

Friday, December 20, 1867

**COUNCIL OF GOVERNOR GENERAL
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Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 & 25 Vic., cap. 67.

The Council met at Government House on Friday, the 20th December, 1867.

P R E S E N T :

His Excellency the Viceroy and Governor General of India, *presiding*.

His Excellency the Commander-in-Chief, C.G.S. I., K.C.B.

The Hon'ble G. Noble Taylor.

The Right Hon'ble W. N. Massey.

The Hon'ble Major General Sir H. M. Durand, C.B., K.C.S.E.

The Hon'ble Sir George U. Yule, C.B., K.C.S.I.

The Hon'ble E. L. Brandreth.

The Hon'ble M. J. Shaw Stewart.

The Hon'ble C. P. Hobhouse.

The Hon'ble J. Skinner.

The Hon'ble Steuart Gladstone.

The Hon'ble Prasanna Kumára Thákúr, C.S.I.

The Hon'ble PRASANNA KUMÁRA THÁKÚR made a solemn declaration of allegiance to Her Majesty, and that he would faithfully fulfil the duties of his office.

COTTON FRAUDS' BILL.

The Hon'ble Mr. SHAW STEWART introduced the Bill for the suppression of Frauds in the Cotton Trade, and moved that it be referred to a Select Committee with instructions to report in six weeks. He said that the Bill was proposed by Mr. Maine, and published with His Excellency's permission in the *Gazette of India*. Before leaving India, Mr. Maine requested him (MR. SHAW STEWART) to take charge of the measure, and he assented, stating at the same time that he could not entirely approve of several of its provisions. Mr. Maine, however, expressed a desire that he should take it up as he seemed to consider it of some importance to have it introduced by some one who had practical knowledge of the working of the Bombay Act on which it was founded, and Mr. Maine suggested that he should bring up in Committee the various points in which he disapproved of the Bill as drafted. He would therefore proceed to describe those points which he proposed, as suggested by Mr. Maine, to bring to the notice of the Select Committee.

The first point affected the title and preamble of the Bill. It was, as they saw, a Bill for the suppression of frauds in the Cotton Trade. This Bill professed to be drafted on the model of the Act of the Bombay Government, of 1868, which was entitled "An Act for the prevention of adulteration of cotton and the better suppression of frauds in the Cotton Trade in the Presidency of Bombay." That Act had been in force for four years in the Bombay Presidency, and there was a strong feeling that the object, as described in its title and preamble, was not exactly that which ought to have been aimed at, or at all events, which ought to be aimed at in future. After four years' experience of the Act, the Bombay Chamber of Commerce wrote as follows, in reply to questions asked by Government as to the existence of or necessity for, alterations in the scope of the Act, and as to the opinion of the Chamber on a proposal to raise the fees, and increase the fund for working it:—

"The discussions which have taken place have shown that members of the Chamber are almost unanimously of opinion that the Act has not, in so far as its provisions have been strictly adhered to, been productive of the good to the trade which its framers seem to have expected. It was an Act of an altogether exceptional character, intended to meet a crisis of a nature unexampled in the history of the cotton trade, and, without entering on a discussion of the results of the working of the Act while this exceptional state of matters lasted, the Committee respectfully beg to state that they cannot by any means admit the inference drawn by Colonel Walker in para. 48 of his report, that the improvement in Indian cotton which has admittedly taken place is attributable solely to the working of the Cotton Frauds' Act.

"While admitting to the full extent the zeal with which the officers of the Department have striven to carry out what must have been a difficult and delicate task, and giving them credit for having, in some instances, effected much good to the trade, the members of the Chamber (as appears from their recorded minutes) are generally of opinion that much of this good has been effected by their acting *ultra vires*.

"The 'curious coincidence' alluded to by Colonel Walker is further explained by the fact that, during the same period, the cotton trade has been deriving very great benefit from the exertions of Government officers outside the Department altogether, such as Mr. Ashburner, the Collector of Khandeish, to whom too great praise cannot be given; from the opening up of Railway communication into the heart of the cotton districts of the Central Provinces and Guzerat; from the impetus thereby given to the establishment of European agencies at the principal cotton marts of the interior; from the introduction of machinery for the better ginning of cotton, and for full and half pressing in the districts; from the increase of wealth (and, it may be added, intelligence) amongst the growers of the cotton, and their emancipation from their former state of dependence on the *sahukárs*; and, perhaps above all, from the heavy fall which has taken place in the price of cotton since the close of the American war, which brings the Indian grower again into competition with the American, in a market in which, during the early history of the working of the Act, the Indian growers virtually enjoyed a monopoly.

"But the exceptional state of matters which called the Act into existence has passed away, and the question now arises whether it is right, or expedient, to continue to tax the trade for the maintenance of the present costly system..

"On this point the Committee express the almost unanimous opinion of the Chamber when they say that the benefits resulting from the working of the Act, in its strict interpretation, are not such as to justify the continuance of the tax.

"In Bombay itself, where, it was anticipated by the framers of the Act, the most beneficial results would be experienced, and where Government still considers that for Police purposes, that is to say, for the purposes of the Act as it stands the main strength of the Department should be located, the Committee have no hesitation in expressing their opinion that the Act has proved a failure.

"It would be difficult indeed to point to any instance in which the services of a staff, the local portion of which is maintained at a cost of about rupees 4,500 per mensem, have resulted in any practical good.

"Returns are furnished and placed on the files of the Chamber, but it does not appear that they are ever referred to, from which the inference is clear that merchants prefer trusting to their own establishments and their own system (good or bad as it may be), to the ordinary Police, and to the law as set forth in the Penal Code, to protect themselves in their transactions, in preference to the Cotton Frauds' officers.

"At the same time it is probable that the dread of detection and punishment has operated as a deterrent to fraud in Bombay itself, and still more in the mofussil.

"Although, therefore, a considerable section of the Chamber, impressed with the practical inutility of the Act, and believing strongly that it is wrong in principle, desire to see it immediately repealed, the majority of the members appear to be of opinion that it might be attended with danger to do so, but that it may be desirable, in the meantime, to alter or amend it so as to admit of the establishment being incorporated with that of the Cotton Commissioner, and the fund made available for such purposes as those contemplated in the Government Resolution of 28th May 1866.

"The Act would thus gradually lose its character of a Police measure, and become, instead of a Cotton Frauds' Act, a Cotton Improvement Act."

The opinion expressed by the Bombay Chamber of Commerce, that the establishment maintained under the Act should be incorporated with that of the Cotton Commissioner, coincided, MR. SHAW STEWART believed, with the views of the Home Government. He did not think his memory failed him when he said that the Secretary of State, in a recent despatch, expressed his approval of the change, and doubtless that despatch would be laid before the Committee. It was perhaps not out of place to explain, here, the distinction between the Cotton Commissioner and the Cotton Frauds' Department. Before

the Bombay Cotton Act. was passed, the Government of Bombay, impressed with the great importance that the cotton trade was assuming, appointed an officer on a special salary sanctioned from the imperial revenues, to watch the trade, to collect statistics, to supervise the efforts to introduce superior descriptions of seed and machinery into general use, and to communicate on all points with the parties at home interested in the cotton trade of Western India. This office was and continued to be filled by Surgeon-Major Forbes of the Bombay medical establishment, and he trusted he might be allowed to pay a passing tribute to the energy, sagacity and success which had characterised his proceedings. Being perhaps more intimately acquainted than most persons with the details of Doctor Forbes' earlier connection with the cotton improvement question, he felt justified in venturing to offer his humble testimony, more especially as the name of Dr. Forbes had been omitted from the list of those enumerated by the Chamber of Commerce, an omission which must have been accidental and unintentional. The office held by Dr. Forbes was that of Cotton Commissioner, whereas the Cotton Frauds' Department was composed of the inspectors and sub-inspectors appointed under the Cotton Frauds' Act, and paid from the special fund raised under its authority.

He thought he had shown that the Committee would have to consider carefully the proper scope that was to be expressed in the title and preamble of the new Act.

The next point occurred in section 2. He was at a loss to understand how this section as it stood was inserted in the Bill. It was opposed, not only to the minute of Mr. Maine, in which the other members of the Council concurred, but also to the opening sentence of the Statement of Objects and Reasons, which ran thus:—

“The object of this Bill is to apply to the whole of British India, other than the Lower Provinces of Bengal, and the Presidencies of Madras and Bombay, provisions similar to those contained in the Bombay Cotton Frauds' Act (No. IX of 1863)”

whereas the section proposed that the Act might be extended by an order of the Governor General in Council to any part of India.

MR. SHAW STEWART thought he should be able to set before the Council to-day good reasons for thinking that the proper application of the Act to the North-Western and Central Provinces would be a task quite enough for the present, and that the course stated in the Statement of Objects and Reasons should be adopted. Whatever alterations in the law were needed in the Bombay Presidency, and whatever new laws were to be introduced into Madras and Bengal, had better be left to the local legislatures.

The next point for the Committee to consider was, that all measures for preventing the adulteration of cotton divided themselves into two branches—those applicable to the ryot or producer in the interior, and those applicable at the ports of export. That division was clear in the Bombay Act of 1863, where the second and third sections re-enacted the old law of 1829, whereas the fourth and following sections provided an entirely new system of check at the ports of export. The division had to a great extent been lost sight of in the Bill now before them, where the essential sections that held such a prominent place in the Bombay Act were put on one side among the penal clauses, in such a way that the fact of their being of primary importance was apt to be lost sight of. He trusted the Committee would duly consider what portions of the Bill were to be applied to the Central and North-Western Provinces. It seemed questionable to extend a law for licensing and inspecting cotton presses to districts in the interior, unless it were shown that such presses were in existence or likely to be established at an early date.

He proposed also to ask the Select Committee to consider the first clause of section 12, which left to the Executive Government without any limit the power of fixing fees on each bale of cotton exported. In the Bombay Act the limit of four annas was fixed, and it would be for the Committee to consider whether this or some other limit should not be introduced into this Bill.

There were several other points to which he would ask the Select Committee to turn their attention, but he thought he had stated the chief ones, and he would now beg to offer a few remarks on the character of the measure. In the first place, the action which this Council was asked to take was very different from that taken by the Bombay Council in 1863. There, the Bill was keenly discussed, clause by clause, by a Council, all of whose members, official and non-official, had a most intimate local knowledge of the subject before them. There were most detailed reports, furnished by a special Commission that had visited all the Bombay cotton districts, as well as by numerous public officers and private individuals, of the state of the trade. The effect of every section, almost of every word, was well known and minutely criticised, and with all that, they had a Bill which the Bombay Chamber of Commerce considered, after four years' experience, to have partially failed.

In this Council their position was very different. He believed it was nearly correct to say that none of the members present had any intimate acquaintance with the details of the present cotton trade of the North-Western or Central Provinces. To take an example, the Bombay Council knew very well what they

were doing when they enacted (section XI, clause 2) that the duties of the inspectors "should be to suppress the use of unlicensed presses, and to examine cotton offered for compression, or exposed or intended for sale; but had the Governments of the North-Western Provinces or the Central Provinces maturely considered whether these were the duties on which *their* inspectors were to be employed? The Bill before them had substituted the word "offered" for the words "exposed or intended for sale." He did not know the reason of this alteration, but he doubted its expediency, and above all he doubted if this section, as drafted, exactly described the duties on which any staff of inspectors that might be appointed in the North-Western Provinces and the Central Provinces could be profitably employed, or the manner in which the fund could be spent with most advantage. Besides this, they had before them the faintest possible expression of the public opinion in India as to the necessity for the measure. There were no detailed reports, nor any statistical information. One of the merchants in the North-Western Provinces, said that adulteration was prevalent, and that special legislation was needed there, and the Calcutta Chamber of Commerce endorsed that information as to the adulteration, and recommended that a Bill be passed for the better suppression of cotton frauds in the North-Western Provinces. But he doubted very much if the Calcutta Chamber contemplated the Act requiring all the presses in Calcutta, used for compressing the cotton of the North-Western Provinces, being licensed, and subject to constant inspection, as they were in Bombay, and liable to be closed for any infraction of the law. At all events, whether this was contemplated or not, he thought the Committee would have to decide whether cause had been shown to consider that the whole measure was generally needed. He would further remark that the difficulty which the Council would have in dealing with this Bill was somewhat increased by the fact that it came before them as a Government measure. In this respect it was very different from the Bombay Act, the history of which was not uninteresting. He thought it was in 1860 and 1861 that the merchants of Bombay first began to urge on Government the necessity of some special preventive measures being taken in regard to cotton, and specially asked that inspectors might be stationed at all the Railway stations to examine all cotton, and to see that no adulterated cotton was sent on to Bombay. The Government of Bombay stated, if he remembered right, its opinion, that the existing laws were sufficient to meet the case, but at the same time expressed its readiness to give every consideration to any Bill which the mercantile members of the Governor's Council might bring forward. Accordingly, early in 1863, Mr. Michael Scott brought forward the measure which was passed in April of that year. He would read to the Council the remarks of the President (Sir B. Frere) when the report of the Select Committee was

brought up for consideration, and he thought that the opinions contained in that extract could not fail to have great weight in determining the course the Council would adopt with reference to this Bill :—

“ Before discussing the clauses of this Bill, it is as well to remind the Council that we have before us in point of fact four Bills, besides a great number of miscellaneous amendments. We have the original Bill, which, if I am not mistaken, some of the members still prefer to the Bill as amended by the Select Committee. We have that amended Bill, the general tendency of its amendments being to throw less responsibility upon the owners of presses. We have Mr. Robertson’s amendments, which amount in fact to a fresh Bill, the ruling idea of which seems to be to devolve on those who have to work the Bill, that is, on Government, the task of seeing that no bad cotton comes to market, and greatly to increase the responsibility of press-owners; and finally, we have Mr. Premabhai Hemabhai’s amendments, which also amount in fact to a new Bill, in which all the stringent portions of the original measure are omitted.

“ I will not anticipate the discussion on the Bill. I would only beg Hon’ble Members to bear in mind the general tendency of the several forms in which the Bill is presented; whether in the interest of the Bombay merchant, the Bombay press-owners or of the up-country merchant, or of the cotton-growing ryot, and to avoid, as far as possible, that appearance of a patch-work measure which the Bill will assume unless the ruling idea of the several amendments be constantly borne in mind.

“ I would further beg the Council to remember that neither form of the Bill can in any way claim the character of a Government measure. I am the more desirous to impress this upon the Council, because I see that the Hon’ble Mr. Robertson’s amendments are sometimes spoken of as the ‘ Government measure,’ and without in any respect pronouncing an opinion on those amendments, I wish it to be clearly understood, and I am sure the Hon’ble Member himself would wish them to be understood, as not entitled to or claiming to be considered as a Government measure.

“ It is not that the Government would shrink from the responsibility of any measure which their duty required them to introduce, but I am sure that those members of the Council who are best acquainted with mercantile affairs would object, and I think most justly, to the Government taking upon itself to draw up and carry through the Council any measure so materially affecting the commercial and agricultural interests of the Presidency, without having good cause to believe that they carried with them the general consent and approval of those who, from their profession, were best qualified to judge of what was really best for the interests of fair trade and honest agriculture.

“ It is only necessary to glance through the papers before us to see how widely different are the views of the most experienced men, and those who are most deeply interested in the question.

“ There are certain fundamental rules which are now generally recognized by the British Parliament and people in dealing with questions of this kind, and among the most clearly defined

of those rules is that which prohibits further interference with the natural course of trade than can be proved to be necessary for the safety of the public, of the fair trader, and of those who cannot protect themselves. Government believed, and still believe, that a clear case had been made out for legislative interference, but how far that interference is necessary and allowable proves to be a question of greater difficulty and regarding which greater diversity of opinion exists than was at first supposed. It is clear that no measure we can devise can have any chance of success, unless the grounds of its necessity are very fully established, and the justice of its several provisions placed beyond all reasonable doubt. We have not only to carry with us those whose confirmation is necessary to make the Bill law, but we have to avoid making a measure so stringent that it may defeat itself by the general inconvenience to trade occasioned by working it.

“ Under such circumstances it seems to me that it would be peculiarly undesirable to support any measure as a Government measure, beyond the point to which the experience of the individual Government members, and the reasons they may be able to adduce, shall entitle those opinions to the general support of the Council.

“ It appears to me the duty of Government to aid the Hon'ble Member who has so zealously devoted so much time and ability to this important measure, to obtain all the information procurable, and throw every possible light on the subject. This I think has been very fully done. It is a further duty to consider all the information and the conflicting opinions submitted, with the aid of such light as our official experience may furnish, and to do our best to assist the Council to produce a useful workable measure ; this I hope we shall do to-day, and when the Council have come to their decision and the measure has become law, it will be the duty of Government to see that it is executed, as far its execution may by law rest with the executive officers of Government. This I venture to promise shall be done. I will now proceed to put the clauses *seriatim*.”

He feared that the Council would think that he had dealt hardly with the Bill ; that he had in fact acted the part of a cruel step-mother to the unfortunate bantling entrusted to his charge. But this was not the case. He had tried to state clearly the difficulties that seemed to beset any attempt to pass the Bill as published, and to bring to bear on it his experience of the working of the Act in Bombay. At the same time it was right that he should suggest the means by which those difficulties might be overcome. He would recommend that this Council should, as soon as possible, pass an Act extending to the Central Provinces and to the North-Western Provinces the penal measures contained in the 15th and 16th sections of the Bill, which were in fact the essence of all legislation on the subject, and regarding the expediency of introducing which into those Provinces he had little or no doubt. He would recommend that the Bombay Council should be requested to proceed with the measure which it had stated its readiness to do at once, and which was needed in the Central Provinces, namely, the measure to legalize the transfer to the Central Provinces and Berar of a certain portion of the Cotton Fund of

Bombay, which was fairly due to those Provinces in respect to the cotton grown in them and exported at Bombay. He would also suggest that the Government of Bombay be asked to take into its consideration the proposed alteration in the scope of the Act, as suggested by the Chamber of Commerce, if not also by the Secretary of State, and to proceed to give effect to its opinion by local legislation, or to lay it before the Government of India for consideration here. In the meantime he would ask the Governments of the North-Western and Central Provinces to submit detailed schemes for the application of the reserved portions of the Bombay Act, showing what duties the inspectors were to be employed on, what number was required, and how the funds for paying them were to be raised, and he thought the Council would be in a better position to decide on its further action, after it had seen what information was then before it.

The Hon'ble MR. GLADSTONE was sorry to offer any opposition to a measure which had no doubt been framed with the best possible intention towards the mercantile community, but which seemed to him to be quite unnecessary, and which, if carried out, promised to bring about very different results from those sought after. The Hon'ble Member who introduced the Bill appeared to entertain somewhat similar views himself, and although he talked of referring his bantling to the nursing of a Select Committee, MR. GLADSTONE thought it would be better for the Hon'ble Member to change his intention, and at once smother it on that table. The Hon'ble Member had not shown that there was any necessity for the introduction of the measure; he had not sought to establish that the common law of the land was insufficient; least of all had he endeavoured to prove why cotton, of all articles of export trade, should be made the subject of special legislation. MR. GLADSTONE was far from saying that cotton was not adulterated in this country, but the same might be said of many other articles of commerce which were liable to be tampered with before exportation, such as jute, oil, seeds, indigo, etc. In common practice a purchaser bought upon sample and it was his own fault if he took delivery of quality inferior to that he had contracted to buy. He was very much mistaken if any case of gross fraud had gone unpunished through the inefficiency of existing laws, and in cases which he had heard of (though none had happened in his own experience) of dirt and stones being put into bales of cotton, the common law, he believed, would be sufficient to punish the offenders. The Hon'ble Member had spoken at some length on the Bombay Act, but this he could not admit as a precedent: it was well known that, for a few years before the passing of that Act, people were making large fortunes out of cotton, and any rubbish that could possibly be called by

that name was exported as such, and as long as the market kept up, no serious objections were made, but as soon as prices fell, there was an outcry as to the fraud. Smarting under their losses, the sufferers cried for protection to their Local Government, and that Government, which in other cases had shown similar compliance with popular clamour, responded to that cry by passing the Act referred to : but with what effect ? That it had failed in its object was shown by the extract read by the Hon'ble gentleman from the letter of the Bombay Chamber of Commerce : that body at all events had seen reason to change their opinion of the usefulness or necessity of the law ; and it must be apparent to anybody who had considered the subject, that the improvement of cotton was not due, and could not be effected, by legislation : such improvement must be left to the natural effect of prices, and laws of supply and demand. Looking at the Bill itself, MR. GLADSTONE thought its provisions were very imperfect and most arbitrary. No cotton presses were to be allowed to be worked except under license, and every bale was to bear a mark upon it sanctioned by Government. Inspectors were to be allowed to open bales whenever they liked, a proceeding which would no doubt cause great vexation and annoyance, and those inspectors were to be under the control of that wonderful Commissioner of Customs whose name appeared everywhere, and whose duties were as multifarious and undefined as those of a maid-of-all-work : he did not think that this scheme had anything in it to recommend it. Then again the penalties to be inflicted under the Bill were absurd ; it was easy to talk of fraud and dishonesty, but difficult to bring the offence home to the proper party. The Bill would be made the occasion for much vexatious interference and oppression, and its provisions would be very unpalatable to persons interested in the production and exportation of cotton. If the Hon'ble Member who introduced the Bill did not consent to withdraw it at once, MR. GLADSTONE would be compelled to vote against its reference to a Select Committee ; first, because, in his opinion, special legislation was not required, and also because the Bill struck at that freedom of transaction which should always exist between buyer and seller.

His Excellency the COMMANDER-IN-CHIEF thought that the Council had been placed in a position of considerable difficulty by the course which had been pursued by his Hon'ble friend Mr. Shaw Stewart, who, in the absence of Mr. Maine, had charge of the Bill. For instead of enlightening the Council on the advantages likely to flow from the measure, he had indeed made the most serious opposition speech to the Bill that could possibly be conceived. He had commenced by condemning the principles on which the Bill was founded, and by expressing a wish to change the preamble and therewith the prin-

ciple of the measure. He had also condemned the details, and told the Government that they were not sufficiently informed to enable them to frame the Bill in a satisfactory way. He moreover required us to give certain directions to the Government of Bombay, with which this Council had nothing whatever to do. And finally the Council were asked to set aside the measure, both as regarded its principles and details, although, in the concluding portion of his statement, he recommended that the Bill might be passed for the Central and North-Western Provinces. His Hon'ble friend had also stated that the Council had not that experience of the trade in cotton which existed in the West of India, and which, therefore, better qualified the Governor and Council of the Bombay Presidency to deal with such measures. Sir WILLIAM MANSFIELD happened to have been a Member of the Council at Bombay four years ago, at the time when the discussions on the Bill which was subsequently passed into an Act took place, and he was free to admit that there was then, amongst the Members of the Council of the Governor of Bombay, that practical experience of the subject in its commercial aspect which was not possessed by perhaps any Member of this Council. But he did not therefore think that this Council were precluded by that circumstance from considering the principles on which the proposed measure rested: on the contrary, he was of opinion that they were able to judge of the soundness of those principles quite as well as, and perhaps better than, persons who were themselves personally interested in the subject regarding which they were legislating. The Council here approached the subject more from an outside point of view; they had no local bias, no desire to make money by cotton; no example of success in one direction, no desire to promote such success by special legislation. This Council approached the subject from an outside point of view; they were perfectly unbiassed and unprejudiced, and he therefore thought they were at least as well fitted to deal with this subject as the Council of Bombay. The Council had heard a good deal of the difficulty of applying special legislation to matters of trade, and were told that they ought to adhere to the large principles of political economy. But HIS EXCELLENCY had long been impressed with the belief—and recent melancholy events had confirmed that belief—that a half knowledge of the principles of political economy, and a half application of that half knowledge, might land us, not only in difficulties, but perhaps in lamentable and far spreading calamity. The arguments urged by the Hon'ble Member who had spoken last, HIS EXCELLENCY had heard *usque ad nauseam*, four years ago, when a similar measure for the Presidency of Bombay was discussed, which was finally carried after the most careful consideration of the necessities of the industry concerned, and the great interests at stake. He ventured also to think that the Hon'ble Member was mistaken

when he said that Mr. Michael Scott was induced to introduce that measure owing to the desire of the Bombay merchants to recover themselves from the calamities which had befallen them.

[The Hon'ble MR. GLADSTONE explained that he had said that the Bombay merchants wished to protect themselves from the losses they were likely to sustain from the extensive transactions they were engaged in at that time.]

HIS EXCELLENCY was willing to accept the explanation that had been offered, but thought that the Hon'ble Member was wrong in his statement. The dates did not justify the remarks that had been made. The measure referred to was brought forward at a time when Bombay had attained that point of commercial prosperity which had never been known in any other part of India, never perhaps known in any part of the British empire, with the exception perhaps of its capital. So far from there having been, then, any calamity or anticipation of calamity, HIS EXCELLENCY was in a position to state that the exact converse was the case. The debates on the Bombay Cotton Frauds' Act took place in the year 1863, and there was not a thought of any calamity, no suggestion or hint that even the shadow of a calamity would come over the prosperity of Bombay till a year and a half after that date. Therefore as having taken part in the deliberations which resulted in that measure, and on behalf of the absent friends with whom he was then associated, he must say that a most mistaken statement had been made as to the circumstances under which the Bombay Act was introduced and passed. That measure had been, he believed, originally suggested so far back as 1860. It was finally passed into law after prolonged enquiry and argument, and was indeed proposed and carried by them who had the good of the country strongly at heart.

But to revert to the principle of the present Bill. HIS EXCELLENCY had not had time to look over it in detail. It had been said that they had no experience of such a measure being required on this side of India, but should they not recollect that the contingency provided for by the Bill was one which was every day occurring? HIS EXCELLENCY thought that this was a matter so well known that it required no special experience in trade to be certain of the fact. Everybody who had ever lived in the south or, he supposed, even in the north, of India must be well aware that what had led to the measure was the total impossibility of preventing the constant defilement of cotton with dirt and other substances, which took place before the bales were delivered into the hands of exporters. Surely every one was conversant with the extreme difficulty attendant on the bringing of pure cotton to the ports of exportation, and with the despair of all those who had anything to do with it. They all knew

of the representations which had been made by the Chambers of Commerce in England of the adulterated state of Indian cotton, and that at last it had been said that it was impossible to depend on the purity of a single bale. The Bombay Act had been introduced much more in consequence of the representations which had come from England, than from any pressure from this country, though, no doubt, those representations had been supported by the merchants at Bombay. It was, he believed, admitted on all sides that an improvement had been effected by the Act of 1863. In the quotation which had been read by his Hon'ble friend who introduced the Bill, if HIS EXCELLENCY'S memory was right, it was clear that the Bombay Chamber of Commerce had it in their own minds that the Act effected an improvement, because they said that the improvement which had taken place was not to be attributed *solely* to the operation of the deterrent measure of 1863. The improvement, therefore, was not to be attributed solely, but in a great measure to that Act; and HIS EXCELLENCY thought the Council ought to be satisfied with that as a good reason for approaching the measure now before them with the fairest and amplest consideration. As to whether they altered the preamble and called the measure an Improvement Act, rather than a Cotton Frauds' Act, that would not make much difference, because, if the object was to compel the ryots and producers to bring pure cotton to the market, there must be penal clauses. HIS EXCELLENCY would therefore ask the Council to enter on the discussion of the measure, not in the spirit of absolute condemnation, such as that evinced by Mr. Gladstone, nor in the tone of wholesale criticism, such as that to which they had listened from Mr. Shaw Stewart, but that they should give at least as much weight to the representations of those Chambers of Commerce in England who had taken an interest in the subject, and, as he understood, were satisfied with what had been done, as to that letter from the Bombay Chamber of Commerce which the Council had heard read to them today. When Mr. Maine obtained leave, last summer, to introduce this measure, he gave the Council to understand that, generally, the Bombay Act had been successful; HIS EXCELLENCY had listened, therefore, with great surprise today to much of the letter which had been read to the Council by Mr. Shaw Stewart, and which to a certain extent, he was at a loss to comprehend.

The Hon'ble MR. SKINNER cordially joined with His Excellency the Commander-in-Chief in the desire that this Bill might meet with fair consideration from the Council; but having listened attentively to His Excellency's remarks, and to those which fell from the Hon'ble Member in charge of the Bill, he confessed that he had failed to see that any case had been made out

for this Council to legislate upon. It was not much to the point to say that the Bombay Cotton Frauds' Act had worked successfully, and had given great satisfaction to the Liverpool and Manchester traders. The cotton-dealers whose frauds were said to have been successfully checked were certainly not to be commiserated, because the law had taken their malpractices into special cognizance; while, on the other hand, the Liverpool and Manchester houses might well be congratulated on the advantage they possessed in being able to carry on their business under safeguards which were not extended to transactions in other produce, though it might have been expected, as the natural result of so beneficial a measure, that we should have seen at least a considerable falling off in the exportation by them to this country of adulterated cotton goods. He was not sufficiently familiar with the trade-usages in the Western Presidency to understand what special grounds existed there for a measure of this sort; but so far as his own experience went, there were none on this side of India, that did not apply to such products as jute, indigo, rice, silk, and even, he might say—as he said with all deference to the Government—to opium, as well as to cotton; and he could, with regard to each of these articles, adduce instances in which fraud had been practised while the goods were in their transit to market. So far as concerned any improvement in the quality of the cotton sent home from this country, he did not think the Bombay Act had effected much in this direction; for, as the latest accounts of the Home market showed, India-grown cotton had acquired no higher status there than it enjoyed previously to the outbreak of the American war, which had given the great stimulus to the cultivation out here. He was, on general principles, inclined to leave the correction of the evil that had been complained of, to the operation of the ordinary laws governing transactions between buyer and seller; and, at all events, if any special measure were needed for the protection, in the manner indicated, of trade interests in this country, it was not by piecemeal legislation of this sort that it was to be provided. It seemed to him that, if the Council were to admit the principle of the present Bill, it would be giving its sanction to a precedent that might hereafter be found to be extremely inconvenient. Holding the views he did with regard to the principle of the Bill, he had not thought it necessary to go through the different provisions of which it was composed; and he was unprepared, therefore, to discuss its details. Having failed to give notice of his intention to move an amendment to the motion for the introduction of the Bill, he understood that he was, by the rules of the Council, now debarred from proceeding in that form; but, if it would meet the convenience of the Council, he would with the President's leave, propose that the debate be adjourned. It would otherwise be his duty, at once to vote for the rejection of the Bill.

The Hon'ble MR. HOBHOUSE wished to say a few words as to his reasons for voting that the Bill be referred to Committee. As far as he understood Mr. Shaw Stewart's present intention as regarded this Bill, he proposed to confine it simply to the enactment of the penal clauses, and to extend its provisions only to the North-Western Provinces and the Central Provinces. Those clauses went to inflict certain punishments on persons who should adulterate or deteriorate cotton in a particular way, and who fraudulently and dishonestly sold the same. It seemed to MR. HOBHOUSE that those clauses were in themselves very severe, and that for any one to introduce into a Bill special clauses of that nature, some sort of *prima facie* case should have been made out, and he did not think that the Hon'ble Member had shown sufficient reason for the enactment of those clauses. He had not in the first instance told the Council what the frauds were that he would provide against, and MR. HOBHOUSE himself had not had access to any papers showing what the frauds were that the Bill was intended to meet, nor what it was the Bill was intended to improve, nor in fact had he had access to any papers at all on the subject of the Bill. He had, however, gathered from the extract which had been read from the Bombay Chamber of Commerce's report, that they did say, as His Excellency the COMMANDER-IN-CHIEF had pointed out, that some sort of amendment in the way of cotton frauds had been brought about by the Bombay Act. That was one reason why the Council ought to consider in Committee the present Bill, which in substance resembled the Bombay Bill, although in arrangement and wording it differed considerably. His conviction that the Executive Council would not have sanctioned the introduction of the Bill if there had not been very good reasons for introducing it, also influenced him in voting for the reference of the Bill to a Committee.

The Right Hon'ble MR. MASSEY said, it must be admitted that the Hon'ble Mover had introduced the Bill in a manner which showed that he was not entirely satisfied as to the expediency of the measure; but notwithstanding this doubt, and the adverse opinion of the Bombay Chamber of Commerce, he had thought fit to move that the Bill should be referred to a Select Committee. The Bill had moreover encountered determined opposition at the hands of those Members of the Council who were engaged in commerce; their objections were founded on those broad principles of political economy with which they were all familiar. For his own part, MR. MASSEY must say that the Bill was not defensible on those principles which had so long prevailed in England, and which had resulted in such signal success. He had lived long enough in India, however, to discover that the strict application of the doctrines of political economy was not suited to the circumstances and peculiarities

of this country. They must consider every measure on its own merits, and with reference to the circumstances justifying its necessity, and must be prepared to depart from or compromise any principle the practical application of which might not be expedient. He was, himself, an old free-trader; he fully approved of the principles which had guided the commercial policy of England for the last twenty years; and he should be very sorry to see that policy reversed in any particular. But the Council had to consider the peculiarities of the cotton trade in this country. MR. GLADSTONE and MR. SKINNER had asked what reason there was for applying the law to cotton, and not extending it to the other staples, but the answer was obvious. The facilities for adulterating cotton were very much greater than in the case of any other staple; and if we desired to promote the export trade in India, and to place the cotton of this country on the same footing as the cotton grown in other countries, we must advert to the peculiarities of the local trade, and provide means to prevent those fraudulent practices which, if left unchecked, would result in the destruction of this branch of commerce. What was the present state of the trade? Recent advices from England told us of falling markets, and falling markets meant difficulty in introducing our staples, and warned us to place them in such a position as to stand competition. If you exported cotton unfit for English manufacture, the result would be depreciation in the market and ultimately disappearance of the trade. We were no longer in that position when it might be said that we had the command of the English market, and that the manufacturers of Manchester were at our feet. The American war had ceased, and the cultivation of cotton had recommenced in the southern States of the Union. He spoke without book, but his impression was that the number of bales which were coming from America to the Liverpool market this season was nearly double the number that arrived there last season. Moreover, the closure of the American market had stimulated the growth of cotton in other parts of the world, and now, so far from enjoying a monopoly, we had to encounter formidable rivals in those other countries which had recently, with more or less success, addressed themselves to the cultivation of cotton. He must, therefore, say that any measure for improving the production of cotton in this country was recommended by the highest considerations of policy; and if he found that the present state of affairs was remediable by legislation, he should not be deterred from supporting this Bill, or a similar measure, by any pedantic adherence to the strict doctrines of political economy. If India was still to command the confidence of English manufacturers, we must take every means in our power to promote the production of cotton suitable for their purposes. He did not wish to speak harshly of the Native cultivators, but if, as he believed, there was a chronic state of fraud in

this, as in many other transactions of this country, we must encounter that fraud at its source, and prevent the cultivator from pursuing the short-sighted policy of enhancing his gains by adulterating his commodities. The details of the Bill were of course open to criticism, but the two questions at present were, first, whether, under the special circumstances, interposition on the part of the legislature was necessary, and, secondly, whether the Council were satisfied that such interposition could be carried into effect without a system of inspection such as the Bill provided? The cost of the necessary establishment would be inconsiderable, and he did not gather that the objections to the Bill rested on the enhancement of the price of the article which would be caused by the fees proposed to be levied from the cultivator or exporter. These he thought were matters of detail which might require consideration. But he should be sorry if the Committee should recommend, from a paltry economy or fear of interference with the freedom, or rather license, of the trade, any alteration which might hamper the vigour and efficiency of the Bill. On the contrary, he hoped that the inspectors would be armed with ample powers to carry the proposed Act into effect. If such powers were not given, he would prefer to put a stop to the Bill altogether.

Some observations had been made as to that provision of the Bill which empowered the Government of India to extend it to the territories under the Local Governments. That provision, however, conferred no absolute power on the Governor-General: it was only permissive, its object was to obviate the necessity of future legislation, and MR. MASSEY thought the Council might have sufficient confidence in the discretion and moderation of the Government of India as to the exercise of that power. Mr. Shaw Stewart had also referred to the subject of fees. He thought that the discretionary power given to Government to fix the amount of fee which should be levied was unreasonable. The fee at present was limited to four annas, and MR. MASSEY would have no objection to limit the amount of fee to that sum; but he thought the Council would only starve the Bill and cripple its provisions if they were to be actuated by any spirit of false economy in stinting the establishments which it proposed to create, or if they were to be influenced by any illusory notion that the exportation of the commodity would be checked by the imposition of a small export fee. This Bill had been spoken of as if it were an innovation proposed today. He need hardly remind the Council that a similar measure was passed more than four years ago, and although its successful operation had been recently questioned by the principal commercial authority in Bombay, the

Chamber of Commerce, he must set against that the positive opinions of the Liverpool and Manchester Chambers of Commerce, who were quite as good judges as the local Chamber of the effect of the Bombay Act on Indian cotton. He hoped that the Hon'ble Members of Council who were interested in commerce would not persevere in their opposition, but suffer the Bill to go to a Select Committee, and he trusted the Hon'ble Members would give the Committee the advantage of their assistance in revising the Bill.

His Excellency the PRESIDENT said that, whatever might be the eventual fate of the Bill, he hoped that the Council would suffer it to go into Committee. So much was due, not only to Mr. Maine, under whose superintendence the Bill was framed, but also to the general demand both in England and this side of India for some such Bill as the present. The Bill originally passed in Bombay, and now law, had been in force since the month of June 1863; that was the date on which it received the assent of the late Governor General Lord Elgin. Since that time the general impression had been that the Act had worked successfully on the Western side of India, and considerable benefit had arisen from its provisions. Not long ago he had seen in one of the Manchester newspapers a strong opinion to that effect. We knew also that the Bombay Government had, on various occasions, expressed opinions strongly favourable to the working of the measure. The Chief Commissioner of the Central Provinces had also advocated the extension of its provisions to the territories under his charge, and since the draft of the present Bill had been published in the *Gazette of India* on the 17th of August last, there had been no objection received against the Bill, except the one which Mr. Shaw Stewart had read. On the contrary, the Government of the North-Western Provinces had distinctly stated their desire for its introduction into those territories. Such being the case, it seemed to the PRESIDENT that the Council were bound to go on with the Bill. If any part of its provisions were unduly severe, and likely to be oppressive in any way, the experience of the working of the Bombay Act would enable the Committee to correct the Bill in this respect. As regarded the matter of fees, the PRESIDENT thought that question might be safely left to the judgment of the Governor General in Council. Everyone knew that there was no desire to raise one anna more than would be required to work the Bill: whatever that cost might be, fees would be levied to that extent and no further, and even if the Government were so unwise as to endeavour to levy any sum beyond what was required for the necessary working of the law, public opinion would be irresistibly against them.

The Hon'ble MR. SKINNER, with the President's leave, wished to make a few remarks before the debate closed. He wished to draw attention to what seemed to him a fallacy in the arguments used by Mr. Massey in supporting this Bill. He thoroughly concurred with the Right Hon'ble Member in thinking that, having regard to the great importance to India of its cotton trade, every exertion should be made to extend and improve the cultivation of the article, though he might differ with him as to the means to be employed towards that end; but the Right Hon'ble gentleman seemed to treat the question before the Council as if the suppression of cotton frauds were, in that sense, an experimental measure. He begged to remind the Right Hon'ble gentleman that the Bombay Cotton Frauds' Act had been passed, if he remembered aright, in 1863, so that it had now been four years in operation, and the present position of the Home market did not, he thought, confirm the view taken of any improvement having, during that interval, been made in the quality of the Indian produce.

The Hon'ble MR. SHAW STEWART said, that His Excellency the Commander-in-Chief had forestalled, and expressed in far stronger words than he could use, the remarks which he had intended to offer in defence of the motives of those who passed the Bombay Cotton Frauds' Act of 1863. He would therefore say no more on that subject. He was charged, both by the Hon'ble gentleman who spoke directly after him, as well as by Sir William Mansfield, with having failed to explain clearly to the Council the state of matters that had necessitated the present Bill, or to describe the fraudulent practices common in the districts to which it was to be extended. But in that matter he must submit to the Council that he found himself in a difficulty. The state of the case, as known to the original proposer of this Bill, the Hon'ble Mr. Maine, was described in the Statement of Objects and Reasons that was before every Member of the Council, and, so far as he knew, no information whatever of a nature to commend the measure had been received by Government since then, nor had he any local knowledge of the subject on which to draw. He must explain a fact which he intended to have reserved for consideration by the Select Committee, that much of the information received by Government since the Bill was published, was, in respect of those points that he had referred to, opposed to its adoption as a whole. His Excellency the Commander-in-Chief also disapproved of his proposal to modify the scope and object of the Bill, but he must remind his Hon'ble and gallant friend that this change was recommended, not only by the Chamber of Commerce of Bombay, at the suggestion of the Bombay Government, but also, as already stated

by him—though on that point he spoke from recollection—that the change of system had been approved of by the Secretary of State. He had therefore good authority for saying that the question of the proper scope of the Bill would be one for the Committee to consider.

Mr. Massey appeared to have gathered from his speech that he had an unfavourable opinion of the proposal to extend this Bill; but this was far from his opinion, and it was certainly a grave omission on his part if he had failed to impress this upon the Council. He thought, however, that he had fairly stated the difficulties that would occur if they attempted to pass the whole Bill at once, and that he had recommended emphatically that the penal clauses for prohibiting fraudulent adulteration and deterioration should be introduced into the North-Western and Central Provinces, and that further legislation should only be postponed till the information before them was sufficiently precise. He might say that he did not agree with the condemnation of the Bombay Act that had been recorded by the Bombay Chamber of Commerce. He believed that it had done much good, and at the same time he thought it admitted of improvement. With reference to the Right Hon'ble gentleman's remarks on the subject of section 2 of the Bill before them, he had only to repeat what he had already said, that the section referred to was in direct opposition to the opening sentences of the Statement of Objects and Reasons published by the original proposer. Whether or not the fees should be unlimited would be hereafter considered. He would in the meantime remark that the Bombay Chamber of Commerce had shown that, even at the low limit to which the fees were kept by the Bombay Act, they amounted to a tax of nearly a quarter per cent. on the value of cotton as then ruling. He trusted that the Council would by an unanimous vote permit this Bill to be referred to a Select Committee, and that the result of that reference would be that they should be able to pass an Act that Session, making penal the adulteration and deterioration of cotton in the North-Western Provinces and in the Central Provinces.

The Motion was put and agreed to.

The Right Hon'ble MR. MASSEY moved that His Excellency the Commander-in-Chief be added to the Select Committees on the following Bills—

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

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

The Motion was put and agreed to.

The following Select Committee was named :—

On the Bill for the suppression of Frauds in the Cotton Trade—
His Excellency the Commander-in-Chief, the Right Hon'ble Mr. Massey, the Hon'ble Messrs. Hobhouse, Skinner and Steuart Gladstone, and the Mover.

The Council adjourned till the 3rd January, 1868.

CALCUTTA, }
The 20th December 1867. }

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