

Friday, January 05, 1866

**COUNCIL OF THE GOVERNOR GENERAL
OF INDIA**

VOL. 5

JAN. - DEC.

1866

P. L.

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 5th January, 1866.

P R E S E N T :

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

His Honour the Lieutenant-Governor of Bengal.

His Excellency the Commander-in-Chief.

The Hon'ble H. Sumner Maine.

The Hon'ble W. Grey.

The Hon'ble G. Noble Taylor.

The Right Hon'ble W. N. Massey.

The Hon'ble Colonel H. M. Durand, c.B.

The Hon'ble J. N. Bullen.

The Hon'ble Mahárájá Vijayaráma Gajapati Ráj Bahádúr of Vizianagram.

The Hon'ble Rájá Sáhib Dyál Bahádúr.

The Hon'ble W. Muir.

The Hon'ble Mahárájá Dhíraj Mahtab Chand Bahádúr, Mahárájá of Burdwan.

The Hon'ble D. Cowie.

The Hon'ble Stewart St. John Gordon.

PLEADERS AND MOOKHTARS' ACT EXTENSION BILL.

The Hon'ble MR. MAINE, in moving for leave to introduce a Bill to extend Act No. XX of 1865 (to amend the law relating to Pleadings and Mookhtars) to the Sudder Court of the North-Western Provinces, said that, the Act referred to in the motion did not extend to the High Court of Bengal nor to the Sudder Court of the North-Western Provinces. The reason of the exemption of the latter Court was, as the Judges of that Court had justly conjectured, that its conversion into a High Court was supposed likely to occur before the Bill came into operation. The Government of India had not received any positive official information concerning a High Court for the North-Western Provinces, but there was reason to think that its establishment was contemplated, and he believed the delay to be attributable to the necessity imposed on Her Majesty's Government by a Statute of last Session of issuing new Letters Patent to the older High Courts before a certain date. Meantime the day for

.

1

the coming into operation of Act XX of 1865 had arrived, and the Judges of the Sudder Court wished to have the power of making rules under it for their Pleaders and Mookhtars. At their instance, and at that of the Government of the North-Western Provinces, he proposed to introduce this Bill.

The Motion was put and agreed to.

SUMMARY PROCEDURE ON BILLS OF EXCHANGE BILL.

The Hon'ble MR. MAINE introduced the Bill to provide a summary procedure on Bills of Exchange, and to amend, in certain respects, the Commercial Law of British India, and moved that it be referred to a Select Committee, with instructions to report in six weeks. He said, he had little to add to the observations which he offered when he obtained leave to bring it in. As to section 11, he had been in communication with the Hon'ble Rájá Sáhib Dyál, and had ascertained from him that hundís were universally accepted in writing when accepted at all; but, as he (MR. MAINE) had anticipated, they were generally made payable after date, not after sight, and thus did not require any acceptance. The first part of section 12, he (MR. MAINE) proposed to leave as it stood. The Stamp Act defined a foreign bill, as a bill drawn out of British India, and it was most dangerous to have such a bill defined one way for purposes of the Stamp Act, and another way by commercial usage. But in Committee, he would propose to add a proviso that, when a Bill in any part of India was protested, the notarial attestation should be received in all Courts as *prima facie* evidence of dishonour.

The Hon'ble MR. COWIE said that he had been prepared to state his strong objection to section 12, under which a merchant here who might receive a dishonoured bill back from Bombay or Madras, would be compelled to resort to the expensive process of the issue of a commission to prove its presentation. The change in the Bill which the Hon'ble and learned Member had now announced was quite satisfactory.

The Hon'ble MR. BULLEN said, that he had not a word to say in opposition to this Bill going into Committee. On the contrary, he thought that his Hon'ble and learned friend (Mr. Maine) was entitled to the thanks of the mercantile community for the endeavours he was making, by the introduction of this and other Bills which he had brought into the Council that Session, to import into the Commercial Code of India those improvements in commercial legislation which of late years had been adopted in England. He agreed with what had fallen from his hon'ble friend opposite (Mr. Cowie), as to the desirableness of continuing the present practice by which a notarial protest was accepted as *prima facie* proof of dishonour of an inland equally with a foreign bill, and was glad that the hon'ble gentleman (Mr. Maine) had expressed himself

willing to modify to this end, in Committee, section 12 of the Bill as printed. He (MR. BULLEN) would be glad to see the principle of the bills of lading Act, No. IX of 1856, which was copied from the English Statute 18 & 19 Vic., cap. 3, extended to policies of insurance. By the custom of merchants, the interest in those documents was transferable by endorsement, as in the case of bills of lading, but by law the contract between the underwriter and the assured could not be so transferred. When, therefore, an action had to be brought on a policy, it could only be brought in the name of the party to whom the policy had been granted, which was frequently productive of inconvenience. The principle was the same as that conceded by the bills of lading Act, and he thought it worthy of the consideration of the hon'ble gentleman (Mr. MAINE) whether it might not be extended to contracts of assurance also.

The Hon'ble MR. MAINE thought the suggestion well worthy of consideration.

The Motion was put and agreed to.

RURAL POLICE ACT AMENDMENT BILL.

The Hon'ble MR. MUIR presented the Report of the Select Committee on the Bill to amend Act No. II of 1865 (to provide for the maintenance of the Rural Police in the Territories under the government of the Lieutenant-Governor of the North-Western Provinces and elsewhere). He said that a new section had been introduced by the Select Committee to meet an objection made by the Hon'ble the Lieutenant-Governor of the North-Western Provinces. According to that section, the local administration was authorized to lay down rules limiting the extent and exercise of the authority conferred by the first section on the Collector. As the Report would then have been in the hands of Members for a sufficient period as provided by the standing Rules of the Council, he proposed next week to move that the Bill be taken into consideration and passed.

CRIMINAL PROCEDURE ACT AMENDMENT BILL.

The Hon'ble MR. MAINE, in moving for leave to introduce a Bill to amend Act No. XXV of 1861 (for simplifying the procedure of the Courts of Criminal Judicature not established by Royal Charter), said the measure had been prepared at the urgent representation of the Governments of Madras and Bombay, and in part at the instance of the Governments of Bengal and the North-West. The necessity for the proposed change might be shortly described by stating that the Code attributed the cognizance of certain minor offences of common occurrence to a too dignified tribunal, that was, to a tribunal whose ordinary business was such that its time ought not to be taken up

with trying petty cases, or which was at too great a distance from the localities at which most of these offences were committed. The latter was the serious objection. When in India, a petty offence was tried at a great distance from the place of its commission, one of two things happened—either the prisoner, prosecutor and witnesses were exposed to disproportionate hardship, or the offence was hushed up to prevent that hardship, the latter result being the commoner when the injury to the person aggrieved was not very great. It was natural that complaints on the subject should come chiefly from Madras and Bombay, for in those Provinces, and especially in Bombay, the districts were of great extent, so that the removal of the prosecutor and witnesses to the sudder station almost amounted to expatriation. The first particular in which MR. MAINE proposed to alter the Code was in respect of theft in a building or tent. As the classification of jurisdictions in the Code of Criminal Procedure pretty closely followed the scale of punishments in the Penal Code, theft in a building had been made cognizable by a higher tribunal than common theft, because the penalty was severer. Now he must confess that the considerations which in Europe justified the imposition of a heavier penalty on theft in a dwelling-house than on theft in the open air, appeared to him scarcely to exist over much of India. It was no doubt assumed that thefts in a dwelling-house were ordinarily committed by persons standing in some relation of confidence to the owner, or that there was a greater amount of criminal intention on the part of a person who secreted himself in a house for the purpose of stealing. But the assumption did not hold good in a country in which the houses were mostly open day and night, and it would be difficult to point out any moral distinction between the act of a man who took goods from a bullock-cart and that of one who took property from a Native house by walking into it or putting his hand under the uplifted corner of a mat. The Penal Code was, however, intended to apply to stealing in houses of all descriptions, and hence no doubt the English distinction was maintained. The result, however, was described as very unfortunate in the Mofussil, where this form of theft was exceedingly common, but under the present law was either committed with impunity, or punished at the cost of much annoyance to the prosecutor and witnesses. He therefore proposed to make theft in a building, vessel or tent punishable by the same tribunals as ordinary theft. It would be understood that the relative powers of Magistrates would remain unaltered. If the offence were really petty, it would be punished by a Magistrate of the lower grade; if there were circumstances of aggravation, it would be sent on by him to a superior authority. MR. MAINE further, at the instance of the North-Western Sudder Court, proposed to make grievous hurt punishable by the same judicial authority as simple hurt. It was represented that the time of the Courts of Session was needlessly taken up in trying cases

which only differed from hurt in the dislocation of a finger or the breaking of a tooth. The last change to be made consisted in enabling Magistrates of all grades to try charges of fouling a reservoir, or rendering the atmosphere noxious. It was difficult at all times to get the Natives of India to regard the rules of sanitary science, and to give information to the Police of acts which they looked upon as harmless: much greater must be the difficulty if the hardship of a long journey was inflicted on all who revealed the nuisance. The Local Government had suggested other changes, but, though something might be said for them, the trial of the offences named was likely, as a lawyer would perceive, to give rise to delicate questions, so that there were independent reasons for confiding trial to a Court of some dignity. Such alterations had better be reserved for that general revision of the Code of Criminal Procedure, which could not be far distant. The points now dealt with were pressing.

The Motion was put and agreed to.

COURTS OF REQUESTS (STRAITS SETTLEMENT) BILL.

The Hon'ble MR. MAINE moved that the Committee on the Bill to enlarge the jurisdiction of the Courts of Requests in the Settlement of Prince of Wales' Island, Singapore and Malacca be re-constituted. He said that the Bill had proceeded as far as a Committee, but its progress had been arrested, through the impression which prevailed that the Settlement would shortly be disannexed from India. That event, however, seemed further off than was once supposed, and he wished, at the instance of the Straits Government, to proceed with the Bill.

The Motion was put and agreed to.

GOVERNMENT PAPER CURRENCY ACT AMENDMENT BILL.

The Right Hon'ble MR. MASSEY introduced the Bill to amend Act No. XIX of 1861 (to provide for a Government Paper Currency). He said that in moving that the Bill which he had asked leave of the Council to introduce a fortnight ago should be passed through its remaining stages, he would make a very few observations in addition to the statement which he then offered to the Council. Since that statement was made, a meeting had been held by a highly respectable body, which he might say represented the commercial interests of this Presidency, for the express purpose of considering the measure; and although that meeting had not resulted in any expression of opinion hostile to the Bill, he should perhaps be wanting in that respect which he felt for those gentlemen if he simply moved that the Bill be passed through its subsequent stages without further explanation.

b

The object of this Bill was simply to restore the Currency Department to its proper function, which was the issue of paper and not of coin—of paper as a substitute for specie whenever the public desired to avail themselves of a more convenient medium of circulation; and of coin only in exchange for the paper which represented it.

The whole reserve of silver represented Notes in circulation and nothing more. Those reserves could not be appropriated to any other purpose without endangering the convertibility of the Notes, and thereby jeopardizing public credit.

He had explained on the former occasion the circumstances which rendered it necessary, in the opinion of the Government, to make some alterations in the existing Currency Law. If those alterations were not assented to, the Government must take one of two courses. They must maintain in the principal Circles of Issue a very much larger reserve in specie than was necessary for the legitimate purposes of the Department; in other words, they must realise wholly or in part that proportion of the fund which was invested in securities,—a proportion which, in the opinion of the late Mr. Wilson, should always amount to two-thirds of the Issue. The Government of the day, however, limited the reserve of Securities to the amount of four millions sterling, and nearly to that extent reserves of coin had been already invested. If therefore we were driven to convert the Securities, the charge imposed on the Government would be £200,000 a year, and the remaining Securities, which are the property of the public, would be depreciated if any large amount of the stock which had been withdrawn were thrown back upon the market. Such a course would not be advocated by any Member of that Council, and was one which no man of business outside would venture to propose.

But if this course were not adopted, we must be prepared at all times to pour into the Currency Circle which was under pressure the amount of coin which might be necessary for its relief. Now he would say at once that the Government was not prepared to undertake that duty. The distances in this country were very great, and the communications were not yet in that advanced stage which he trusted they would ultimately attain; but even if all such facilities were perfected, the dislocation of our monetary arrangements by the sudden transfer from one place of deposit to another of cash, which was distributed with reference to the exigencies of the public service, would always be attended with great inconvenience and cost, and might seriously affect the public credit. He had said that they had already invested Securities to the amount sanctioned by the Act. That amount represented one-half the amount of the paper in circulation. During the last month alone, bullion to the value of a

million and a quarter pounds sterling had been cashed in one of the Presidency Towns. Therefore, if the demand on the Department was to go on on that scale, they would have no alternative but to realise Securities.

But there was a third alternative. It had been suggested that the present difficulty had been caused by the reduction of the cash-balances. It might be sufficient for him to say that he was not responsible for that reduction, and that the Government as at present constituted was not responsible for that reduction. He would not say whether that diminution was politic or not. They had only to deal with the fact, and it was well known to all who heard him, that the reserves at the present moment were not in surplus, and that they could not hope from the spontaneous action of their existing revenue, that the cash-balances would be raised to the amount which they formerly attained. But if they had a surplus of revenue in their treasury, in his opinion that surplus would be demanded by other objects than the accommodation of dealers in bullion. There was no probability that any part of the cash-balances would ever be appropriated to any such purpose.

This brought him to the question, what public benefit was to be derived from maintaining the present facilities afforded to the importers of bullion? Were the interests of commerce concerned? Was the general prosperity of the country involved in maintaining this anomalous charge on the Department of Issue? As the question had been raised, he must say that there was no pretence whatever for any such assertion, and that the benefit derived from the present state of the law was a benefit which was enjoyed merely by individuals, and which accrued to the advantage of a certain class of speculators. In his judgment it was a benefit which did not conduce to the welfare of the country, or the sound interests of commerce. He was very glad to think, from the proceedings which took place at the respectable assemblage which was held the other day, that he was not called upon to urge these arguments further, or to contend at any length in favour of this Bill. The resolution to which the Chamber of Commerce came was one with which he had no fault to find. It did very little more than reiterate what he himself stated when he had the honour to move for leave to introduce the Bill. It enjoined on Government the desirability of not resorting to the power of refusing to cash bullion except in cases of necessity. That was precisely the course which the Government wished to take. The Bill was one simply of precaution and safety. It was not intended to withhold from the bullion trade the accommodation which it enjoyed; but at the same time it was not proposed to make any special concession to that trade. It was manifestly the duty and one of the functions of the Currency Department to take bullion in exchange for

Notes, when there was reasonable ground to suppose that the Notes so exchanged would go into circulation. It was not, however, the duty of the Currency Department to go on cashing bullion for the benefit of private individuals, and thus continue a course in no wise redounding to the benefit of the public.

There was one part of the resolution of the Chamber of Commerce to which he would now refer. They expressed a hope that the capacities of the Mints would be enlarged so as to enable them to deal with the great and growing importations of bullion. It would seem from that expression of opinion that the present powers of the Mints were supposed to be below par, and that sufficient energy had not been displayed by the Department in meeting the extended requirements of Indian commerce. That opinion, if it did exist, was altogether unfounded. He had provided himself with authentic information on the matter. The principal Mints had been considerably increased. A second Mint had been established at Bombay in the year 1864-65; the outturn of silver coinage had been doubled. If we compared the operations of our Mints with those of the Royal Mint in England, it would be found that we were greatly in excess, not only in capacity but outturn. That was not surprising, because the basis of currency in India and in England were totally different. The power needed to coin a million in gold was only one-tenth of what was needed to turn out a million in silver. As long as you maintained silver as the basis of your currency, there could practically be no means of enlarging the Mint Department so as to enable it to meet great and sudden influxes of specie.

At the same time, so far as its present powers were equal to the emergency, he could confidently say they would not be spared. He had made enquiries in the proper quarter. He had pressed upon those charged with the administration of the Department the necessity of using every exertion to enlarge the powers of the Mint; and he believed he might promise the Council that, large as that capacity now was, and great as the exertions of that Department had been, the capacity would be enlarged and the exertions increased.

He hoped that explanation would be sufficient to satisfy the Council that he was not hastily, and unnecessarily on the part of the Government, urging a greater departure from the provision of the Currency Act than was really called for. As he said before, the real difficulty lay in our having a currency based on silver and not on gold. The work of a Mint was to be estimated, not by the value of its outturn, but by the number of pieces of which that outturn consists. If you had to use ten times the labour and employ ten times the capacity than would otherwise be necessary, it was not

fair to charge the Mint with the inconvenience imposed on a person impatient to convert his bullion into coin.

He did not know whether any gentlemen present wished to make any observations. He should be happy to hear any comment which might be made, and with the short explanation he had now given, he would reserve any further observations for his reply to the remarks of Hon'ble Members, especially those connected with the mercantile community.

The Hon'ble Mr. COWIE said that a fortnight ago he expressed in this Council his opinion of the reasonableness of this measure, and he had heard nothing since to make him change that opinion.

He had heard with pleasure the Right Hon'ble Member's promise of improvements to the working power of the Mints, though it was somewhat contradictory to the opinion he understood him to express that these large importations of silver were no such great benefit to general commerce. The flow of bullion to this country was, he (Mr. COWIE) submitted, a real benefit, and whatever facilities could be given to the rapidity of its conversion would be an advantage to all.

The Hon'ble COLONEL DURAND observed that the Bill made no change in the negotiability of the certificates. He doubted therefore whether its effect would be as great as was anticipated by the Right Hon'ble gentleman; for so long as these certificates remained negotiable, the holders might apply to the Banks or Capitalists and obtain Government Notes, which would be taken to the Department of Issue, where they would at once be converted into coin, as at present. No doubt the Government would gain a few days; but the measure struck him as so moderate that it was likely to prove somewhat ineffective.

The Hon'ble Mr. BULLEN said he was sorry to hear some observations which fell from the Right Hon'ble gentleman, which conveyed the impression that he entertained different opinions from those which had been expressed by the late Mr. Wilson as to the importance of making bullion available for the purposes of commerce as soon after importation as was possible, and which had led him to introduce into the Government Currency Bill a provision placing the Department of Issue on the same footing, in respect to the issue of Notes in exchange for bullion, as the Issue Department of the Bank of England. He of course admitted that the analogy between the two countries was not complete. In England, Notes sufficed for all purposes of internal trade, and it was only when bullion required to be sent abroad to correct the exchanges, that they were returned to the Bank to be exchanged for coin. In India on the contrary, owing to the limited circulation which the Notes enjoyed, there was

a constant drain of coin into the interior. Still he could not quite agree with the Right Hon'ble gentleman when he said that the exchange of Notes for bullion was no proper part of the functions of the Issue Department. That the paramount consideration must be absolute security for the convertibility of the Note-circulation, he at once admitted, and to that the convenience and even the interest of the bullion importer must be entirely subservient. He thought that a great part of the opposition which was felt against this measure outside arose from the grounds on which the Right Hon'ble gentleman had justified it in his speech on that day fortnight. He had then stated that he put the necessity for this measure on no higher ground than that of the expense and inconvenience entailed on the Government by moving large sums of money from one Presidency to another. Of course the answer to that was, that the Government made a large annual profit out of the limit at the expense of the bullion importer. That profit amounted to nearly twenty lakhs a year. Again, the Government made a further large annual profit out of the interest on the Securities on which the reserve in the Currency Department was invested. This was another twenty lakhs, and, receiving that large profit, bullion importers argued, and as it seemed to him (MR. BULLEN) not unreasonably, that when the necessity occasionally arose of fortifying the reserve of bullion in the Issue Department at any one Presidency, the cost of doing so might fairly be undertaken by the Government. The Right Hon'ble gentleman had referred to the amount invested out of the currency reserves, and quoted the opinion held by Mr. Wilson that a reserve of one-third in coin was a sufficient reserve to keep in the Issue Department. No one charged the Government with having invested a larger proportion of the reserves than they were entitled by law to invest; but looking to the fact that a pressure for coin might have been expected to be felt at Bombay at this season of the year, he did think it exhibited a want of foresight on the part of the Executive Government, that with a circulation of under three crores, no less than 187 should have been invested in Securities. The Right Hon'ble gentleman had told them what he (MR. BULLEN) had been very glad to hear, that by certain alterations which it was proposed to carry out, the coinage capacity of the Calcutta Mint could be largely increased. He (MR. BULLEN) did not know if the coinage capacity of the Bombay Mint could be increased in the same manner; but he considered that if the Bill became law, it would be more than ever the duty of Government to provide a Mint-power capable of coping with the supplies of bullion which would continue to pour in.

His Excellency THE COMMANDER-IN-CHIEF said, " Sir, in answer to the last speaker, I would observe that the arguments in support of the measure have been placed so forcibly and clearly before the Council that but little would have remained to be said had not my Hon'ble friend, Mr. Bullen, transferred the matter

of the debate to new ground. Thus, Sir, he has directed an attack against the Executive Government, it matters not whether it be at Calcutta or Bombay, because of its alleged want of caution in meeting an unexpected drain on the Issue Department. It is no secret that a great run has taken place in Bombay on the Issue Department, and on the Bank of Deposit which does the Government business, and that extraordinary measures have been taken to ward off the impending danger. That brings me to the consideration as to whether my Hon'ble friend is right in his argument. Is he justified in saying that certain measures for the protection of the Financial Department have not been taken? Is he justified in attributing to bullion merchants the character of representatives of the commercial community? In answering these questions, it will be necessary to travel back to somewhat abstract doctrines, and to advert to certain principles of political economy. It is needless to say that bullion when imported into the country bears only the character of a commodity of trade. If an artificial stimulus is given to the dealers in this commodity, the result is an action on the market which is the cause of trouble, convulsion and panic. The same principles apply in the consideration of bullion as of any other commodity, as, for instance, corn. By the concession granted by Mr. Wilson,—that is to say, by the extraordinary privileges conferred on the bullion dealer—an artificial stimulus is given to the import of bullion. Mr. Wilson gave no reasons for the concession beyond saying that it would give merchants in India the same facilities as those enjoyed by merchants in London. When Mr. Wilson made that statement, he forgot the absolute difference in the relations of Indian merchants to India, and of English merchants to England. Thus, Sir, in England there is a thoroughly established Note-circulation, but in India it may be said that there is an absence of Note-circulation except in the Presidency Towns. I hold in my hand Returns which show that, in the outer Circles of Currency, this Note-circulation does not reach seven lakhs; whereas, in the Presidency Towns, it is seven and a half crores, or something more than double the amount of issue at the date that the old Banks of issue closed their operations in virtue of Mr. Wilson's reforms, and the issue became a State Department. The increase in the Presidency Towns then, in truth, only represents the great development of transactions of every description which has taken place since the date referred to. I am therefore justified in saying that the Note-circulation, although rather more than double in volume as compared with former times, has but little to say to any extension of it in the Provinces. It is evident, therefore, that there is a weakness in the notions which led Mr. Wilson when he gave his reason for the change. Thus, reasoning too closely from English analogy, he clearly supposed that, so soon as his currency notes had been received from the Issue Department in exchange for certificates, they would be

spread throughout the length and breadth of the land, and that coin would not be required in exchange for bullion. The precise converse has turned out to be the fact. When bullion arrives, the merchant demands that it should be immediately cashed in Notes—he takes the Notes to the Issue Department and demands coin. Therefore, a run sets in on the Issue Department and on the Bank of Deposit. Consequently, the measure before the Council cannot justly be called solely a measure for the convenience of Government in the Financial Department, but it is a popular measure to avert convulsion and panic by guarding the community against privileges to a special trade. Suppose the case of a run on the Issue Department. Telegrams arrive demanding assistance. The first thing which can be done is a direction to a Presidency Bank of Deposit to afford aid. But the Bank's powers are limited: it has no immediate facility for the transmission of material, that is to say, of coin, *per saltum*. There is no magic by which it can suddenly send an immense sum of money, say half a million. Such a Bank does what it can, that is, it will send bills—say to Bombay—for the amount. But the people in Bombay want money. Consequently, if they were to discount these bills, it would be to intensify the difficulty against which the aid is directed. But as they would not be unwise enough to do this, the bills are simply useless, and assume the form of credits in blank at a time when actual coin is wanted, a fictitious capital being thus created. Such blank credits, as Mr. Goschen tells us, are of use for bridging over the slack time of business between two countries engaged in trade. But they are absolutely useless when it is required to meet a sudden drain of specie. I have stated the difficulty which occurs when, we will say, the Bank of Calcutta attempts to reinforce the Bank of Deposit, a Government Bank, at Bombay, in aid of the Issue Department. Now let me state another case. Let us assume that a great drain has set in on the Issue Department. The constituents of the Bank of Deposit at the same time demand that all their drafts and cheques shall be cashed in specie. It may have a very large nominal balance, and yet the mass of it may be in Notes through no fault of the Bank. In the exercise of his undoubted right, the Chairman of the Bank asks to have half a million of Notes exchanged for specie. But what a state of things is it if the Issue Department is obliged to ask for time! The Bank of Deposit must go into the market and scrape up specie as it can, because the Issue Department cannot meet the demand. It is impossible to avoid such difficulties when ships are constantly arriving, each, perhaps, with a million of bullion, and the importers, under the existing law, at once demand and obtain specie. Thus in the importers' hands the bullion has the character of money, but directly it is transferred to the Bank or to the Issue Department, it loses that character, the resources of both, which ought to be at the disposal

of their ordinary constituents, being thus summarily diverted in favour of the bullion merchant, because in his hands the bullion is money, whereas it is not money so soon as it has left them. I maintain that such a state of things cannot fail to lead to convulsion. Sir, for the last five years I have been a Member of the Bombay Government, and every year the like difficulties have arisen at about the same time, and invariably from the same cause, namely, that which my Right Hon'ble friend now seeks to get rid of by the Bill under consideration. During that time we were more than once hastily summoned to Council to consider what could best be done to meet the crisis thus artificially caused. On one occasion we had recourse to strong measures which at first were not approved, but afterwards met with full sanction. This occurred about three years ago. I therefore now join issue with my Hon'ble friend. There is an inconsistency in the existing law against which no foresight can possibly provide. The Hon'ble gentleman's accusation directed against the Executive Government is not justified by facts. It should rather be directed against the false principle which has caused all these difficulties for the last five years.

“My Right Hon'ble friend, when considering the capacity of the Mints as compared with that of the Imperial Mint in England, remarked on the much greater facility afforded to the latter for producing large sums of coin, because the basis of the British currency is one of gold. This brings forcibly before me the discussion which took place nearly two years ago, whether gold should not be substituted in India for silver. The result of the discussion seemed to be tolerably conclusive, opinion in India having been very generally in its favour. That discussion originated in Bombay in consequence of the stringency of the local market, which proceeded from the cause forming the subject of the Bill. I think, but I speak without any authority, that there are some indications that the Right Hon'ble the Secretary of State would not be so indisposed to such a change as he was in 1861, when he expressed his views in a demi-official letter to Mr. Laing, which was answered by that gentleman in a Council Minute. It is not called for in this place, and it would not be respectful in me to subject the argument of the Right Hon'ble the Secretary of State to a rigid analysis; but I would earnestly commend those papers to the consideration of every Member of the Council and of the community outside. If read carefully, it will be seen that all that Mr. Laing had predicated of the existing state of things, and had prognosticated of the future, has turned out to be true. What he said of the restriction of the floating of Paper Currency in this country, and of the limitation of its use, has been proved by experience to be exactly correct. It is difficult to support an argument more strongly than by reverting to the prognostications of Mr. Laing which have been justified by the experience of four years. I have before said that opinion in India was generally in favour of the proposal which emanated from the Bombay Chamber of Com-

merce from two to three years ago. But all questions in this country seem to flag and to be treated in a dilettante way unless taken up by Government. The cause of a gold currency was not advocated in such a manner as to impress on the Secretary of State that the change was strongly desired. I hope that the Members of the Council, and that the commerce of the country represented by the great merchants of Calcutta and Bombay, will turn attention very seriously to this matter. The difficulty urged by the Hon'ble gentleman opposite with regard to the operation of the Bill does not reside in the objections which have been taken to it, but in the simple fact that India has a silver currency, whereas she has reached that point of development when her monetary wants demand a currency of gold. Silver is the currency of a comparatively poor country—gold is the currency of a rich one. During the last eight years we have seen the most extraordinary advance in the way of riches throughout India. This is evidenced in every manner possible, by the enormous increase of transactions in the great centres of trade, not only in the Presidency Towns, but in the Provinces also. It is shown by the opening of new communications in all directions and by the use made of them. The Post Office returns even display that the number of letters has almost doubled in the time mentioned. We are therefore justified in saying that we are witnessing the conversion of India from a state of poverty to a state of wealth, and that she must be treated accordingly. We have seen the like take place in France and in the United States. France fifty years ago was comparatively a poor country. She is now a rich one. Accordingly, though not quite fixed by law, she has absolutely adopted a gold currency, and the silver franc has become a *de facto* token-coin. The Americans have done the same, but they have been in one respect more logical than the French and more complete in their operations, that is to say, so soon as they were convinced that the substitution of gold for silver had been completed, they fixed the gold currency in law by reducing silver to a mere token-coinage, as we have done in England. I presume to say that India has now reached that point when it is incumbent on the Government and the community to cause that change to be introduced, which is required by the altered circumstances of the country. The remedies for the difficulty stated by my Hon'ble friend Mr. Bullen are to be sought, not in mechanical extensions of the Mints, not in attributing to the bullion merchant a power of declaring his bullion to be money when it is not money, but in the introduction of a gold currency. My Hon'ble and gallant friend Colonel Durand's remark that certificates would be liable to discount is perfectly just; but it is not apparent that any inconvenience can result from this. Such scrip-certificates will be discounted by the Banks or other private persons holding Notes. Those Notes were always liable to be converted into rupees, they being actually issued. This is very different

from the Issue Department uttering fresh Notes on account of bullion when those Notes would be returned immediately for coin."

The Right Hon'ble MR. MASSEY said, that he had listened with much interest to the discussion, and he had no reason to complain of the tone which the debate had assumed. His Hon'ble friend (Mr. Bullen), however, had made some remarks inculpatory of the policy of the Government, and seemed to think that there had been some laxity in the Department of Issue. He (MR. MASSEY) believed that there was no good reason to complain of any want of vigilance or energy in that Department. His Hon'ble friend was perfectly aware—he had himself pointed it out—of the essential difference between the Department of Issue in the Bank of England, and the Currency Circles in this country. The Bank of England consisted of two Departments—the Department of Issue and the Banking Department. These two Departments helped each other; and although it was obligatory on the Issue Department to take bullion, the Bank was not obliged to give cash for bullion; they purchased bullion at a price which represented the difference between cash and a bill payable at the time when the bullion could be converted into coin. Besides, the paper which they issued against bullion was so firmly and extensively established, that there was no apprehension that it would come back, except in ordinary course which could be calculated on to a nicety. Moreover, the Bank of England not only in its capacity of Bankers discounted bills, but also transacted the business of bullion merchants. A great part of the bullion paid into the Bank of England was sold to foreign merchants for the purpose of exportation. But the situation of the Currency Department here was totally different, and he could not but think that that provision from the Bank Charter Act of 1844 was improvidently imported into the Currency Act of India without those modifications which the difference between the two countries and the two establishments obviously suggested.

His Hon'ble friend the President of the Chamber of Commerce had said that the Currency Department was bound to undertake this business, because they derived profit from the circulation of Notes. Now His Excellency the Commander-in-Chief had well pointed out that there was no paper circulation in India, and indeed he could be well content to rest the defence of the Government, so far as its policy had been censured, upon the speech of his Hon'ble and gallant friend. There was only paper circulation in the Presidency Towns; but throughout the rest of India, Government Notes were, he was sorry to say, treated like commercial paper, and sold at a discount in the bazars. But supposing it was true that the Currency Department did derive profit from this source, the profits which they derived from investment, seigniorage, and circula-

tion were here, as in every other civilized country, profits retained not so much as a profit, but as a fund for defraying the expenses of the Department. They were obliged to keep up establishments for the issue and conversion of the paper. The expenses of those establishments must be defrayed from their profits. But suppose there was a large margin of profit, which he did not admit, after all the expenses incident to the currency had been defrayed, he still maintained that that margin was not the property of the bullion merchants, but of the public. His Hon'ble friend (Mr. Cowie) seemed to suppose that he (MR. MASSEY) did not attach much importance to the importation of bullion. If he had said anything to justify that observation, his words had been misapprehended, or he had failed in expressing himself intelligibly. He was quite aware that in India, where trade was expanding to a very great extent, it was necessary that that expansion should be sustained by the extension of the metallic basis. Therefore for the Government to throw any obstacles in the way of bullion importation, would be a blind and unwise policy. But there were limits to the extent to which they were bound to afford facilities to the introduction of this commodity, and he thought that by extending the Mint machinery, they would do all they could reasonably be expected to perform. He did not think that there was anything to justify the censure which had been passed on the Department of Issue, because he had shown that the capacity of one of the largest Mints had been doubled, and it was a fact that the employes in the Government Mints had been working night and day. So far from retaining bullion in store, the Mint had been frequently brought to a stand-still, because of the absence of bullion. When any sufficient quantity was in hand, the operations of the Mint were never suspended; but in cases of large importations, its capacity was sometimes taxed to a degree beyond any conceivable power.

The opinions of the late Mr. Wilson, one of the greatest financial authorities which this country had ever seen, had been quoted to-day as if his policy was being departed from. What was his policy? Mr. Wilson's original proposal was this. He thought, coming from England with his great experience of commercial affairs, and confident of the advantage which India would derive from the establishment of a Paper Currency, that this paper would permeate through the length and breadth of India, and be accepted as a convenient medium of exchange. Those expectations, however, had been disappointed. Estimating in the sanguine manner he did, Mr. Wilson thought it would be sufficient to retain in the Department of Issue only one-third of the Issue representing the circulation. When Mr. Wilson proposed to maintain that small reserve, he (MR. MASSEY) doubted if Mr. Wilson was prepared to appropriate that amount to the sudden demands of dealers in bullion.

According to that gentleman's calculation of the extent to which the currency notes would be established as a circulating medium, the Department of Issue would have no difficulty in meeting the ordinary demands of the bullion importation.

If Mr. Wilson were here now, and sitting in the place, the duties of which he had so ably discharged, he would not for a moment have concurred in the proposition that the Government was bound under all circumstances and at all times to provide funds in each of the principal Currency Circles against prompt demands on account of bullion. Such a proposition would be too wild and absurd to need serious refutation. Nothing of the kind had been urged by the gentleman who represented the commercial community in this Council, and he was gratified to find, on the whole, that those gentlemen were not adverse to the Bill.

The Right Hon'ble Mr. MASSEY then applied to His Excellency the President to suspend the Rules for the Conduct of Business.

The PRESIDENT declared the Rules suspended.

The Right Hon'ble Mr. MASSEY then moved that the Bill be taken into consideration.

The Hon'ble Mr. BULLEN said that, before the question was put, he wished to point out the hardship which, if this Bill at once became law, would thereby be inflicted on those importers of bullion who, in reliance on the law as it stood, had entered into operations the result of which would be prejudiced by the proposed change. The Right Hon'ble gentleman proposed to suspend the Standing Orders and pass the Bill at once. He (Mr. BULLEN) admitted that if the Executive Government declared the immediate passing of the measure absolutely necessary, opposition must cease, for the convertibility of the Note was of paramount consideration. But if no such necessity existed, he would appeal to the Right Hon'ble gentleman to suspend the operation of the Act, say for a month or six weeks, that those engaged in an important branch of trade might not be subjected to a loss which they could not have guarded themselves against.

The Right Hon'ble Mr. MASSEY said, that he was very sorry he could not accede to the proposal of his Hon'ble friend. Merchants must be prepared for occasional changes in commercial legislation. It was a well established principle that no private member of the community had a *locus standi*, in the event of an alteration of law which affected his individual interests. In England, the Chancellor of the Exchequer has frequent occasion to propose

alterations in the tariff or excise. He often takes off a duty affecting a commodity of which there may be a large stock in hand. The owners wait upon him and ask a drawback. He declines with a smile of dissent, and they meet with no support from public opinion. When the Chancellor of the Exchequer makes his annual Financial Statement, the public is informed for the first time of what he is going to do. He announces perhaps that he is going to take off a tax that affects stocks in hand; he asks the immediate assent of the House of Commons; they give it, and the moment the resolution is passed, the financial operation takes effect. The course which he (MR. MASSEY) now proposed to take was analogous to that. As he said before, he did not wish to raise a false alarm that the Government would be in any danger of insolvency by continuing the practice which the present Bill proposed to alter; but their experience of the inconvenience and injurious nature of the practice was sufficient also to warrant his hope that the Council would consent to allow the present measure to become law.

The Hon'ble MR. BULLEN said that his proposition was not without precedent. In the last session, an alteration was made in the tea-duties, which was intended to have immediate effect, but on a representation from parties interested in the trade, that great loss would be inflicted upon them, the Chancellor of the Exchequer agreed to the change in the law taking effect only after an interval of (he believed) a month or six weeks.

The Right Hon'ble MR. MASSEY said that was quite an exceptional proceeding. What particular reason there was which induced the Chancellor of the Exchequer to act as he did, he (MR. MASSEY) was unable to say. There was no doubt some good reason. The case of the importers of bullion was not nearly so strong as that of merchants holding large stocks of an article like tea, on which there was a small margin of profit. Here the bullion was brought out to purchase property for which there was an extraordinary and peremptory demand. It was just possible that the importers might lose something by a slight turn of the market, but if they took their certificates to the Banks, they would have no difficulty in getting the requisite accommodation on easy terms.

The Motion was put and agreed to.

The Right Hon'ble MR. MASSEY then moved that the Bill be passed.

The Motion was put and agreed to.

The following Select Committees were named—

On the Bill to provide a summary procedure on Bills of Exchange and to amend, in certain respects, the Commercial Law of British India—The Hon'ble

Mr. Bullen, the Hon'ble Rájá Sáhib Dyál Bahádur, the Hon'ble Messrs. Cowie, Gordon and the Mover.

On the Bill to enlarge the jurisdiction of the Courts of Requests in the Settlement of Prince of Wales' Island, Singapore and Malacca—The Hon'ble Messrs. Grey, Taylor, Gordon and the Mover.

The Council adjourned till the 12th January.

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

CALCUTTA, }
The 5th January 1866.