

Saturday, 14th April, 1860

PROCEEDINGS

OF THE

LEGISLATIVE COUNCIL OF INDIA

Vol. VI

(1860)

respecting the liability of real estate within the Settlement of Prince of Wales' Island, Singapore, and Malacca, to the payment of debts of deceased persons; and to enable Executors and Administrators to sell and dispose of the same." He said, this was a Bill which he brought in at the request of the late Chief Justice. It was introduced at the instance of one of the learned Recorders in the Straits. As he (Sir Barnes Peacock) did not see any necessity for proceeding further with it, he begged to move for the discharge of the Committee.

Agreed to.

WARRANTS OF ATTORNEY AND COGNOVITS.

SIR CHARLES JACKSON moved for the discharge of the Select Committee on the Bill "to provide for the due execution of warrants of Attorney to confess judgment and cognovits." He said that this also was a matter which would form part of the Civil Procedure about to be provided for the Supreme Courts, and it was not necessary to proceed with a separate Bill for this object.

Agreed to.

PUNISHMENT OF CHOWKEYDARS.

MR. HARRINGTON moved for the discharge of the Select Committee on the Bill "for the punishment of Chowkeydars for neglect of duty." He said that there was before the Council another Bill on the same subject, into which the provisions of this Bill could be introduced, if necessary.

Agreed to.

IMPRESSMENT OF CARRIAGE AND SUPPLIES FOR TROOPS AND TRAVELLERS (BENGAL).

THE VICE-PRESIDENT moved that the Bill "to amend the law regarding the provision of Carriage and Supplies for Troops and Travellers, and to punish unlawful Impressment," be struck out of the list of Select Committees. This Bill had been brought in by the Lieutenant-Governor of Bengal. All the Members of the Committee upon that Bill had gone away without their places in the

The Vice-President

Committee having been supplied. The Bill might therefore be presumed to have died a natural death, and unless the Honorable Member for Bengal wished to proceed with it, might be struck out of the list.

MR. SCONCE said he had received no instructions concerning this Bill.

The Motion was subsequently put and agreed to.

The Council adjourned.

Saturday, April 7, 1860.

No Member of the Council was this day present.

Saturday, April 14, 1860.

PRESENT :

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

Hon. Lieut.-Genl. Sir J. Outram,	H. B. Harrington, Esq.,
Hon. Sir H. B. E. Frere,	H. Forbes, Esq.,
Right Hon. J. Wilson,	Hon. Sir C. R. M. Jackson,
P. W. LeGeyt, Esq.,	and A. Sconce, Esq.

INDIGO CONTRACTS.

THE VICE-PRESIDENT read the following Memorandum from the Secretary to Government in the Home Department, communicating a Message from the Governor-General :—

No. 207.

The Secretary to Government in the Home Department has the honor to communicate to the Legislative Council the following telegraphic message which he has received from the Secretary to Government with the Governor-General :—

MESSAGE.

*Governor-General's Camp,
dated 9th April.*

The Governor-General has this day given his assent to the Indigo Contract Bill, with your letter of 2nd instant.

W. GRAY,

Secy. to the Govt. of India.

Fort William, the 13th April 1860.

MOONSIFFS.

THE CLERK presented to the Council a Petition of the Sheristadar of the

Moonsiff's Court of Zoraworgunge, in Chittagong, forwarding the draft of a law for the more extensive employment of Moonsiffs empowered to try Civil, Criminal, and Revenue cases.

REGISTRATION OF ASSURANCES.

THE CLERK also presented a Petition from the same person, forwarding the draft of a law to enable Judicial Officers to carry on their business with the help of a single Amlah.

Mr. FORBES moved that the above Petition be referred to the Select Committee on the Bill "to provide for the Registration of Assurances."

Agreed to.

POLICE (PRESIDENCY TOWNS AND STRAITS SETTLEMENT).

THE CLERK reported to the Council that he had received a communication from the Governor of the Straits Settlement, suggesting amendments in Act XIII of 1856 (for regulating the Police of the Towns of Calcutta, Madras, and Bombay, and the several stations of the Settlement of Prince of Wales' Island, Singapore, and Malacca).

Mr. FORBES moved that the communication be referred to the Select Committee on the Bill to amend the above Act.

Agreed to.

LEGISLATION FOR THE STRAITS SETTLEMENT.

THE CLERK also reported that he had received a communication from the Governor of the Straits Settlement, relative to doubts which had arisen with regard to the intention of certain Acts, owing to the misapplication of the terms "Settlement" and "Station," and the different expressions used in reference to Courts established by Royal Charter.

LITERARY, SCIENTIFIC, AND CHARITABLE SOCIETIES.

Sir CHARLES JACKSON presented the Report of the Select Committee on the Bill "for the registration of Literary, Scientific, and Charitable Societies."

ABKAREE REVENUE (BENGAL).

Mr. SCONCE presented the Report of the Select Committee on the Bill "to amend Act XXI of 1856 (to consolidate and amend the law relating to the Abkaree Revenue in the Presidency of Fort William in Bengal)."

CHITTAGONG DISTRICT.

Mr. SCONCE also presented the Report of the Select Committee on the Bill "to remove certain tracts on the eastern border of the Chittagong District from the jurisdiction of the tribunals established under the general Regulations and Acts."

BOUNDARY MARKS (FORT ST. GEORGE).

Mr. FORBES moved the first reading of a Bill "for the establishment and maintenance of boundary-marks, and for facilitating the settlement of boundary disputes in the Presidency of Fort St. George." He said, he had occasion to occupy but little of the time of the Council in introducing the Bill, of the first reading of which he had given notice for that day. Some Members of this Council would remember that, in 1855, Mr. Elliott introduced a Bill for the establishment and maintenance of boundary marks in the Presidency of Fort St. George, and this Bill was passed as Act XX of that year. At the time that it was passed, the general survey now in progress had not been commenced; and although the Act provided sufficiently for the state of things then existing, it had been found unanited to the altered state of affairs which existed, now that the whole Presidency was to undergo a survey, and all the land was to be re-assessed.

There were three things to be done. The survey was to be a field survey, and to enable the Surveyor to survey the fields, their boundaries must be marked, in order that villages might be separately marked in the map; their boundaries also must be demarcated; and then, at the classification

and assessment of the lands, the presence of the land-owner was necessary.

Now the present law provided for the presence of the land-owner only when boundary marks to his land were to be placed, and afforded no means of securing his presence when his lands were measured, classified, and assessed. It also enacted that ten days' notice should be given of any requirement for the erection of boundaries, and that caused very great and very needless delay. The survey and re-assessment of the Presidency were estimated to cost between seventy and eighty lakhs of Rupees, and it was obvious that a very great waste of money and a great enhancement of expense would follow if the large establishments of the Departments were constantly kept idle from the necessity of waiting ten days for every ryot to mark the boundary of his field.

Then, again, the only machinery provided by the present law, for the settlement of disputes regarding boundaries, was that of a Village Panchayet, and this was not only a very unsatisfactory and a very dilatory mode of procedure, but it was also one that, however well suited to disputes between ryot and ryot, was wholly unsuited to cases in which the boundaries of large zemindaries might be disputed, and in which the parties might be a large zemindar on the one side, and the Government Officers on the other.

It was proposed to substitute arbitration for a Panchayet, and the Sections of the Civil Code of Procedure, which prescribed the course to be followed when arbitration was had recourse to, had been adopted.

Lastly, threats had, in some cases, been held out of an action at law for trespass against the Survey and Assessment Officers when proceeding to perform their duties, and it was necessary so to legalize their proceedings as to protect them from such actions.

All these points were provided for in the Bill now to be introduced, and he had only further to say that, should the Council allow it to be read a second time this day week, he should ask that the Standing Orders be so far suspended as to allow the Select Committee,

which might be appointed, to report upon it within one month, to avoid the great delay which was now constantly occurring to the Survey and Assessment Officers.

The Bill was read a first time.

INCOME TAX.

On the Order of the Day being read for the second reading of the Bill "for imposing Duties on profits arising from Property, Professions, Trades, and Offices"—

MR. WILSON rose and said :—

MR. PRESIDENT,—Sir, in rising to move the second reading of this Bill, it is not my intention to discuss the details of its provisions; that will be best done in Committee of the whole Council, after it shall have undergone a careful examination by the Select Committee, to whom it will be referred. I shall therefore content myself with referring, before I sit down, to some of the main provisions of the Bill, and to a proposed amendment in its construction and machinery, which has been decided upon since the Bill was printed, with a view of bringing it more in harmony with the existing revenue arrangements of the provisions. But, Sir, as this is the proper stage at which the principle of the Bill may be discussed, I hope I shall be excused if I make a few observations on the objections which have reached us with regard to our policy, of which this Bill may be said to be the motive power. When I explained our policy to this Council some weeks ago, I then expressed a hope that it would be freely discussed in the public Press, which, in a country like this, necessarily so limited in its means of giving expression to opinion, through its constitutional institutions, acquires more importance than it possesses in a country with free representative institutions. The Government have therefore considered it to be their duty closely to examine and carefully to consider all that has been said or written in respect to our policy and our measures. In proportion to the scantiness of our means of ascertaining public opinion, we have carefully

availed ourselves of every opportunity which has offered itself for that purpose. We have not confined our observation to the European Press. We have with equal care consulted the Native Press;—and, upon the whole, we have little or no ground to be dissatisfied with the manner in which our proposals have been received. By the European Press our proposals have been understood in the spirit in which they were made as involving a policy which, however necessary for the moment to meet pressing emergencies, was calculated to yield great advantages hereafter, and which would assuredly lay the foundation of a sound and reliable system of finance. That the Native Press was likely to misunderstand, and to some extent to misrepresent our motives and our measures, was only to be expected; but I am bound to say that the instances which we have found of this are not numerous. Well then, Sir, since our measures have been open to public criticism for nearly two months, I may be excused if I shortly notice some of the chief objections that have been taken to them. In the first place then, we have been accused of class legislation:—we have been accused of studiously consulting the interests of Europeans, and neglecting those of the Natives: we have been accused of having one rule for ourselves, and another for the natives of India, whom we rule. Monstrous and preposterous as are these accusations, under the circumstances they might be considered as only natural in Native papers written for an object. But, Sir, I will appeal to those who did me the honor to listen to my very imperfect exposition of the views of the Government of India, to say whether all that I said and all that I proposed were not marked by a spirit entirely the reverse. I think I may say with confidence, and I am in the recollection of those who listened to me, that if there was one principle more than another on which I insisted, not only as the guide of the policy of the Government, but also as a test of the measures which we ought to propose, it was that of perfect equality between all classes of Her Majesty's

subjects, whether Native or European, whether Official or Non-Official. Sir, this principle was the touchstone at once of our policy and our measures. And let me recall to you what those measures were. First of all we proposed great modifications of Customs Duties. On what principle were those modifications made? Here it is said that we reduced the duty upon what were called the *twenty per cent.* articles, chiefly consumed by Europeans, to *ten per cent.* Why was that done? Because, as I showed from the Customs returns, our revenue was falling in consequence of diminished consumption. A year before, the duty upon these articles had been raised from five to twenty per cent., and if we again reduce them, not to five, but to ten per cent., it was because the high duty was perceptibly leading to a diminution of our trade in those articles. But then it is said we repealed the Export Duties on raw materials out of a sole regard to European interest. Now, what did we really do? We carefully considered the character of each article separately, and when we found that the duty imposed upon it fell back in the shape of a diminished price upon the Indian producer, in those cases we removed it.—but when, on the contrary, we found that in consequence of the article being solely produced in India, and having no competition to meet with in the European markets, the incidence of the duty fell upon the foreign consumer—as I showed was the case with saltpetre—in that case we raised the duty by about sevenfold. And yet we are told that our measures were framed for European and not for Native interests. Again, was it in the interests of Europeans and against those of the natives of India that we raised the duty upon cotton twist from five to ten per cent.? Was it in the interests of Europeans that, for the first time, we proposed they should pay a fair share of the necessary taxation of the country, by having their profits, whether made here or in England, brought under taxation? Was it in the exclusive interest of Europeans that, for the first time, it was proposed that the

whole public service, from the Governor-General down to the youngest Civilian, shall contribute by an Income Tax, equally levied upon all, to the exigencies of the State? In the face of such measures, it is difficult to conceive that such an accusation could be made, except in the hope of embarrassing the Government by misrepresentations. The measures, so far as regards the Customs Duties, have already been in operation for some weeks, and it may be satisfactory to the Council to know what, even in that short period, has been the result. Upon the raw materials exported, which were placed in the free list, the duty which was lost in the first four weeks was Rs. 24,130, which sum must go to the encouragement and development of the production of those articles. Upon saltpetre the gain during the same period was Rs. 70,000, not to the loss of the producer in India, but at an enhanced price to the consumer in Europe, for already has the price risen there, as we know by telegraph, to the full difference of the enhanced duty, and upon enquiry I find that here the prices now paid, independent of duty, is precisely the same as it was before the duty was raised. So far, therefore, we could not have a better proof of the soundness of the principle upon which we proceeded:—and it is satisfactory to know that, during the time that has elapsed since the remissions of Customs Duties were made, our revenue from that source has shown a perceptible improvement.—So much then for the accusation of class legislation, of sacrificing the interest of the native to secure the approval of Europeans. If, Sir, we have received an unusual amount of support from Europeans, it has been of a most disinterested character, and one which can only have proceeded from a conviction that we were attempting to meet unprecedented difficulties with a firm determination not to evade our duty by having recourse to momentary and delusive palliatives, but to grapple with them in a real and practical way.

Pursuing the same policy, and with a view to open up the internal intercourse of the country as much as possible, the

Mr. Wilson

Government have arrived at the conclusion to abolish all tolls on the Grand-Trunk Roads. They are few in number, and the cost of collection is fully 30 per cent. on the receipts, and they act as great impediments to intercourse in those immediate localities where they are placed. Simultaneously with the new taxes, these tolls will therefore be abolished, which we believe will be accepted as a great boon by the native community in their neighbourhood.

The next charge that is brought against us is that we are very unwisely imposing new taxes for the purpose of reducing the debt of India. I have received a printed letter, signed PROBOS, in which he protests strongly against new taxes being raised for the reduction of the national debt of India. It is said we ought to accept that debt as England has accepted her debt, and content ourselves with providing for its interest. Sir, the Government accept that limited object of taxation. How it could have entered into the head of any man that, with a deficiency of six millions and a half for the coming year, the Government of India could have entertained so ambitious a design as to attempt, at such a moment, to redeem any portion of the public debt, I am at a loss to know. It could not certainly be from anything which escaped my lips, or those of my colleagues, for such a project has not even been named. No, Sir, there is a time for all things, and certainly when we are deficient, by six millions and a half, in the means to pay the interest of the debt, and other public charges, would not be the time to talk of redeeming the principal. But, Sir, if we have not entertained the design of redeeming the existing debt, we do plead guilty to the firm determination of using the whole influence which the Government possesses, in order to place our finances on so satisfactory a footing, that during a time of peace it shall, at least, not increase: we do plead guilty to the fixed purpose of using all our ability to change our condition from one of annual and increasing deficiency to one at least of adequate provision

for the absolutely needful demands upon the State.

But, Sir, the most serious, though at the same time the most improbable charge against us, is that of two courses which were open to us to make both ends meet, that is, by reduction of expenditure or by increase of taxes—we have deliberately elected the last of the two. Sir, this complaint pervades this large mass of Native Papers which is lying before me in more or less distinct terms, and the same has been insinuated if not directly made in other quarters. Here, again, I must say that I am at a loss to conceive how such an impression can have got abroad. That such statements should have been hazarded by the writers in those Native Papers, whose chief function is to misrepresent and oppose the Government, is not a matter of surprise, but that they should have been encouraged by others, I must own, excites my astonishment. I thought I had taken special care to express the firm conviction of the Government, that its first duty was, with the most unsparring hand, to curtail in every possible way consistent with the public interest and security, the expenditure of the State, and when the steps that we have already adopted for that purpose are all understood, it will be plain that we have not only professed, but have acted up to our professions. For what purpose was it that we proposed to take this Bill, the second reading of which I am now proposing, for a period of only five years? This is the chief new tax which we propose, and we take it as a temporary measure. Sir, it would have been worse than a grave error on the part of the Government, if we had come forward and asked you to impose new taxes upon the country, without having, in the first place, earnestly considered how far such a necessity could be avoided, and the object gained by diminishing expenditure. I trust there is no one who can believe that the Government of India would have been guilty of such an inexcusable piece of folly, or something worse. Can any one really believe that we should deliberately and gratuitously impose upon ourselves the unwelcome

and arduous task of proposing new taxes? Can any man in his senses imagine that, before we came to the conclusion that so unpopular a course was an imperative duty, we had not carefully gone into the whole question of the Indian expenditure—with the means of judging too, which no one else can possess—before we arrived, I own unwillingly, at the conclusion that it would only be to continue in a course of self-deceptive palliations, and of hand to mouth contrivances, if we were to trust only to what could be done by way of reduction only to put our finances in a satisfactory condition. No doubt we might have taken this easier but delusive course; we might have persuaded ourselves and the public that time only was required to make the necessary retrenchment from the high expenditure of the mutiny: we might in the meantime have kept open a five and half per cent. loan, and when that failed have opened one at six per cent. We might have taken this easier course, have avoided the difficult task which we have imposed upon ourselves;—we might have drifted on a little longer under the plausible pleas which have been suggested—and have left a task still more difficult to be encountered by our successors. Sir, the result of our investigation was such, that we could not in our conscience and our duty to our country and our Queen adopt such an enticing but delusive course. When it is said that all our difficulties can be met by returning to the expenditure of 1856-57, let me recall to your mind what even that state was, and particularly what has occurred since then materially to aggravate it. I showed you, upon a former occasion, that even before the mutiny our financial position was a most unsatisfactory one. Your normal condition was one of annual recurring deficit, and constant open loans to supplement your revenue. Was that a state of things to be perpetuated? But I also called your attention to the fact that, in the meantime, the interest of the public debt had increased by *two millions* sterling. And what had taken place in the meantime with regard to

your army? Is there a single person from the Himalays to Cape Comorin, whether Native or European, who has the interests of the British Government and of India at heart, who would quietly consent to see the Indian Army in the condition in which it stood in 1857? Numerically, no doubt, it may be greatly reduced. But the character of the army we must have in the future must be very different in quantity as well as in cost. Sir, taking everything into account which must go to make up the aggregate sum of our military expenditure for the future, you cannot compute the cost of each European soldier at less than that of four natives, and I believe, when the necessary allowance is made for reliefs, for Barrack and Hospital accommodation, that it would be nearer the truth to say that the cost of each European soldier is nearer the proportion of five to one than four to one.

But, notwithstanding all this, while we believe that it would be a mere delusion and deception to say that the military charges of India can, with due regard to the security of the State, be reduced to the rate at which they stood in 1856-57, yet we are confident of being able to make a large reduction from the present charge. To this end we have instituted measures which are already bearing good fruit. We have appointed a Military Financial Commission, which is prosecuting its labors with great success, both as regards the direct cost of the army, but even more with regard to the heavy subsidiary charges connected with Commissariat and other departments of expenditure. But when all is done, I say it would only be deceiving this Council and the public, if we were to hold out expectations that, with a suitable European Army in India, it will be possible to reduce the military charges to what they were before the mutiny by a very large sum. But I need not tell you that, whatever reductions can be effected, must be a work of some time to complete them, and, when we have so many distant authorities to deal with, of some difficulty: we must also bear in mind that even local Governments have

their own difficulties in this respect to deal with. Take one example of very recent date. In the month of May last year, the Madras Government were very sanguine that they could, as far as they were concerned, make immediate and large reductions in their army. They then drew out and sent upon full authority to the Government of India, a detailed estimate of their military expenditure for the current year just about to close. The amount of that estimate was £2,780,000. Now we may be quite sure that those who prepared that estimate were in earnest. No one can doubt that. Well, what happened? In the month of October a proposal came up to the Government of India for the permanent establishment of a force, which would have exceeded in cost anything that had ever been dreamt of, for the Madras Army, and that, too, notwithstanding the establishment, in the meantime, of a very expensive but efficient police. About the latter end of December the Military Finance Commission, which had been appointed by the Government of India, visited Madras; when, as they have reported, they found that none of the measures of retrenchment which had been reported in May had been carried out:—and now the result is that, in place of a sum of £2,780,000, as the Madras Military Expenditure for 1859-60, I find the actual figures in our accounts to be no less than £4,300,000. It was only right, however, to say, that since the Commission visited Madras, a series of reductions have been put in progress. Now I do not allude to this particular case for the purpose of imputing blame to that Government, but for the purpose of showing how much caution the Government of India, which is really, solely, and primarily responsible for the security of the country as well as for the adequacy of its finance, ought to exercise against the risk of relying implicitly upon sanguine calculations. In the meantime, as I showed upon a former occasion, the Military Expenditure of Bengal had been reduced in 1859-60, the current year, by upwards of three millions sterling, and further

large reductions are going on. In Bombay also the Government has engaged itself with earnestness in securing considerable reductions. But all these have been taken into account, as far as they are at present known, in the computed deficiency of *six millions and a half*. Still we have a well-grounded hope that we shall be able to effect during the coming year a very much larger reduction; for it is by that means only, in addition to the improved revenues which we hope to derive from our new taxes, that we hope to make ends meet. But when we compare the expenditure of India as a whole with what it was prior to the mutiny, do not let us commit the mistake of supposing that all the increase is to be charged to our military establishments, and that when they are reduced to the lowest point, there will not still be a large increase attributable altogether to our civil administration, and which, on all hands, it is admitted, must in the future rather be increased than decreased. Let us bear in mind that even with this deficit of six millions and a half, we are computing only the sum furnished under the restriction order for public works, and under the order that no increase whatever shall, in the meantime, be made in our educational establishments. If many works which are suspended are to be finished, if educational and other civil improvements are to progress, provision must be made for them over and above the computed deficit of next year. But let us look at our civil expenditure as it is even under the pressure of all these restrictions. In Bengal, including the North-West Provinces, Punjab, and all the new States under the direct Government of India, the expenditure other than military has increased from £13,359,000 in 1856-57, to £16,024,000 in 1859-60, of course including the increased charge of the public debt, and the civil establishments in our new possessions. In Bombay the increase has been from £3,492,000, to £3,806,000, and is less than in any part of India. In Madras the increase has been from £2,539,000 to £3,125,000. I speak of all charges other than military, so that, although

there has been a steady though slow growth of revenue, there has also been a steady growth of expenditure of a civil character. No doubt, for example, it is quite true that the revenues of Madras have improved during the last ten years by about one million sterling, but it is also true that the expenditure, other than military, has increased also by a similar sum, while during the same time the military expenditure had crept up, even before the mutiny, by about half a million, and in the last year by upwards of a million and a half. Now, it is only fair to say that Madras is burdened, as far as these accounts go, and I think as far as any comparative statement is concerned, unfairly so, with the military expenditure of Pegu; but, on the other hand, Madras is charged with no share of the interest of the public debt, nor with any share of the Indian expenditure at home, nor with any share of the interest of the Railway undertakings, which are all directly or indirectly a charge upon the Exchequer of the Government of India. Sir, I hope we shall soon cease to have these divisional questions about finances or anything else, and that we shall learn that we really are one united Empire, with no other duty than to consult the interests of the whole equally and alike. Well, then, we come to the point. With this large increase of civil expenditure which, all admit, must rather continue to increase than otherwise, however much our institutions and establishments may be improved and rendered more efficient: with the necessity of maintaining a military force in the country of a much more costly kind than heretofore, however much it may be numerically smaller: with a necessity admitted on all hands, of having an improved and more costly police to supplement our smaller army than was maintained before the mutiny, with a known addition to the charge of our national debt of two millions a year, and, lastly, with a deficit of six millions and a half in the coming year, what could have been thought of a Government which, not having the courage to face those difficulties, was

to facts into which it was bound to enquire, and endeavored to persuade itself and the public into a delusive belief that any possible immediate reduction to such an extent was possible? Sir, I can only say that neither the Governor-General nor any member of the present Government could lend themselves to so palpable a fallacy. No doubt we have endeavored to lay the foundation for such a development of our trade and other resources by the policy which we have had the good fortune to introduce, that, as was the case in England after 1842, we may fairly hope for such a growth of our income from other sources, while in the meantime every possible economy will be made in our military expenditure, as will enable us to dispense with that portion of the Income Tax which is required for the public Exchequer. On this account we ask you to give us this Bill only for a limited period, and I confidently believe that we shall require no extension either of the period, or of the amount of the tax. In the meantime we have already inaugurated a new system of annual budgets, estimates, issues and audit, which will secure to the Government of India the most complete check over every branch of the public expenditure, and we trust will afford the best guarantee against any wanton or needless expenditure. In asking this consent to read this Bill a second time, I give to this Council, on behalf of my colleagues and myself, the most solemn assurance, that we consider it to be essential for the safety and security of the best interests of India, and that no opportunity shall be lost, on our part, of reducing expenditure whenever it can safely be done.

The next objection to this measure, which I shall notice, are embodied in two petitions, I believe emanating from the same body; the one presented to this Council, the other sent direct to myself. They proceed from a most respectable class of persons employed in the public and other offices as Clerks. Their prayer is, that in place of charging a uniform rate of tax upon all incomes above four hundred rupees, we should adopt a graduated scale,

beginning with 1 per cent. upon lower incomes, and going up to six per cent. upon higher incomes. Sir, if the Government feels itself quite unable to assent to this proposal, it is not that they do not sympathise with the class from whom this petition proceeds; for we are well aware that any additional charge upon small incomes is no doubt felt as a hardship. But in the first place I would respectfully remind these gentlemen, who are chiefly employed in our public offices, that the tax is really required to enable the treasury, upon which they depend for their employment and their pay, to perform its obligations. In the next place I must say to all, that it is no part of the functions of fiscal arrangements to equalize the condition of men. The lot of man is fixed by thousands of inscrutable causes, and if a Government were to attempt to produce an equality by distributing the incidence of taxation, it would undertake a task, the end of which must be confusion and disappointment to all concerned. No, Sir, it is our duty to adjust our taxes upon a clear and general principle with as much equality as possible, and then to leave to their full and free course all those general principles of competition and other elements which determine the lot of man. But this at least we may say in favor of an Income Tax, which cannot be said in favor of any other tax, that its incidence falls upon each person in the exact proportion to his means, and I doubt not that it will only be a pleasure to any one of the gentlemen signing these petitions to find, as time goes on, that they have a larger sum to pay, as that will be another mode of saying that they are in receipt of a better salary. But, Sir, from the experience of England, I would hold out to this class of persons the greatest hope of increased comforts from the policy the Government is pursuing. In 1842, when Sir Robert Peel first introduced the Income Tax, there was no class in England who then suffered more than educated men, who had to rely upon their own efforts for a subsistence. At that time the whole

amount of income upon which the tax was paid under Schedule E, which represents clerks in public offices, were under ten millions a year. In 1848, only fourteen years after the first return, such had been the increased demand in the meanwhile in consequence of the rapid development of our trade and the formation of public companies for this class of talent, that I find in the returns of that year, the annual income upon which the tax was paid, exceeded sixteen millions a year. Is this increased demand not already beginning to make itself felt in India? Is there any doubt that the demand for clerks and their condition has already improved? I can say that scarcely a week has passed since I have been in India, in which, in one shape or another, this fact has not been officially brought to my notice in connexion with the public establishments. Sir, our financial policy stands upon the firm and immovable basis of strict equality to all alike. We cannot swerve from that principle to the right or to the left. Exemption in one case will open the door to exemptions in others;—and once to begin upon such admissions, would be to break down our whole fiscal system. One of the native papers, lying before me, quotes the ancient Hindoo poet Kalidas, who, in describing the actions of King Dilip, said, that he “took taxes from his people, not in order to fill his treasury, but for the public good, in the same way as the sun attracts vapours from the earth to restore them back again in fertilizing showers.” The same may be said of the Income Tax introduced by Sir R. Peel in 1842, and if we patiently follow the same policy, we may hope hereafter to see the beneficial fruits of it in India, and to none more than that large and increasing class of well-educated and intelligent natives, who are now candidates for employment in the more responsible walks of life.

But, Sir, I have yet another class of objections to deal with. There are many who, admitting to the full that additional taxation is necessary, yet demur to the nature of the taxes which we have selected. I know it is extremely difficult to administer an

unpleasant dose in a palatable way: there are many things so disagreeable in themselves, that in no form in which you can present them will they be cheerfully accepted, and the most natural of all things is to object to the operation in the form it assumes. But it is generally not the form but the thing itself that is distasteful. This applies particularly to taxation. Some advise us strenuously to fall back upon the old transit and towms customs dues, because they are more in unison with ancient customs. Is it possible that we can be asked both to affect the people of India with new taxes, and to deprive them of the most important improvements in their material condition which British rule has conferred upon them? Is that trade and intercourse which are doing more to enrich India, to dispel superstition, to civilise the people, and to bring them into harmony and sympathy with European views, to be checked and destroyed by the erection of barriers at every town and custom houses at the boundary of every zemindary? It requires no reflection to reject such a proposal. But there is another and more favorable scheme, to impose a Succession Duty, and that chiefly by those who object to the inquisitorial character of an Income Tax, of which quality, let me say in passing, it will be in a great measure deprived by the steps we are taking for its assessment. But do those, who propose a Succession Duty, intend that it shall apply to land and real property only, or that it shall also extend to personal property? If the former, then we object to it, because it simply tends to aggravate the most glaring defects in our existing system, which draws so disproportionately from the land: but if it is intended to include both, then we object to it, because the difficulty of assessing the hidden wealth of rich natives to a Succession Duty, would be an enormous aggravation of that of assessing annual income. But a Succession Duty has recently been tried in England, where, more than in any other country, it ought to have been productive. In 1853 I was in part responsible for the succession tax imposed by Mr. Glad

stone as one of the means of repealing the Income Tax in this year. The experiment failed. It does not produce more than one-fourth of what the Revenue Authorities anticipated, and Mr. Gladstone, in his speech two months ago, admitted its failure as one of the reasons for still retaining, and in an extended form, the Income Tax. But if there were no other reason against these taxes we have one peculiar to our position and to the rule we have laid down for our guidance, which of itself would be fatal to them. The one rule which we cannot consent to transgress is that whatever burdens we impose they shall be borne equally by all alike, European and Native, by Official and Non-Official. Now, upon whom would Town duties directly fall? Upon the natives only, or nearly so. No doubt Europeans would suffer less in their trade, while the State would gain nothing in its Exchequer. Then a Succession Tax—upon whom would it fall? Almost exclusively upon the natives. As a rule, Europeans and Officials of the Government would entirely escape. Such a result would belie our professions to deal equally with all Queen's subjects, and this I believe can alone be done by the measures we have proposed. By the Income Tax we spread the burden equally upon all alike, but strictly in accordance with the means of each; the property of the poor we entirely spare; from the modest income we take sparingly, from the large-income freely.

The last objection to our measures, which I shall notice, is to the novelty of the taxes, and to their being distasteful and repugnant to the feelings of the natives. That objection has reached us chiefly from Madras. But I must say that there appears to be much difference of opinion in that Presidency upon this subject, and not only much difference, but not a little variability of opinion. It will be in the recollection of the Council that, when the Bill of my Honorable friend opposite (Mr. Harington) was published and circulated last year, it had assumed the character of a License Duty and an Income Tax, and it was in that double form in which it was canvassed

and discussed. The reports which came up in respect to that measure were most carefully examined, and none were submitted to closer scrutiny than those from Madras. Some of the officers who reported, were opposed to the Bill altogether: others were opposed to many of its provisions while expressing approval of the object in view; and others expressed a considerable support to the Bill, nearly in the form in which it stood: and several admitted the suitability of the general scope of the measure—why? Because it was in accordance with the long established habits of the people. On this point, one very able officer states as follows:—

“On the subject, therefore, of the general effect which an Income Tax is likely to have on the native mind, I shall be brief in my remarks. The Government are aware that additional taxation of all descriptions must be unpopular, and that the native towns have always shown an impatience of it. But a tax on the profits of trade is no novelty, either in Hindu law or practice. In a minute on the existing *Mohturja* Tax, Mr. Walter Elliot, when a Member of the Board of Revenue, wrote as follows:—It is an ancient tax, declared to be legitimate in old Hindu books, and the verse in *Menu*, which restricts the land-tax to one-sixth of the produce, declares 2 per cent. or one-fiftieth to be the proper tax, on cattle, and the profits of trade, adding that a mere trifle should be taken from the meaner persons who subsist by traffic. There is no doubt therefore that taxes on income are sanctioned both by ancient Hindu law and usage.”

Now, there is no doubt that this gentleman does, in his report, state reasons against the advisability of introducing any new taxes at that time for special reasons, but certainly not on the ground so much urged now. On the contrary, he concludes by recommending “that the law, when introduced, should be accompanied by a proclamation, pointing out that by the Hindoo law and usage the profits of trade have been always subject to taxation, and that it is only equitable that traders and professional persons who enjoy the benefits of our Government, and have been relieved from many taxes (Town and Transit Duties, Sea Customs Duties on the coasting trade, Special Duties on Tobacco, Betel, &c.) should contribute

to the wants of the State." Again I find the following from another very eminent officer who, of late, has had more than ordinary means of observing and knowing the native mind:—

"A tax on the profits of trades and professions is undoubtedly sound in principle; and being in its nature familiar to the people of this country, it would be more acceptable generally, and therefore more expedient than taxation in some other form, foreign to their habits and customs, and consequently distasteful as an innovation. I believe the *visavadi* tax of the Ceded Districts to be as cheerfully paid as any tax could be, and that its extension to other districts would cause less dissatisfaction than the levy of an impost, more perfect in theory, but to which the people are unaccustomed. Perhaps the strongest objection to the *visavadi*, and one which applies with still greater force to the *Mohturfa* tax, is the fact of its falling upon the petty trader and the struggling artizan, while it allows the rich to go free. But the object of the proposed Bill is exactly the reverse of this. It reaches the wealthy, and exempts that large body of the industrial classes whose profits only suffice for a bare subsistence. In this point of view, as regards the Presidency of Madras, at least, it substitutes a positive advantage for a positive evil. It is still a tax upon industry, but the tax has shifted its incidence from the poor to the rich. Its practical application will scarcely extend beyond the large towns of each district, thousands of villages will be relieved from the petty exactions in a hundred different forms made under cover of the *Mohturfa*; and the useful and industrious community of weavers, by whom that tax is mainly contributed, will rise from their present depressed condition to comparative comfort and wealth.

"The opinions which I have been able to collect from the Deputy Collectors are generally in unison with my own, and with regard to the principle of the Bill none, except the officer from whom I have quoted above, are decidedly opposed to it, and the majority recommend a modification of its more arbitrary provisions.

"Independently of the general clamour which every new tax must raise, I am inclined to think that the justice of a Trade and Profession Tax will commend itself to the native community, who have been so long accustomed to it, no less than to Englishmen, who pay it in the shape of Income Tax in their own country. The *visavadi* tax upon the profits of trade is still in force in the Ceded Districts, though in the other districts of this Presidency the less justifiable tax of *Mohturfa* on the profits of persons exercising manual arts and professions has alone been retained. Under the previous Governments, persons of all professions and trades had to contribute their quota of taxation equally with the cultivators of land.

"In a country like India, where capital and all sorts of skilled labor and professions

enjoy a monopoly, the profits of trades and professions must be the least objectionable objects of taxation to meet the present exigencies of the State, provided the tax is so moderate that it can neither check the spirit of industry, or frugal saving to any material extent, but will have the effect of restraining wasteful expenditure."

Another officer says:—

"The real object of the Bill is to tax the profits of trades and professions, and to secure this, I consider it is far better to proceed upon the basis already existing in this Presidency in Regulation IV of 1818, and Regulation V of 1832, regarding the *visavadi* and *Mohturfa* taxes. The former, it is true, applies only to the two Ceded Districts, but the practice of the division of the tax, whether called *visavadi* or *Mohturfa*, according to the process belonging to the former, exists in others also. If the provisions of these regulations were expanded, so as to include all the classes contemplated in the present Bill, the main object would be secured, and the measure would thus be in accordance with the usages of the country and the feelings of the people, without the irritation, misapprehension, and other evils, which would be caused by the proposed new measure.

"One eminent advantage of making the existing system of the *visavadi* and *Mohturfa* taxes the basis of the new measure is, that instead of bringing the Collector in direct antagonism with each individual to be taxed, it leaves the amount of tax for each village to be apportioned by the people among themselves, and this share in the process of taxation of themselves must be far more satisfactory to them, and will go far to reconcile them to the tax itself.

"In short, the tax should be put forward ostensibly as an Income Tax, and made to embrace all classes, care being taken to accommodate the process of its application to the public state of mind and customs prevailing among the numerous and varied communities of the country."

Another officer says:—

"The proposed tax seems to me to be nearly identical in character with the existing *visavadi* and *Mohturfa* of this Presidency; and I believe that in its practical operation, it will be attended with the same evils as have led to their almost universal condemnation of those imposts."

Then another says:—

"There can, however, be no doubt that the produce of such a tax would be very considerable. The classes who would be subjected to its operation in Malabar are very numerous, enterprising, and wealthy. It appears to me equally clear that, always provided that the

mode of levying such a tax is unobjectionable, none more equitable can be proposed. This alone of all our financial measures touches the classes who have derived the most benefit from the State, for commercial prosperity is peculiarly the result of peace and security."

Another adds :—

"It has long been my desire to see some provision made for taxing those trades and professions which hitherto have been entirely exempt from making any direct contribution towards the expenses of the State. The Draft Bill appears to me to supply what was wanting, effectually and fairly.

"The retention, as a source of revenue, of the *Mohurtfa* tax levied under Regulation V of 1832, is, I consider, desirable. In this respect I know I am opposed to many high and experienced authorities; I, nevertheless, believe the tax to be a just one when properly and carefully levied, as it might long ago have been, had there not been so much agitation in regard to its abolition."

And the last I should quote, says as follows :—

"Assuming that there exists an absolute necessity for further taxation, this Bill is, so far as it goes, unobjectionable in principle; under its operation large classes who now pay no taxes will be made to contribute to the exigencies of the State, and a considerable revenue will be realised. The points to be considered in treating of the propriety of at once adopting this form of taxation seem, therefore, to resolve themselves into—1st. The practicability of carrying the measure into effect without rousing a degree of discontent, which it is ever unadvisable to awaken simultaneously over the whole face of an Empire. 2nd. The expediency, or otherwise, of giving a common ground of impatience (whether well founded or otherwise does not much matter) towards Government to so many classes of our subjects at once."

Another officer goes the length of showing that the new taxes proposed would be an absolute relief to those districts in the Madras Presidency where the *visavadi* and the *Mohurtfa* taxes now prevail. Now, I admit, that it is always dangerous to quote parts of documents of this kind: and that in some of the reports, to which I have referred, there are other objections stated to the Bill of last year, but very many of which have been remedied altogether by the forms in which the two separate Bills are now presented. Again, I must admit that some officers, whose opinions, I have no

Mr. Wilson

doubt, are entitled to equal weight, express strong objections to the Bill altogether, but, again, many of them on grounds which are remedied in the present Bills. But what I want to show is that there is not that strong feeling against these measures that has been represented in some quarters, and especially that they are neither so novel nor so repugnant to native customs as has been represented.

I cannot leave this part of my subject, without referring in two words to a communication I have received from the Chamber of Commerce of Madras. In my address to this Council, I referred, on public grounds, to an opinion which had been expressed in some quarters, that Madras, for certain reasons, should not be called upon to contribute additional taxation to meet the present difficulties of our Exchequer. The President of the Chamber of Commerce has written to express a hope that I shall be able to acquit the European Community of Madras of what they would regard as a stigma, if applied to them. Sir, I can have no difficulty in saying that I had no intention whatever of applying this observation to them—on the contrary, having read a copy of the proceedings of that respectable body in September last, before my arrival here, I am bound to say that no body of gentleman could have expressed in more plain terms their willingness to bear their fair share of taxation; and I will go further and say that it was to some extent, from the liberal views expressed by the commercial community in the Presidency towns, that the Government was encouraged to adopt the policy they have. On this point I will only add that my only object in making those remarks was to discourage a sentiment which the Government had observed with regret, and nothing was further from my wish than to give umbrage to any one. If any remark I made has done so, I can only say that I deeply regret it. I only trust most sincerely, that we shall see an end to these sectional and party feelings; that the policy we shall pursue will be calculated to unite the whole Indian Service

into one, and that, without regard to locality, merit will be sought out and rewarded by the high and honorable appointments of the State. It is by this alone that we can hope for real unity and co-operation through the whole services. I have alluded to some officers who had reported unfavorably to the Bill of last year, and even against any attempt to impose fresh taxes of any kind, except under the greatest urgency. It is the practice, with regard to measures before this Council, to encourage the fairest discussions on the part of our public officers, and great benefit is derived from this practice; but of course much difference of opinion must prevail, and unanimity especially upon questions of taxation can never be expected. But at least this we are always sure of: whatever may be the private views of our officers as to the merits of particular measures, as soon as they have been adopted by this Legislature and have become law, the greatest reliance can always be placed in the most earnest and devoted efforts of all alike to give full effect to them.

Sir, I have already said that I did not intend, on the present occasion, to enter upon the details of the measure which I am about to ask you to read a second time. But there are one or two points upon which I would wish to make a remark. As the Bill was first drawn, I am told that an impression was produced, that it was our intention to divide India into new districts, and to establish a new machinery expressly for the purpose of this Bill. Such is not our intention. We adopt exactly the same districts and divisions and the same machinery as are at present employed with regard to our general revenue system, only that we give power to the local Government to divide districts when they are too large for the convenient working of the Bill. But in the Mofussil, as a rule, we neither change districts nor machinery. The working of the Act will fall under the existing Revenue Authorities, who are much the most competent to carry out its provisions, and who naturally possess the greatest confi-

dence of the people. With the Collector, however, it is proposed that there shall be appointed other officers, together with one or two Native gentlemen, who shall act as a committee in settling assessment and in hearing appeals. And there will be appointed for each district, either the Collector himself, or the Judge, or some other high officer in whom the people have confidence, as a special commission, who shall be empowered to assess and arrange for the receipt of the Duty from those who wish to be secretly and privately assessed. In the Presidency towns the machinery will be different. There will be General Commissioners, of whom two or more shall be appointed from outside the service, to conduct the general assessments and appeals, and there will be Special Commissioners for private and secret assessments. Contrary to the general impression which prevails, there will be no power with any of the Commissioners or political officers, either in the Presidency towns or in the Mofussil, to compel the production of books; or of accounts or papers of any kind. But in the case of appeal, each party will be at liberty, voluntarily and of his own free will only, to produce any books or papers, or any other evidence he pleases in support of his claim. These appeals will be held with closed doors, and all concerned will be sworn to secrecy, so that no publicity can be given to whatever may transpire. In the Mofussil great discretion will be given to the local Government to assess communities in any way best suited to their condition and circumstances, either by individual assessments, or by aggregate assessments on towns, or in any way through a Panchayet and the heads of trades. But even in the case of aggregate assessments being resorted to, we give the right to any individual to claim to be singly assessed. With regard to land, the assessment will be most simple, and can be made from the Collectors' own books, the rule being that the profit shall be assessed at half the Government rent. But here again a right is given to every Zemindar, when he can show that he has not a clear

profit equal to half the Government rental, to claim to be assessed at the proper amount. Again, all persons will be allowed to compound once for all, for an annual fixed payment for three or five years, the whole period of the duration of the tax. The limit of the Bill in its duration is five years, and in its amount of tax, two and four per cent. in different cases, and as far as human foresight can predict, the Government feels assured that those limits will not be extended. This at least I can positively say that there is not the most remote intention of extending either the one or the other.

Sir, I sincerely wish I could here conclude what I have to say. But there is one subject of a most painful character, to which it would hardly be respectful to this Council if I were not to allude to, however briefly. While we have received the most cordial and unanimous support from all the local authorities from whom we have had communications up to this time, with one single exception, the opposition in that case has assumed a character which, I will venture to say, has no parallel in Indian History. I have reason to believe that those whom I now address were as deeply and painfully impressed with astonishment at seeing certain documents proceeding from a subordinate Government in the public prints a few days ago, as the members of the Government themselves could possibly be, and their astonishment and pain must only have been greatly increased when they saw the tone in which those documents are conceived and expressed. Unless it had been intimated to us expressly that they had been made public on authority, of course we could only have arrived at the conclusion that they had found their way surreptitiously into print. But, unhappily, no secret is made as to the means by which they obtained publicity, and that too, before they had even reached the Government of India. Sir, with regard to these papers, the Government of India can have no doubt as to the course which it is their duty to pursue. The public interest must obviously preclude us from entering into such a controversy:—and,

Mr Wilson

but for their publication and the notice, slight as it may be, which thereon seems due to this Council, I should not have referred to their existence. The Government of India have taken such steps as are due to the public interests and their own position in order to obviate the serious and grave mischief which it is possible may be caused by this act of what I cannot but term a lamentable indiscretion. Sir, it would be idle not to acknowledge that we feel all the difficulties in which the finances of India stood before, and the arduous character of the task we had undertaken, enormously aggravated by these proceedings in a quarter where we had the least right to expect it; but, on the contrary, whatever may have been the individual view entertained, we had a right to look for support. But, however much aggravated we feel our difficulties to be, we cannot for a moment hesitate in believing it our duty to persevere in the measures which have received the stamp of such an extensive public approval, as being based on equitable, broad, and intelligible principles, calculated as we trust, they are to promote the lasting good of the country, and to ensure the future prosperity of India. Sir, responsible as we alone are, for the Government of the country, and for the condition of its finances, we cannot for a moment consent to abnegate either our functions or our responsibility, whatever the amount of the difficulties which we have to encounter. We have, in the full and conscientious exercise of our duty to our Sovereign and our country, taken steps within the scope of our own responsibility. In that course, aided by the support of this Council, and we believe by that public opinion which has already ratified our policy, we shall only be impelled to stronger efforts to develop for the public good all the advantages which we feel the utmost confidence must flow from the course we have recommended this Council to adopt. And, Sir, we know that when these measures shall have become law, there is not a public officer in the service of the Crown in India, whose duty it will be to administer these laws.

upon whose support we cannot count with the utmost certainty. And we have no doubt that, exercising that sound sense and discretion which they are well known to possess, the difficulty in giving effect to these laws will be much less than many of the duties which they have had frequently to undertake. Such, I am happy to say, is an assurance we have had from many quarters. I shall therefore conclude by moving that this Bill be read a second time. I shall then move the suspension of the Standing Orders, in order that this and the Bill for licensing trades may be referred to a Select Committee, with instructions to submit their report this day fortnight.

SIR BARTLE FRERE seconded the Motion which was carried, and the Bill read a second time.

LICENSING OF ARTS, TRADES, AND PROFESSIONS.

The Order of the Day being read for the second reading of the Bill "for the Licensing of Arts, Trades, and Professions"—

Mr. WILSON said, he would not trouble the Council with any observations on this Bill, but would simply move that it be read a second time.

Mr. SCONE said, the form in which the Bill had been drawn seemed to him to present a good deal of practical difficulty. It was a Bill to license arts, trades, and professions, and the license was proposed to be applied to four classes: artisans, retail dealers, large and small manufacturers, and members of professions. The first and lowest grade was fixed at one Rupee, which was payable by artisans. The highest was ten Rupees, payable by wholesale-traders, manufacturers for retail and wholesale, and members of professions. In looking at the Bill, or rather in looking at the manner in which it was proposed to give effect to the measure, it seemed to him that the officers who would be employed for the purpose, would have the greatest difficulty in regulating the imposition of the tax. He would take the last and highest grade, for which provision was made. Every member of a profession should

pay ten Rupees to exercise his profession. Now, he would ask what the word "profession" meant? Such a word was more or less applicable to the Presidency Towns. But this was not a Bill for the Presidency Towns alone. It was also applicable to the Mofussil. We all knew that in England immemorial usage spoke of three learned professions. Not that all professions did not exceed three, or that other professions were not learned. But, in recognition of the special education required for the law, medicine, and the church, these professions had been so spoken of. If we were, in any sense, to take the above as a guide, what would the word "profession" mean as applied to this country? As to lawyers, there were vakeels and mooktears. There were vakeels in Moon-siffs' Courts, vakeels in Sudder Ameens' Courts, and vakeels in Judges' Courts. Then again mooktears were a sort of law agents, though to designate them as lawyers might be a desecration of the term. Now, if they looked to a vakeel in a Moon-siff's Court, or a mooktear in a Collector's Office, they might find that these persons received five Rupees a month. To take therefore from them the universal license fee of ten Rupees seemed to him to be quite out of the question. There might be other occupations in life intended to come under the term "profession". He did not know whether the term was meant to apply to clerks. Possibly, any public servant, as a Moon-siff or a Judge, might come under that designation. If that be the case, it was certainly anomalous to take alike from the Moon-siff and the Judge. Again, if they looked to the profession of physic, who were the persons in India who would take out licenses in that capacity? There was a class called *koberajas* and *Buddos*, some of whom worked with charms, others with more potent applications. Then there were inoculators or *ticca-wallahs*, as they were called. It might be right, on other grounds, to insist on the substitution of vaccination for inoculation. But these grounds were foreign to the purpose of this Bill. These seemed to him to be some of the difficulties which presented

themselves. Then if they came to the Church, how would the Bill be applied? He felt that there was something ridiculous in the comparison, nevertheless he apprehended that *poojaris* and *noorohits* among Hindus, *moollahs* and *katibs* among Mahomedans would be subject to a license as members of the clerical profession, according to their several creeds. There were other classes with regard to whom he felt there would be great difficulty; one common class was that of schoolmasters. Among Hindus they were called *Gooroomoshas*, and among the Mahomedans *Meeahjees*. They were certainly members of a profession, but every one must feel that it was impracticable to license such men at ten Rupees each, and he thought the Bill ought to contain a full specification of the classes included in the term "profession." Then there were fishermen; reasonable doubts, it seemed to him, must be felt whether to class them as members of a profession, or as traders, or artizans. Then, again, there were sailors, designated in the seaport district to which he had been long attached, as *clashies*, *tindals*, and *serangs*; and these, too, probably would be held to be members of a profession, being neither artizans nor traders. He did not know whether it was intended, by this Bill, to tax them as such or not, but he thought something ought to be done to show what the intention of the Bill really was with regard to that class. He might remark that in the Interpretation Clause of the Income Tax Bill, a definition was presented of a trade and of a profession, but he apprehended that this definition would not help them in the Bill they were now considering. It was there said that the word "trade" should include any manufacture, and any business, adventure, or concern in the nature of a trade. Now this did not say much else than that a trade might be any thing in the nature of a trade; and as a profession was defined to be any other business, the distinction could hardly assist us in classifying different occupations under the License Bill. In the Mofussil, people followed various occupations, which Collectors could not

of themselves agree in distinguishing as artizans or manufacturers. Carpenters and blacksmiths were no doubt artizans, but there was one class of carpenters who were boat-builders, that is, those who were connected with boat-building establishments, and how would they be treated? Again, he should have thought that weavers were at least small manufacturers; but, if he mistook not, the Right Honorable Gentleman, in his financial statement, had spoken of them as artizans. Now, the Bill did not solve such a doubt as this, which was very important to the parties concerned, for an artizan might have to pay one Rupee, while the manufacturer would have to pay four Rupees. Again, women and sometimes children would be found to be spinners, and it was right we should know how they were to be classed. In like manner there were confectioners, whose was the commonest occupation in the Mofussil; what were they, artizans or dealers? He might enumerate other classes. In the town, for example, to which he was attached for several years, there were poulterers, who were employed in feeding turkeys, and on whom a tax also might be levied.

With regard to the details of the Bill, these were some of the objections which he entertained. With reference, however, to the varying scale of taxation, he could not help connecting this Bill with the Bill which had been read a second time. Taking again the case of a member of a profession, suppose a member of a profession earned 100 Rupees a year, they would impose on him a licensing fee of 10 Rupees, that is, ten per cent. In the same manner, suppose a trader or a *moody*, as he was called, who sold rice, split peas, and tobacco, if he earned 100 Rupees, the License Duty of 4 Rupees would amount to four per cent. on his income, while in the Income Tax Bill we professed to exempt all incomes under 200 Rupees. Another objection was that the humblest artizan, the poorest tradesman, and the member of a profession who exercised the smallest occupation, would be compelled to pay equally with his more favored brethren, and the Collector had

no choice in the matter. In the Month of the year, on market days, people came from distant villages, bringing with them vegetables, baskets of paun, rice, &c.; were such persons to be included under the provisions of this Bill? In short, it seemed to him that the Bill was indefinite in its terms, arbitrary in its operation, and unequal in its incidence. If he might offer a suggestion, he would propose a graduated scale for persons in the receipt of limited incomes, commencing with eight annas on a hundred Rupees, and extending to one Rupee on incomes from 100 to 150 Rupees, and so on. In short, he would assimilate the principle of this Bill to the principle of the Income Tax. But as it now stood, he thought the Council ought not to accept it.

Mr. WILSON observed, that he must say that the speech of his Honorable friend had relieved his mind of a considerable amount of difficulty which he felt with regard to its details, and if, as he hoped, his Honorable friend would consent to sit on the Committee to whom the Bill would presently be referred for consideration if it passed the second reading, his Honorable friend would have it in his power to afford the Committee much valuable assistance. He (Mr. Wilson) felt no hesitation in saying that most of the objections which his Honorable friend had urged had also occurred to his (Mr. Wilson's) mind, and he had no doubt that his (Mr. Sconce's) intimate and accurate knowledge of the country would be turned to very useful account. But certainly this was not the proper stage to discuss the several points to which his Honorable friend had adverted. The only point alluded to by him, which touched the principle of the Bill, was that we should adopt a graduating scale of licensing fee, but he thought that, after the experience the Council had last year with regard to the Bill introduced by the Honorable Member for the North-Western Provinces, it was not advisable to attempt a graduating scale. But as this was a matter of detail, and did not involve the principle of the Bill, he hoped his Honorable friend would consent to act on the Committee.

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

INCOME TAX; AND LICENSING OF ARTS, TRADES, AND PROFESSIONS.

MR. WILSON moved that both the above Bills be referred to a Select Committee, consisting of Mr. LeGeyt, Mr. Harington, Mr. Forbes, Mr. Sconce, and the Mover.

Agreed to.

MR. WILSON then proposed to suspend the Standing Orders, in order that the Committee might be able to present their report within a fortnight. He took that course because the local Governments had, several weeks ago, been furnished through the post with copies of the Bills, and they had been informed that it was intended to pursue the course which he now proposed. After the great discussion that had taken place on the subject of the Bill introduced by the Honorable Member for the North-Western Provinces, the Government of India were of opinion that no good was likely to arise from delaying the passing of the present Bill and allowing it to be proceeded with in the usual course; and that, if the Committee were to sit and discuss the various provisions of the Bill day by day, the task would be completed within a fortnight. He would therefore propose a suspension of the Standing Orders for the purpose to which he had referred.

MR. FORBES said, he thought it would be better if the Select Committee did not present their report until after the arrival of the second steamer, which would be about the 28th of this month, when a reply might be expected from the Madras Government to the communication which had been addressed to them.

MR. WILSON then withdrew his motion and, in lieu thereof, moved that the Standing Orders be suspended, in order to enable the Select Committee to present their report within three weeks.

MR. BARTLE FRERE seconded the motion.

MR. LEGEYT said, he could not pass over the Right Honorable Gentleman's proposition to instruct the Select

Committee to report to the Council, without stating that he felt a strong objection to it. He thought that if ever there was a Bill before that Council that required to be fully and generally understood by the persons to whom it was to be applicable, it was the Income Tax Bill, which had passed a second reading. How, he would ask, were the inhabitants of the more remote districts of the Western Presidency, in the short space of three weeks, to gain this knowledge? The Right Honorable Gentleman had stated that the Bill had been transmitted to Bombay about the middle of March. Up to the 6th of the present month no publication of it had taken place in the Government Gazette, and he believed none would take place until the proceedings of this day should reach Bombay a fortnight hence. What chance then was given to the mass of the people, affected by the Bill, to express their concurrence or disapproval of it? It was quite clear they would have no such opportunity, and the Bill would go forth with the additional unpopularity attached to all tax measures that the usual forms of publication had been dispensed with. It was to avoid this he was anxious, and however desirable it might be that no time should be lost in placing the products of this Bill at the disposal of Government, yet speed may be gained at too dear a cost. He (Mr. LeGeyt) had no wish to throw any obstacles in the way of the Right Honorable the Framer of the Bill. He, on the contrary, was anxious to render the Bill as effective as possible and to avoid, as much as could be, the opposition from the masses it would probably meet with. The Right Honorable Gentleman had, in the eloquent and lucid speech just delivered, showed the grounds on which the Supreme Government had resolved to adopt this mode of taxation. It was surely desirable to modify and soften down the opposition it would generally encounter. He believed, by being well understood, this object might in a degree be gained, and then why fail the object by adopting an unusual course for the sake of saving a few weeks' or days'

Mr. LeGeyt

time. He hoped that even one more week would be added to the proposed time, that would enable the inhabitants, at least of the Western Presidency Towns, to send up their observations. Three weeks in the ordinary course of business would not admit of this, and then, again, if he understood the proposition rightly, the usual course of waiting, until the time allowed for reporting had expired, would not be adopted in this instance, but that the Committee would at once proceed to analyse the Bill, so as, at the end of the prescribed period, to have their reports completed.

SIR BARTLE FRERE said that he felt quite sure he was expressing the feeling of his colleagues when he asserted that nothing was farther from their wish than to hurry through these Bills, or to abridge the time necessary for a reasonable discussion of their provisions. But he trusted that the Honorable Gentleman would reconsider his proposal to extend the period proposed by the Right Honorable Mover of the Bill for discussing this measure. Was it with regard to the principles of the Bills or their details that he wished for further time for discussion? If, with regard to the principles, he submitted that every principle involved in these Bills had been abundantly canvassed in the course of the discussions on the Bill of last year, and there was not a person who was likely to offer an opinion of any value who had not long since made up his mind on those principles. It was now many weeks since the Right Honorable Gentleman had made a very full and clear statement of the proposed measures, and they had already received a great mass of criticism, official and non-official, from all quarters regarding the principles involved. But, as regarded the main principle of direct taxation, it seemed generally agreed that there was nothing new to be said.

Then, as regarded the details and the precise form in which the measures were now brought forward, he (Sir Bartle Frere) contended that it was mainly from the local Governments, from the Presidency Towns, and the principal officers of Government in the

Mofussil, that they were likely to receive valuable criticism and suggestions, and the Honorable Gentleman would find that there would be ample time for their receiving such comments from all quarters before the Council considered the Bills in Committee.

It was a peculiarity of our position in India that there were few direct means of consulting public opinion, except at the Presidency Towns. From such quarters we had already received, and were daily receiving, opinions. As regarded the remoter districts and ports, where there were few Europeans, we must trust to the great officers of Government who had been consulted as to how such measures would be received by the great bulk of the native population. All such officers would have ample time to inform the Council of their views and opinions, though it was always particularly difficult in such localities to say how such a measure would be received till it came to be tried.

If, then, we were certain to obtain within the time proposed, all the materials we were likely to receive for coming to a decision, why incur all the certain and inevitable evils of unnecessary delay? Even in England, where so much weight was given to every expression of public opinion, it was not usual to await such expression regarding details of such measures. When the principle was agreed on, it was always customary to carry the measures necessary to give effect to such principle, through all stages, with as little delay as possible. There was nothing magical or peculiarly constitutional in the period of three months usually assigned for the consideration of all projects. It was in ordinary cases a convenient period to fix, but the time proposed in the present case was ample for the fullest discussion of the Bills before the Council, and he (Sir Bartle Frere) trusted therefore that the Honorable Member for Bombay would not press for any further delay than the Right Honorable Mover of the Bill proposed to allow, before the Special Committee would be required to report.

Mr. WILSON said, that he should perhaps mention, for the information

of the Honorable Member for Bombay, that not only were copies of the Bills despatched to the local Governments in the middle of March, but unusual pains had also been taken to distribute to every Civilian in the country a paper containing the purport of the detailed measure, which, he believed, fully put them in possession of the policy which the Government intended to pursue. The Government had reason to believe that they should shortly have a report from Bombay, and they had reason to expect a report from Madras by the second steamer of this month. They had also been in possession of opinions from the remotest part of the North-Western Provinces; and the Lieutenant-Governor of the Punjab had already communicated his observations on the Bill. He therefore hoped that his Honorable friend, the Member for Bombay, would feel satisfied that it was not the wish of the Government of India to unduly press forward the Bill.

The Motion to suspend the Standing Orders was put and carried.

Mr. WILSON then moved that the Select Committee be instructed to present their Report within three weeks.

Agreed to.

EMIGRATION TO ST. KITTS.

SIR BARTLE FRERE moved the second reading of the Bill "relating to the Emigration of Native Laborers to the British Colony of St. Kitts."

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

EMIGRATION TO ST. VINCENT.

THE VICE-PRESIDENT moved that the Bill "relating to the Emigration of Native Laborers to the British Colony of St. Vincent" be read a third time and passed.

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

ZILLAH COURT OF FURRUCKABAD.

MR. HARRINGTON moved that the Bill "to repeal certain laws relating to the jurisdiction of the Zillah Court of

Furrnekabad" be read a third time and passed.

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

KING OF OUDE.

MR. HARRINGTON moved that the Bill "to provide for the execution of process within the premises occupied by His Majesty the King of Oude" be read a third time and passed.

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

TOLLS (CIRCULAR AND EASTERN CANALS.)

MR. SCONCE moved that the Bill "to amend and extend Act XXII of 1836 (relating to the levy of a toll on Boats, Rafts, and Floats passing through the Circular and Eastern Canals)" be read a third time and passed.

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

CONSERVANCY (PRESIDENCY TOWNS AND STRAITS SETTLEMENT.)

THE VICE-PRESIDENT moved that the Bill "to amend Act XIV of 1856," be read a third time and passed.

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

STAMP DUTIES.

The Order of the Day being read for the adjourned Committee of the whole Council on the Bill "to consolidate and amend the law relating to Stamp Duties," the Council resolved itself into a Committee for the further consideration of the Bill.

A verbal amendment was made in Section XII on the motion of Mr. Sconce.

Section XXXIV provided as follows :—

"If any person shall discover that any deed, instrument, or writing in his possession, which requires a stamp, is upon a counterfeit of a stamp of adequate value, and shall forthwith inform the Collector in charge of the Stamp Revenue of the District in which the counterfeit was issued, and shall prove to the satisfaction of such Collector that such counterfeit was purchased from a licensed

vendor, he shall be entitled to be furnished gratis with a stamp of the value requisite, under Section II of the Act, for a copy of the deed, instrument or writing; but shall not be permitted to take such stamp away from the office of the Collector, until such copy has been made upon it."

MR. SCONCE moved the substitution of the words "counterfeit stamp" for the words "counterfeit of a stamp of adequate value."

Agreed to.

Subsequently, after some conversation, the Section was struck out altogether, as being likely to give rise to much collusion.

THE CHAIRMAN moved that a communication, which had just been received from the Government of the North-Western Provinces, on the subject of the Bill before the Committee, be read.

Agreed to.

A verbal amendment was made, on the motion of Mr. Sconce, in the exemption in Article 3 of Schedule A.

An amendment was made in Article 4 of the same Schedule on the motion of Mr. Sconce, the effect of which was to reduce the Stamp Duty from one anna to half an anna, on Bills of Exchange, Letters of Credit, &c., payable on demand, if the sum payable did not exceed fifty Rupees.

A similar amendment was made, on the motion of Mr. Sconce, in Article 45 of the same Schedule, relating to receipts or discharges given for the payment of money, &c.

Article 8 prescribed the following Scales for Bonds, &c. :—

	Rs.	As.	P.
" If for any sum not exceeding 50 Rs.	0	4	0
Above 50 Rs. & not exceedg. 100 "	0	8	0
" 100 " " " 200 "	1	0	0
" 200 " " " 300 "	2	0	0
" 300 " " " 500 "	4	0	0
" 500 " " " 1,000 "	6	0	0
" 1,000 " " " 2,000 "	10	0	0
" 2,000 " " " 3,000 "	18	0	0
" 3,000 " " " 5,000 "	20	0	0
" 5,000 " " " 10,000 "	32	0	0
" 10,000 " " " 20,000 "	40	0	0
" 20,000 " " " 50,000 "	50	0	0
" 50,000 " " " 1,00,000 "	100	0	0
" 1,00,000 " " " 1,50,000 "	150	0	0
" 1,50,000 " " " 2,00,000 "	200	0	0
And for every further lakh of Rupees or part thereof	100	0	0

in addition.

THE CHAIRMAN said, it was understood, when this Bill was

last before the Council, that the scale for bonds, as above prescribed, and the Scale for Conveyances as laid down in Article 19, might be reconsidered. He had objected to the scale as it now stood, that it was hardly fair that the rates of Stamp Duty should decrease as the rates of value increased, and he found the same objection had now come up from the North-Western Provinces. He would read the following extract from the letter from the Secretary to the Government of those Provinces:—

“Mr. Muir states in para. 15 of his Minute, that he does not see why the rates of the stamp on receipts and bonds for debt should decrease as the scale of value is ascended. Why, in these cases, the per-centage on large transactions should not be equal to the per-centage on the smaller ones. The Lieutenant-Governor concurs in these remarks. In the opinion of His Honor it would not be unfair to adjust the scale by a fixed and equal per-centage on the sum represented by the transaction.”

That was precisely the view which he took of the matter. He should move the substitution of the following Scale for that proposed by the Bill:—

	Rs.	As.	P.
“If for any sum not exceeding 50 Rs.	0	4	0
Above 50 Rs. & not exceeding 100	0	8	0
“ 100	2	0	0
“ 200	4	0	0
“ 400	6	0	0
“ 600	8	0	0
“ 800	10	0	0
And for every additional thousand Rupees or part thereof, up to 20,000	5	0	0
.. .. .	in addition.		
And for every additional twenty thousand, or part thereof	100	0	0
.. .. .	in addition.”		

Mr. WILSON said, he saw no objection to the amendment on the ground of principle. The difficulty which he felt in voting for its adoption was as to its probable effect upon the revenue. If the Honorable and learned Chairman had no objection, he (Mr. Wilson) would propose that the consideration of the Scale for Bonds as well as the Scale for Conveyances be deferred till next week, and he would, in the meanwhile, make the necessary enquiries on the subject.

THE CHAIRMAN acquiesced, and the consideration of the Scales pre-

scribed by Articles 8 and 19 was accordingly postponed till Saturday next.

THE CHAIRMAN said, that Article 5 Schedule B contained the following exemption for the Presidencies of Madras and Bombay:—

“No petition or application to the Criminal or Revenue Authorities need be presented on stamp paper, except as prescribed in the Special Rule given at the close of this Schedule, with respect to cases that fall within Regulation VI. 1828 of the Bombay Code.”

Now, Regulation VI. 1828 of the Bombay Code, was “a Regulation with extending in the same manner as in suits before the Courts of Civil Judicature, stamps to suits cognizable by Collectors under the operation of Chapter VIII. Regulation XVII of 1827, or any other now in force.” So that, so far as the Presidencies of Madras and Bombay were concerned, they were to be exempted from all Stamp Duty in criminal proceedings. When we come to compare the amount of revenue produced by Bengal with that produced by Madras and Bombay, surely the portion of our territories which yielded the largest revenue was most entitled to exemption. He was of opinion that Criminal proceedings ought to be exempt from Stamp Duty every where: but if it was considered necessary that Bengal should be liable, he saw no sufficient reason for exempting Madras and Bombay.

Mr. SCONCE said, he could only repeat that, if the exemption were to be extended to Bengal, the result would be a loss of revenue to the amount of about a lakh and a half of Rupees.

Mr. HARRINGTON said, he thought some distinction should be made between applications relating to criminal offences and applications presented to the Criminal Courts in cases which were really of a civil nature, such as claims for wages under Regulation VII. 1819 of the Bengal Code, and complaints of forcible dispossession under Act IV of 1840. With exception to such cases, he quite concurred in the expediency of abolishing stamps on petitions or applications to the subordinate

Criminal Courts. With regard to appeals he saw no reason why any exception should be made in favor of the Presidencies of Madras and Bombay.

MR. LEGEYT said, he was quite opposed to any proposition to tax judicial proceedings in Criminal cases, so far at least as concerned the Presidency of Bombay. This had never before been attempted there; and if it were done now, he was convinced that it would give rise to much dissatisfaction. Besides, the suggestion of the Honorable Member for the North-Western Provinces would require some definition or specification, which he (Mr. LeGeyt) thought was not a very easy matter, as to what cases should bear stamps and what not. As it was, this Bill already would, in some measure, enhance the Stamp Duties payable in the Presidency of Bombay, and he trusted that no steps would be taken to bring the criminal and common revenue cases within the scope of the Bill. It would be very hard indeed to require that every ryot who went with a complaint to the Collector should do so upon stamp paper, and he (Mr. LeGeyt) would remind the Council that in Bombay petitions from ryots were of much more frequent occurrence than in Bengal. He therefore hoped that the Council would pause before they passed or attempted to pass a measure of the kind, particularly as it was likely to create considerable annoyance and dissatisfaction.

SIR BARTLE FRERE would submit that the true principle was to exempt from stamp tax all complaints and proceedings whatsoever in criminal cases, and all petitions and other documents presented to Collectors, appealing against over-assessment, &c., leaving liable to Stamp Duty only those applications, whether made to a Magistrate or a Collector, which were in reality civil proceedings, and for the exemption of which no cause could be shown which would not apply to suits for damages in any other Court. He agreed with the Honorable and learned Chairman that it was monstrous to demand a stamp tax from a man who wanted to complain of a criminal offence having been commit-

ted, and he would therefore willingly exempt such petitions in Bengal, as they were at present exempted in Madras and Bombay. He also agreed with his Honorable friend (Mr. LeGeyt) that all petitions from ryots regarding their assessment should be free, as they had always been in the other Presidencies. This would leave subject to stamp tax only applications for recovering wages, for the possession of land rents, or the like, which were in fact civil suits.

MR. WILSON said, the proposition of the Honorable and learned Chairman involved two questions. The one was whether we should extend to Bengal the exemption proposed for Madras and Bombay; and the other, whether we should apply to Madras and Bombay the rule which obtained in Bengal. For his own part he was disposed rather to exempt Bengal than to apply a bad rule to Madras and Bombay. But, if he correctly understood the Honorable Member for Bengal, the extension of the exemption to Bengal would involve a loss of about a lakh and a half of Rupees. Then there was another consideration, namely, that the imposition of stamps in such cases would operate as a check against false complaints. As an illustration, he referred to the evil effects of a law passed in England, allowing gratuitous proceedings, of which several persons availed themselves as a cheaper and more methodical medium of recovering small debts than by the employment of a Collector.

SIR CHARLES JACKSON said, as he understood the amendment of the Honorable and learned Chairman, it merely proposed to exempt criminal proceedings from Stamp Duty in all the Presidencies. Surely there could be no objection to that. It would be hard indeed if a man could not complain of a robbery committed in his house without paying Stamp duty. Cases of dispossession under Act IV of 1840, and suits for wages, were not criminal proceedings, and they would still be liable to the Stamp Duties. The actual sacrifice of revenue, therefore, would be only a part of the sum

estimated by the Honorable Member for Bengal.

THE CHAIRMAN then moved the insertion of the words "not falling within any of the exemptions of this Schedule" after the words "Petitions or applications," in the first line of the Special Rule for Bengal; and a like amendment in the fourth line of the same rule.

The Motions were severally carried.

THE CHAIRMAN next moved the omission of the following Clauses in the exemptions for Bengal:—

"All charges and informations respecting crimes and offences not bailable under the Regulations.

"Petitions from prisoners, convicts, persons under examination, or otherwise in duress, or under restraint of the Court or its Officers."

Agreed to.

THE CHAIRMAN moved the insertion of the following before "Exemptions for the Presidencies of Madras and Bombay:":—

GENERAL EXEMPTIONS.

"All petitions, applications, charges, and informations respecting crimes and offences.

"Petitions from prisoners, convicts, persons under examination, or otherwise in duress, or under restraint of the Court or its officers."

Agreed to.

SIR BARTLE FRERE moved the omission of the heading "Exemptions for Bengal," so as to convert the exemptions in question into general exemptions.

Agreed to.

THE CHAIRMAN moved the omission of the words "Criminal or" in the Exemptions for the Presidencies of Madras and Bombay.

Agreed to.

MR. SCONCE proposed the addition of the following Clause to the Special Rule for Bengal:—

"Statements of claims made to Collectors under Act X of 1859, shall be subject to the Stamp Duty prescribed in Section XXXVII of that Act."

MR. WILSON wished to know the grounds of the proposed amendment.

MR. HARRINGTON said, before the enactment of Act X of 1859, the Revenue Authorities in the Presidency of Bengal were invested with a summary jurisdiction in certain classes of cases between landlord and tenant and landlord and agent; but although the awards made in such cases had all the force of a decree of Court, they were liable to be contested in a regular suit by either party who might be dissatisfied with the Collector's decision, in the Civil Court of the district having ordinary jurisdiction of the claim. The decision of this Court again was open to appeal to the Zillah Judge, and a further or special appeal lay to the Sudder Court, so that in every one of these cases there might have been no less than four different stages at considerable intervals of time before a final decision was come to, and it very frequently happened that the several stages which he had mentioned were actually gone through. One of the objects aimed at in Act X of 1859 was to get rid of this very protracted and necessarily expensive litigation, by reducing the number of the stages of a case. This was effected by constituting the Revenue Court the Court of first instance, and by making the decisions of that Court appealable directly to the Zillah Judge, instead of allowing them to be contested in the Court of the District Moonsiff, Sudder Ameen, or Principal Sudder Ameen, according to the amount or value of the claim or property in dispute. It appeared to the framer of the Act (Mr. Currie) and those who voted with him that, for many reasons, the Revenue Authorities were better qualified to deal, in the first instance, with the various classes of cases falling within the provisions of the Act than the lower Civil Court, and the Act accordingly converted the summary jurisdiction of the Revenue Courts into a regular jurisdiction, though it at the same time prescribed rules of procedure for the guidance of the Revenue Officers, which differed little, if at all, from the procedure lately introduced into the Civil Courts. He (Mr. Harrington) thought that in this respect Act X of

1859 must be regarded as a great improvement upon the law as it previously stood. The Act gave no new jurisdiction to the Revenue Authorities; it merely altered its character.

[Mr. Harington here read from the Code of Civil Procedure, prepared by Mr. Mills and himself, that part which described the Civil jurisdiction of the Revenue Authorities in the Presidency of Bengal in revenue matters.]

Section XXXVII Act X of 1859, he went on to say, in declaring that in suits for the recovery of arrears of rent or of money in the hands of an agent, the statement of claim should be written on paper bearing a stamp of one-fourth the value prescribed for suits instituted in the Civil Court, and that in all other suits the statement should be written on paper bearing a stamp of the value of 8 annas, introduced no new provision as regarded the valuation of suits connected with arrears or exactions of rent. Section VII Regulation VIII. 1831, in which the former law was contained, declared that—

“Summary claims of the nature above adverted to, which may be preferred to a Collector conformably to Section IV of this Regulation, shall be written on paper bearing a stamp of one-fourth the value which would have been required, had the claim been instituted in any Civil Court as a regular suit; provided, however, that the Collector shall have a discretion to receive a complaint, on paper bearing a stamp of 8 annas, from any independent talookdar, farmer, or ryot, if the complainant is *bonâ fide* unable to pay the price of the prescribed stamp, or if the Collector should, for other reasons, consider the indulgence proper.”

And here he might observe that while, under the concluding part of this Section, the Collector might, for any reason, whenever he thought proper, allow the claim in cases of the nature of those mentioned in the Section to be instituted on a stamp paper of only 8 annas value, Mr. Currie's Bill took away this discretion altogether, and insisted that in all such cases the statement of claim should be written on a stamp of one-fourth the value prescribed for regular suits. This modification of the previous law was therefore in favor of the Government. He believed he was right in saying that,

Mr. Harington

under the existing Stamp Laws, in all other cases of which the Collectors of Revenue had cognizance, or in respect of which they were empowered to exercise summary jurisdiction, the application might be written on a stamp of only 8 annas value.

Section VIII of the same Regulation went on to say—

“With a view to give additional encouragement to parties having claims to arrears of rent to prefer regular suits on account of the same, it is hereby declared that the plaintiff in all such regular suits, if under the existing Regulations they would have been cognizable as summary suits, may be written on paper bearing a stamp of one-fourth the prescribed value, provided, however, that this rule shall not be considered applicable to a suit instituted with a view to set aside a previous summary decision, which suit shall be subject to the ordinary provisions for the payment of Stamp Duty.”

This Section would show what were the views of the Legislature at the time Regulation VIII. 1831 was passed, and from the preceding Section, which he had read, it would be seen that Mr. Currie had really done nothing more than transplant the old law into the Bill introduced by him. It was quite possible that under Mr. Currie's Act there might have been some loss of revenue, but, if such had been the case, he believed it would be found that the loss had arisen simply from the abolition of one of the four stages through which suits of the nature of those under consideration might have passed under the old law before they were finally disposed of, and not from any much greater resort to the Revenue Courts than before the passing of Act X of 1859. He found that in one year in Bengal, while only 19,000 rent cases were instituted in the Civil Courts of which a large proportion were no doubt cases which were brought to contest the decisions of the Revenue Authorities, no less than 56,000 cases were instituted in the Revenue Courts, and this, notwithstanding the encouragement given to parties under the Section which he had quoted, to go at once to the Civil Courts, in which the institution fee in the like cases was the same as in the Revenue Courts.

He contended that the question as to whether Section XXXVII of Mr. Currie's Act should or should not be repealed, could not be properly gone into at this time. The Bill before the Committee was never intended to apply to cases falling within the provisions of Mr. Currie's Act, or in any way to affect that Act. He appealed to the Honorable Member for Bengal, by whom the present Bill was brought in, whether, when he introduced the Bill, he understood that it would rescind the Section of Mr. Currie's Act, to which he was referring. He (Mr. Harington) certainly never understood that such was intended. In confirmation of what he had just stated, he begged to call attention to the fact that the repealing Section of the Bill before the Committee, though it specified several Sections to be repealed, made no mention of Section XXXVII Act X of 1859. Surely this was conclusive on the point.

He would remind Honorable Members that the consent of the Right Honorable the Governor-General to Mr. Currie's Act was given in the unusual form of a minute, thus showing the great importance which his Lordship attached to the Act. In this minute the Governor-General expressed his belief that the Bill would confer a great practical benefit upon the agricultural population of Bengal, and His Lordship concluded the minute by bestowing marked praise upon Mr. Currie, the author of the measure. Of course it was open to any Honorable Member to bring in a Bill to repeal so much of Mr. Currie's Act as related to the valuation of claims falling within its provisions, and if such a Bill were introduced, he (Mr. Harington) should be quite prepared to discuss it upon its merits. But he thought they ought to act honestly in the matter, and not endeavor to get rid of the Section in question by a side blow, which it appeared to him they would be doing if they declared that Section to be repealed, or left it to be inferred that it was repealed by the present Bill, without republishing the Bill for general information, and hearing what the Lieutenant-Governors of Bengal and the

North-West Provinces, the Members of the Boards of Revenue, and the public, or such portion of it as had any interest in the question, had to say against the repeal of the Section.

THE CHAIRMAN said, the Section of Mr. Currie's Rent Act, to which the Honorable Member for the North-Western Provinces had alluded, ought now to be formally repealed by this Act. In point of fact the Section in question being part of an earlier enactment, would virtually be superseded by the proposed Bill. When Mr. Currie's Bill was passed, he (Sir Barnes Peacock) recorded his dissent from it. He would read the following extract from his dissent, which contained the grounds of his objection to that Bill, so far as it affected the Stamp Laws—

"Because Section XXXVIII of the Bill, (XXXVII of the Act) affects the Stamp laws and will, in my opinion, cause a considerable reduction in the revenue derived from the suits in question: whereas there is no reason for placing such suits in a more favorable position as regards Stamp Duty than other suits now cognizable only by the Civil Courts.

"Because, although the rate of Duty is decreased in respect of suits for a large amount, the Stamp Duties on many of the suits where the value is under 16 Rupees, is doubled by increasing the same from four annas to eight annas, which burden will in most cases fall upon the poorer classes of ryots who are the least able to bear it.

"Because, if the finances of the country were in a position to bear the loss, Stamp Duties on legal proceedings ought to be abolished; but the Government having lately declared that they could not afford to forego Stamp Duties in the Civil Courts, there is no reason why any of the suits provided for by this Bill should, where the value exceeds 16 Rupees, be specially favored by the reduction of the Stamp Duties thereon, at a probable loss of revenue of from a lakh to a lakh and a half, or two lakhs a year."

He saw no reason to change his opinion, and, as we were now consolidating the Stamp Laws, and endeavoring to improve the Stamp Revenue of India, he could not adopt the amendment proposed by the Honorable Member for Bengal, the effect of which would only be to make a distinction in favor of particular cases, and to occasion a considerable diminution of the

public revenue. He should therefore vote against the amendment.

MR. SCONCE said, this was a new question, and he did not think it was expedient to deal with it in this Bill at this late stage. He himself was in favor of some amendment in the Clause of the Rent Act now under discussion, but he thought that such amendment could only be effected by giving ample notice of the change to the parties interested.

SIR BARTLE FRERE said, he would remind Honorable Members that there were in Madras and Bombay a considerable number of suits for the recovery of rent which under this Act would have to pay Stamp duty. In framing a Bill to consolidate and amend the Stamp Laws, he saw no reason why there should be a difference in the rates of Stamp Duty in such cases between Bengal on the one side and Madras and Bombay on the other.

MR. HARRINGTON said, that whatever alteration might be considered necessary should form the subject of a separate Bill.

SIR BARTLE FRERE said, he apprehended that it was one thing to leave the Bill as it stood, and quite a different thing to ask the Council to insert a Clause of the nature proposed by the Honorable Member for Bengal. He was quite willing to allow the Bill to stand as it was.

SIR CHARLES JACKSON said, as he understood, the object of this Bill was to consolidate the Stamp Laws throughout India, and it was advisable to have all the laws relating to Stamp Duties, now scattered over several volumes, gathered into one Bill. Now, it was proposed to insert a particular Clause, the effect of which would be to continue in favor of one class of suits in one Presidency, a distinction not allowed to the other Presidencies. The distinction, he believed, was first created from a feeling of tenderness for the ryot, for, as far as he could now remember, Mr. Currie put his proposition upon the ground that the ryots were poor. Now, he (Sir Charles Jackson) thought that the Council were competent to consi-

der whether the distinction should be continued. Surely the Honorable and learned Chairman and the Honorable Member for the North-Western Provinces could discuss that question. The onus lay on those who asked for the exemption to show ground for it, and he (Sir Charles Jackson) did not see that the Honorable Member for the North-Western Provinces had shown any ground in support of the amendment. It might be true that the ryots were poor and ought to pay a light duty, but that was no reason why the Zemindar, when he brought his suit for the recovery of his rent, should pay less than other persons.

MR. HARRINGTON said, his objection was that this Bill was never intended to affect Mr. Currie's Act. He could say for himself, and he believed for other Honorable Members also, that it was understood that the present Bill left Mr. Currie's Act entirely untouched.

MR. WILSON said, if he understood this question, it appeared to him that Mr. Currie's Bill had a larger scope entirely independent of the matter of Stamp Duty. It could not be denied that the present was a Bill to consolidate the Stamp Laws, and undoubtedly, so far as Bengal was concerned, it did not appear to him to be irregular to consider everything connected with Stamp Duties. If the Honorable Member for the North-Western Provinces would say that the application of this Bill to Mr. Currie's Bill would alter the other provisions or the principle of it, that undoubtedly would be another matter.

THE CHAIRMAN said, in framing a Bill to consolidate and amend the Stamp Laws, the Council was quite competent, if they thought it necessary, to repeal that part of Mr. Currie's Bill which related to Stamp Duties. The first question therefore for the Council to consider now was whether there were sufficient grounds for making the exception. He (the Chairman) for one did not see that any such grounds did exist. The next question was whether the Clause in question should be repealed or not. It appeared to him that it ought to be

repealed, because, if it were not repealed, the present Bill would not be a complete consolidation of the Stamp Laws.

Mr. FORBES said, the question before the Council was not merely one of a consolidation of the Stamp Laws, and it was a matter for consideration whether the amendment proposed by the Honorable and learned Chairman, if adopted, would not operate to the injury of the ryots. When Mr. Currie's Bill was passed, he (Mr. Forbes) remembered that the present Lieutenant-Governor of Bengal, in reply to the dissent recorded by the Honorable and learned Vice-President, recorded his assent to it, and declared his conviction that the Bill would prove an inestimable benefit to the agricultural community. If facilities were not given to the zemindars to obtain their rents, the Government would find it difficult to collect its revenue; and as the Lieutenant-Governor of Bengal was responsible for the due realization of the revenue, he (Mr. Forbes) considered that he had not only a claim but a right to be heard on any question that he might consider would put its punctual realization in doubt. Mr. Forbes referred to the feelings of surprise and dissatisfaction which the withdrawal, in so sudden a manner as had been proposed, of the boon conferred on the ryots by Mr. Currie's Act, would give rise to, and noticed the fact that the Council had already received more than one petition upon the Stamp Bill from the British Indian Association, composed, he believed, mainly of Bengal Zemindars, without any reference being made in that petition to the repeal of that part of the Rent Bill to which the Honorable and learned Vice-President's motion referred. It was not, he thought, to be supposed that the Association, would have omitted to notice a fact of such interest and importance to them, if they had had any suspicions that it was intended, by the original Bill, to effect the change now sought to be introduced. Mr. Forbes concluded by observing that there was not a Zemindar or a ryot throughout the two Divisions of the Bengal Presidency who was not interested in this question,

and he thought there never was a case in which their opinion on a measure was more entitled to be heard and considered than the present.

After some further discussion, the republication of the Bill was agreed to, whereupon Mr. Sconce withdrew his amendment, and Sir Barnes Peacock declared his intention of giving due notice of the amendments which he proposed to move next Saturday, relative to the matter under discussion.

Mr. HARRINGTON said, when this Bill was last before the Committee, he moved the addition of a Clause to the note on Article G Schedule B, the object of which was, to provide that, if in appeal a suit should be remanded for a second decision by the Court below, or if a plaint, which had been rejected by the Court of first instance, should be ordered to be received and tried, the appellant should be entitled to receive back the full amount of the Stamp Duty paid by him on his petition of appeal. He stated briefly at the time the grounds upon which he advocated the introduction of this provision into the Bill, but he did not succeed in carrying the motion, which was rejected by a majority of one. In asking for a reconsideration of this decision, he felt that he owed an apology to the Council for thus trespassing further on their time, but if he could satisfy the Council, as he hoped to be able to do, that sufficient reasons existed for introducing into the Bill the additional Clause moved by him, he was sure that Honorable Members would not begrudge the few minutes which would be occupied in the discussion of the question.

The Council were aware that the Royal Commissioners, to whom was entrusted the duty of drawing up the new Code of Civil Procedure for all India, commenced the chapter of Preliminary Rules by declaring that—

“ No Stamp duty, fee, or deposit, shall be required on the institution of any civil suit, or on the entry of any appeal from the decision or order of any Civil Court;—nor shall Duties or fees of any kind be payable in respect of any other proceedings had in any Civil Court, except such fees or charges as may be set forth in tables to be prepared as hereinafter provided.”

In their Note on this part of the Chapter the Commissioners observed—

“No institution fee has ever been paid in the Supreme Court, nor, under the original system of Lord Cornwallis, was there any such fee in the Courts of the Company. The State defrayed the expense of all the judicial establishments. An institution fee, in the case of civil suits, was established by Regulation XXXVIII of 1795, not as a source of revenue, but, as appears from the Preamble to the Regulation, for the purpose of preventing vexatious litigation. By Regulation VI of 1797 the institution fees were converted into Stamp Duties; the Preamble there assigns the same object, but adds also that of increasing the public revenue. The last purpose is the only one mentioned in Regulation I of 1814, which further regulates these payments. Having to provide an uniform system of procedure for India, we have thought it better, on the whole, to abolish the institution fee, rather than to recommend its extension to Calcutta.”

He was sure that every Honorable Member now present would have rejoiced had it been possible to adopt the proposition of Her Majesty's Commissioners for the entire abolition of judicial stamps, whether as a source of revenue, or as a means of checking vexatious litigation, leaving groundless or litigious suits, when instituted, to be punished by fine; but the Honorable and learned Vice-President, by whom the Bill containing the new Code of Civil Procedure was introduced, informed the Council that, after mature deliberation, the Government of India had come to the conclusion that financial considerations rendered it possible to sacrifice the large amount of revenue derived from the sale of judicial stamps. He need not tell the Council that the same reasons still existed for continuing the Stamp Laws, but although the retention of those laws might be necessary, he felt certain that there could be no desire on the part of the Council to render their operation more burthensome or stringent than was required to protect the interests of Government. In the remarks with which he introduced the original motion, he stated that the present practice was, whenever a suit was remanded in appeal, to refund to the appellant the full amount of Stamp Duty paid upon the petition of appeal. Section VIII

Mr. Harington

Regulation XIX. 1817 of the Bengal Code enacted that—

“In the special appeals provided for by the foregoing Section, as well as in all other appeals, regular or special, under the Regulations in force, if the suit in appeal be referred back for further investigation and decision without a judgment upon the merits of the case, the Stamp Duty paid by the appellant on his petition of appeal shall be returned to him, and if the appellant or respondent have appointed a pleader, his fee shall be limited to such sum as may be deemed an adequate compensation for his labor, not exceeding one-fourth of the established fee in a regular suit.”

And by Clause 2 Section XXV Regulation XIII. 1816 of the Madras Code, it was provided that—

“In all other cases the Court of Sudder Adawlut are authorized to direct a return of the whole or a portion of the amount of Stamp Duty substituted for the institution fee as, on due consideration of the circumstances of the case, whether brought before them in appeal or referred to them by a Provincial or Zillah Court, may appear to them just and proper.”

Both these laws were still in force, and neither of them would be affected by any thing contained in the Bill before the Committee, so that whether his motion succeeded or not, the people in the Presidencies of Bengal and Madras would continue to enjoy the benefits of the existing law as just explained. There would, however, he thought, be an advantage in making the present Bill as complete as possible, and in having one uniform law for the three Presidencies. In the Bombay Code he could not find any enactment corresponding to those of the Bengal and Madras Codes; but there seemed no reason why Bombay should be placed upon a different footing in this respect from the other two Presidencies. It was proper that he should mention to the Council that the Bengal and Madras laws, which he had quoted, were amongst the Regulations of the three Presidencies which it was proposed to repeal, but although the Bill for repealing these Regulations was brought in by him (Mr. Harington,) he certainly never intended to alter the existing law as regarded the point under consideration. It might be supposed by the Honorable Members who composed the

majority against the motion, when it was formerly made, that the practice of refunding Stamp Duty in remanded suits might lead to abuse, and might often encourage parties unnecessarily to appeal. But there was no reason to believe that such had hitherto been the case. He held a return in his hands, from which it appeared that the appeals from orders of nonsuit preferred to the Sudder Court in Calcutta, during the years 1857, 1858, and 1859 amounted to only 82, which was little more than 27 per annum, and that of the appeals of this description tried during the same period, 38 terminated in the reversal of the order of the Court below, or in the remand of the suit to be heard and determined on the merits, to 34 in which the appeal was disallowed. In these latter cases the Stamp Duty was not of course refunded, and its amount might be regarded as an adequate penalty for the appeal having been made without sufficient grounds. The loss of public revenue under the operation of his motion, should it be adopted, would be very trifling, while the refusal of the Council to allow any refund under the circumstances stated in the motion would undoubtedly operate with very great hardship in individual cases. It must be remembered that the law provided only for the payment of a single institution fee on each plaint or petition of appeal, and that it contemplated that, on every such petition of plaint or appeal, there should always be a judgment on the merits, not, in cases of appeal, an order of remand, to which alone the motion would apply. He trusted that he had said enough to satisfy the Council of the fairness and justice of his proposition, and again apologizing for having occupied so much of the time of the Council, he had now the honor to move the addition of the following note to Article 6, Schedule B, viz:—

“If an appeal or plaint, which shall have been rejected by the lower Court on any of the grounds mentioned in Act VIII of 1859, shall be ordered to be received, or if a suit shall be remanded in appeal for a second decision by the lower Court, the Appellate Court shall grant to the appellant a certificate, authorizing him to receive back from the Col-

lector the full amount of Stamp Duty paid on the petition of appeal.”

THE CHAIRMAN said, he did not think that the Honorable Member for the North-Western Provinces had shown any new grounds for asking the Council to reverse the decision to which they had come with respect to this Clause. He should therefore vote against the motion.

MR. WILSON said, he did not quite understand the principle upon which the Honorable Member for the North-Western Provinces grounded his motion. Though a plaint might be rejected by the lower Court through an error of judgment on the part of the Judge, yet by providing as had been done by the existing law that the Appellate Court might on appeal order it to be received and tried by the lower Court, we had provided the best means for allowing justice to be done. The Honorable Member for the North-Western Provinces had not shown that the non-adoption of his amendment would lead to a denial of justice.

MR. HARRINGTON said, if the Council determined that no refund should be allowed in cases remanded for a hearing or a rehearing, the expenses of a suit would often be increased to such an extent that the parties would be unable to bear them, and in this way, no doubt, the rejection of his motion would lead to a denial of justice. He could point out cases which had been remanded three and even four times in appeal. The institution fees paid on the petitions of appeal in these cases must have amounted to a considerable sum. The refund could not perhaps be defended on the ground of principle. It must be regarded in the light of an indulgence on the part of Government. As he had already said, the loss to the revenue from the small number of remands must be very trifling; though, were the indulgence withheld, the result would be much individual suffering.

MR. SCONCE said, he thought it important to notice the strict limitation which the law imposed on the class of appeals which would benefit from

the proposition of the Honorable Member for the North-Western Provinces. He referred to Sections 351 and 352 of Act VIII of 1859, which determined the condition upon which alone a suit could be remanded. Only in cases in which the Lower Court, without going into any discussion of the merits of the issues raised, disposed of the suit upon some preliminary point, could any suit in appeal be remanded. Now the earlier Sections of the same Act showed the various preliminary grounds which might be asserted for non-suiting a plaintiff. For example, Section 29 provided that a plaintiff might be rejected, if, in point of form, it contained too many or too few words; and surely not only was it important that the orders of the Lower Court should be reviewed in appeal, but that if, on so technical a question, the order of the first Court were erroneous, the plaintiff, appellant, should not have unnecessarily to be charged with the value of the appeal stamp. Again, a plaintiff might be rejected under Section 31, if the claim was supposed to be improperly valued, and under Section 32, if it appeared to the Lower Court that the subject matter of the plaintiff did not constitute a cause of action. Let it be observed, then, that the orders of the first Court, as it were, shut the doors of the Court on the face of a suitor; the discussion had not been entered on: and if, on appeal, the ground taken by the first Court was held not to be a valid ground, it was surely desirable to continue the principle of the present law, and not put suitors to so heavy an additional charge. In fact, if in such cases the value of the appeal stamps were not refunded, it would be equivalent to exacting a double institution fee, before the case could be entered upon. The orders of the Appellate Court went simply to find for a plaintiff an entrance into the Lower Court: and it seemed to him (Mr. Sconce) that there was a manifest distinction between such a case and one in which the old issue had been investigated in the first Court, and would be again investigated in the second.

MR. LE GEYT said, the Honorable Member for the North-Western Pro-

Mr. Sconce

vinces had expressed his belief that, if the Council refused to adopt his amendment, great hardship to suitors would be the consequence. He (Mr. LoGeyt) must say that that had been the case in Bombay, where no refunds were allowed. He thought that it would be a great improvement upon the existing law to allow the superior Judicial Authorities to order a refund of Stamp Duty on the petition of appeal in the case of the rejection of an appeal or plaintiff by any fault of the Lower Court. He should therefore support the amendment.

SIR BARTLE FRERE said that, as he now understood the case, which he thought had not been very fully explained when it was last discussed, the right of refund was claimed on the ground that the parties had been put to an additional expense for stamps, not by any default of their own, or from any cause connected with the merits of the case, but simply owing to error or oversight on the part of the Court which tried the case, and that it was not fair to charge the parties with such expenses when nothing was done to advance their case or bring it nearer to a final decision. He thought this feature made a very essential difference in principle between the exaction of Stamp Duties in the class of cases referred to, and the same tax in all other stages of the proceedings. There was an intelligible reason when Government said to the suitor—"We must tax you for purposes of revenue at every stage of litigation, in the original suit, and in every stage of appeal, till the question of your rights is finally decided." But the same reasons would not apply, when nothing whatever was done for the suitor in return for the stamp tax levied, when, for no fault of his own, he was thrown back to precisely the same point where he was before, and when he might be taxed over and over again, without being nearer a final decision as to his rights. The Honorable Member for the North-Western Provinces had, he thought, shown that the cases in which the refund could be claimed were not numerous, but that in those cases, it would be a great

injustice to refuse the refund, and he (Sir Bartle Frere) should therefore vote for the proposed amendment.

Mr. WILSON said, supposing that a suit had miscarried from a supposed fault of the lower Court, if you allowed the suitor to claim a refund of Stamp Duty on his petition of appeal, would he not be as much entitled to say to the Court—"you have been the cause of my preferring an appeal, and you should pay the expense of my appeal." This, it appeared to him, (Mr. Wilson), involved a very dangerous principle, and if you allowed it in one case, there was no seeing where you could stop. The plaintiff having appealed, he had clearly the advantage of a right of appeal; and if his appeal were admitted, he farther had the advantage of his appeal. Therefore, on both grounds, he had a *quid pro quo*. But the amendment proposed by the Honorable Member for the North Western Provinces involved the principle of holding Judges responsible for their acts.

THE CHAIRMAN said, if we were to hold that the Government ought to refund the Stamp Duty on a petition of appeal in a case where the lower Court had rejected the plaint, and the Appellate Court, on appeal, had ordered it to be received and tried, why should not the suitor be equally entitled to a refund if the Appellate Court, on appeal, reversed the decision of the lower Court? It appeared to him (the Chairman) that there was no difference, in this respect, between a wrong rejection of a plaint and a wrong decision. Nor did he see any reason why a refund should be allowed in the case of a remand.

Mr. HARRINGTON said, he did not think that the two cases were analogous. In the one there was a formal trial in the presence of the parties, first, in the Court of original jurisdiction and, afterwards, in the appellate Court. In the other case, it could scarcely be said there was any trial at all, at least in those cases in which the order of rejection was passed merely on a perusal of the petition of plaint before the defendant had even been summoned. It would be very hard

in such a case to make the defendant pay for the stamp on the petition of appeal which according to the practice of the Courts in the Mofussil would be charged to him in the event of the plaintiff ultimately succeeding in his suit. The defendant might justly plead that he had not demurred to the hearing of the suit in the form in which it was brought. Under the existing law, appeals from orders of non-suit might be preferred on the stamp paper prescribed for petitions in the Court in which they were presented; but the proposed law did away with this indulgence and required that a stamp of the full value should be used. This was another reason for a refund of the Stamp duty in cases of remand.

After some further discussion, the Council divided:—

Ayes 5.	Noes 3.
Mr. Sconce.	Sir Charles Jackson.
Mr. Forbes.	Mr. Wilson.
Mr. Harrington.	The Chairman.
Mr. LeGeyt.	
Sir Bartle Frere.	

So the Motion was carried.

Article 7 contained the following Special Rule for the Presidency of Bombay:—

"Suits cognizable before Collectors under the operation of Chapter 8 Regulation XVII 1827, as modified by Act XVI of 1838, shall be subject to the same rules in regard to stamps as are in force as above for the Courts of Civil Judicature."

Mr. LEGEYT moved the addition of the following proviso to the above rule:—

"Provided that petitions under Act XVI of 1838 shall be on stamps one-fifth of the value of those used in civil suits, but that no lower stamp than one Rupee shall in any case be allowed."

He said, the reasons for this amendment were stated as follows, in paragraph 32 of the Bombay Government's letter, dated 6th December last:—

"These suits being of a summary character, and merely for the temporary possession of land on which the decision of a regular Civil Court may be obtained afterwards, a heavy

tax would be inappropriate, but it is quite necessary to check useless litigation in some way; and one-fifth may be taken as a very moderate tax, but no lower stamp than one Rupee should in any case be allowed."

THE CHAIRMAN said, he saw no reason why there should be a different rule for Bombay, when we were now consolidating the Stamp Laws throughout India. It appeared to him that, if a rule was proper for Bombay, it was equally proper for the other Presidencies.

MR. WILSON said, to-day we had been making very great sacrifices of the public revenue for the sake of ensuring uniformity, and he therefore hoped that the Honorable Member would not press his amendment. As remarked by the Honorable and learned Chairman, if the proposed rule was good for Bombay, it was good for the whole of India.

MR. LEGEYT having pressed his Motion, the Council divided :—

Aye 1.
Mr. LeGeyt.

Noes 7.
Mr. Sconce.
Sir Charles Jackson.
Mr. Forbes.
Mr. Harrington.
Mr. Wilson.
Sir Bartle Frere.
The Chairman.

So the Motion was negatived, and the Council resumed its sitting.

ABSENCE OF THE GOVERNOR GENERAL.

SIR BARTLE FRERE moved that the Council resolve itself into a Committee on the Bill "to continue in force for a further period of three months Act XXI of 1859, for providing for the exercise of certain powers by the Governor General during his absence from his Council."

Agreed to.

The Bill passed through Committee without amendment, and, the Council having resumed its sitting, was reported.

ESCAPED OFFENDERS.

MR. HARRINGTON moved that the Council resolve itself into a Committee

on the Bill "to amend Act V of 1858 (for the punishment of certain offenders who have escaped from Jail, and of persons who shall knowingly harbour such offenders);" and that the Committee be instructed to consider the Bill in the amended form in which the Select Committee had recommended it to be passed.

Agreed to.

Sections I to VI were passed as they stood.

Section VII provided as follows :—

"Whoever shall knowingly harbour or conceal, or assist in harbouring or concealing, any such convict or other person who shall have escaped as aforesaid, and shall not have surrendered within the period provided in Section II of this Act, shall be liable to imprisonment, with or without hard labor, for any term not exceeding seven years, and shall also be liable to fine."

MR. SCONCE said, he did not think that this Section should be passed, at least not without considerable modification. Under the Section as it now stood, a person might be punished for harbouring a convict who had escaped from jail in 1857. Three years had passed since the escape of the convict, and yet the person, who harboured him, was liable to be imprisoned for seven years. Then, again, we might conceive the case of a convict who had escaped from a jail in one place and was concealed in another place 500 miles distant. If it was necessary to punish men for harbouring convicts, it was the duty of Government to proclaim the convicts who escaped from jail. He would therefore propose the introduction of an amended Section to the above effect, or rather he would omit the Section altogether. The subsequent Section sufficiently secured the liability of the responsible parties, such as landholders and others, to give early information of the resort of escaped offenders to their estates. He should first move the omission of the Section altogether.

MR. HARRINGTON said, the effect of the present Bill would be greatly to mitigate the existing law, and he thought that the Council at large would concur in the expediency of the pro-

posed mitigations. The Section, to which the Honorable Member for Bengal objected, was one of the Sections which had been taken *verbatim* from the present law, and if the motion of the Honorable Member for Bengal for the omission of the Section were adopted, knowingly harbouring escaped convicts would not be a criminal offence punishable under the Bill. He (Mr. Harington) did not think that persons who knowingly harboured escaped offenders should go unpunished. It appeared to him that it signified nothing whether the prisoner escaped three, or ten, or even thirty years ago, so long as the person who harboured him knew that he was an escaped convict. The whole case turned upon the guilty knowledgo. Although the Section fixed seven years as the term of imprisonment which might be awarded, it did not follow that the whole term would be adjudged in every case. It was merely a maximum period. If the Council considered the maximum too high, it could be reduced. But he could not consent to the entire Section being struck out of the Bill, and he should therefore vote against the Motion.

THE CHAIRMAN said, the following were the crimes enumerated in Section VI, namely, "Rebellion, mutiny, desertion, murder, attempts to murder, thuggery, dacoity, robbery, belonging or having belonged to a gang of thugs or to a gang of dacoits, or to a wandering gang associated for the purposes of theft or robbery;" and Section VII provided for the punishment of any one harbouring an offender who had been convicted of any of the above offences, and who might escape from jail. Then the question was whether seven years' imprisonment was too severe a punishment for such an offence. He (the Chairman) did not think it was for any person who was an accessory after the fact to such offences as rebellion and the like. The Motion was put and negatived.

MR. SCONCE then moved the substitution for the same Section of an amended Section, providing for the punishment of persons harbouring escaped offenders after the proclamation of their escape by Government.

After some discussion the Motion was withdrawn; and the Section was passed, after a verbal amendment, on the Motion of Mr. Harington.

Section VIII was passed after a similar amendment on the motion of Mr. Sconce.

The remainder of the Bill was passed as it stood; and the Council having resumed its sitting, the Bill was reported.

PORT-DUES.

MR. FORBES moved that the Council resolve itself into a Committee on the Bill "to amend Act XXII of 1855 (for the regulation of Ports and Port-dues);" and that the Committee be instructed to consider the Bill in the amended form in which the Select Committee had recommended it to be passed.

Agreed to.

The Bill passed through Committee without amendment, and the Council having resumed its sitting, was reported.

ESCAPED OFFENDERS.

MR. HARINGTON moved that the Standing Orders be suspended, to enable him to proceed with the Bill "to repeal Act V of 1858 (for the punishment of certain offenders who have escaped from jail, and of persons who shall knowingly harbour such offenders), and to make certain provisions in lieu thereof." In doing so, he said, it was very desirable that the Bill should be passed into law with as little delay as possible, as there were several cases awaiting trial which the local authorities would not proceed with until it was known what form the law would take.

MR. FORBES seconded the Motion, which was put and carried.

MR. HARINGTON then moved that the Bill be read a third time and passed.

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

MR. HARINGTON moved that Sir Bartle Frere be requested to take the Bill to the President in Council, in order that it might be transmitted

to the Governor-General for his assent.

Agreed to.

ABSENCE OF THE GOVERNOR-GENERAL.

SIR BARTLE FRERE moved that the Standing Orders be suspended, to enable him to proceed with the Bill "to continue in force for a further period of three months Act XXI of 1859, for providing for the exercise of certain powers by the Governor-General, during his absence from his Council."

MR. WILSON seconded the Motion, which was put and carried.

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

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

SIR BARTLE FRERE moved that Mr. Wilson be requested to take the Bill to the President in Council, in order that it might be transmitted to the Governor-General for his assent.

Agreed to.

EMIGRATION TO ST. KITTS.

SIR BARTLE FRERE moved that the Bill "relating to the Emigration of Native Laborers to the British Colony of St. Kitts" be referred to a Select Committee, consisting of Mr. Harington, Mr. Forbes, and the Mover.

Agreed to.

INDEMNITY.

MR. HARINGTON gave notice that he would, on Saturday, the 21st Instant, move the first reading of a Bill "to indemnify Officers of Government and other persons in respect of fines and contributions levied, and acts done by them during the late disturbances."

REGISTRATION OF ASSURANCES.

MR. FORBES moved that two communications received by him be laid upon the table and referred to the Select Committee on the Bill "to provide for the Registration of Assurances."

Agreed to.

POLICE (PRESIDENCY TOWNS AND STAITS SETTLEMENT.)

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

ZILLAH COURT OF FURRUCKABAD; AND KING OF OUDE.

MR. HARINGTON moved that Sir Bartle Frere be requested to take the Bill "to repeal certain laws relating to the jurisdiction of the Zillah Court of Furruckabad" and the Bill "to provide for the execution of processes within the premises occupied by His Majesty the King of Oude" to the President in Council, in order that they might be transmitted to the Governor-General for his assent.

Agreed to.

EMIGRATION TO ST. VINCENT; AND CONSERVANCY.

THE VICE-PRESIDENT moved that Sir Bartle Frere be requested to take the Bill relating to the Emigration of Native Laborers to the British Colony of St. Vincent," and the Bill "to amend Act XIV of 1856" to the President in Council, in order that they might be transmitted to the Governor-General for his assent.

Agreed to.

TOLLS (CIRCULAR AND EASTERN CANALS.)

MR. SCONCE moved that Sir Bartle Frere be requested to take the Bill "to amend and extend Act XXII of 1836 (relating to the levy of a Toll on Boats, Rafts, and Floats passing through the Circular and Eastern Canals)" to the President in Council, in order that it might be transmitted to the Governor-General for his assent.

Agreed to.

The Council adjourned.