

Friday, April 1, 1870

ABSTRACT OF THE PROCEEDINGS

COUNCIL OF THE GOVERNOR GENERAL OF INDIA

LAWS AND REGULATIONS.

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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 1st April 1870.

P R E S E N T :

His Excellency the Viceroy and Governor General of India, K. P., G. C. S. I.,
presiding.

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

Major General the Hon'ble Sir H. M. Durand, C. B., K. C. S. I.

The Hon'ble John Strachey.

The Hon'ble Sir Richard Temple, K. C. S. I.

The Hon'ble J. Fitzjames Stephen, Q. C.

The Hon'ble Gordon S. Forbes.

The Hon'ble D. Cowie.

Colonel the Hon'ble R. Strachey, C. S. I.

The Hon'ble Francis Steuart Chapman.

The Hon'ble J. R. Bullen Smith.

The Hon'ble F. R. Cockerell.

LAND ACQUISITION BILL.

The Hon'ble MR. STRACHEY moved that the Report of the Select Committee on the Bill to consolidate and amend the law for the acquisition of land needed for works of public utility, be taken into consideration. He said that the Council would see from the Report of the Select Committee that numerous alterations had been made in the Bill as originally introduced ; but those alterations might, with two exceptions, be considered to be of a minor character, not affecting the principle of the Bill as introduced. Two substantial changes in the Bill had been proposed by the Select Committee, and these required some notice from him ; in only one of them, however, was there really any novelty. The alteration to which he would first refer was a matter which had long been before the Council. When the Bill was introduced about a year ago—or he ought rather to say immediately after its introduction—it was explained in a note circulated by the Legislative Department, and which had long been before the Council, that while the Bill laid down principles for the guidance of the persons officially employed in valuing land required to be taken up for public

purposes, there was nothing to preclude the Executive Government, if it so desired, from giving, by way of percentage or otherwise, something additional to the price fixed, in consideration of the compulsion to which the owner of the land was forced to submit when it was so taken up. Whether, if given at all, this additional sum ought to be given in all cases, whether the owner was really disinclined to part with the property or not, was a question regarding which there was much difference of opinion. The Bill as originally drawn did not attempt to deal with the question, and it was reserved for future consideration. When, in December last, the Bill was referred to a Select Committee, MR. STRACHEY stated that, in his opinion, it would be proper to allow something over and above the market-value of the land, in consideration of the compulsory character of the sale. The Committee had decided in favour of the same view; and he thought, for his own part, that this addition was one which it was quite right to make. This was one of the only two really important alterations which had been made in the Bill as originally introduced.

The other substantial change was one regarding which nothing had been said on the previous occasions when the Bill was before the Council. The matter was raised for the first time before the Select Committee. It was brought to the notice of the Committee that Act VI of 1857 did not really contain the whole law in regard to the acquisition of land for public purposes. Act XXII of 1863 enabled the Government to take up land for works of public utility proposed to be constructed by private persons or by Companies. The first part of that Act regarded the procedure under which the Government was to satisfy itself whether it was really right or not to take up the land, as if it were required for public purposes, for works of public utility proposed to be constructed; and the Act then went on to give power to the Government, in the event of the proposed work being constructed, to prescribe the conditions under which the work was to be allowed, and the measures which should be taken fully to protect the interests of the public and its convenience and security. It seemed to the Select Committee that there was no reason for keeping on the Statute-book a separate law in regard to this particular subject, and that the opportunity should be taken of consolidating the whole law on the subject of acquiring land for public purposes or for works of public utility. The Committee had therefore proposed to repeal Act XXII of 1863, and to re-enact, as part of the present measure, those portions of the Act which were really of importance. Act XXII of 1863 was rather a complicated measure, which had been hardly ever brought into practical effect. It contained, also, many conditions regarding the acquisition of land required for railway-construction by private

persons or Companies other than the guaranteed Companies by which the existing Railways had been made. There had been no case in which these particular provisions referring to Railways had been put in force, nor was there any present probability of their being required, because no such Railways were under construction, nor were any such, he believed, contemplated. It appeared to the Committee that, whatever provisions of this kind might be really required, they would more fittingly find a place in a Railway Act, than in an Act regarding the acquisition of land. It had long been admitted, as the Council were aware, that a review of the existing law regarding Railways was very necessary, and the subject was now under the consideration of Government. Meanwhile, pending the conclusions that the legislature might arrive at regarding the general law regarding Railways, there could be no doubt, he thought, that the repeal of that portion of Act XXII of 1863 referring to Railways could lead to no possible inconvenience, and every thing which that Act really contained of present value it was proposed to include in Part VII of the present Bill.

These were the only two real substantial changes that the Committee had proposed. There were many other alterations, however, as the Council would see from the Report of the Select Committee, and, although he had called them minor alterations, there could be no question that they very greatly improved the Bill. They had made it, MR. STRACHEY was satisfied, a much more complete measure than it was before, and they had rendered it much more likely to be successful. He thought that, if the Council consented to pass this Bill into law, there was every reason to hope that it would remove the gross abuses of which so much complaint had been made, and from which both the public and the State and private interests had frequently suffered.

The intention of the Government, when this measure was first brought forward, was to take the law of England, as interpreted by the English Courts, as the basis of our legislation. He had formerly stated this on the authority of Mr. Maine and of the learned Secretary to the Council, and he thought the Hon'ble Mr. Stephen would probably confirm his statement, if he said that the present measure did little more than endeavour to adopt, in a spirit liberal towards private interests, the principles recognized by the law of England and other civilized countries.

The Hon'ble MR. STEPHEN said that his Hon'ble friend had been good enough to refer to him for confirmation of the statement, that what the Bill supplied was a liberal interpretation and application of the law of England to

the circumstances of this country. It gave him great satisfaction to corroborate that assertion in the strongest manner. With reference, in particular, to the leading alteration to which his Hon'ble friend had referred, MR. STEPHEN would say a few words with the view of showing that we had adopted the law of England, and done so in a spirit of somewhat greater liberality towards the public than that which prevailed in England. According to the law of England, the compensation was assessed by a jury summoned by the Sheriff, and generally presided over by an assessor. No rules had been laid down to guide them in the exercise of their discretion, and the consequence was, that a branch of business had grown up in England, eminently profitable to lawyers, eminently profitable, in some instances, to those who received compensation, but in no way profitable, either to the undertaking for which the land was required, or to the general interest which the public had in a fair and equitable arrangement on such occasions. During the early history of this subject, those from whom lands were taken used to get enormous compensation. After that there was a considerable re-action, and cases of hardship sometimes occurred the other way. But at length, without any explicit legislative provision on the subject, but partly by practice, and partly by the decisions of the Courts of Justice, a sort of general rule was arrived at, more particularly in London, with regard to the amount of compensation to be awarded, and that general understanding was, that you were to pay the fair price which a prudent purchaser would accept for the property, plus an addition for the forced sale, which, by practice, was taken at ten per cent. Besides this, special compensation was made for severance, for expenses of removal, and any damage to trade that might result. The law in England thus rested practically on usage, and was subject to great variations: it rested also on a series of judicial decisions known to the public.

The Bill which was now submitted, and particularly that part of it to which his Hon'ble friend had referred, threw into the form of explicit propositions those general principles which had gradually come to be recognized in England; but it treated the persons subjected to these compulsory sales somewhat more liberally than was the practice of London juries of late years. It gave them the market-value, not the auction-price, but the market-value plus fifteen per cent. He must say, he thought that when this arrangement was made known to the public—when they understood how fully the owner's interests had been consulted by his Hon'ble friend and the Select Committee to which the Bill was referred—the only doubt that could possibly be entertained on the subject would be whether we had not gone rather too far in liberality towards the individual at the expense of the public. MR. STEPHEN could hardly imagine that the Bill in its present form could be regarded as a measure of

confiscation, or that it would work with any degree of hardship on persons whose property was taken in order to be used for public purposes.

The Hon'ble Mr. COCKERELL said that, in concurring entirely, as he did, in the equity and propriety of the proposed enactment; entertaining also the opinion that, in its progress through Committee, the Bill had undergone most useful elaboration in detail and was now converted into a thoroughly workable measure, he should have thought it unnecessary to offer any remarks on the subject, but that he had seen it stated in a communication, emanating from a quarter from which this Council had, on several occasions, received very valuable opinions and suggestions, that, in proposing to pass this Bill to-day, we were proceeding with unusual and altogether unnecessary precipitancy. Now, it appeared to him that such a statement was wholly inapplicable to the circumstances attending the passage of this Bill through the Council, and to show this, he need only point to the facts that the first step towards the proposed legislation was taken so far back as the time of His Excellency's predecessor; that what might still be termed the main provisions of the Bill were explained at great length and discussed on each of the three previous occasions on which the measure had formed the subject of debate in this Council, and that, in the intervals between the occasions referred to, the utmost possible publicity was given to the policy of the Government in this matter. The call for the expression of public opinion in regard to the measure might be said to have been fully responded to, and the Committee had thus had the advantage of going into the consideration of the Bill with very full information in regard to all its material provisions. As the result of their deliberations, the Committee had framed a report which shewed, as had been explained by his Hon'ble friend the mover, that the main features of the original Bill were considered fit for adoption with but slight modifications. Under these circumstances, it could not reasonably be affirmed that the proposal to take the report into immediate consideration, and thereafter to proceed to the passing of the Bill as amended, was otherwise than in accordance with the usual practice of the Council. With still less reason could it be maintained that this course was, as regarded the measure now before the Council, unnecessary; for the extent to which, under the present state of the law, the whole tax-paying community was defrauded for the benefit of the few owners whose property was needed for public purposes had been fully demonstrated, and it was certainly incumbent on the legislature to apply a remedy to so gross an evil with all practicable dispatch. It had been urged in the communication to which he had referred that, as the Bill had been greatly altered in Committee, the proposed amendments should be published and time given for the public to become acquainted

with their purport ere they were finally adopted by the Council. His Hon'ble friend the mover of the Bill had already explained that these amendments comprised only two changes of substance, and he would remark that, of these main alterations, the one to which Mr. Strachey gave the greatest prominence in his statement, namely, the proposal to give a bonus of fifteen per cent. in excess of such ordinary compensation as the owner of land required for a public purpose might be held entitled to receive, was not only sure to be viewed with general favour as a liberal measure, but would also be accepted as a not unexpected concession; for the substance of the proposal was distinctly set forth, in the statement made by the mover of the Bill immediately before it was referred to a Select Committee, as worthy of consideration, and, if approved by the Committee, likely to be assented to by the Government.

The other proposed change, which had been described as of special importance, *i.e.*, the application of the provisions of the Bill to the case of land needed by Companies undertaking works of public utility, amounted in fact to no more than the consolidation and simplification of the existing law on this subject. The amended Bill contained a large number of other changes, but they were exclusively alterations of detail, and were in no way repugnant to the principles which guided its original construction. Their operation was calculated to improve and simplify the procedure in acquiring land for public purposes; where they affected the interests of the owner of land, they would be found to place him in a better position than he was under the original Bill: it was not likely, therefore, that the proposed amendments would be objected to, and consequently no useful purpose would be served by further delay. There was one, as he thought, very important provision in section 3, to which he wished to draw attention. He referred to the fourth clause, which, purporting to declare the meaning of the expression 'Court,' as used throughout the Bill, in effect provided for the constitution of the tribunal by which all claims to compensation for property acquired under the operation of the law which could not be settled between the Collector and the 'persons interested' were to be adjudicated. This question underwent most careful consideration, and the Committee determined that, ordinarily, such cases ought to be tried by the chief local Civil Court. The alternative provision was intended to be applied only in special cases, the circumstances of which might be such as to make it clearly for the interest and convenience of all parties that some special agency should be employed for the adjudication of those cases. It was hoped that local Governments would very sparingly exercise the special power vested in them by this clause. The intention of the Bill was that cases coming under it, in which the Collector and the owners of the property to be acquired could not settle the terms of

purchase, the question should be referred to the most competent, and at the same time most independent, judicial agency to be found in the locality where the acquisition was to be made.

The Motion was put and agreed to.

The Hon'ble MR. COCKERELL stated that, with the concurrence of his Hon'ble friend the mover of the Bill, he would now ask leave to move for the insertion of the following new section immediately after the present section 56. The new section to bear the number 57, and the numbers of the subsequent sections to be altered accordingly.

“No award made under this Act shall be chargeable with stamp-duty, and no person claiming under any such award shall be liable to pay any fee for a copy of the same.”

This amendment was designed to repair an oversight in the settlement of the clauses in Committee, and was absolutely needed to give full effect to the policy of the Bill as regarded the relief of the owner who was compelled, for the sake of public convenience, to part with his property, from all loss and annoyance of any kind, arising out of such compulsory surrender, that could be avoided. It would be clearly unreasonable to subject to any tax for revenue-purposes, transactions forced upon the owners of property in which they were not, by the necessity of the case, free agents. The recognition of this principle dictated the exemption of applications for payment of compensation in the recently enacted Court Fees Act; and the framers of this Bill had been careful to relieve persons interested in property acquired for public purposes of all costs of proceeding, taken for the purpose of such acquisition, except in cases where such costs had been clearly entailed by the wrong-doing of such persons.

Colonel the Hon'ble R. STRACHEY said that the awards which the Hon'ble Mr. Cockerell proposed to exempt from stamp-duty would only include awards made by the Collector under section 14 and those by the Court under section 34; but under Part VI of the Bill, relating to the temporary occupation of land, analogous proceedings took place between the Collector and the person interested. COLONEL STRACHEY desired to point out that there were orders of Court, under section 45, in the case of a difference arising when the land was temporarily occupied. Also, there were agreements come to under section 43. Therefore he thought his Hon'ble friend would not object to treating agreements under section 43 and orders under section 45 in the same way as awards made under the two other sections.

The Hon'ble Mr. STEPHEN remarked that there was nothing in the law to render such orders liable to stamp-duty. Nothing, therefore, need be said about them in Mr. Cockerell's amendment.

His Excellency the COMMANDER-IN-CHIEF said that he had listened to what had fallen from Mr. Cockerell and Colonel Strachey, but he had as yet not heard any reason given why this exemption should be made. It appeared to HIS EXCELLENCY to be worthy of consideration whether this particular class of business did show any special features which called on the Council to make a distinction in the application of the provisions of the Stamp Law.

The Hon'ble Mr. STEPHEN said that in this instance, the action of the Government in taking land caused the persons interested to give up their lands for public purposes, and then to get an award made, or else to make an agreement, and it would be rather hard if they were compelled not only to give up their lands for public purposes, but also to pay a tax on the instruments by which they would get compensation. That, he thought, was the ground on which the distinction was made.

The Hon'ble Mr. COCKERELL said he had already explained that the amendment was in accordance with, and in pursuance of, the policy of the Bill. In his opinion that policy would be incompletely carried out if the amendment were not adopted. The case was one which, for obvious reasons, excluded general considerations of the interests of the revenue. The effect of subjecting to a tax any of the proceedings forced upon the owners of property by the conditions of this Bill was to reduce, *pro tanto*, the amount of the compensation to which they were held to be entitled.

His Excellency the Commander-in-Chief said that it should be observed in the interests of the finances that the Bill was of a peculiarly liberal character towards the person proposed to be ousted from the property which was to be taken for a public purpose. We had only to turn to the forty-second section, and it would be seen that, in consideration of the compulsory nature of the sales, fifteen per cent. was to be added to what was considered the real value of the estate. When we were about to give such large advantages to those who were to part with their property, in the interests of the public, for public purposes, no reason, HIS EXCELLENCY thought, had been made out why these parties should be exempted from the small dues of the revenue by which their interests were affected. All exemptions from the operation of financial laws were greatly to be deprecated.

The Hon'ble SIR RICHARD TEMPLE concurred with His Excellency the Commander-in-Chief.

The Hon'ble MR. STRACHEY said that it appeared to him that no question was involved in the motion before the Council which could affect the imperial revenues at all. He did not suppose that the revenue realized from these fees could possibly amount in the course of a year to £ 5 ; at the same time it seemed quite clear that justice required that if we took a man's property for public purpose, against his will, he ought to be in every possible way protected against unnecessary loss and inconveniences of every kind, and MR. STRACHEY thought that it was clear that the owner ought to be exempted from liability to payment of stamp duties in consequence of transactions forced on him by the Government, and although as he had said, the loss of these duties was a matter of absolutely no importance to the Government, it was quite possible that their payment might be a matter of very considerable importance to the extremely poor people, whose land would not unfrequently be taken up. Consequently he entirely concurred in the propriety of the amendment proposed.

The Hon'ble MR. COCKERELL then moved, by way of amendment, that the following section be substituted for that which he had at first proposed :—

57. "No award or agreement made under this Act shall be chargeable with stamp-duty, and no person claiming under any such award or agreement shall be liable to pay any fee for a copy of the same".

The motion was then put, and the Council divided :—

AYES.

His Excellency the President.
Major General the Hon'ble Sir H. Durand.
Hon'ble Mr. Strachey.
Hon'ble Mr. Stephen.
Hon'ble Mr. Gordon Forbes.
Hon'ble Mr. Cowie.
Colonel the Hon'ble R. Strachey.
Hon'ble Mr. Chapman.
Hon'ble Mr. Bullen Smith.
Hon'ble Mr. Cockerell.

NOES.

His Excellency the Commander-in-Chief.
Hon'ble Sir R. Temple.

So the amendment was carried.

The Hon'ble MR. STRACHEY also moved that the Bill as amended be passed.

The Motion was put and agreed to.

PAPER CURRENCY BILL.

The Hon'ble SIR RICHARD TEMPLE applied to His Excellency the President to suspend the Rules for the Conduct of Business, to enable him to introduce the Bill for the further amendment of Act No. XIX of 1861.

He said—"In making this application, I have little to add to what I stated at the last meeting of the Council (on the 25th March) when I moved for leave to introduce the Bill. I then shewed by statistics (the result of which will be in the recollection of the Council) how the progress of our Paper Currency justifies us in asking for power gradually to raise the limit of that portion of the reserve which is invested in Government Securities, from four crores or millions sterling to six crores or millions of rupees. In addition to those statistics there is one set of figures which, I think, would now interest the Council, and which I will present, in reference to remarks which have been made in some public quarters. It seems to be believed by some that the mass of our notes is held in the Presidency towns, and by a few parties or corporations like Banks, and that the circulation in the interior of the country is comparatively small.

"Now how, stands the circulation in the interior, and how is it to be measured? I will take the figures of the circulation for the month just expired (March). It then stood at Rs. 10,27,50,640, or 10½ crores or millions, of which 9 crores or millions pertained to the Presidency towns, leaving 1½ crores or millions for the circles in the interior. This sum was divided as follows among the circles of the interior; Allahabad £355,000, Lahore £214,000, Calicut £77,000, Trichinopoly £43,000, Vizagapatam £33,000, Nagpore £274,000, Kurrachee £233,000, Akola £87,000.

"Or, again, let us take the month of January last, when the circulation stood at its highest, namely, Rs. 11,48,06,470 or just 11½ crores of rupees or millions sterling. Of that, 10 crores or millions pertained to the Presidency towns, leaving 1½ crores or millions for the circles of the interior. This sum was divided among the interior circles as follows:—Allahabad £362,000, Lahore £274,000, Calicut £66,000, Trichinopoly £57,000, Vizagapatam £34,000, Nagpore £277,000, Kurrachee £266,000, Akola 196,000.

“ Now, this circulation in the interior is considerable and increasing, though still very much below what we hope it will be some day. And it is the product of the Government system of Paper Currency within the last few years. Though the greatest part of the circulation is in the Presidency towns—which is only what might be expected, inasmuch as they are the great centres of trade—still, the circulation in the interior of the country is growing fast.

“ Further, I have heard it remarked in some quarters that, in England, when there is a demand for money, then money is taken quite as much in notes as in coin, and that, at such times, the note-circulation often increases. Now, if I understand the argument rightly, it is assumed that, in India, the process will be virtually different; that is to say, when there is a demand for money, the money will be taken, not in notes, but in coin; or, in other words, when the money-market is in tightness or distress, there will be a rush, not for paper-money, but for cash; or, again, that the Banks, which generally hold large quantities of notes, would present their notes for encashment. Now, I cannot find that there is any reason for supposing that, in the above respects, the commercial centres of India are different from those in England or elsewhere. I have compared the rise and fall of the accommodation rates of the Bank of Bengal with the fluctuations of the note-circulation from 1865-66 to the present time, and I fail to find that when those rates have been high the note-circulation has been low. For instance, in April and May of 1865, the Bank's rates were thirteen and eleven per cent. for private bills; the note-circulation in the Calcutta Circle stood at £2,909,000. In April, May, June and July 1866, the Bank's rates were sixteen, fifteen, fourteen, and twelve, per cent.; the Calcutta circulation stood at £2,600,000, £2,713,000, £2,817,000 and £2,921,000. At both these troublous periods the note-circulation was well sustained, for the average circulation of 1865 stood at £3,033,000 and of 1866 stood at £2,799,000. In short, looking at the figures month by month for the last four years, I cannot perceive that the fluctuations of the note-circulation are materially, if at all, affected by the tightness or easiness of the money-market, as evidenced by the accommodation-rates of the Presidency Banks. Indeed, the absence of any relation between the two sets of phenomena may be accounted for by the steady progress of the Paper Currency.

“ I regret to see that in some quarters it seems to be supposed that, if the power of investing up to six crores or millions is conceded to us, it will be exercised at once and not gradually. I trust that it will suffice to remind this Council of the assurance which I gave at the last meeting, on behalf of that Department of the Government of India which I represent, to the effect that it is our intention to exercise the power, if it be voted us, in a tentative and

cautious manner. If the Council will bear in mind the statistics I presented at the last meeting, of the very gradual manner in which the investments were brought up to the present limit of four crores or millions, it will be apparent that in the past our practice has been cautious; and that is the best guarantee that the intention I now declare of continuing in the same cautious course will be fulfilled.

I may conclude by observing that the measure I now propose has the support and approval of our distinguished colleague His Excellency Sir W. Mansfield, who, as the Council knows, has for many years paid special attention to currency-questions, and was President of the Commission which sat four years ago and reported on the whole subject of the Paper Currency of India."

The President declared the Rules suspended.

The Hon'ble SIR RICHARD TEMPLE then introduced the Bill and moved that it be referred to a Select Committee with instructions to report in a week.

The Hon'ble MR. COWIE said that, as this measure had called forth a certain amount of adverse criticism, he wished to record his opinion that he thought it a correct and advantageous system, and one which the Government could not have postponed much longer. He had formed this opinion on the assumption that the approach to the new maximum of six millions would be as carefully made and would be as guardedly approached as was done some years ago to the present maximum of four millions.

His Excellency the COMMANDER-IN-CHIEF said that, having been appealed to by his hon'ble friend for his opinion, he begged to say that the Bill had his entire support. He thought it not impossible that the uncertainty created in the public mind by the proposal of his hon'ble friend had arisen from the terms in which the Secretary of State for India announced his views in 1860 with regard to the manner in which the Paper Currency should be organised in this country. If the Council referred to the Despatch of the Secretary of State quoted at the last meeting, they would find that he made use of these words:—

"The sound principle for regulating the issue of a paper-circulation is that which was enforced on the Bank of England by the Act of 1844, *i. e.*, that the amount of notes issued on Government securities should be maintained at a fixed sum, within the limit of the smallest amount which experience has proved to be necessary for the monetary transactions of the country; and that any further amount of notes should be issued on coin or bullion, and should vary with the amount of the reserve of specie in bank, according to the wants and demands of the public."

Perhaps it would appear strange to the Council that that which was announced by Sir Charles Wood to be a sound principle, was condemned by many great banking authorities in England. There was perhaps no question with regard to the Paper Currency which had excited so much adverse criticism at the remark that it was prudent to issue paper as against securities. It was laid down with an authority which HIS EXCELLENCY believed it to be impossible to controvert, that if you committed yourself to this principle in its integrity, you embarked in the channel which, in the days of Law under the Regent Orleans, in France, and again in the South-Sea time in England, and with regard to the convulsions which fell on the commercial world four years ago, led to wholesale ruin ; that if you adopted this principle and accepted it in its integrity, you were liable to consequences, from which sooner or later escape was impossible, such as those to which he had adverted as the most serious instances presented by financial history. Perhaps it might seem that His EXCELLENCY was splitting words, because it was clear that Sir Charles Wood wished to guard himself, and believed himself to be guarded, from any such dangerous consequences by the precautions he described. Yet there was always a danger in describing a system to exist on a basis the soundness of which was open to question, and which was questioned by scientific authorities, one result being, as it appeared to him (SIR WILLIAM MANSFIELD) in this instance, that a wrong impression had been produced in the minds of the public with regard to the very innocent measure under consideration. The principle, as he understood the various works which he had consulted on this point—the fair principle—on which a Paper Currency should be founded, was that it should have a solid basis ; that it should be issued on a metallic foundation alone, partly bullion and partly specie. That, he thought, was the principle generally admitted, and which alone could be admitted as sound. Having laid down a solid basis and issued paper against bullion and specie, it was then for the Member in charge of the finances to determine how much of this currency we could afford to face, with regard to the absolute convertibility of the note, without the corresponding portion of bullion and specie in hand ; that, as was said by McLeod in his valuable work on Banking, was a matter of experience. HIS EXCELLENCY would read to the Council a short passage in which that proposition was maintained:—

“As all Paper Currency is a ‘promise to pay’ gold or silver bullion at some definite time, it is quite evident that the ‘promises to pay’ floating in a nation must bear some proportion in quantity to the actual quantity of the bullion. It is quite impossible to fix any definite proportion, because that depends upon a multitude of peculiar circumstances ; experience is the only guide on the subject.”

Well, then, as HIS EXCELLENCY had attempted to explain, the currency of the country was founded on the principle of the notes being issued against bullion and specie. Then, at a certain point, the Hon'ble Member who was in charge of the finances declared that it was safe to invest a certain quantity of bullion and specie in hand, because it could not in any possible manner be called upon to assist in the convertibility of the note. HIS EXCELLENCY drew particular attention to that point, because he considered that, if from the nature of things it were possible that the whole of the notes in circulation could return to the vaults of the Currency Department, it would be absolutely unsafe to invest even the smallest portion with regard to the principle stated in the paper from which he had quoted. Then it appeared to HIS EXCELLENCY, according to the best investigation he had been enabled to give to the subject, that such a currency-system as that introduced by the late Mr. Wilson, and which had now been in progress for eight or nine years in India, was founded on a thoroughly sound and solid basis; and it was within the province of the Hon'ble Member in charge of the finances to tell the Governor General in Council when he considered that the proper point had been reached, demanding further investment of bullion and specie. In support of that, HIS EXCELLENCY would venture to read a definition he had prepared for his own guidance.

“The currency-reserve, whether as held in the Bank of England, or in the Indian Currency Department, is, in point of fact, a kind of trust-investment made under certain legislative enactments, for the purpose of giving the utmost assurance to the respective Governments and the public for the redemption of the Paper Currency, without causing that loss to the treasury and to the public which would ensue on the retention of many millions of specie in Bank or Currency Department cellars, which cannot from the nature of things be possibly wanted.”

The figures placed before the Council by his Hon'ble friend showed a most remarkable development of the Note-circulation. Of those who had first listened to Mr. Wilson's proposition ten years ago and who had been called on to investigate its development since, there was hardly an authority who would not say that this development of the currency in this safe and solid manner had surpassed our anticipations. Well, having reached this point, we might ask, has not the time arrived when, as the Hon'ble Mr. Cowie stated it, the four millions of investment should not be gradually extended to six millions? HIS EXCELLENCY had no doubt that that time had now arrived.

It was said, in some circles, that this question was first raised with regard to certain projects which Sir Richard Temple would state to-morrow with

reference to his Budget; but HIS EXCELLENCY could affirm that this question first received the attention of the Government of India many months ago, when his Hon'ble friend was in England; the matter was discussed, and we had made up our minds that there could be no harm in the matter. On his return, Sir Richard Temple found the Council Notes, and having turned his attention to the subject and agreed in the conclusions arrived at during his absence, the result was the measure before the Council. This Bill had nothing in any way to do with the Budget projects which would be announced to-morrow.

HIS EXCELLENCY had nothing to add, except that, as far as he had been able to judge, he believed that there was no currency-system in the whole world which was at present on a more solid and scientific basis than the Paper Currency of this country.

The Motion was put and agreed to.

OBSELETE ENACTMENTS BILL.

The Hon'ble MR. STEPHEN presented the Report of the Select Committee on the Bill for the repeal of certain obsolete enactments.

HINDU WILLS BILL.

The Hon'ble MR. STEPHEN also presented the Report of the Select Committee on the Bill to regulate the Wills of Hindús and Buddhists in the Presidency Towns.

INDIAN WEIGHTS AND MEASURES BILL.

Colonel the Hon'ble R. STRACHEY moved that the Report of the Select Committee on the Bill to regulate the Weights and Measures of British India be taken into consideration.

The Hon'ble MR. FORBES said that he had opposed the Bill before the Council, as the Hon'ble Mover was aware, on various points during its progress, and he wished, before the Bill became law, to say a few parting words of disapprobation regarding some of its provisions. He was aware of the labour and ability which his Hon'ble friend had devoted to the construction of this Bill; but, looking to the result which he had produced, it seemed to him (MR. FORBES) that the Hon'ble Mover had to some extent enacted the part of Frankenstein, and produced, not a monster perhaps, but a very unsymmetrical creation. The Bill was neither the fulfilment of the views expressed by Government in their despatch, dated November 1868, to the Right Hon'ble the Secretary of State, and approved by him, nor was it the metrical system in its

proper form. Here was indeed the body, or rather the members of the metrical system, but joined together after a fashion devised by the Hon'ble Member. He (MR. FORBES) knew that the reason which his friend alleged for this course was, that he believed the measure in this shape would encounter less opposition than would be offered to the metrical system. He (MR. FORBES) could not see this. He thought that it was a mistake, and that the Indian public would prefer the metrical system to the creation of the Hon'ble Member. For his own part he (MR. FORBES) believed that the wisest and best course would be to pass a measure which should introduce standards of weight and capacity only; a less ambitious measure certainly, but one better suited to this country. In order that he might justify the terms by which he had characterized the Bill, he begged the attention of the Council to the latter part of section 5, which provided that, unless it should be otherwise authoritatively notified, sub-divisions of weights and measures should be expressed in decimal parts. If the Hon'ble Mover had introduced the metrical system in its proper form, decimal numeration would have followed as a matter of course; and would have been intelligible to the simplest mind; but it seemed to him that his Hon'ble friend had done too much and dared too little, and in this Bill decimal numeration simply appeared as an arbitrary condition. He (MR. FORBES) was quite sure that the addition of this condition would prove a great obstruction to the cordial acceptance of the Bill by the people of India, and that they would shrink from what would otherwise be regarded as a boon and a benefit. Every one who was acquainted with India knew that the Hindú system followed the currency, and used the factors and multiples of sixteen. He thought that most of the members of this Council must have observed the operations of a shroff counting a heap of rupees; he drew the coin to him by fours and numerated accordingly. Many of the members must also be aware that a cultivator, in describing a crop, spoke of it as a twelve-anna crop, meaning that it was a three-quarter crop, or a fourteen-anna crop, and so on, as the case might be. This system was familiar to Hindús of all ages; it was simple and led to no confusion. He was persuaded that to attempt to substitute the decimal numeration for it would be to encounter as great a difficulty as the removal of any caste or religious custom. He thought that the Council ought to reject the concluding part of section 5, and, if he met with any encouragement to do so, he was prepared to move its rejection from the Bill.

Colonel the Hon'ble R. STRACHEY said that he had intended to have explained the form into which the Bill had been finally thrown by the Select Committee before the Hon'ble Mr. Forbes made the remarks which had just fallen from

him, and he would now offer a few remarks on this subject. As to the change which had been referred to in the scope of the proposed legislation, all that had to be said was that in fact the present Bill did nothing more than what the Government of India recommended to the Secretary of State, and what the Secretary of State agreed should be done. What the Government of India proposed was that, as regards any general change of weights and measures in British India, nothing should at present be carried out excepting a change in the weights; and that the change in weights should be made very gradually and with very great care. There was no specific allusion made in the despatch of the Government of India to the Secretary of State to measures, but it was understood at the time when that despatch was written that the time had not come for dealing with the question of measures at all. Before the Bill now before the Council was prepared, and during the interval between the writing of that despatch and the preparation of the Bill, it had been brought to the notice of the Government that for the purposes of some of the departments of Government, it might be found to be expedient—he might almost say necessary—that the metre should be adopted as the unit of length simultaneously with the adoption of the new ser, which it was determined should be equal to the Kilogramme as the unit of weight. Consequently, in framing the Bill, it was thought right that a distinct reference should be made to the metre, and that it should be defined in the same general way that the new unit of weight was defined. There would be a manifest inconvenience if the Government adopted in any of its departments, or required the Railway Companies to adopt, any measure which could not be legally substantiated in India. The only way in which legal form could be given to any measure which the Government proposed to adopt, was to declare by law what should be the standard by which such measures were to be tested. Provisions were made in the Bill for testing and verifying weights. It was evident that, if the machinery which the Government proposed to create for the purpose of testing and verifying weights could not be applied to the testing and verifying of measures, the community at large, in its dealings with the Government or in its dealings with the Railway Companies, would not have that amount of protection afforded to them which they had a right to demand from the Government. Under these circumstances, it was thought proper to define in the Bill what should be the metre. The application of the metre however merely extended to the transactions of the Government Departments, Municipal Bodies and Railway Companies. As he had explained on a former occasion, the Government practically had the power, in respect to such Departments, Bodies and

Companies, in its executive capacity, to order the adoption of any of the measures referred to in the Bill without having recourse to legislation. But, for the reasons he then explained, and which he had now again repeated, it was considered better, when the Bill was put before the Council, to include in it a reference to the metre. He might add that these views had been agreed to by a large majority of the Select Committee.

As regards the form given to the Bill and the manner in which the metrical units had been dealt with, the Hon'ble Mr. Forbes was, he thought, somewhat under a misapprehension. As COLONEL STRACHEY had endeavoured to explain before, the idea of establishing any theoretical units of weight or length had been entirely given up by scientific men, and the only basis on which any system of weights and measures could be safely framed was now universally admitted to be the basis of material standards. On that basis it was proposed to construct the system of weights and measures to be adopted in British India. There was no reference to any theoretical connection between the unit of length and the unit of weight; there was no necessity for any such reference, and in fact any such reference that could be made must be incorrect. Consequently, in the Bill as it now stood, the units of weight and length were defined, in the one case as a weight of metal in the possession of the Government of India, and in the other case as the distance between the marks at the end of a rod of metal in the possession of the Government of India.

In connection with these remarks, he might add that the Committee unanimously adopted the conclusion that any reference to English weights and measures in the definition of the units was objectionable. It was brought to the notice of the Committee that the figures originally inserted in the Bill were questioned. Those figures, he should say, were inserted in opposition to his own views of what was proper; and on its being explained to the Committee that no figures could give a precise or certain equivalent, in English weights or measures, of the new weights and measures, the Committee unanimously agreed that it was proper to omit all reference to English weights and measures and to define the new units as had now been done in the Bill, that was, by reference to certain precise material objects, the Kilogramme des Archives, and the Mètre des Archives which they were to represent.

An addition had been made to the portion of the Bill which referred to the compulsory introduction of the new system. It was brought to the notice of the Committee that, in many parts of India, particularly in the South, the

ordinary transactions of the people in grain were carried on with measures of capacity and not with weights. It was true that these measures of capacity represented certain weights of grain. The introduction of measures of capacity, which, under the new system, were also based on the unit of weight, did not in fact introduce any reference whatever to the new standard of length. The unit of measure of capacity was defined to be a measure containing a ser of water. Therefore, although there was an apparent departure from the original intention of confining compulsory action to weights alone, measures of capacity were in fact representatives of weight, and therefore there was no divergence on that point from the original intention.

An important addition had been made to the Bill by the proviso which had been added to section 22, which declared that the possession of any weight or measure in accordance with the standards of weights and measures established throughout the United Kingdom of Great Britain and Ireland would not subject the possessor to any penalty. This was an addition obviously very proper, as transactions between India and England would, to a very great extent, be carried on with the weights and measures of England.

Although it would perhaps have been more proper if he had reserved his reply to the particular remarks the Hon'ble Mr. Forbes had made on some of the details of the Bill to a later stage of their proceedings, he might save the time of the Council if he now made one or two observations in reply to those remarks. Mr. Forbes had particularly referred to the last clause of section 5, which said that, unless it be otherwise ordered, the sub-divisions of all weights and measures should be expressed in decimal parts. The manifest scope and intention of section 5 was to give power to the Executive Government to declare what new weights should be adopted, but subject to the proviso that they were to be exact multiples or sub-multiples of the units. This had been done advisedly and altogether in opposition to the views of the extreme partizans of the metrical system. Such persons affirmed that the only proper way to proceed was to introduce the decimal system once for all in its integrity, however troublesome such a radical change might be, and they deprecated any gradual change. COLONEL STRACHEY personally did not entertain those views, and the Committee, he saw, had adopted the view found in section 5, that it should be left to the Executive Government to prescribe the precise form of the new system of weights and measures that should be adopted, in addition to the new units. The provision that had been introduced empowering the Government not to make decimal multiples compulsory, unless they were fully convinced that such divisions should be made, so far from suggesting that the divisions

should necessarily be decimal, would obviously be quite in the opposite direction. There was no doubt, as his hon'ble friend Mr. Gordon Forbes had remarked, that there would be great difficulty in carrying out any decimal system of weights and measures, or any change of the units such as was contemplated by the Bill. There was no question that the difficulty in India, of carrying out these changes effectually, would be greater than in any country in which education was further advanced. If it was really desirable to introduce, early, a good system of weights and measures into the country, the sooner we began it the sooner would it really take effect. That the change was difficult was no reason why we should shirk it. If the ignorance of the people was to be received as a reason for not adopting improvements, he thought India would be in a very bad way indeed. It would be for the Government to see that all changes of the sort contemplated in respect to the weights of the country were carried out with great caution, and that nothing should be done to force any change on the people until they had been gradually prepared for that change by the adoption of the new system in the Government Departments. The transactions of the Government Departments and the Railway Companies were on so large a scale, that the community at large would, in a measure, be forced to adopt whatever the Government and those large Carrying Companies adopted; and there was no reason to doubt that the people in the districts and towns in the vicinity of the larger Government establishments and of the lines of railway would soon become habituated to the use of the new weights, and that it would then become possible and reasonable to extend their use to such localities.

Major General the Hon'ble SIR HENRY DURAND said that there was a point in connection with this Bill which he did not see touched upon, but which was, incidentally, rather important. He wished to be informed whether, as the statement mentioned that Government offices were to adopt the new system of measures, it was intended that the unit of measure should extend to the great geodesical operations carried on in the country on the basis of English measures, involving a long series of most scientific observations and labours carried on for a long series of years. There were volumes based on those calculations. Was it intended that the whole of those labours was to be of no effect, and that we should remodel the whole triangulation of the country, all the maps based on it, and the whole of the revenue-surveys in connection with those labours? If that were so, it would be a very serious proposition indeed.

Colonel the Hon'ble R. STRACHEY said, in reply to the Hon'ble Sir Henry Durand, that section 9 merely declared that, whenever the Governor General in Council considered that proper standard-weights and measures of the new system had been made available, he might direct that any of such weights and measures should be used by Government Offices, Municipal Bodies and Railway Companies. All that he could say in reply to the question put by the Hon'ble Member, as to the probable effect of the passing of this Bill on the operations of the Survey Department, was that he was not aware that there had been under consideration till the present time any proposal to make any alterations in the operations of any Public Department in connexion with the proposed change of weights and measures. The question had been incidentally raised in the Public Works Department, whether, for some branches of that Department, the adoption of the metre simultaneously with the kilogramme might not be desirable, but the question had not taken a definite form, and no decision to do anything had as yet been come to. He presumed that, if the Executive Government considered that it was proper to alter the scale on which the public maps were constructed, it would be optional with it to do so. The departmental officers of the Government would necessarily be asked to advise the Governor General in Council on the subject, and the Government, after full consideration it may be presumed, would come to a decision as to any change that might be suggested. There was, however, nothing in the Bill which implied that any such change as had been referred to was contemplated; all that it said was that, when the Government considered it proper to make a change in the unit of length, it should be made in a certain way. Obviously, the executive Government could do this whether the Bill became law or not, and he could not see how it could be supposed that the Government could be in any way forced to make changes merely because this Bill contained a declaration of the indisputable fact that they could on their own authority order their own offices to make changes.

Major General the Hon'ble SIR HENRY DURAND said, he was aware that the Bill was permissive and left much to the discretion of the Government, but the reply was not satisfactory; for the Bill and statement intimated a clear intention as to the early introduction, through the Government offices, of the new system of measures, and it was a very material question whether the whole of those scientific operations, on which all the surveys and maps of the country were based, should stand fast or not, whether, in fact, the Great Trigonometrical Survey was to continue to work with the old English measures hitherto employed, or with the new.

The Motion was put and agreed to.

Colonel the Hon'ble R. STRACHEY then moved that the Bill as amended be passed.

The Motion was put and agreed to.

NATIVE PASSENGER SHIPS' BILL.

The Hon'ble MR. CHAPMAN moved that the Report of the Select Committee on the Bill to make further provision for the regulation of Native Passenger Ships be taken into consideration. He said that he had to request the special attention of the Council to sections twenty-four, twenty-five and twenty-six. These sections constituted the back-bone of the Bill. By the first of them all ships sailing from any port in British India to any port in the Red Sea were bound to touch at Aden and there obtain a clean bill of health, and the owners, or masters, were liable to a civil penalty of rupees five thousand if they omitted to do so. By section twenty-five, all ships sailing from any port east of the Cape of Good Hope and commanded by persons to whom the Bill applied were liable to a criminal penalty of two thousand rupees if they did not touch at Aden and obtain a clean bill of health. The reason of the difference between the two penalties was this. In the case of ships clearing from British ports, the officers of the Government would be able to insist on the owner or commander entering into a civil bond before allowing the ship to clear out; whereas, of course, in the case of vessels sailing from foreign ports, there would be no opportunity of doing so. The only way in which the criminal penalty could be enforced in the latter case would be by information on the part of some one of the crew or passengers on the arrival of the ship at a British port, or by an inspection of her papers.

Section 26 provided that the bill of health which ships were bound to obtain would be withheld in all instances where there were more than the authorized number of passengers. When MR. CHAPMAN took charge of this measure, it became his duty to devise the most effectual means he could think of to prevent the fearful amount of overcrowding which there was reason to believe prevailed on board these pilgrim ships. Looking to the geographical position of Aden, it at once occurred to him that the best plan would be to overhaul them there. It would be impossible, considering the number of foreign ports in the Straits and elsewhere, to arrange, in concert with the several Governments of these ports, for the examination of ships before departure. He admitted that the provisions of the present Bill were very stringent, and were likely to occasion considerable inconvenience and expense. All he could say was, that he should be happy to make less objectionable provisions

if he thought they would secure the desired ends. The practical result of the measure would be that pilgrims would have to pay more for their passage than they now did. He had received a petition signed by some members of the Muhammadan community, in which, while approving generally of the measure, they suggested that, in cases where the wind was favourable and there was ample time to reach Jeddah at the proper season for making the pilgrimage, the ship should be obliged to touch at Aden; but if not, she should be permitted to proceed direct to Jeddah, and there the passengers should, previous to landing, be subjected to an examination by the Consul. He need hardly remark that, in point of practice, it would be impossible to give effect to this suggestion. In his opinion, if the Government were to legislate at all on these matters, it was advisable to do so in a complete and effectual manner.

The Hon'ble MR. COCKERELL said that as a member of the Select Committee on this Bill, he wished to state that the Committee had not lightly, or without a full sense of their rigour, adopted the very stringent provisions contained in sections 24 and 25. Indeed he might say that his Hon'ble friend's proposals in this direction were very reluctantly assented to. It was felt, however, as had been stated by his Hon'ble friend, that the very objects of the present legislation, which had been undertaken in the paramount interests of the cause of humanity, could not be effectually attained in any other manner. The obvious objection to these provisions was, that they imposed a similar obligation and burden on all masters or owners of Native passenger ships, including those who might have never carried more than a fair complement of passengers, with those who, for personal gain, had disregarded the dictates of humanity and rendered necessary such strong preventive measures as were provided by the Bill. As regards the expense entailed by the proposed provisions, it was within the power of the Executive to mitigate the burden to a considerable extent. He understood that, quite recently, vessels touching at Aden for the sole purpose of using the telegraph had been exempted from the payment of port-dues.

It was only reasonable, under the circumstances in which Native passenger ships were compelled to enter that port, that a similar exemption should be applied to them, and he had no doubt but that this would be done.

The Motion was put and agreed to.

The Hon'ble Mr. Chapman then moved the following amendment. That in section 24, line 12, after the word "Aden," the words "on her outward and also on her homeward voyage" be inserted.

GOVERNMENT RAILWAYS.

These words were omitted by an oversight. The effect of them would be to subject the ship to examination both on going to, and returning from, the Red Sea. The practice of overcrowding prevailed on both occasions.

The Hon'ble Mr. CHAPMAN also moved that the Bill as amended be passed.

The Motion was put and agreed to.

GOVERNMENT RAILWAYS' BILL.

Colonel the Hon'ble R. STRACHEY introduced the Bill to apply the provisions of Act No. XVIII of 1854 to Railways belonging to, or worked by, Government. He said that the object of the Bill was perfectly explained in the title. As he had stated when he asked for leave to introduce the Bill, it had been observed that the language of Act XVIII of 1854 was such as to make that Act inapplicable to railways belonging to the Government, and it was necessary to correct this.

Colonel the Hon'ble R. STRACHEY having applied to His Excellency the President to suspend the Rules for the Conduct of Business,

The President declared the Rules suspended.

Colonel the Hon'ble R. STRACHEY then moved that the Bill be taken into consideration.

The Motion was put and agreed to.

Colonel the Hon'ble R. STRACHEY also moved that the Bill be passed.

The Motion was put and agreed to.

The following Select Committee was named :—

On the Bill to amend Act No. XIX of 1861 (*to provide for a Government Paper Currency*)—The Hon'ble Messrs. Stephen, Gordon Forbes, Cowie, Chapman, Bullen Smith and Cockerell and the Mover.

The Council adjourned to Saturday, the 2nd April 1870.

WHITLEY STOKES,

Secy. to the Council of the Govr. Genl.

for making Laws and Regulations.

CALCUTTA,

The 1st April 1870. }