having to pay heavily for the advantage. It was very true that the Colonel and the Major received an amount of pay which would be taxed, if drawn by a Civil Officer ; but the fact that in the one case the salary was to some extent purchased, while in the other it was obtained for nothing, made in his estimation a great difference in the propriety of subjecting them each to tax. Not only, moreover, was an Officer's rank in the Army purchased with his own money, but that money was but too often obtained at very high interest. All had heard, during Sir Charles Napier's command, of the indebted state of the Army, and it was, he believed, well known that that indebted state arose mainly from the habit of purchasing steps. Officers were often unable to pay down their money in cash, and had recourse to Banks and other lending institutions, at which, what with interest and the expenses of a Life Insurance, they seldom were accommodated at a less cost to themselves than eighteen per cent.

Then, again, he thought that reference should be had to the fact that, whereas the Colonel or the Major did not obtain the income of their respective ranks under twenty or five-and-twenty years, a similar income was attained by the Civil Officers of Government in eight or ten years, while each had to maintain the same social position, and each to meet the same expenses incidental to educating and bringing up and providing for a family. Then, again, he thought that consideration should be given to the future prospects of each class. There were but few Generals of Divisions, and to the great majority of Officers the command of a regiment was the highest and most lucrative post obtainable ; but to the Civil Officers there were many Collectorships, many Judgeships, Commissionerships, Boards, and Councils ; and as the prospects of each class were different, so, in his opinion, might their liabilities to taxation be different also.

Before he sat down, he would say one word upon the question that had

been raised as to the insufficiency of detailed information on the state of the finances, which had been furnished to the Council by the Government on the introduction of the Bill. Now the Council had been told distinctly the amount of the present deficit, and whether that deficit arose from a too lavish expenditure on the Army, or from too little parsimony in the Civil expenditure, whether the Commissariat had been too expensive, or the Public Works Department too liberally supplied, did not appear to him to be of much consequence to the Council. This Council could not control or alter the expenditure in any one of the branches he had referred to, and it appeared to him that they might well accept the statement of the deficit made by the Government as a fact, and legislate upon it, without insisting upon knowing how that deficit had arisen, since that was a matter which could have no practical bearing on their deliberations, even if the information were supplied.

He looked on this matter as he looked upon the Act for which the Governor-General, from time to time, came down to this Council to enable him to proceed to the Provinces, and to act without his Council. He (Mr. Forbes) did not, on such occasions, demand to know what were the political reasons which induced the Governor-General to quit Calcutta; he accepted as a fact the assurance that reasons did exist, and he was prepared to legislate accordingly.

SIR JAMES OUTRAM said, the Honorable Member for Madras had stated reasons why Military Servants should be exempted from taxation, while their Civil Comrades were not so. He had given reasons worthy of consideration, chiefly founded on the expense to which Military Officers were put in purchasing commissions and advancement in the service. He (Sir James Outram) would claim exemption for them on still more reasonable grounds. He would compare their position with that of Civil Servants, and show the different footing on which they stood as regards allowances, and as to their capability to bear equal taxation. Now the 11th class of 250 Rupees corresponded with an annual income of 8,300 Rupees, or a monthly income of 700 Rupees, which was little

*Mr. Forbes*

below a Lieutenant-Colonel's pay and allowances, namely, 827 Rupees per mensem, and nearly as much in excess of a Major's pay and allowances (640 Rupees per mensem). He was taking half batta or garrison allowance, the difference of full batta being supposed to be absorbed by expenses on account of establishments while out in the field.

Then the 12th class of 100 Rupees would correspond with an annual income of 3,300 Rupees, or a monthly income of 275 Rupees, which was somewhat below a Captain's pay and allowances (374 Rupees), somewhat above a Lieutenant's salary (225 Rupees), and greatly above that of an Ensign (182 Rupees).

The 700 Rupees salaries in the Civil Service were enjoyed by comparatively young gentlemen of not above the average standing in the service of Subalterns in the Army, and Members of the Uncovenanted Service, who were thus in point of salary on an equality with Lieutenant-Colonels and Majors of double and treble their standing in the service. But the latter, so much older in life, labored under the disadvantage, for the most part, of the expense of wives and families to support, which but few of the much younger men of the Civil Service were yet (while only on 700 Rupees salary) burdened with. Moreover, the Officers of Her Majesty's Army had generally to leave their families in England, involving the cost of double establishments, while those who, like the Officers of the Indian Army, had their families in India, had to send their children to England for education.

The comparison of the Captains, Lieutenants, and Ensigns, with the corresponding class as to salary of the Civil Service, namely on the 12th class of the scale, was still more to the disadvantage of the Military Officers; for all Members of the Civil Service on that scale of salary were either European or Eurasian clerks, or natives, who neither held the same status in society, or were put to the cost of sending their families home; for it must be borne in mind that a large portion of the Military Officers in this class, Captains and Subalterns, were married, and many with large families.

It must be remembered also that Officers of the Army at home, who were not put to the cost of main+aining

separate establishments, were taxed only on their net pay, and that they enjoyed certain advantages of quarters, coals, candles, &c.

He trusted, therefore, that Honorable Members of this Council would concur with him in thinking that the ranks of the Army he had enumerated should be exempted from taxation. He of course intended his plea for the Officers of the Army to embrace also Officers of corresponding ranks of the Indian Navy.

MR. LEGEYNT said, he would not detain the Council beyond a few minutes. He had stated on Saturday last that he would not oppose the Bill so long as it was shown that the Bill could be reduced to a practicable shape, and he thought that the amendments which had been proposed would cause the Bill to assume such a shape. He should be better satisfied if those amendments were settled before the Bill passed the second reading; but as the Council had determined upon adopting a different course, he had no objection to consider the amendments afterwards. He would say nothing about landholders, but he could not but express his regret that the Honorable Mover had so decidedly opposed the inclusion in the tax of holders of Government paper. There were persons who derived large incomes from these securities. Was it to be supposed that these incomes were not used to a large extent, and very profitably so, in mercantile transactions? Was it to be supposed that they were not lent out at high rates of interest? There was, in fact, hardly a single native proprietor of Government Securities, who did not in reality carry on business to a large extent as a lender of money. However, as the Honorable Member had declared his intention of abandoning the Bill if this class were introduced into it, he (Mr. LeGeyt) would say nothing more about it.

He should be glad to see the duration of the Bill limited to a certain period, say either five or seven years. He thought this would make it less unpalatable, and he did not see how such a limitation would affect the Bill. Some Honorable Members had looked upon it as an experiment, and that appeared to him a greater reason why some limitation of time should be fixed. He

proposed to raise this question in Committee, and he would also consider the expediency of adopting the proviso which was proposed to be added to Section XX, and which was to the following effect:—

“Provided that, if any person holding any such office or employment shall satisfy the Collector or other Officer authorized as aforesaid, that the salary, fees, wages, perquisites, and profits of his office or employment do not exceed 100 Rupees per mensem, such person shall not be required to take out a license under this Act.”

Why was the receiver of a salary to be exempted from paying any tax, provided his receipts did not exceed 1,200 Rupees per annum, when a trader, whose profits did not exceed 66 Rupees would be liable to be taxed? He thought it better to restrict the exemption to incomes not exceeding 600 Rupees per annum, and to exempt altogether traders whose profits did not exceed 600 Rupees, so as to place the trader and salaried clerk upon a more even footing. But he would postpone the consideration of these matters till the Bill came before the Committee.

THE VICE-PRESIDENT said, he was not aware whether the Honorable Mover was willing that the two questions raised by the Honorable Member for Bombay should be considered before the Bill was referred to a Select Committee. He (the Vice-President) considered it very desirable that, before they came to vote upon the question for the second reading, the Honorable Member should state whether the two questions, as to limiting the duration of the Bill, and exempting traders whose profits did not exceed 600 Rupees a year, would be open questions.

MR. HARINGTON said, he thought it would be better that both the alterations mentioned by the Honorable Member for Bombay should be considered in Committee. It was very desirable with regard to the lower classes that information should be received from the country at large. There was no harm in adding higher classes now; but if such additions were made in Committee, it would necessitate the re-publication of the Bill. Hereafter it would be open to any Honorable Member, either in the Select Committee, or in a Com-

mittee of the whole Council, to propose the omission of any of the classes, either from the top or from the bottom of the list.

With regard to limiting the duration of the Bill, the Honorable Member for Bombay must, he thought, be aware that, although the income tax in England was a temporary tax, and was obliged to be renewed from time to time, there was scarcely any one who did not feel that it ought never to be given up. He considered, therefore, that the best plan would be to pass the Act as a permanent Act. Five years hence, if it should be thought necessary, or advisable, it might be repealed. This part of the Honorable Member's Motion had also, he thought, better be considered in Committee.

A doubt had been expressed as to the accuracy of what he had stated on a former occasion, that, in so far as trades were concerned, although the amount of the duty would be paid in the first instance by the tradesman taking out the license, it would come eventually from the pockets of his customers. To show that he was right, he would mention the following instances. A friend of his went to the shop from which he purchased his hats to buy a hat. He selected the kind of hat which he usually bought, and asked the price—14 Rupees was the answer; his friend objected that he had never been charged more than 12 Rupees before. "Oh! but you have forgotten the increase in the duty" was the ready rejoinder. Now he thought that, if Honorable Members would make the calculation, they would find that the extra charge of 2 Rupees covered not only the additional duty, but a little more. From the hatter's his friend went to his coach-builder's to pay for some repairs made to the hood of his buggy, and considering the charge high, he remonstrated against it. Here, too, the answer was the same. The new Tariff had increased the duty on leather, of which a small piece had been used in making the repairs. Another young friend of his had twelve pairs of American Drill trowsers made by Messrs. Harman and Co., the makers, for which he was charged 36 Rupees, or 3 Rupees per pair. Shortly after his brother arrived from England, and ordered a dozen pairs of the

*Mr. Harington*

same description of trowsers from the same shop, but when the bill came in, he found that he had been charged 40 Rupees. The two brothers went together to Messrs. Harman and Co.'s shop to ask for an explanation of this difference in the price, and were told that the higher duty now charged on cloth was the cause. He thought, therefore, that he had good ground for what he had stated.

MR. LE GEYT said, he would withdraw his suggestions for the present; though he could not give up his position regarding the inequality of the proposed tax, or agree with the Honorable Mover in the illustrations he had brought forward.

THE VICE-PRESIDENT said, so that these questions were to remain open, and that, in Committee of the whole Council and on the third reading, Honorable Members were not to be pledged to the Bill as a permanent measure, he had no objection to let it go to the second reading.

He agreed with the Honorable and learned Judge (Sir Charles Jackson) and with the Honorable Member for Bengal, that no observations had been used in this Council which called for the remarks which had fallen from the Honorable Member (Mr. Harington). He himself had been charged with having made a violent attack on the Bill, and with having opposed it in an unfriendly spirit. He was sure that no Honorable Member present desired to oppose the Government, or to place it in a position of difficulty. He was most anxious, at all times, to give the Government his warmest support; but to say that he was to accept every measure that was set before him was another matter. He might have been earnest, but he was not violent. He had said that the Bill was founded on no principle at all; but surely that was no reason why he should be charged with having opposed the Bill in an unfriendly spirit.

There were several alterations which the Honorable Member had expressed his willingness to make in the Bill, and there were some questions which he left open to be considered in Committee before the publication of the Bill, whilst there were others which he expressly excluded from being referred to the

Committee. The three questions which were not to be open questions, were the taxation of landholders, the taxation of fundholders, and the taxation of salaries fixed by Act of Parliament. The Honorable Member had alluded to a tax upon owners of houses, whereas no one desired to levy a house tax. There were many persons residing around Calcutta who were deriving a large income from the rents of houses in Chowringhee and elsewhere. A house tax and a tax upon profits derived from the rents of houses were perfectly distinct. If the Honorable Member said that, on general principle, Government thought it inexpedient to tax the owners of houses in respect of the profits derived from them, he (the Vice-President) was willing to accept that declaration of Government. He (the Vice-President) had said on a previous occasion, that zemindars were liable to be taxed on the income which they derived from their lands; but that whether it was politic or impolitic to tax them, was a question on which he then abstained from offering any opinion. If the Government considered that it would be politically inexpedient to do so, he should not think it right to raise that question. Then, with regard to fundholders, if the Government thought it expedient to exempt them from taxation, he for one should not press the question. They all knew of the great losses which fundholders had sustained; that four per cent. papers which had formerly been at a premium had fallen to a heavy discount, and so with five and five and a half per cent. papers. Then again, as to statutory salaries, he could see no reason why they should not be taxed. It appeared to him that there was a vast difference between merely taxing these salaries and attempting to prevent the Officers paid by such salaries from discharging their duties without a license from the Collector. He entirely agreed with the Honorable and learned Judge (Sir Charles Jackson), when he said that, if the Collector should attempt to stop him (the Vice-President) from exercising his vocation as Chief Justice, he should be very likely to commit him for contempt. This Council could not give such a power to the Collector. It was quite out of the power of Government to compel the Chief Justice to

take out a license to do that which he did under the express sanction of an Act of Parliament and a Commission from the Crown; but it was quite another thing to say—"you are drawing a certain income, and must pay a tax of three per cent. upon it." He apprehended that there was no difference in this respect between a salary fixed by an Act of Parliament and a salary fixed by a contract with the East India Company. The Act of Parliament in fixing such salaries never intended to say that they should not be taxed, nor did he see any difference between such salaries and those of an Uncovenanted Servant whose salary was fixed by Government. But as the Honorable Member said that Government had been advised that they could not pass such an Act, this Council could not fairly expect the Government to impose a tax when they were advised by their Law Officers that it could not be enforced if resisted. Be this however as it might, he could only say that he for one should feel that he was not acting as a man of honor if he availed himself of any exemption from payment on the ground that he could not be legally taxed. Therefore, as far as he was concerned, it would make no difference whether salaries fixed by Statute were or were not included in the Bill; for if the Bill should be passed and other incomes or salaries were taxed at three per cent., he should feel bound to pay three per cent. upon his own salary, and should, as soon as the Bill became law, at once send an order to the Civil Auditor to deduct the same amount from his salary as might be authorized to be deducted from other salaries. Whether others would do so, he knew not; but he believed that no one in this room, and no one in this country, would do otherwise.

There were several other objections to the Bill. But as they were matters, not of principle, but of detail, they would be better left to be settled in Select Committee.

With regard to the title of the Bill, the Honorable Member for Madras had called it an Act for taxing professions. If so, he (the Vice-President) thought it would be better not to require a license, but merely a receipt, shewing that they had paid the tax on their profession.

Another question which the Honorable Mover had left open was whether Civil and Military salaries ought to be included in the Bill. He (the Vice-President) thought that they ought to be, for in what position would the Government be if left to tax them indirectly. He doubted very much whether Government could enforce the payment of the tax if a party refused to pay it. For the first few months they would probably be obliged to resort to dismissal for refusal to pay the tax. But he questioned whether Government could take such a step in the case of a Commissioned or a Covenanted Officer, and he thought that it would be far better therefore that this matter should be settled by legislation. Suppose again, the Executive Government, after a year or two, should think fit to withdraw the tax from their employees, would that be fair to those who would continue to be taxed under the Bill which would still be in force? He thought not. The Honorable Member had given no pledge from Government, that every servant of Government would be taxed as long as this Bill should continue in force. He (the Vice-President) thought that all should be taxed alike, and if no one else would do so, he should move the insertion of a Clause to the effect that a tax of three per cent. should be levied on the salaries of all Civil Servants and all Military Officers in Civil employ and on the net pay of every Military Officer.

The Honorable Member for Madras had put forward an extraordinary argument against the taxation of Military Officers. He said that they were compelled to borrow money at the rate of about eighteen per cent. discount to buy their superior Officers out. No doubt Commissions were bought and sold in Her Majesty's Army, subject to certain Regulations. But the practice adopted in this country of paying Officers to retire, though perhaps tacitly allowed, had been held to be illegal. Such a contract could not be sued on. Time and custom might to some extent sanction the practice, but that was not a consideration which could be admitted by this Council. Suppose any one were to go to the Lord Chancellor or to the Prime Minister of England and offer him a sum of £10,000 to retire, or to the

Chief Justice, or any one holding a high and responsible position. What would be thought of such conduct? Would he not be indicted? If any one were to come to him (the Vice-President) and offer to buy him out of Her Majesty's service, he should consider it an insult. Such a person would be guilty of a misdemeanor. But the argument of the Honorable Member for Madras was that Officers in the Army ought not to be taxed, because they were put to considerable expense in borrowing money to purchase out their superior Officers, and the Council were called upon to accept that as a reason for exempting Military Officers from being taxed under the Bill.

There was another and a most important matter on which he desired to say a few words. The Honorable Mover had said that Honorable Members of this Council had claimed for themselves an independence which did not belong to them, and had arrogated to themselves the power of controlling the expenditure of Government. He (the Vice-President) must say, in reference to that observation, that when the expenditure of Government exceeded its income, and this Council were called upon to create a tax to make good the deficiency, the Council had a right to ask what deficiency had arisen, how it had occurred, and what measures were proposed to meet such deficiency. If the Executive Government asked the Council to impose a tax, surely it was incumbent on them to show the Council why the tax was wanted, and the Council would then be in a position to know what it ought to do. Was it to be supposed that this Council was bound to pass every crude Act that Government might think fit to bring before it, and an Act too which its Mover himself had admitted was founded on no principle? Were they to act independently in the exercise of the important functions vested in them, or were they to become mere registrars of the decrees of Government? Were they not to be allowed to express an opinion or to make any enquiry or suggestion on a matter which came before them, without being told that they were arrogating to themselves a power which did not belong to them? For what purpose were they assembled in that Chamber? Were

they to sit there as mere machines in the hands of the Executive Government? Were they not Councillors of the Governor-General of India for making laws? Were they to be Councillors and yet not to advise? or were they to give counsel without asking any questions, or knowing the circumstances under which their advice was to be given? No, they were bound to advise and to act independently and according to the dictates of their conscience in giving that advice. If that were not so, then the sooner this Council was abolished the better. He, for one, must say that, so long as he had the honor of a seat in the Council, he should claim the right to exercise within those walls a free and independent judgment, and to abstain from giving any vote except after mature deliberation and according to the dictates of his own conscience.

MR. HARRINGTON, after the protracted debate which had taken place, would say only a very few words by way of reply. With regard to the salaries of Government Officers he had already given his reasons for considering that they should not be included in the Bill. The point on which he particularly wished to offer a few remarks was, as to the amount of information relative to the state of the finances, which was required to be laid before the Council on the introduction of the present Bill. He submitted that all the information which was really necessary had been given. It was impossible, as he had already mentioned, to lay before the Council any correct or detailed statement of what would be the probable future expenditure. He had quoted word for word that part of the speech of His Excellency the Governor-General, delivered in March last, in which His Lordship placed before the Council the fullest information relative to the condition of the public finances at that date. The deficit then expected amounted to the very large sum of thirteen crores of Rupees. The accounts had not been made up, but that was the amount of the deficit anticipated. He said that the fears of the Governor-General as to the probable amount of the deficit at the end of the current financial year had been realized. He stated that reductions had been made to meet this deficiency, and that

further reductions would be carried into effect as rapidly as circumstances would admit. He particularly stated that the numerical strength of all the Native Regiments in India, both Regular and Irregular, had been greatly reduced; that many of the Police Levies had been disbanded; that further considerable reductions in this force might be found practicable; but that their extent must depend very much upon the decision which might be arrived at in England upon the important question of the reorganization of the Native Army of Bengal. What he then said was surely enough to show that Government had not been idle. It was only within the last few days that a reduction of 5,000 men had been ordered in the Oude Police, of whom 1,500 were Cavalry. This reduction might have been effected at once, but it was not thought prudent by the Honorable and gallant Member on his left (Sir James Outram) that so large a body of men should be turned loose upon the country at once, particularly as it was known that in Nepal and some parts of Bundelkund there were large bodies of rebels, whom the discharged men might at once join; and it was thought better, therefore, that they should be dismissed gradually, and as much as possible with their own consent. Then there was the Commission sitting at Bombay to enquire what reductions might be made in the Military expenditure of the country. He had also mentioned that all grants-in-aid for promoting education amongst the natives had been stopped, and that all public works which were not absolutely necessary had been suspended.

He had been charged with saying that the Council had claimed for itself an independence which did not belong to it. What he really said was that, looking to what had fallen from the Honorable and learned Judge opposite (Sir Charles Jackson) and the Honorable Member for Bengal, the Council appeared to him to be verging upon the functions of the House of Commons, and that, if they assumed those functions, they should also take upon themselves the responsibilities of the Executive Government which, he remarked, was simply impossible under the present constitution of the Council. He certainly considered the attack made upon the

Bill by the honorable and learned Vice-President and the Honorable Members opposite, to have been a violent attack, and he had therefore used that epithet in referring to it, but not in an offensive sense. The Bill had been called a crude Bill, a Bill without any principle, and the measure had also been termed preposterous because it omitted certain classes. Under the supposition that the Honorable and learned Vice-President, in proposing that the Bill should be referred to a Select Committee before it was read a second time, did so with a view to an entire alteration in its character, he (Mr. Harington) certainly thought that the instructions to the Committee, if they emanated from the Honorable and learned Vice-President, would not be conceived in any kind or friendly spirit. Before resuming his seat, he begged to thank the Council for the consideration which they had shown him, and to apologize to the Council if, in the heat of debate, he had expressed himself with too great warmth.

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

MR. HARINGTON moved that the Standing Orders be suspended, in order that the Council might resolve itself into a Committee on the Bill, for the purpose of considering proposed amendments therein.

SIR JAMES OUTRAM seconded the Motion, which was then carried.

MR. HARINGTON moved that the Council resolve itself into a Committee on the Bill.

Agreed to.—

Section I was passed after amendments providing for the repeal of Regulation IV. 1818 of the Madras Code.

Section VIII was passed with a revised Schedule of sums payable on licenses.

Section IX was passed after an amendment requiring sums payable upon licenses to approximate as nearly as possible to three per cent. on the annual net profits or gains accruing from trades and professions.

MR. HARINGTON moved the introduction of the following Section after Section IX :—

“ Any person who shall satisfy the Collector or other Officer authorized as aforesaid, that

*Mr. Harington*

the aggregate annual amount of the net profits or gains of the trade, business, or profession, carried on by such person (estimated according to the provisions of the last preceding Section) is less than a sum which, so estimated, would render him liable to assessment under Class XVII of Section VIII, he shall be exempted from taking out a license under this Act.”

Agreed to.

Section X was omitted on the Motion of Mr. Harington.

MR. HARINGTON moved the introduction of the following Section after Section XI :—

“ In order to enable the Collector or other Officer authorized as aforesaid, to determine under what classes persons requiring to be licensed shall be assessed, and what sums shall be paid in respect of licenses granted under this Act, he may cause to be sent to any person supposed to be liable to the payment of the tax hereby imposed, a Schedule to be filled up with such information respecting the trade, business, or profession carried on by such person, and the amount of the annual profits or gains accruing therefrom, the number and names of persons holding any office or employment under him, and their salaries, fees, and wages, as the Collector or other Officer authorized as aforesaid may judge necessary for the purpose of such assessment. The schedule shall be filled up in writing, and dated, and shall contain a declaration signed by such person that to the best of his belief the schedule is a true return of the matters therein contained. Such return shall be delivered to the office of the Collector or other Officer as aforesaid, by every person to whom it is sent, whether or not liable to the payment of such tax; and whoever refuses, neglects, or omits, duly to fill up and return such schedule within twenty-one days from the receipt thereof, or knowingly gives therein any incorrect or false return, shall be liable to a penalty not exceeding five hundred Rupees.”

MR. LEGEYT moved the omission of the words “ or knowingly gives therein any incorrect or false return.” In doing so, he said, he thought that a penalty of five hundred Rupees was a very inadequate punishment for such an offence as knowingly giving incorrect or false Schedules, and that it would be more appropriate to attach to it the penalties of perjury.

Agreed to.

THE CHAIRMAN moved the insertion of the following words at the end of the Section :—

“ Or if he be a person liable to be assessed, the Collector or other Officer as aforesaid may

assess him under any of the classes mentioned in Section VIII of this Act; and no appeal shall lie from such assessment, on the ground that such person had been assessed under too high a class with reference to the provisions of Section IX of this Act."

Agreed to.

MR. LEGEYT moved the addition of the following words to the Section :—

"Or if such person knowingly gives therein any incorrect or false return, he shall be liable to the penalties provided for perjury."

The Motion was carried, and the Section as amended then passed.

MR. HARRINGTON moved the introduction of the following Section after the above :—

"The Collector or other Officer authorized as aforesaid may summon any person whom he shall think able to give evidence for the purpose of enabling him to determine under which of the classes mentioned in Section VIII of this Act any person should be assessed, and may examine such person as to any such matter. The Collector or other Officer as aforesaid may also require the person summoned to produce any books or documents in his possession or power relating to the trade, business, or profession of any person supposed to be liable to assessment or to the amount of the annual profits or gains accruing therefrom. If the person summoned shall refuse to answer any lawful question of the Collector or other Officer as aforesaid, or shall knowingly give an incorrect answer, or shall refuse to produce any such books or documents as aforesaid, he shall be liable to a penalty not exceeding five hundred Rupees, or if he be a person liable to be assessed, the Collector or other Officer as aforesaid may assess under any of the classes mentioned in Section VIII of this Act, and no appeal shall lie from such assessment on the ground that such person had been assessed under too high a class with reference to the provisions of Section IX of this Act."

THE CHAIRMAN moved the insertion of the words "or of any person who has appealed against such assessment" after the words "liable to assessment."

Agreed to.

THE CHAIRMAN moved the substitution of the words "from such trade, business, or profession" for the word "therefrom."

The Motion was carried, and the Section as amended then passed.

MR. HARRINGTON moved the introduction of the following Section after Section XVIII :—

"No person required by this Act to take out a license, shall be allowed to recover in any judicial suit or proceeding, any money, debt, or charge claimed by him in respect of the trade, business, or profession carried on by him, unless such person shall prove to the satisfaction of the Judge or Officer presiding at the trial, that, at the time when the cause of action accrued, he had duly obtained a license in conformity with this Act."

The Section was passed after verbal amendments, on the Motion of the Chairman.

MR. HARRINGTON moved the addition of the following words to Section XX :—

"And shall be assessed (with reference to the provisions of Section IX of this Act) upon an estimate of the annual salary, fees, wages, perquisites, and profits of such offices or employments. Provided that, if any person holding any such office or employment shall satisfy the Collector or other Officer authorized as aforesaid, that the salary, fees, wages, perquisites, and profits of his office or employment do not exceed one hundred Rupees per mensem, such person shall not be required to take out a license under this Act."

The Motion was carried, and the Section as amended then passed.

THE CHAIRMAN moved the introduction of the following Section after Section XX :—

"Every Civil Officer and every Military Officer in Civil employ shall pay at the rate of three per cent. per annum upon the amount of his salary, and the same may be deducted by Government from such salary."

After some discussion, the Council divided :—

Ayes 5.	Noes 2.
Sir Charles Jackson.	Mr. Seonce.
Mr. Forbes.	Mr. Harrington.
Mr. LeGeyt.	
Sir James Outram.	
The Chairman.	

So the Section was carried.

THE CHAIRMAN moved the introduction of the following Section after the above :—

"Every Military Officer shall pay a tax of three per cent. per annum upon the amount of his Regimental pay, exclusive of allowances, and also upon any Staff pay, and the tax may be deducted by Government from such pay."

MR. FORBES wished to say a very few words on what fell from the Honorable and learned Chief Justice in the debate on the second reading of this Bill regarding the illegality of the sale of Commissions in the Army. The learned Judge had said that such sales were illegal; he had likened them to the sale of the high office which he so ably filled, and had characterized as extraordinary the argument which he (Mr. Forbes) had endeavored to raise in favor of the exemption of Military men from the operation of this tax, from the fact that they purchased their steps. Now he thought that this was a question that could not be decided on only a strict legal view, and he could not admit that there was any similarity between the sale of his step by an Officer in the Army, and the sale of so high an office as a Judgeship. He did not think that the Honorable and learned Judge would himself affirm that he would hold in similar estimation the two Officers who bought and sold a Commission, and the two men who bought and sold a Judgeship. The sale of a Judgeship would, no doubt, be a high crime and misdemeanor; the sale of an Army Commission was a matter of daily occurrence. The one would be a great offence against the Crown, in whose gift the Judgeships were; the other, as was notorious, was done with the approbation and consent of the authority whom the Officer served.

SIR CHARLES JACKSON moved the insertion of the words "above the rank of Captain" after the word "Officer."

After some discussion, the Motion was by leave withdrawn.

The original question being then put, the Council divided :—

<p><i>Ayes 2.</i> Sir Charles Jackson. The Chairman.</p>	<p><i>Noes 5.</i> Mr. Sconce. Mr. Forbes. Mr. LeGeyt. Mr. Harington. Sir James Outram.</p>
--	--

So the Motion was negatived.

SIR CHARLES JACKSON moved the introduction of the following Section before Section XXI :—

"Every Military Officer on the General, Divisional, Brigade, and Personal Staff, shall

*Mr. Forbes*

pay a tax at the rate of three per cent. per annum on the amount of his pay and allowances, and the amount may be deducted by Government from his pay and allowances."

MR. LEGEYT moved, by way of amendment, to insert the word "staff" before the words "pay and allowances."

The amendment being put, the Council divided :—

<p><i>Ayes 2.</i> Mr. LeGeyt. Sir James Outram.</p>	<p><i>Noes 5.</i> Mr. Sconce. Sir C. Jackson. Mr. Forbes. Mr. Harington. The Chairman.</p>
---	--

So the amendment was negatived.

The original question being then put, the Council divided :—

<p><i>Ayes 6.</i> Mr. Sconce. Sir C. Jackson. Mr. Forbes. Mr. Harington. Sir James Outram. The Chairman.</p>	<p><i>Noes 1.</i> Mr. LeGeyt.</p>
--	---------------------------------------

So the Motion was carried.

THE CHAIRMAN moved the addition of the following proviso to the new Section 20a relating to Civil Officers and Military Officers in Civil employ :—

"Provided that, if the salary of such Officer do not exceed 100 Rupees, he shall not be taxed."

Agreed to.

THE CHAIRMAN moved the omission of Section XXII, which provided that the Act should not apply to persons holding office under Government.

Agreed to.

THE CHAIRMAN went back to Section XX, and moved a verbal amendment therein, which was carried.

MR. HARINGTON moved that the following new Section be introduced before Section XXIII :—

"The provisions of this Act shall not apply to any person who shall hold any office, employment, or commission under Her Majesty, or under the Government of India, the salary

of which office or employment has been fixed by Act of Parliament."

He said that, in proposing the introduction of this Section, he desired to repeat what he had mentioned in moving the second reading of the Bill, namely, that it was not the intention of the Governor-General, or of the other Members of the Government present with the Government, that their salaries should be exempted, and they would accordingly be subjected to the proposed reduction from the date on which the Bill should pass into law. But in their case, as well as in the cases of the other Officers whose salaries were also fixed by Act of Parliament, it would be necessary for the Home Government to apply to Parliament for an Act of the Imperial Legislature, to give legal authority to the extension of the measure to them, and steps would immediately be taken for obtaining that authority.

Agreed to.

MR. HARINGTON moved the omission of the Schedule.

Agreed to.

The Council having resumed its sitting, the Bill was reported.

MR. HARINGTON moved that the Bill be referred to a Select Committee consisting of the Vice-President, Mr. LeGeyt, Mr. Forbes, Mr. Sconce, and the Mover.

Agreed to.

#### MALABAR OUTRAGES.

MR. FORBES moved that the Bill "for the suppression of Outrages in the District of Malabar in the Presidency of Fort St. George" be read a third time and passed.

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

#### CRIMINAL PROCEDURE.

On the Order of the Day being read for the adjourned Committee of the whole Council on the Bill "for simplifying the Procedure of the Courts of Criminal Judicature not established by Royal Charter," the Council resolved itself into a Committee for the further consideration of the Bill.

The postponed Section 7 of the proposed Jury Rules was passed, with the inser-

tion of "eight" in the blank as the number of Jurors to be summoned, and after other verbal amendments

Section 8, which related to the form and service of summons, was passed after an amendment, on the Motion of Mr. LEGEYT, requiring the service to be made by the Judge, "through the Court's own Officers, or the Officers of the Magistrate of the district in which the Juror resides."

Section 9, which empowered the Court to summon another set of Jurors, when one set was not enough, was passed as it stood.

MR. HARINGTON moved the introduction of the following Section after Section 9:—

"If any person summoned to serve as a Juror be an Officer of Government, the summons shall be transmitted to such person through the Head Officer of the Office in which he is employed, and the Court may excuse the attendance of such person if it shall appear on the representation of such Head Officer that such person cannot serve as a Juror without inconvenience to the Public Service."

Agreed to.

Sections 10 to 14 were passed as they stood.

Section 15 prescribed the grounds of objection to be taken to a Juror.

THE CHAIRMAN moved the omission of the fourth ground, which was as follows:—

"Having formed such an opinion of the guilt or innocence of the defendant as, in the opinion of the Juror himself, renders him not an impartial judge."

Agreed to.

After a verbal amendment in the fifth ground, the Section was then passed.

Sections 16 to 18 were passed as they stood.

THE CHAIRMAN moved the insertion of the following Section after Section 18:—

"Whenever any Jury trial is to be had, in which the accused person or one of the persons accused is entitled to a Jury constituted under the provisions of Section 230, the Court or Session shall, three days at the least before the day fixed for holding such trial, cause not less than four of the persons named in the revised list of Jurors of the race or class to which the accused belongs to be summoned; the Court shall also at the same time

cause as many other persons named in the revised list as seem to the Court to be needed for such trial to be summoned. The names shall be drawn by lot, excluding those who have served within six months, unless when the number cannot be made up without them."

Agreed to.

THE CHAIRMAN then went back and proposed a verbal amendment in Section 236 of the Bill, which was carried.

Mr. LEGEYT moved the introduction of the following new Section after Section 236:—

"The Court of Session may order such reasonable subsistence money, the amount per diem to be fixed from time to time by the local Government with the sanction of the Governor-General in Council, to be paid to every Jurymen in attendance under a summons, which shall be paid by the Collector on the production of such order."

He said he felt convinced that, unless some reasonable subsistence were provided for bringing persons away from their homes, they would find excuses for keeping away. He thought it very hard to take them away from their usual daily occupations, and that a less objectionable way to do so would be as now proposed by him.

After some little discussion the Section was put and negatived; and the further consideration of the Bill postponed on the Motion of SIR JAMES OUTRAM.

#### STANDING ORDERS.

MR. HARRINGTON postponed the Motion (which stood in the Orders of the Day) for a Committee of the whole Council on the Report of the Select Committee on the Message from the Governor-General in Council calling for a report on the practical working of the Standing Rules and Orders of the Legislative Council.

#### MALABAR OUTRAGES.

MR. FORBES moved that Mr. Harrington be requested to take the Bill "for the suppression of Outrages in the District of Malabar in the Presidency of Fort St. George" to the Governor-General for his assent.

Agreed to.

#### NATIVE PASSENGER VESSELS (BAY OF BENGAL).

MR. FORBES moved that the Bill "to prevent the overcrowding of Vessels carrying Native Passengers in the Bay of Bengal" be referred to a Select Committee consisting of Mr. LeGeyt, Mr. Seonce, and the Mover.

Agreed to.

The Council adjourned at 5 o'clock, on the Motion of Sir James Outram, to Thursday, the 1st of September next.

Thursday, September 1, 1859.

#### PRESENT:

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

Hon. Lieut.-Genl. Sir James Outram,	Hon. Sir C. R. M. Jackson,
Hon. H. B. Harrington,	and
P. W. LeGeyt, Esq.,	A. Seonce, Esq.
H. Forbes, Esq.,	

#### LICENSING OF TRADES AND PROFESSIONS.

THE CLERK presented to the Council a Petition from the Calcutta Trades Association against the Bill "for the licensing of Trades and Professions."

MR. HARRINGTON moved that the above Petition be referred to the Select Committee on the Bill.

Agreed to.

#### CRIMINAL PROCEDURE.

The Order of the Day being read for the adjourned Committee of the whole Council on the Bill "for simplifying the Procedure of the Courts of Criminal Judicature not established by Royal Charter," the Council resolved itself into a Committee for the further consideration of the Bill.

The postponed Section 255 provided as follows:—

"If the case is one in which, if the defendant be convicted, he is liable to sentence of death, the Court of Session shall record the conviction, and refer the case to the Sudder Court, with a statement in writing of its opinion as to the sentence which should be passed upon the accused, with the reasons for such opinion; and in cases tried by Jury, the Court of Session shall report the substance of its direction to the Jury."