

Saturday, 8th December, 1860

PROCEEDINGS

OF THE

LEGISLATIVE COUNCIL OF
INDIA

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of this Bill had no objection, he begged to suggest that its consideration be deferred for a few days. For the last day or two he had been going carefully over the Bill in order to put into definite form the few amendments which he proposed to introduce. In doing this, it certainly appeared to him that in one or two of the Sections of the Bill, especially in Sections IV and X, there were difficulties, which, unless they were susceptible of explanation by means of information which he had not yet been able to obtain would require that considerable modifications should be made in those Sections. In like manner, with respect to one of the new proposals which he had been urged to recommend. It was only yesterday that the Honorable Member for Bengal had pointed out to him that much discussion had taken place on that subject some four or five years ago. It was desirable that the discussions which then took place should be duly considered before any fresh proposal on the same subject was made; and if therefore the Honorable Member for Madras had no objection, he would suggest that the consideration of the Bill be postponed till the next meeting of the Council.

Mr. FORBES said, this Bill had now been before the Council upwards of 18 months, and the Honorable and learned Judge, late a Member of this Council, anticipated that great benefits to the Police Administration of this city would follow from the passing of the Bill. Several representations had also been received from Madras and elsewhere urging the enactment of the Bill without any further delay, and he (Mr. Forbes) hoped therefore that, in consenting to accede to the wish of the Honorable Member for Bombay, the Honorable Gentleman would be prepared next Saturday to proceed with any amendments he might have to propose. On this understanding he begged to move that the consideration of the Bill be deferred till Saturday next.

Agreed to.

The Council adjourned.

Saturday, December 8, 1860.

PRESENT :

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

Hon'ble Sir H. B. E.	H. Forbes, Esq.,
Frere,	A. Seance, Esq.,
Hon'ble C. Bondon,	and
H. B. Harrington, Esq.,	C. J. Erskine, Esq.,

FINANCES OF INDIA.

THE CLERK presented to the Council a Petition signed by 8837 inhabitants and Tax-payers of Calcutta relating to the Finances of India.

Mr. SCOTCH said, it was his intention to move that that Petition be printed. But before making that Motion, he would, with the permission of the Council, put one or two questions to the Honorable the President of the Council on matters somewhat connected with the subject of the Petition. The first question he would put, generally related to the income and expenditure of the present year—whether the Government saw or anticipated any difficulty or material delay in submitting for the consideration of this Council, Statements in detail of the income and more especially of the expenditure in all its branches, whether incurred in India or in England. Much had already been said and done regarding the largest item of the understood increase; he meant the Military expenditure. But there were one or two items of the total expenditure, regarding which some information seemed desirable. One of these related to the Civil, Political, Judicial, and Police charges as incurred in India. As he understood, the increase for the present year over and above the normal year 1856-57 was about two millions. He did not mean to say that, if the Statements for which he asked were to be submitted, they would afford matter for this Council to act upon. But he would say that it would be convenient for the Council to know, with reference to the Act lately passed by them, the exact nature of the expenditure with which the income was burdened.

Another matter was as to the English charge. From the Resolution lately published by the Government of India it appeared that the estimated charge for the current year in England on account of India was £0,983,000. A large portion of that was a charge to which no one could take exception; he meant the charge for guaranteed interest which amounted to a million and a half. Deducting therefore that interest, the other charges amounted to £5,477,000, that is, close upon five and a half millions sterling. In 1856-57 the total charge, excluding guaranteed interest, was £2,574,000, and thus there appeared to be an increase of £2,939,000, that is, close upon three millions. Not only was that the increase over the charge of 1856-57, but he understood there was an increase of one million over the charge of last year. He thought therefore that he had some ground to desire to be enlightened on the subject.

The other question related to the Railway Accounts. There were several Railway Companies, some in Bengal, and others in Bombay and Madras. Hitherto the deposits made by the several Companies had been referred to as if they should be dealt with as one common fund. It seemed to him desirable to know how much had already been paid on account of each Company, how much had been spent on account of each Company, and what was the balance in the Treasury on account of each Company. He thought that this information would be more especially desirable, because he believed there was ground to suppose that some of the Companies had lagged behind in this respect.

The third and last matter to which he would venture to refer was what he could not but conceive had been greatly exaggerated, or with respect to which at all events considerable misapprehension prevailed. It related to the appropriation of public money in favor of the Mysore family. He did not know if the President in Council was in possession of any information on the subject; but certainly it seemed to him important that the circumstances

connected with the grant should, if possible, be disclosed.

SIR BARTLE FRERE said, before answering the questions put to him by the Honorable Member for Bengal, he would beg to move that the Petition be read at the table.

The Motion was carried and the Petition read accordingly.

SIR BARTLE FRERE said, when the Honorable Member for Bengal informed him yesterday, that a Petition would be presented to-day, and that he intended to move it to be printed, and to put certain questions founded on it relative to the public accounts of receipts and disbursements, he (Sir Bartle Frere) thought it his duty, in stating that he had no objection whatever to offer to his doing so, to point out frankly the risk to the growth and permanent usefulness of this body, if we failed to keep in view the distinction between Legislative and Executive functions, and if we, in this Council, were to assume towards the Executive Government the position occupied by the House of Commons towards the Government in England. The Legislative Council had no reason to be dissatisfied with the progress it had made towards becoming a useful and influential portion of the machinery of Government, but he need not remind his Honorable friend that there were many, of various and opposite shades of opinion, who viewed this Council with no friendly feelings—who would gladly see it abolished, and omit no opportunity of recommending that it be swept away, and the business of legislation made over to a Dictator responsible only to the people of England, and to them only for the results of his measures. He need not tell his Honorable friend that he (Sir Bartle Frere) was no more an admirer of such a project than he was; and as one who honestly and sincerely desired, and had always desired to see the Legislative Council grow in responsibility, authority, and usefulness, he warned his Honorable friend against establishing a precedent which, however popular to-day, might at any time be condemned as foreign to the legitimate objects and in-

tention of the Legislative Council, and against affording a handle for saying that we neglected our own proper legislative functions in questioning the action of the Executive Government. Before proceeding farther, therefore, he would ask his Honorable friend what course he proposed to take with regard to the Petition, whether he intended to found on it any Motion, or to take any legislative action in the matter?

MR. SCONEE said, he had no hesitation whatever in saying that, in framing the questions which he had put, he had no intention of following them up at this moment with any legislative measure, or of putting the result of any information which might be communicated by the Government in any other shape before this Council. That probably was an imperfect answer to the enquiry of his Honorable friend. Just before his Honorable friend observed that it seemed to him, he (Mr. Scnee) was inclined to enter on a course which appeared calculated to attempt to control the Executive Government by this Council. Whatever he had said or done to-day was without reference to any novelty, and certainly either in expressing his intention of moving that the Petition be printed, or in putting the questions which he had put, he thought it was hardly fair to infer that he intended to take any course which in this Council had not hitherto been countenanced. Certainly from the note which he had received from his Honorable friend yesterday, he was aware of the light in which he looked upon the step he (Mr. Scnee) was about to take in bringing forward the subject. It was certainly not his intention to open up any question by which the legal powers of this Council might be brought into discussion, or in any sense to raise a question by which any conflict should arise between the Executive Government and this Council. He did not know how far he intended to go in the matter. He could only state his views generally. If the time should ever come, which he hoped had not arrived to-day, when it should appear to this Council desirable to

move for any information which the Executive Government hesitated to give, and if he approved of the course which the Council took, he should be prepared to state his grounds. But for the questions which he had put to-day, there were ample precedents; and if it was necessary, he might go farther and state what he ought probably to have stated in the first instance, that he had no other object in the course he was now taking than of being enlightened on a question which interested not only every Member of this Council but the whole of India. The House of Commons had been referred to; but besides the third Estate of the Realm, there was, as they all knew, a fourth Estate: and to that he must add a fifth, and that Estate was Publicity. It would not do to tell him that publicity was not beneficial. It benefited the Government by which information was communicated just as much as it benefited those to whom it was communicated. In this sense, therefore, he asked the question. He had not raised nor did he see any occasion of raising the question of the power of the Council, far less of a conflict of powers. The time might come when a question might arise upon which his Honorable friend and himself might differ as to the mode in which that question should be discussed, but, as he had said before, such a question had not yet arisen.

SIR BARTLE FRERE resumed. The Petition just read set forth certain promises made by the Executive Government of India during the past year, pledging itself to give to the public full and clear details of public expenditure, full estimates in anticipation of the coming year, periodical statements of the cash balances of the Empire, and after alleging that these promises tended greatly to inspire confidence in the capitalists and commercial classes of the Empire, the Petitioners proceeded to state that, after anxiously waiting, they as yet found no signs of a fulfilment of those promises, and to intimate unmistakably an opinion that this alleged failure to redeem the pledges they referred to, must be

productive of evil effects on the Money Market, and be prejudicial to the interests of the State.

A Petition like this, printed and circulated two days before the English Mail left, and presented on the day that the Mail closed, when few of the parties signing it could possibly attend to hear any explanation given, and when it would be difficult to attempt to send even the explanation we might have to offer by the same Mail, did not place the Government, whose administration was impugned, and which was charged with breach of faith, in an advantageous, he would not say in a fair position. It was well known that the present period was an *interregnum* between the loss of one statesman, who was charged by the Government of England with the care of the finances of India, and the arrival of his successor and that those in whose charge the financial administration rested for the time would be wanting in their duty if they anticipated the action of the coming man, and fettered his proceedings, by acting as they would if in permanent charge of the Indian Exchequer.

But, if ever the idea crossed his mind that this Petition was intended to throw blame on the Government, without allowing a fair opportunity to show that such blame was not deserved, or to impair public confidence in the Government, such an impression would have been instantly corrected by the sight of the signatures appended to the Petition, when he saw the names of so many men of the highest repute in the great Mercantile Community of this city, men who, he felt certain, were incapable of any attempt wilfully to embarrass Government. He felt convinced that the petition must be the genuine expression of a real feeling of anxiety regarding the important public interests to which it related, that such feeling was entitled to respectful attention on the part of Government, that it ought to be met in the same spirit of plain speaking of which it was itself an example, and it should not be his fault if the answer was not as full and satisfactory as the means at his disposal and the short notice he

had received would allow. He trusted he should at all events be able to show to the satisfaction of the highly respectable body from which the Petition proceeded, not only that there had been no breach of any pledge or promise made on behalf of the Executive Government of India, but that there was less cause for anxiety as to the financial condition of India, than the gentleman who signed the Petition—honestly, he was sure, and sincerely, but he trusted without any good cause—seemed to feel.

Before entering on the specific statements of the Petition, it was necessary that he should briefly recall to the recollection of the Council the course which had heretofore prevailed for many years past, with regard to the preparation of the estimates and accounts of revenue and expenditure.

In March and April the Financial Department of the Government of India had been accustomed to prepare from returns sent in by the various Departments, what was called the "Anticipation Sketch Estimate" for the coming year—such an estimate as Mr. Wilson gave us the results of in proposing the Income Tax. This was sent home and had formed the basis of any statement which the Secretary of State for India might make in Parliament, relative to the prospects of revenue and expenditure in the year which had just begun, when he made his statement in the House of Commons between May and July.

This had usually been followed in October by what was called the "Sketch Estimate," drawn out in more detail and from more perfect data.

And about the following January it had been customary to frame from data still more perfect what was called the "Regular Estimate," which afforded the closest approximation which was ever attempted to the true results, but which was never prepared till the year estimated for was nearly half over.

The actual returns of income and expenditure for the year preceding had been usually prepared about the same month, January, and were regarded as a principal check on the correctness

of the regular estimate for the year then current.

Such was the practice from a remote period up to the present year. It was not necessary now either to criticise or apologize for it, as it would shortly be a thing of the past.

If the Council would turn to the Financial Resolution of Government, dated 7th April last, Honorable Members would find, sketched out by a master's hand, the system of Budget, Estimate, and Audit, which was for the future to be followed.

With the permission of the Council he would read the following extract from the Resolution, which related more immediately to the subject :—

"Now the most important step towards securing financial economy will be the establishing of a system whereby a Budget of Imperial income and expenditure shall be prepared annually, so that the Financial Estimates for each year may be arranged, considered, and sanctioned by the Supreme Government of India before the year commences. The system prevails in England, and it will now be introduced and rigidly carried out in India. Before the commencement of each official year the Supreme Government will require careful estimates to be framed of the anticipated income and the proposed expenditure of the Empire for the coming year. And after considering the various objects to be accomplished in relation to the means and resources of such accomplishment, after comparing the past with the proposed expenditure, after weighing the recommendations of the several Executive Governments and the Heads of Departments, the Supreme Government will allot and appropriate to each branch of the service, and to the several detailed heads within each branch, specific sums. The several Executive Governments and the Departments will be charged with the due application of the sums assigned by the above Act of Appropriation. The specific amount assigned will, on no account, be exceeded. If unforeseen emergency shall necessitate extraordinary expenditure, the Executive Government, or the Local Authority will represent the case to the Supreme Government, without whose sanction no additional expenditure must take place, unless the urgency of the circumstances is such that application for prior sanction is not possible, in which case the earliest report must be made, with the view of obtaining the subsequent sanction of the Financial Authority."

And farther on, among the advantages of the system, it was stated :—

"It lays the foundation of a real and true method of Imperial audit. A definite standard

will be laid down by the Budget, a precise authority will be prescribed for every thing, a definite limit on every point will have been fixed. Then an Imperial Audit will try every branch of the public expenditure by that standard, will ascertain whether that authority for every item is produced, will observe whether that limit has been transgressed."

The Council would observe that throughout, the Resolution spoke of the future.

Again, it was observed and this was the portion of the Resolution to which he would especially beg the attention of the Council :—

"Now it is evident that such a system as that above described, *firstly*, of Budget and Annual Estimate; *secondly*, of Account; *thirdly*, of Audit, can only be matured and established after the lapse of several months. During the coming year, 1860-61, the requisite arrangements can all be made in detail, so that by the year 1861-62 the system will be brought into full play. But the Government are so convinced of the efficacy of the system in enforcing immediate economy, that its partial introduction during the year now about to commence has been resolved on. Such introduction, *will, doubtless, not be complete*; it will be superadded to and not be allowed to supersede the organization already existing: for existing methods and departments cannot be dispensed with, until a competent substitute shall have been provided. *Such substitute cannot be duly prepared until the coming year 1860-61 is well advanced.* In the mean time the partial and provisional introduction of the system at once will do decided good, so far as it goes—will afford practical experience to guide the Government in making permanent arrangements in future years."

It was found impossible to do more with the estimates for the current year than to draw them up with greater care than usual, and to impress on all Departments concerned that they would be held more than ordinarily responsible for the correctness of the estimates, and for strict adherence to them in prospect. Long before Mr. Wilson's death in August, he had become convinced that he could not expect such estimates as he had hoped for in May last, before May 1861.

The Budget and Audit Committee, which was appointed to report how the principles laid down in the Resolution of 7th April could be best carried out, was appointed in Financial Resolution of the 11th May. They re-

ported on the 30th July, and their Report would be found published with the orders of Government on it in Financial Resolution of 17th November. The bulky forms of estimate and account which form the Appendices to the report, could only within the last few days have reached the more remote stations in India. It was necessary to bear these dates in mind, in order to judge how far the Executive Government is open to the imputation conveyed in this Petition of having failed to redeem its pledges. For it was only with regard to such prospective estimates as had yet to be prepared under these last orders, that Mr. Wilson could have promised "full estimates in anticipation for the ensuing financial year."

For this current year, 1860-61, the estimates must necessarily be prepared on the old plan. The general results of the Anticipation Sketch Estimate were given by Mr. Wilson himself, and by the Secretary of State for India, in laying the usual Indian financial statement before Parliament.

It had been lately intimated in a Financial Resolution of the 19th November, that the results given by the Sketch Estimate prepared in October last were more favorable by about a million sterling than was expected from the Anticipation Estimate. It gave an excess of expenditure over income amounting to about 6½ instead of about 7½ millions sterling, and he was happy to state that the materials of the regular estimates, which were now coming in, and which might be expected to be complete in January next, gave good grounds for hope that the result would be considerably more favorable than even that of the October estimate, notwithstanding the serious loss of revenue likely to occur, owing to the existing scarcity and bad season in the North-Western Provinces and Madras.

As far as the Government of India were concerned, no objection whatever existed to produce this year both these estimates, the April and the October one, as they were produced last year, shortly before Mr. Wilson arrived in this country. But the publication of

the Sketch Estimate on that occasion was considered to have caused inconvenience, and in February last a Despatch was received from the Secretary of State, dated 10th January, pointing out the inconvenience of publishing in this country results which might be liable to modification when revised at home, and directing that such publication should be deferred till an opportunity had been afforded for communication with the Home Government.

He confessed that, with the prospect of being able at as early a date as January next to produce the regular and more perfect estimates of the current year, drawn up according to the old fashion, and shortly afterwards to furnish Prospective Estimates prepared under the Budget Rules for the coming year, he could hardly suppose that the Money Market or the Mercantile Community of Calcutta could care to know more than the general result which was stated in the Financial Resolution of November 19th, as about one million more favorable than anticipated by the late Mr. Wilson and by the Secretary of State in Parliament. But if it was found, on referring to the Chamber of Commerce as the representatives of the Commercial Community, that the information was desired as of practical importance and influence on the Money Market, every detail they desired should be given, and he need not add that it would have been given as readily and more expeditiously had that body applied for it direct to Government in the first instance.

So, with regard to details of public expenditure in past years, the accounts were regularly sent home, and as regularly printed and presented to Parliament and made public, in as full detail as was, he believed, generally desired. In their complete form this could only be done at home, for there alone the details of home income and expenditure were known. He held here a Parliamentary Paper, dated only the 30th July last, containing a Comparative Statement of the revenues and charges of India, including the home charges, payments for guaranteed Railway interest and Railway

Sir Bartle Frere

receipts for the years '56-57, '57-58, and '58-59, and as estimated for '59-60 and '60-61.

If, however, any public interest could be served by an earlier or fuller publication of the accounts relating to this country, every information desired by the Mercantile Community, as bearing on their own interests, should be made public with the least possible delay, and here again he would repeat that the object desired might be attained more easily and expeditiously if the Chamber of Commerce or any similar body representing the Commercial Community were to apply direct to the Executive Government, and specify the information they desired.

He trusted that, as regards any promise of "full estimates in anticipation for the ensuing financial year," he had cleared the Government of India of any charge of inattention to its pledges, since it would be some months before the first of such estimates could be prepared; and that, if in the meantime the capitalists and Commercial Community of Calcutta or any other part of India desired any information beyond what had been published, such as the less perfect estimates under the old system could afford, they would be assured that they had only to make a specific request in the proper quarter to ensure its receiving every reasonable attention.

That he did not state this without reason would, he thought, be evident from what he had to state as regarded the promise to publish periodical Statements of the Cash Balances of the Empire. He found that the last quarterly Statement was published on 9th March last; and that the accidental omission to publish the subsequent Quarterly Return was not brought to the notice of Government till two days ago, when, on receipt of a letter from the Chamber of Commerce, pointing out the omission, it was immediately rectified, and the returns for the quarters ending April, July, and October were published in this morning's Gazette. Had the omission been noticed to Mr. Wilson in April or July, or

to any Member of the Government subsequently, he need hardly state that he was sure it would at once have been supplied.

There was one circumstance connected with these returns of Cash Balances which he was glad to have an opportunity of explaining. It would be seen that from April to October there was a very considerable falling off, to the extent of upwards of four millions in the amount of these balances. But it did not appear that this was more than was usually observable during the latter of those two quarters, when the expenditure went on at the usual rate, month by month, while comparatively less was collected in all branches of revenue. The actual balances in hand in October this year were rather higher than in October of the year preceding, though last year the $5\frac{1}{2}$ per Cent. Loan was open, and the receipts into the open loan between July and October of that year were upwards of a million sterling.

He was assured, on very high authority, that an impression was very prevalent among some of the best informed capitalists, Native and European, that a loan in India, in the early part of the coming year, was inevitable, and that this belief had given rise to great anxiety, and had exercised a depressing effect on the Money Market. Now this might be considered a rather delicate subject to touch on, and it might be said that it would be more prudent to abstain from any public statement on any matter concerning the future. But having the means of removing what we believe to be groundless alarm, and holding that it could never be either prudent or right in a Government to act towards its creditors with a reserve which would be imprudent and wrong in an individual, he had no hesitation in stating his confident hope and belief, that the impression to which he had alluded was unfounded. Looking to the state of our cash balances now and in former years, to the amount of receipts from loans during the months from October 1859 to February last, to the present rate of our monthly expenditure, to the vigo-

rous efforts which were being made to reduce that expenditure, and to the general prospects of the season, he could see no reason whatever to apprehend that any loan in this country could possibly be necessary, if things remained in their present condition of peace and general prosperity. We hoped to end the year in April with a cash balance at least equal to what Mr. Wilson expected, namely, twelve millions sterling, which was nearly two millions more than we had in the same month of 1859, and more than was generally considered a perfectly safe amount to have in hand at that period of the year.

The Council was of course aware that the Secretary of State took power before Parliament rose to borrow three millions in England; but he stated at the time, that he hoped to use this power only to such an extent as might be necessary to meet probable short payments on account of Railway Companies in England, and he (Sir Bartle Frere) had every reason to believe that the Secretary of State still entertained the same hope. This brought him to the suggestion of the Honorable Member for Bengal, that accounts of the receipts from each Railway Company, the sums drawn out, and the balance in hand should be published monthly for general information. All these details were published annually in the accounts presented to Parliament, and he would briefly state why a more frequent publication would be neither just nor necessary. When a Company had expended all its paid up guaranteed Capital before the work was complete, three courses were open to Government, *first*, to force the Company to borrow the money required at any sacrifice, on the security of the completed portion of the line; *second*, to advance from the Government Treasury the money required to carry on and complete the works; and, *third*, to take the works out of the hands of the Railway Company and finish them by Government agency: which of these courses should be adopted was a matter of judgment. But it often happened that the *second* course was the least open

to objection, especially when, as had lately been ordered, Government charged interest for every Rupee so overdrawn. But it often happened that a Company which had overdrawn its account one month was able the next to pay in large sums in advance. We had lately had such instances of Railway Companies which had overdrawn their accounts to the extent of ten lakhs of Rupees, and while we were considering the course to be adopted, a later return received from England showed that they had paid in large sums in England, more than sufficient to carry them through the season. In a case like this, it would have been both unnecessary and unjust to have published the Railway managers to the world as defaulters, when all the time they were perfectly solvent, though we did not know it.

With regard to the request in the Petition for explanations and statements concerning the expenditure of the Military Department for the Indian service in England, he had only to observe that the matter rested entirely with the Secretary of State for India, who was responsible to Parliament, and not to this Government or this Council, for his action in the matter; and this was therefore a subject, on the discussion of which he need not now enter.

Had the information been sought as to Indian charges, though it could not have been given in a complete shape, it would have been easy to have satisfied the Honorable gentleman, that the Government were not wanting in their duty in the matter. The Military and Police Commissioners were both working with efficiency to reduce the charges for the protective forces, and there were few days in which some satisfactory proof was not afforded of the effect with which Colonel Balfour, the energetic President of the Military Finance Commission, was carrying out the views of Government in effecting a reduction of the present military charges. He had just received a return, shewing that in Madras the total established strength of Non-Commissioned rank and file, which stood in August 1859 at 92,651 men

had been reduced in November last to 59,402, and, counting all supernumeraries still unprovided for, to an actual strength of 64,110, making a reduction in the number of men paid for of 28,541 within fifteen months. Facts like this, showing how energetically the Honorable Mr. Morehead and his colleagues in the Government of Madras, including the Commander-in-Chief, Sir Patrick Grant, were working to carry out the orders of the Government of India, could be multiplied, and in every branch of the service; but they were all isolated instances, and it was not possible at present to place them in an aggregate form, or to do more than show that the work of reduction was proceeding vigorously.

With regard to the protest against any payments in accordance with orders from the Secretary of State for India to certain Native families, and the request for information regarding the grant, he would not enter on the question. Assuming that the accounts of this transaction, which originated, he believed, with the members of the family referred to, were correct, it would be obvious to the Council that, as the orders emanated from the Secretary of State, who was responsible to Parliament, and not to this Council or to the Government of India, the matter was one with which this Council could not interfere; and as it was in no way connected with any matter before the Council in the course of legitimate discussion, he must decline to discuss it or to express any opinion on its merits.

So, with regard to the doubts expressed as to the repayment of advances on account of the China war, he was not quite sure, whether he understood the object of the question, but he found that our cash advances in this country, in payment of bills drawn on us from China, amounted to about eighty-three lakhs, exclusive of commissariat, ordnance, and medical stores, for some months, the accounts of which have not been sent in. Every Rupee of the sums thus advanced by us would have to be repaid from the English Exchequer to the Secretary of State, and as we should

have, under any circumstances, to remit a very much larger sum to meet the Home charges of the Indian Government, the arrangement was a mutual convenience to both parties.

In conclusion, he had only again to assure his Honorable friend the Member for Bengal, that in what he had said he had been actuated solely by a conviction as to what were the proper functions of this Council, and by no desire to avoid the fullest and most complete publicity with regard to all matters which could be of any practical importance to the petitioners. He could only repeat that, if they would apply to the proper Department of the Executive Government, there was on the part of the Executive Government every disposition to afford them all reasonable information with regard to public income or expenditure in any matter which they were really of opinion affected their interests.

MR. SCOTCE apologised to the Council for being obliged to occupy its time again for a few moments. He might state explicitly that he did not in any way allude in his former remarks to the cause of delay in publishing the detailed information respecting the estimates. He was perfectly satisfied that the Government was doing its best to perfect those estimates, and he had no doubt that it was not in the power of the Government to have produced the estimates by the time stated in the Petition. He should have wished however that some better assurances had been given, to which the position of the Council entitled it, that the Government would submit for the satisfaction of the Members of this Council such information in connection with those estimates as not only now but at all times must materially help the administration. It was not enough to say that Government would furnish information on the application of eminent public bodies. But he should have been glad if what had fallen from the Honorable the President in Council did not seem to imply that whatever information would be afforded on the application of public bodies, would not be given at the instance of a

Member of this Council. He saw no lo ger the expediency of concealment with regard to the Railway Accounts. His object simply was to be informed on the subject, and he therefore asked that the amount of the total subscriptions, the amount of the total disbursements out of the subscriptions, and the balances such as they might be of each Railway Company, should be disclosed, and he could not agree with the Honorable the President in Council, as his Honorable friend assumed that he (Mr. Seonce) would do, that the publication of those accounts would be attended with any disadvantage. A Railway Company was a public Company, and must not be put upon the same footing as private individuals. Nothing was more notorious than the publication of the accounts of Banks, which were periodically printed and published for general information. Certainly he saw no disadvantage of which any Railway Company need be apprehensive by this publication, and he must dissent from the views of his Honorable friend on two grounds: *First*.—He thought that the information sought for should not be withheld in the interest of the Railway Companies; and *secondly*, he saw no necessity for restraining Members of this Council from asking for such information. His Honorable friend was better acquainted than we were with the details of the expenditure incurred in England. In speaking of this matter, he (Mr. Seonce) spoke as any other man. The Parliament of England looked after its own charges, but did not look after charges paid in England out of the revenues of India. The last question he had put was with reference to the supposed endowment in favor of the Mysore Family. He had understood the Honorable the President of the Council of India to say that the local Government of India had no power to contest the authority exercised by the Right Honorable the Secretary of State; but for himself he (Mr. Seonce) had raised no question as to the power of the Government of India; he asked what the Secretary of State had done, not what he had the power to do; and it

seemed to him the refusal of the President in Council to supply the information he had sought, was hardly consistent with the professed desire of the Government not to withhold any information. These were the grounds of his dissent from the views expressed by his Honorable friend.

SIR BARTLE FRERE said, he would not prolong this discussion farther than to remind his Honorable friend that what he stated was not that the Government of India would refuse to this Council or to any other public body what the Government of India was willing to give to private individuals, but simply to point out that this Council was not the right place to put questions which could have no bearing on Legislative proceedings. If any body of men, public or private, required such information as the Honorable gentleman described, the proper quarter to apply to was the Executive Government, and what he meant to say was that there would be no disposition on the part of the Executive Government, when applied to, to withhold any information which could be reasonably asked for by any body, public or private.

With regard to the Home charges, that was a matter wholly under the control of Parliament. We had no power of interference in the matter. He would not enter farther into a discussion on the subject, and would only apologize to the Council for the length to which he had occupied their time, which he should not have done if he had received more timely notice of the Honorable Gentleman's questions.

With regard to the Railway Account, he held in his hand two consecutive statements, showing the state of each Company in two successive months, which would illustrate the difficulty to which he had alluded. In one month he found that only one Company had been behind-hand, while in the month preceding three Companies had been so entered. As he said before, while Government were actually considering what to do with respect to a Company which was believed to have been behind-hand, Govern-

ment received returns of a month later, showing that the Company had ample funds in the Treasury, which had been intermediately paid in. It would surely not have been just to have proclaimed the Company as bankrupt on the ground of such a slight delay in payment.

Mr. SCOTCH then moved that the Petition be printed.

THE VICE PRESIDENT said, he should have been very glad if, when the question was put by the Honorable Member for Bengal to the Honorable the President of the Council, we had received some further information as to one of the subjects to which the Petition this day presented to the Council related, and that was the alleged order of the Secretary of State to the Government of India, to pay a large sum of money to certain Native families. With reference to that question, no contradiction had been offered. The Honorable the President of the Council had contended that, assuming what had been stated in the public prints to be correct, it was beyond the competency of this Council to interfere in the matter. Now what he understood the public papers to have said was that a large sum had been ordered by the Secretary of State to be paid to the Mysore Princes; whether to Prince Ghulam Mahomed or to other Members of the family, he (The Vice President) did not know. He understood the President of the Council to say that the powers formerly vested in the Court of Directors and in the Board of Control were now vested in the Secretary of State, so that the Secretary of State exercised the double functions. In some matters, however, he could not act without the concurrence of the Council of India. Assuming that an order had been sent out, we did not know whether it was an order of the Secretary of State alone, or of the Secretary of State in concurrence with a majority of the Indian Council. But upon the assumption that the statement in the public papers was correct, we knew that a large sum had been ordered to be paid out of the Revenues

of India, and he must say that in his opinion it was not beyond the legitimate duty of this Council to enquire into the circumstances of the grant in question. We had lately passed an Act for the imposition of an Income Tax on all incomes above 200 Rupees. We had also passed a Stamp Act, and greatly raised the Customs Duties, and we should shortly be asked to pass a tax which would fall on the lowest classes, in the shape of a license tax upon trades yielding a profit of less than 200 Rupees a year. Now when the expenses of India exceeded its Revenues, and the Council was called upon to pass Acts for the purpose of supplying the deficiency by imposing taxes upon the people, he thought it was the legitimate duty of the Council to see how those Revenues were to be applied. By the last Charter Act by which the East India Company were prevented from trading, the whole of the territories and Revenues of India were vested in them in trust for Her Majesty for the Government of India, and if the Court of Directors had still existed, we should have had a right, when asked to authorize the levy of taxes, to ascertain how they were to be applied. Suppose this Council had passed an Income Tax and a Stamp Act, and had raised the Custom Duties, and were about to impose a tax on trades which would reach incomes of 200 Rupees a year, and the Court of Directors had ordered the payment of a large sum of money to the Mysore Princes, it would have been entirely within the competency of this Council to enquire into the manner in which the proceeds of those taxes were about to be disposed of. The same obligation rested upon the Council now that the Government of India was transferred to Her Majesty. He believed that the Mysore Princes had no claim whatever, either equitable, legal, or moral, to the grant. He believed that the individuals now composing the Mysore family were never the objects of the provision made by the Partition Treaty of Mysore for the families of Hyder Ally and of Tippoo Sultan. He be-

lieved that the family for whom that provision was made did not include these parties. He would call attention to the Treaty. The Treaty was not one between the Government of India and Tippoo, but between the Government of India and the Nizam who had conquered Tippoo, and under that Treaty a certain provision was made for the families of Hyder Ally and of Tippoo. There was no stipulation in that Treaty that any part of that money should go to the descendants of Tippoo, and it was not only with alarm but also with surprise that he saw the announcement of such an order having been sent out to the Government of India. When we considered that the estimated produce of the Income Tax in 1860-61 was only one million, and that that sum was to be raised by a tax upon persons whose incomes amounted to 200 Rupees a year, was it fair, just, or proper to pay away large sums of money to persons who had no just claim to them? Was this Council to be asked to tax the people when the Secretary of State was making voluntary donations? It was doubtful whether even with the aid of these taxes the income of the State would be sufficient to meet the expenditure. If money was to be borrowed, it did not much matter whether it was borrowed here or in England. He recollected the statement made by the late Mr. Wilson, that the taxes were raised for the purpose of preventing Government from getting into debt and of enabling it to make income and expenditure meet. Now, if he showed that the grant in question was merely a voluntary gift, he would ask the President of the Council where the money was to come from, and how such a power was vested in the Government of India, by which term he meant whomsoever had the supreme management of the affairs of India. The Treaty was entitled a

"Treaty for strengthening the alliance and friendship subsisting between the English East India Company Bahadoor, His Highness the Nabob Nizam-ud-Dowla Asoph Jah Bahad-

door, and the Peishwah Row Pandit Purdhan Bahadoor, and for effecting a settlement of the dominions of the late Tippoo Sultan."

The Preamble recited as follows:—

"Whereas the deceased Tippoo Sultan, unprovoked by any act of aggression on the part of the allies, entered into an offensive and defensive alliance with the French, and admitted a French force into his army, for the purpose of commencing war against the Honorable English Company Bahadoor, and its allies Nizam-ud-Dowla Asoph Jah Bahadoor, and the Peishwah Row Pandit Purdhan Bahadoor; and the said Tippoo Sultan having attempted to evade the just demands of satisfaction and security made by the Honorable English Company and its Allies, for their defence and protection against the joint designs of the said Sultan and of the French, the allied armies of the Honorable English Company Bahadoor and of His Highness Nizam-ud-Dowla Asoph Jah Bahadoor, proceeded to hostilities in vindication of their rights, and for the preservation of their respective dominions from the perils of foreign invasion, and from the ravages of a cruel and relentless enemy.

And, whereas, it has pleased Almighty God to prosper the just cause of the said Allies, the Honorable English Company Bahadoor, and His Highness Nizam-ud-Dowla Asoph Jah Bahadoor, with a continual course of victory and success, and finally to crown their arms, by the reduction of the capital of Mysore, the fall of Tippoo Sultan, the utter extinction of his power, and the unconditional submission of his people; and whereas the said Allies, being disposed to exercise the rights of conquest with the same moderation and forbearance which they have observed from the commencement to the conclusion of the late successful war, have resolved to use the power which it has pleased Almighty God to place in their hands, for the purpose of obtaining reasonable compensation for the expenses of the war, and of establishing permanent security and genuine tranquillity for themselves and their subjects, as well as for all the powers contiguous to their respective dominions; wherefore a treaty for the adjustment of the territories of the late Tippoo Sultan between the English East India Company Bahadoor and His Highness the Nabob Nizam-ud-Dowla Asoph Jah Bahadoor is now concluded by Lieutenant-General George Harris, Commander-in-Chief of the Forces of His Britannic Majesty, and of the English East India Company Bahadoor in the Carnatic and on the Coast of Malabar, the Honorable Colonel Arthur Wellesley, the Honorable Henry Wellesley, Lieutenant-Colonel William Kirkpatrick, and Lieutenant-Colonel Barry Close, on the part and in the name of the Right Honorable Richard, Earl of Mornington, K. P., Governor-General for all affairs, Civil and Military, of the British Native in India, and by the Nabob

The Vice President.

Meer Alum Bahadoor, on the part and in the name of His Highness the Nabob Nizam-ud-Dowla Asoph Jah Bahadoor, according to the undermentioned articles.

Thus it appeared that Tippoo and his family were no parties to this Treaty.

The 1st Article provided as follows:—

"It being reasonable and just that the Allies by this treaty should accomplish the original objects of the war (namely, a due indemnification for the expenses incurred in their own defence, and effectual security for their respective possessions against the future designs of their enemies), it is stipulated and agreed, that the districts specified in the Schedule A, hereunto annexed, together with the bounds of all the passes leading from the territory of the late Tippoo Sultan to any part of the possessions of the English East India Company Bahadoor, of its Allies or tributaries situated between the Ghâts on either coast, and all forts situated near to, and commanding the said passes, shall be subjected to the authority, and be for ever incorporated with the dominions of the English East India Company Bahadoor, the said Company Bahadoor engaging to provide effectually, out of the revenues of the said districts, for the suitable maintenance of the whole of the families of the late Hyder Alli Khan and of the late Tippoo Sultan, and to apply to this purpose, with the reservation hereinafter stated, an annual sum of not less than two lakhs of Star Pagodas, making the Company's share as follows:—

Estimated value of districts enumerated in the Schedule A, according to the statement of Tippoo Sultan, in 1792, Canterai Pagodas	7,77,170
Deduct provision for the families of Hyder Alli Khan and of Tippoo Sultan, two lakhs of Star Pagodas in Canterai Pagodas	.. 2,40,000

Remains to the East India Company	.. 5,37,170"
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Article 2 provided as follows:—

"For the same reason stated in the preceding articles, the district specified in the Schedule B annexed herewith, shall be subjected to the authority and for ever united to the dominions of the Nabob Nizam-ud-Dowla Asoph Jah Bahadoor, the said Nabob having engaged to provide liberally, from the revenues of the said districts, for the support of Meer Kummer-ud-deen Khan Bahadoor and of his family and relations, and to grant him for this purpose a *personal jaghir* in the district of Gurrumecondah, equal to the annual sum of 2,10,000 Rupees, or of 70,000 Canterai Pagodas, over and above and exclusive of a jaghir, which the said Nabob has also agreed

to assign to the said Meer Kummer-ud-deen Khan, for the pay and maintenance of a proportionate number of troops to be employed in the service of his said Highness, making the share of His Highness as follows:—

Estimated value of the territory specified in Schedule B, according to the statement of Tippoo Sultan, in 1792,	Canterai Pagodas.. 6,07,332
Deduct personal jaghir to Meer Kummer-ud-deen Khan, 2,10,000 Rupees, or	.. 70,000

Remains to the Nabob Nizam-ud-Dowla Asoph Jah Bahadoor	5,37,332."
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It should be observed that the grant to Kummer-ud-deen was to be a mere *personal jaghir*, and that in estimating the value of the districts assigned to the East India Company, the annual amount to be applied for the family of Tippoo was deducted, leaving a balance of 5,37,170 Canterai Pagodas a year to the East India Company. In the same manner the annual amount of the personal jaghir to Kummer-ud-deen was to be deducted in estimating the value of the districts assigned to the Nizam, leaving him a balance of 5,37,332 Canterai Pagodas a year. Thus it appeared to have been intended that the contracting parties should take equal portions of the conquered districts. But if it were intended that the provision to be made by the East India Company was to be for the descendants of Hyder Ally and Tippoo Sultan in perpetuity, whilst the provision to be made by the Nizam was to be by a mere personal jaghir to Kummer-ud-deen, the value of the deductions to be made from the districts assigned to the parties respectively would not have been value upon the same principle. From this it seemed clear, independently of the absence of the words "heirs or descendants," that the provision for the families of Hyder and Tippoo were intended for those then in existence, and not for their descendants for ever. But this would appear still clearer when Article 6 of the Treaty was referred to. In that Article it was provided as follows:—

"The English East India Company Bahadoor shall be at liberty to make such deduc-

tions from time to time from the sums allotted by the first Article of the present Treaty for the maintenance of the families of Hyder Ali Khan and Tippoo Sultan, as may be proper in consequence of the decease of any member of the said families."

He believed there was only one son of Tippoo now living, he meant Prince Gholam Mahomed. The other members of the family now existing were descendants of the second, third, and fourth generations. Now, was it to be said that these parties were to have all the accumulations of the 2,40,000 Pagodas a year, which, allowing three Rupees to the Pagoda, was equal to the annual sum of 7,20,000 Rupees? There was another Schedule (Schedule D) which related to the Peishwah's share. But he did not agree, and fresh Articles were entered into between the East India Company and the Nizam, which provided as follows:—

"With a view to the prevention of future alterations, it is agreed between His Highness the Nabob Nizam-ud Dowlah Asoph Jah Bahadoor and the Honorable English East India Company Bahadoor, that to whatever amount the stipenda appropriated to the maintenance of the sons, relations, and dependants of the late Hyder Ali Khan and Tippoo Sultan, or the personal Jaghir of Meer Kummer-ud-Deen Khan shall hereafter be diminished, in consequence of any one of the stipulations of the Treaty of Mysore, the contracting parties shall not be accountable to each other on this head.

And it is further agreed between the contracting parties, that, in the event provided for by the eighth Article of the Treaty of Mysore, two-thirds of the share reserved for Row Pandit Pordhann Bahadoor shall fall to His Highness the Nabob Nizam-ud-Dowlah Asoph Jah Bahadoor, and the remaining third to the Honorable English East India Company Bahadoor."

These Articles also confirmed the view, that the provision for the family of Tippoo was not intended for his heirs and descendants for ever.

He viewed the order with alarm and surprise. With alarm, on account of the dangerous nature of the precedent, and the numerous other claims to which it would give rise. With surprise, because the ink was scarcely dry on the document which was supposed to be a final settlement of the question by which the allowances to

the Mysore family had already been increased. Was it to be said that the Council had no right to ask for information with regard to that which upon the assumption of the President of the Council appeared to be a lavish expenditure? If the Secretary of State wished to make a donation to the Mysore family, let him go to the British Parliament and ask for power to borrow money for the purpose, and see what they would say to the matter. He (The Vice President) wished to know upon what grounds the payment had been ordered. If the Mysore family had any just claim to the arrears, were they not equally entitled to have the annual sum of 2,40,000 Canterai Pagodas continued to them? In the absence of the information asked for, it appeared to him that the family had no legal, equitable, or moral right to the money which he understood had been ordered to be paid. He might be wrong, and if a refusal of the grant would involve any breach of faith, that would be a different matter altogether, and he (the Vice President) would be the last man to object to the payment. Possibly the Secretary of State had given reasons which would satisfy the Council of the justice of the grant, and he (the Vice President) was open to correction. But let them have the information which had been asked for, and they would then be better able to form an opinion. As far as he could at present judge of the case from an examination of the Treaty, it appeared to him that this payment was a mere voluntary donation on the part of the Secretary of State. He thought that this Council had a perfect right to enquire into the matter. Surely they were not to be called upon to tax the people without making enquiry as to the mode in which the money was to be expended. All the revenues were appropriated to the service of the Government of India, and were they not to ask for information when they were led to believe that a grant of nearly half a million sterling of the revenues of the State was about to be made as a mere voluntary donation? He (the Vice President) doubted whether the Council ought to pass the

Licensing Bill until full explanation of these matters was afforded. The reasons of the Secretary of State would appear if his Despatch was laid before the Council.

He (The Vice-President) thought that he should have been out of order had he made these observations at an earlier stage, when only a question had been asked, and there was no Motion before the Council. But now that the Honorable Member for Bengal had moved that the Petition be printed, he thought that, in voting for that motion, he had a right to make a few observations with regard to one of the questions raised in the Petition, and he begged to give notice of his intention to move for the production of the papers relating to that matter.

SIR BARTLE FRERE said, he had at the present stage only one observation to make in reference to what had fallen from the Honorable and learned Vice-President, and that was to guard himself against being supposed to express any opinion on the subject of the grant which had been discussed by the Vice-President. His view of the question was that it was one *ultra vires* of this Council to discuss.

The Motion to print the Petition was then put and carried.

VACATIONS (CIVIL COURTS).

THE CLERK reported to the Council that he had received a communication from the Home Department, forwarding for consideration, in connection with the Bill "to amend the law relating to Vacations in the Civil Court within the Presidency of Fort William in Bengal," a copy of a Despatch from the Secretary of State regarding the holidays to be allowed in Judicial Courts.

LICENSE DUTY ON TOBACCO

THE CLERK reported that he had received a communication from the Home Department on the subject of levying a special License Duty on the sale of Native-grown Tobacco.

SIR BARTLE FRERE moved that the communication be printed.
Agreed to.

STAGE CARRIAGES.

THE CLERK reported that he had received a communication from the Assistant Manager of the North Western Dāk Company, relative to the Bill "for licensing and regulating Stage Carriages."

MR. HARRINGTON moved that the communication be printed and referred to the Select Committee on the Bill.

Agreed to.

POLICE (PRESIDENCY TOWNS AND STRAITS SETTLEMENT).

THE CLERK reported that he had received a communication from the Coroner of Calcutta relative to 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.)"

MR. FORBES moved that the communication lie on the table.

Agreed to.

FLOGGING.

MR. HARRINGTON presented the Report of the Select Committee appointed to prepare a Bill to provide for the punishment of flogging for certain offences under the Penal Code, and gave notice that, on Saturday next, he would move that the Report be adopted, and that the Bill appended thereto, which had been prepared by the Select Committee under the instructions given to it, be read a first time.

RAILWAYS.

MR. FORBES presented the Report of the Select Committee on the Bill "to amend Act XVIII of 1851 (relating to Railways in India)."

RECOVERY OF RENTS (BENGAL).

MR. SCONCE presented the Report of the Select Committee on the Bill "to amend Act X of 1859 (to amend the law relating to the Recovery of Rent in the Presidency of Fort William in Bengal)."

PORT-DUES (AMHERST).

MR. SCONCE moved that the Bill "for the levy of Port-dues in the Port of Amherst" be now read a second time.

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

POLICE (PRESIDENCY TOWNS AND STRAITS SETTLEMENT).

MR. FORBES moved that the Council resolve itself into a 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);" 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.

Section I was passed after an amendment.

Section II was passed as it stood.

Section III was passed after amendments.

Section IV was passed after amendments, including the addition of the following new Clause, on the motion of Mr. Forbes:—

"It shall be lawful for the said two Magistrates and the said Court of Petty Sessions respectively, if they deem that the charge is from any circumstances fit to be made the subject of prosecution by indictment rather than to be summarily disposed of, to commit the person charged for trial before the Supreme Court or Court of Judicature."

MR. FORBES moved the introduction after Section IV of the following Section, being a re-enactment of Section XXXIII of the existing Act, with a verbal amendment:—

"Upon a conviction for any of the offences mentioned in Sections XXVII, XXVIII, and XXIX of Act XIII of 1856, or under the foregoing Section of this Act, the Magistrate or Magistrates (as the case may be), and in Bombay the Court of Petty Sessions in cases committed to that Court, may order the restitution of the property forming the subject of the charge, if forthcoming, to the owner: and in case of its not being restored pursuant to

such order, may impose on any person refusing or neglecting to restore the same, a fine not exceeding the value of the said property, which the Magistrate or Court may order to be paid to the owner or his representative."

Agreed to.

MR. FORBES then moved the introduction of the following Section after the above being a re-enactment of Section XXXIV of the existing Act, with a verbal amendment:—

"Upon a conviction for any of the offences mentioned in Sections XXVII, XXVIII, and XXIX of Act XIII of 1856, and in Section IV of this Act, the Magistrate or Magistrates (as the case may be), and in Bombay the Court of Petty Sessions, in cases committed to that Court, may impose upon the offender, in addition to the punishment for the offence, a fine not exceeding the loss appearing to be caused to the persons who have suffered thereby, and may pay or distribute the proceeds of the said fine or any part thereof, to or for the benefit of the said persons."

Agreed to.

Sections V to VII were passed as they stood.

Section VIII was passed after a verbal amendment.

Section IX was passed as it stood.

Section X was passed after an amendment.

Sections XI to XIV were passed as they stood.

Section XV was passed after amendments.

Section XVI was passed as it stood.

Section XVII was passed with the insertion of the following new Clause after Clause 3, on the Motion of Mr. Forbes:—

"Whoever, without reasonable cause, shall drive a carriage, cart, or other vehicle otherwise than on the left or near side of the road."

MR. ERSKINE moved the introduction of the following new Section after Section XVII:—

"The Commissioner of Police in Bombay shall, from time to time, subject to the orders of the local Government, make and publish in the Government Gazette rules for the blasting of rocks in or near any public road, street, thoroughfare, or place, in the Islands of Bombay and Colaba; and may give licenses for such operations when he shall think fit; and every person who shall blast any such

rock otherwise than according to the provisions of such rules, or who shall violate any condition of a license granted under this Section, shall be liable to a fine not exceeding one hundred Rupees."

Agreed to

Section XVIII was passed after a verbal amendment.

Sections XIX to XXI were passed as they stood.

THE CHAIRMAN moved that the Clerk of the Council be requested to read the communication, which was reported to-day, from the Coroner of Calcutta, relative to the Bill now under consideration.

The Motion was carried and the letter read.

MR. FORBES remarked that the opinion of the Advocate General, which was appended to the above communication, appeared to be adverse to the suggestion of the Coroner, and he (Mr. Forbes) had not therefore considered it necessary to make a motion on the subject.

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

EMIGRANT VESSELS.

MR. BARTLE FRERE moved that the Council resolve itself into a Committee on the Bill "relating to vessels carrying Emigrant Passengers to the British Colonies," 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.

VACATIONS (CIVIL COURTS).

MR. SCOTCH moved that the Council resolve itself into a Committee on the Bill "to amend the law relating to Vacations in the Civil Courts within the Presidency of Fort William in Bengal."

Agreed to.

THE CHAIRMAN moved that the Clerk of the Council be requested to read the Despatch from the Secretary of State, which had this day been reported.

The Motion was carried, and the Despatch read as follows :—

"TO HIS EXCELLENCY THE RIGHT HONORABLE THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

MY LORD,

1. Your letter, dated 27th June, No. 47, Judicial, No. 140. 1860, transmitting copy of a correspondence with the Government of Bengal regarding the holidays to be allowed in the Judicial Courts, has been laid before me in Council.

2. The opinions which are to be found in the Minutes of the Sudder Judges and in the Returns of the several District Officers, are not altogether satisfactory, as they have evidently been recorded in ignorance of the suggestion contained in Lord Stanley's Despatch No. 3, of the 19th January 1859, to the effect that 'a period of relaxation might be given to the Civil Courts for such a term and at such time of the year as might be deemed advisable, and the Courts open for public business on all other days (with such special exceptions as may be deemed proper) on the understanding that no native officer or servant of the Government will be compelled to attend and no party shall suffer loss from absence on any occasion which has been generally recognized in public offices as one of observance by the religion which he professes.'

3. With reference to the various suggestions which have been made, I approve of the long vacation being fixed at a month, to be allowed at such time of the year as your Excellency in Council may deem advisable.

4. The Courts will further be closed on Sunday, Good Friday, Queen's Birthday, and on the four Christmas Day days noted in the margin.

5. I also approve of your suggestion to the Government of Bengal that 'in addition to the holidays above-mentioned, fifteen days leave from office in the year might be allowed to the Native Judges and the Ministerial Officers of the Judicial Courts without reduction of pay, on the understanding that the Courts generally shall not be closed, except for the long vacation and on the English holidays above-mentioned.'

6. I request that you will take immediate measures for the repeal of Section II Regulation III. 1798 of the Bengal Code and of the corresponding enactments in any other Regulations or Acts passed by the Indian Legislature, and thus place the regulation of holidays in the hands of the local Governments.

I have the honor to be, &c.

(Signed) C. Wood.

London, 31st October 1860.

Mr. SCONCE observed that the object of the Bill now under consideration was simply to do what the Secretary of State suggested in the final paragraph of his Despatch, as far as regarded the Bengal Presidency.

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

ROHILCUND DIVISION.

Mr. HARRINGTON gave notice that he would, on Saturday next, move the first reading of a Bill to remove certain tracts of country in the Rohilcund Division from the jurisdiction of the tribunals established under the general Regulations and Acts.

CRIMINAL PROCEDURE.

Mr. HARRINGTON moved that certain Minutes recorded by the Judges of the Court of Nizamut Adawlut for the North-Western Provinces on the subject of the preliminary investigation by Police Officers in cases of offences cognizable by those Officers, be printed and referred to the Select Committee now sitting on the Code of Criminal Procedure for such consideration and notice in the Report to be submitted by them as they might deem proper. He said that copies of these Minutes had not yet reached him from the Government of the North-Western Provinces, though he was daily in expectation of receiving them. The copies which he held in his hand had come to him direct from the Sudder Court, the Court having probably observed the re-appointment of a Select Committee to consider some portions of the Criminal Procedure Code and the instruction given to the Committee to make its Report without delay; and as the Committee was now sitting and engaged in performing the task assigned to it, he had thought it better, in order to save time, not to wait until he heard from the North-Western Government, but to move that the Minutes of the Sudder Judges be printed at once and laid before the Committee.

Agreed to.

Mr. HARRINGTON also moved that the Extracts from the Despatches received from the Secretary of State for India and communicated to the Council, relative to those Chapters of the Code of Criminal Procedure which treated of trial by Jury and appeals, be referred to the same Committee, and that the Committee be instructed to propose any modifications of the Chapters in question which they might consider desirable.

Agreed to.

PORT-DUES (AMHERST).

Mr. SCONCE moved that the Bill "for the levy of Port-dues in the Port of Amherst" be referred to a Select Committee consisting of Mr. Harrington, Mr. Forbes, and the Mover.

Agreed to.

The Council adjourned.

Saturday, December 15, 1860.

PRESENT:

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

Hon'ble Sir H. B. E. Frere,	H. Forbes, Esq.,
Hon'ble Cecil Beadon,	A. Sconce, Esq.,
H. B. Harrington, Esq.,	Hon'ble Sir C. R. M. Jackson, and
	C. J. Erskine, Esq.

RECOVERY OF RENTS.

THE CLERK reported to the Council that he had received a communication from the Home Department, forwarding the Returns called for in Message No. 160, dated 25th June 1860, regarding claims relating to the recovery of rent preferred in the Revenue Courts of the Lower Provinces of Bengal.

Mr. HARRINGTON moved that the above communication be printed.

Agreed to.

ESCAPED CONVICTS.

Mr. ERSKINE presented a communication which he had received from the Bombay Government, relative to