

Saturday, 31st March, 1860

PROCEEDINGS

OF THE

**LEGISLATIVE COUNCIL OF
INDIA**

Vol. VI

(1860)

MR. HARRINGTON then moved that the Committee be instructed to present their Report within a week.
Agreed to.

COTTON FRAUDS (BOMBAY).

MR. FORBES (in the absence of Mr. LeGeyt) moved that the Report of the Select Committee on the Bill "for the better suppression of frauds in the Cotton Trade in the Presidency of Bombay" be adopted.

Agreed to.

The Council adjourned.

Saturday, March 31, 1860.

PRESENT :

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

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

ABSENCE OF THE GOVERNOR-GENERAL.

THE VICE-PRESIDENT read the following Message from the President in Council :—

MESSAGE No. 206.

The President in Council informs the Legislative Council that the Governor-General has represented that it is expedient that he should be enabled to prolong his absence from the Presidency for a further period of three months.

By order of the President in Council.

W. GREY,

Secretary to the Govt. of India.

Port William, the 27th March 1860.

SIR BARTLE FRERE moved that the Standing Orders be suspended, to enable him to introduce and proceed with a Bill to extend the operation of Act XXI of 1859, providing for the exercise of certain powers by the Governor-General during his absence from his Council.

SIR JAMES OUTRAM seconded the Motion, which was put and carried.

INDIGO CONTRACTS.

THE CLERK presented a Petition purporting to be signed by certain ryots and others in the Districts of Nuddea and Jessore; and he certified that he had received the same in a blank envelope, and that the signatures were those of marksmen, and were not authenticated.

THE VICE-PRESIDENT observed that, according to the Standing Orders, this Petition could not be received by the Council except upon the motion of a Member.

MR. SCONCE moved that the Petition be received, and said that he proposed, when the Council resolved itself into a Committee upon the Bill, to move that the Petition be read.

Agreed to.

JUDICIAL OFFICERS.

THE CLERK presented a Petition from Messrs. Crisp and Co. of Raugoon, and certified that it was a complaint respecting the decision of a Judicial Officer.

THE VICE-PRESIDENT observed that, as the Petition did not relate to any matter connected with the business of the Council, it could not, according to the Standing Orders, be received.

INDIGO CONTRACTS.

THE CLERK presented to the Council a Petition from the Indigo Planters' Association, concerning the Bill "to enforce the fulfilment of Indigo Contracts."

MR. SCONCE said, when the Council went into Committee on the Bill, he proposed to move that this Petition also be read.

THE CLERK presented a Petition from the British Indian Association concerning the same Bill.

MR. SCONCE said, he would adopt the same course with respect to this Petition.

INCOME TAX.

THE CLERK presented a Petition from Clerks employed in Government

and other Offices in Calcutta against the proposed levy of a tax on various incomes.

PARSEES.

MR. LEGEYNT said, he held in his hand a document of great interest and importance. It was a Petition from the Parsee community of Bombay to this Council, praying for the enactment of a Code of laws by which their right in matters of inheritance and succession, the rights of married women, the rights and relations of parent and child, guardian and ward, might be authoritatively settled.

The petitioners had set forth, at some length, the history of this movement in their tribe. They showed that they had been residents in India since A. D. 727, and although they had adopted the language, and in many respects the habits of the country, they had with much care and jealousy preserved the ancient customs and usages of their own people as handed down to them in their old writings and traditions. Unlike the Hindoos and Mahomedans, these customs had never been passed into a Code of laws. The comparatively limited number of the Parsee community and their patriarchal institution of the Panchayet, by which all domestic relations were regulated for many centuries, rendered legislation unnecessary. It was not until the middle of the eighteenth century that any material interruption to this happy state of things appeared to have been experienced. In 1777 an appeal was made to the Government of Bombay to strengthen the power of the Panchayet which had begun to be disregarded. Partial remedies were afforded, but things seemed to have gone on from bad to worse, and several spasmodic but ineffectual attempts to uphold the Panchayet were made from time to time. In the meanwhile disputes on inheritance, on marriage, and on succession were taken into the Supreme Court and decided, in the absence of any special law, according to the principles of English law. This was objected to by the petitioners. He (Mr. LeGeynt) would read

that part of the petition which contained the objection:—

“ Your petitioners need hardly suggest to your Honorable Council that the laws which are in force in England, upon the subjects above particularly mentioned, although they are productive of happiness and security to the English people, are but ill adapted to the wants and requirements of the Parsees, who entirely differ in manners, customs, and usages from those for whose benefit and protection such laws were framed. The application of English law in such cases has frequently, although in the present state of things unavoidably, been productive of much hardship to individuals, and of great dissatisfaction among the Parsee community in general. Furthermore, it has been decided on the 17th July 1856, by the highest Court of Indian appeal, namely, by the Right Honorable the Judicial Committee of the Privy Council, in England, in the case of *Pecrozebaie Ardaseer Carsetjee Dady*, that in matters affecting marriage and conjugal rights the Supreme Court in Bombay does not possess any power to exercise jurisdiction over your petitioners and their co-religionists, and consequently in all cases relating to marriage, divorce, and the restitution of conjugal rights the Parsees are destitute of any remedy whatever which can be legally enforced. The Parsees consequently feel that they, as a race, are debarred from the secure enjoyment of the laws, usages, and customs pertaining to them, and which they apprehend it was intended by the Legislature should be even guaranteed to them in like manner as the laws, usages, and customs of the Mahomedans and Gentoos were recognised as rights to be enjoyed by those races respectively.”

The petitioners traced out all that had been done by themselves and by the Government to obtain redress, and that the only successful result of their endeavors had as yet been the passing in 1837 of Act IX of that year which declared that the immovable property of a Parsee dying should be dealt with in the same manner as chattels, and by which all attempt to enforce the English law of primogeniture was defeated.

In 1855 an important meeting of the community was held. He would read from the petition as to what had been done on that occasion—

“ That, on the 20th August 1855, a public meeting of the Parsees of Bombay was held at *Sett Cowasjee Byramjee's Fire Temp* which was attended by the heads of the Parsee community, as well as by a great number of respectable and influential gentlemen,

which the following resolutions were unanimously agreed to:—

"That this meeting is deeply impressed with the necessity of procuring for the Parsee community the enactment of laws adapted to that tribe, such as may be recognised, obeyed, and enforced by the local authorities and Courts of Justice.

"That a Managing Committee, composed of the following gentlemen, be appointed to prepare a draft of a Code of Laws adapted to the Parsee nation, to petition the Legislative Council of India for the enactment of such laws, and to manage and conduct all affairs relating thereto, and that the Committee be empowered to add to their number and to appoint their Secretary. A copy of the minutes of the proceedings of the said meeting is herewith annexed.

"That your petitioners represent the Managing Committee above referred to, and which comprises the heads of all influential Parsee families, as well as other gentlemen representing the different classes of the Parsee community in Bombay.

"That during the period of four years and upwards, which has elapsed since the appointment of your petitioners as members of such Committee, your petitioners have been constantly engaged in the performance of the duty entrusted to them by their community."

Again, in paragraph 5, the petitioners state:—

"That by means of such enquiries and researches your petitioners became possessed of sufficient information to enable them to frame the draft of a Code of laws on the above-mentioned subjects, applicable to their co-religionists. Each section of such Code was fully and patiently discussed at the meetings of the above-mentioned Committee, and due publicity was given to all such proceedings by the publication thereof, from time to time, in the Guzeratte newspaper.

"The draft Code of laws, applicable under the before-mentioned points to the Parsee community, has now been settled, and is herewith appended; and your petitioners humbly pray your Honorable Council to pass the same into law."

He (Mr. LeGoyt) would not take up the time of the Council by reading the whole of the petition and the details which were given to illustrate its prayer. He did not, however, feel that matters were yet sufficiently matured to justify the Council in bringing in a Bill passed in conformity with the prayer. He entirely concurred in the justice and the necessity of the measures. But there was a point which should, he thought, require further examination and

enquiry. It was very important that, in a movement of this kind, there should be unanimity among the people who were affected by the proposed law. He would read one more paragraph of the petition:—

"It had been the earnest hope of your petitioners to have been able to propose one uniform Code of Laws, which should be applicable to Parsees residing in all parts of India, but some of their co-religionists, residing at Surat and elsewhere, resolutely object to allow the widow and daughters to inherit any portion of the property left by an intestate Parsee, deceased, and would only allow them a bare maintenance. These Parsees also deny the right of a person absolutely to disinherit his male heirs; but neither of these objections at all arise from such powers of inheritance, and disinheriting being opposed to the ancient laws and customs of the Parsees. The opposition really arises from the fact that the Parsees in the interior have in certain matters adopted the usages and customs of the Hindoos, and to them pertinaciously adhere, and not having as yet fully experienced the benefits of a liberal education, they persist in their views, though prejudiced and narrow. The Parsees of Bombay who, even numerically speaking, far exceed those of the Mofussil, do not admit the validity of the objections just mentioned, and therefore following the precedent of the Parsee's real Property Act No IX of 1837, they have proposed and now solicit your Honorable Council to enact the accompanying Code so as to affect Parsees residing within and subject to the jurisdiction of Her Majesty's Supreme Courts in India, leaving it to the wisdom of your Honorable Council to extend its provisions to the Parsees of the Mofussil."

It was true the petitioners only demanded legislation for that section of the community who were agreed, and it was also true that that section formed a large majority of the numbers and wealth and intelligence of the tribe; but it was tolerably evident that the chief obstacle to the passing of a law, such as was now prayed for, had hitherto been the want of unanimity of a people who professed to be governed by the same laws and to derive them from the same source. The petitioners declared their researches had satisfied them that their usages, and that the laws they now asked were in conformity with the ancient usages of their race. Still as there was a difference of opinion, he thought a further enquiry was desirable. The inconvenience of a

special law for a Parsee residing within the limits of the Supreme Court of a Presidency Town differing materially from the law by which a Parsee residing on the other side of the boundary was governed, should be avoided. If it were found that the law asked for were unobjectionable to themselves, and were really in conformity with the ancient usage of the tribe, and the contrary could not be shown by the objectors, and if it be ascertained that the objectors were really the innovators, and had adopted the principles of Hindoo law, then he thought the voice of the majority should be respected, and the law prayed for might be passed under that view of the case. His intention was to move that the petition be printed and referred to a Select Committee, with instructions to institute such enquiries as might be necessary to satisfy them whether the subject was one which required legislation, and whether the legislation proposed by the petitioners, or any other, be the most advisable; and, in order that the enquiry might be effectual, that the Committee be authorized to issue Commissions for the purpose of taking evidence, and that the Commissioners be authorized to take such evidence in the manner provided by Act VIII of 1859 for the taking of evidence by Commissioners.

He would move that the Select Committee consist of Sir James Outram, Sir Bartle Frere, Sir Charles Jackson, and the Mover, with instructions to report within three months from that date.

The Motion was put and agreed to.

LITERARY, SCIENTIFIC, AND CHARITABLE SOCIETIES.

MR. FORBES (in the absence of Sir Charles Jackson) postponed the presentation of the Report of the Select Committee on the Bill "for the Registration of Literary, Scientific, and Charitable Societies."

ESCAPED OFFENDERS.

MR. HARRINGTON presented the Report of the Select Committee on the Bill "to amend Act V of 1858 (for
Mr. LeGeyt

the punishment of certain offenders who had escaped from jail, and of persons who shall knowingly harbor such offenders)." In doing so he said, that it was not his intention to proceed with it further on that day, but gave notice that he would, on Saturday next, move for a Committee of the whole Council on the Bill.

PORT-DUES.

MR. FORBES presented the Report of the Select Committee on the Bill "to amend Act XXII of 1855 (for the regulation of Ports and Port-dues.)"

EMIGRATION TO St. KITTS.

SIR BARTLE FRERE, in proposing the first reading of a Bill "relating to the emigration of native laborers to the British Colony of St. Kitts," stated that it was, *mutatis mutandis*, identical with a Bill now before the Council for regulating emigration to the Colony of St. Vincent.

It was at first his impression that it would be advisable to deal with the subject of emigration by a general law applicable to all Colonies, but it appeared on enquiry that, inasmuch as the several Colonies acted independently of each other in the matter of emigration, and required different rules, owing to local differences of climate and length of voyage, &c., it was the preferable course to deal with them in this matter independently, and pass for each Colony a Bill as might be required to meet its peculiar requirements.

As there was no new feature in the present Bill, he would not detain the Council farther by describing its provisions.

The Bill was read a first time.

ENDOWMENTS.

SIR BARTLE FRERE, in rising to move the first reading of a Bill "to repeal Regulation XIX. 1810 of the Bengal Code, and Regulation VII. 1817 of the Madras Code," said that the Bill was brought in, in compliance with instructions from the Secretary of State, and he could

not better state the reasons on which the Bill was founded than by reading extracts from the Secretary of State's Despatch on the subject which would be laid before the Council. In a Despatch, dated 24th February 1859, Lord Stanley observed as follows:—

"The severance of all connection between the offices of Government and the religious institutions of the Natives has formed the subject of correspondence between the Government of India and the authorities of England for several years, and it has been recognised as a principle of the greatest importance that, in every thing connected with their religious worship, and with the management of these religious endowments, the people of India should be left entirely to themselves.

"In the year 1844 enquiry was directed to be made in the Presidencies of Bengal and Madras, for the purpose of ascertaining the extent to which the management of endowed lands was in the hands of Government Officers. On that occasion the Court of Directors expressed their desire that the Regulations of the Bengal and Madras Codes, by which the general superintendence of all endowments in land or money granted for the support of mosques and temples is vested in the Revenue Officers of Government, and the rules which required any of the European Officers to interfere in the management of the funds and affairs of any such institution, might be rescinded.

"Again, in their letter in the Legislative Department, No. 1, dated 7th January 1846, the Government of India, after reviewing the subject with reference to the connection then existing in the several Presidencies of India between its Officers and the religious institutions of the people, recorded their opinion that Regulation XIX. 1810 of the Bengal Code, and the Regulation VII. 1817 of the Madras Code should be repealed.

"Respecting the degree of protection to be afforded to the religious institutions of the people of India, the sentiments of Her Majesty's Government are essentially those of the Court of Directors as above referred to. It is the duty of the Government of India to see that those institutions "enjoy the equal and impartial protection of the law," but it is not called upon to provide especially for their management or superintendence by its own officers. It appears, then, to Her Majesty's Government that the repeal of the Regulations in question, or such parts of them as relate to the management of religious endowments, should no longer be delayed; provision being made at the same time for an appeal to the established Courts of Justice in all disputes relating to the appointment and possession to the management of Hindoo and Mahomedan religious institutions, and to the control and applications of their funds. I request that you will take the necessary steps

for bringing the subject under the consideration of the Legislative Council."

The two enactments which it was intended by this Bill to repeal were, he (Sir Bartle Frere) believed, the only two remaining on the statute book to which the remarks of the Secretary of State applied, and their repeal would completely carry out the object which the Home Government had so long in view.

The Bill was read a first time.

ARTICLES OF WAR (NATIVE ARMY).

SIR BARTLE FRERE, in moving the first reading of a Bill "for the further amendment of the Articles of War for the Native Army," observed that it was not necessary he should enter at any great length into the reasons for amending the existing Articles of War for the Native Army, as they had been very lately and fully stated by his Honorable friend on his right (Mr. Harington) in bringing forward a Bill which had been passed with special reference to the requirements of the force proceeding to China. It would be in the recollection of the Council that it was then stated by the Honorable Member for the North-Western Provinces, that a general measure applicable to the whole of the Native Army was in contemplation, and would be brought forward as speedily as possible, and the Bill, the first reading of which he (Sir Bartle Frere) had now the honor to propose, was the measure to which his Honorable friend then referred. With reference to the large amount of business before the Council for that day, he (Sir Bartle Frere) would not detain them by any lengthened explanation of the new provisions of the Bill, or the reasons for them. He would reserve such statement for the second reading, when the Bill would be printed and would be in the hands of Honorable Members. He would simply state that the general tendency of the changes proposed was to give a larger discretion, and to place a larger amount of authority in the hands of Commanding Officers, a subject on which he (Sir Bartle Frere) believed that the opinions of all the best

informed authorities were very unanimous.

MR. FORBES wished to know if the Honorable Member proposed to proceed with the Bill to-day under a suspension of the Standing Orders, because on the last occasion of a similar Bill being brought in, although he (Mr. Forbes) had received two communications from Madras, containing the views of the Commander-in-Chief upon the measure, he had had no opportunity of presenting them to the Council, owing to the Bill having been passed under a suspension of the Standing Orders before the communications reached him. As he thought it inexpedient that further change should be effected without the opinion of the Chief of each Army being ascertained, he would ask the Honorable Member as to whether it was intended to proceed with the Bill to-day by suspending the Standing Orders.

SIR BARTLE FRERE replied that there was no such intention. The Commander-in-Chief in India had expressed a wish that no avoidable delay should occur in passing into law the measure which had received His Excellency's approval, but that ample time would be allowed to consult the Commanders-in-Chief of the Madras and Bombay Armies, and to ascertain their views. The Bill, as drawn up by the Judge Advocate General with Lord Clyde's approval, had been already sent to them, and it was hoped that their opinions would be received before the second reading of the Bill.

The Bill was then read a first time.

ABSENCE OF THE GOVERNOR GENERAL.

SIR BARTLE FRERE, acting on the permission of the Council to suspend the Standing Orders after hearing the Message from the President in Council read, moved the first reading of a 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." Act XXI would expire on the 9th May, and his Lordship would not have concluded his

Sir Bartle Frere

tour till the end of April. It was then his wish to remain in the North-West till the setting of the rains before his return to Calcutta. In the North-West Provinces and Punjab, which His Excellency had lately visited, there was but one opinion as to the immense benefit which had resulted from the Viceroy's visit, and he (Sir Bartle Frere) felt certain that the Council would concur unanimously in giving effect to his Lordship's wish that the Act should be extended for another period of three months.

The Bill was read a first time.

SIR BARTLE FRERE then moved that the Bill be read a second time.

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

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

MR. WILSON postponed till Saturday next the Motions (which stood in the Orders of the Day) for the second reading of the Bill "for imposing Duties on profits arising from property, professions, trades, and offices," and the Bill "for the licensing of arts, trades, and professions."

INDIGO CONTRACTS.

THE VICE-PRESIDENT moved that the other Orders of the Day be postponed until after the consideration of the Bill "to enforce the fulfilment of Indigo Contracts."

Agreed to.

MR. SCONCE then moved that the Council resolve itself into a Committee on the Bill.

Agreed to.

MR. SCONCE moved that the Clerk be requested to read the petitions concerning the Bill which had that day been presented to the Council.

The Motion having been carried, the Petitions were read accordingly.

Section I provided as follows:—

"If any person who has received a cash advance upon his agreement to cultivate indigo plant during the season now current shall wilfully delay or omit, from and after the 24th day of March 1860, to cultivate according to the conditions of his agreement, the whole quantity of land which he has

agreed to cultivate, and for the cultivation of which the cash advance was made, it shall be competent to the Magistrate to entertain a complaint made to the above effect on oath by the planter who has made the advance, or by any person in his behalf, and to summon the person complained of to appear before him, in order to the investigation of the complaint preferred. If the Magistrate has reason to believe that the person complained of will not appear in obedience to the summons, he may issue a warrant for the arrest of such person."

MR. WILSON said, he had a slight alteration in this Section to suggest to the Committee. As he understood, the object of this Bill was to compel the fulfilment of contracts in which a cash advance of any amount had been received. He did not understand that the cash advanced was an essential ingredient in the contract. What he understood was that a cash advance was an earnest of a contract deliberately made by the parties. Whether the advance was made in full, or whether it consisted in part of an arrear of last year, was not to the purpose. It appeared to him that the real question for consideration was the quantity of land agreed to be cultivated. The agreement was specific as to this point, and the contract would not be fulfilled unless the whole of the land specified in the agreement should be cultivated. And, therefore, as the Clause stood, it would not bear that legal interpretation, for there were words in it which would give rise to considerable difficulty which it was our duty to remove. The Clause provided that:—

"If any person who has received a cash advance upon his agreement to cultivate indigo plant during the season now current shall wilfully delay or omit, from and after the 24th day of March 1860, to cultivate, according to the conditions of his agreement, the whole quantity of land he has agreed to cultivate, and for the cultivation of which the cash advance was made, &c., &c.

The words in italics he thought might lead to an impression that a ryot was compelled to cultivate only that portion of the land for which he had received an advance. Now the intention of the Council was that the ryot should be obliged to fulfil his contract, whatever the amount of the

cash advanced to him might be, and therefore, to make the Clause quite clear, he proposed to move to leave out the words in question, and to substitute the words "*such* agreement" for "*his* agreement." He would accordingly move the substitution of the word "*such*" for "*his*."

THE CHAIRMAN said, he had an amendment to move in an earlier part of the Section. He had proposed to leave out the words "who had received a cash advance upon his agreement to cultivate indigo plant during the season now current." But as the Right Honorable Member's amendment would have nearly the same effect, and do all that was necessary, he would now simply move to substitute the words "31st day of March" for "24th day of March." It appeared to him that it was not right to pass an *ex post facto* law of this nature. He had no objection to indemnify the Officers of Government for any acts already done by order of the Lieutenant-Governor, which would have been authorized by this Bill if it had been passed as it was read a second time. But he did not think it right to give any Officer power to act under the authority of the Act in respect to past offences. For instance, supposing a case were pending before an Officer in respect to an offence committed on the 25th March, the Magistrate was bound to decide upon the construction of the Act, according to Section II of which he might, in the event of non-payment immediately of the damages assessed, order the defendant to be imprisoned in the civil jail for a term not exceeding three months. It appeared to him (the Chairman) that, if nothing had been done during the past week, the Magistrate should not have this power with regard to an offence committed between the 24th and 31st March. He, therefore, proposed to substitute the 31st for the 24th March, and to introduce an indemnity Clause with regard to acts done before the 31st March.

MR. SCONCE said, he had no objection to offer to the proposition of the Honorable and learned Chairman, on the understanding that the indemnity

would provide for all acts done under the instructions which had already been given to the local Officers within this week.

MR. WILSON said, he thought we must consider well what we were doing in this matter. It appeared to him that the Honorable and learned Chairman's objection would not be fully carried out by his proposed amendment, because the Bill would not receive the Governor-General's assent for some time to come, and in point of fact, the Bill would be as little law to-day as it was last week. If the motion were made last Saturday, he should have most cheerfully assented to it: but by the Bill of last week we had authorized the Lieutenant-Governor of Bengal to act upon it as if it had been law. It was very necessary to know what steps had already been taken on the faith of the Bill as if it were to have had effect from the 24th March. As he had already stated, he would have had no objection if the proposal of the learned and Honorable Chairman had been made last Saturday, but he thought it was too late to adopt it now that authority had already been given to the Lieutenant-Governor. If the indemnity would cover the whole of the acts of the week, the object of the amendment would be frustrated; whereas if it did not, the effect of the amendment would be very much like entrapping the Lieutenant-Governor into the issue of orders which the Council subsequently thought fit to repudiate. Therefore it was not to the principle of the amendment that he (Mr. Wilson) objected, but to the practical inconvenience which would result from its adoption, and he would therefore suggest to the Honorable and learned Chairman, inasmuch as the purpose of his amendments would not be effected, whether it would not be advisable to withdraw his objection to the Clause as it now stood, on the ground of *ex post facto* legislation.

THE CHAIRMAN said, if this Bill had gone through the ordinary course and been referred to a Select Committee, it would have been published in the Gazette; but the Honorable

Mr. Sconce

Member for Bengal did not think it proper to refer the Bill to a Select Committee. He (the Chairman) had no objection to the substitution of the words "from the publication of the Act" for those before proposed by him. If the public had been informed last week that from such a date the Act would take effect, he would have had no objection. The Bill might be published to-night as a Bill passed by the Council, and merely awaiting the assent of the Governor-General. The indemnity Clause would protect the Officers of Government for any acts already done by them. But he did not think that it would be right to authorize him to act under this Bill in respect to past offences. Section III rendered a person who should, from and after the 24th March, intimidate any other person with the intention of inducing any other person to break his contract "liable to a sentence of imprisonment, with or without hard labor, for a period not exceeding six months, or to a fine not exceeding two hundred rupees, or to both, such fine being commutable, if not paid, to a further period of imprisonment not exceeding six months." So that, under this Section, a person might be imprisoned for six months for something which he had done last week, whereas he did not think that any man ought to be punished for an act done before the passing of that law. The law might indemnify Officers for any acts done by them before its passing under the authority of the Lieutenant-Governor. But he did not see why, if a person were to be brought up hereafter before a Magistrate for having committed an offence between the 24th and 31st March, he should be punished under the authority of an Act passed on the 31st March. He, therefore, thought that there was a great distinction between merely giving indemnity for past acts and making persons liable to be punished for a past offence. It appeared to him that all cases of offences committed between the 24th and 31st March, which had not yet been decided but were still pending, should be dismissed.

The question being put for the omission of the figures "24th" the Council divided—

Ayes 5-

Mr. Sconce.
Mr. Forbes.
Mr. Harrington.
Mr. LeGeyt.
The Chairman.

Noes. 3.

Mr. Wilson.
Sir Bartle Frere.
Sir James Outram.

So the Chairman's Motion was carried.

The question being proposed for the substitution of the figures "31st" for those just omitted—

Sir BARTLE FRERE said, he would propose to omit from this Clause all the words as to date, and introduce a Section prescribing the time from which the Act should have effect. This would meet the object which the Honorable and learned Chairman had in view of avoiding even the appearance of *ex post facto* legislation. He entirely agreed with what fell from the Right Honorable Gentleman, that the alteration proposed would not satisfactorily effect the object contemplated by him, and he (Sir Bartle Frere) thought that the amendment now proposed by himself would completely meet the objection of the Honorable and learned Chairman.

Mr. WILSON said, he apprehended that no further notice of publication was necessary than had already been given to the Bill. He believed the Bill appeared in all the newspapers on Monday last; and the Honorable Member for Bengal had stated that the Executive Government had already adopted measures for its proclamation among the ryots and others in the several Districts; so that it might be presumed that it was by this time generally made known that the operation of the Bill was to have commenced on the 24th March. To show that legislation of this kind was not unusual, he would mention an analogous case which took place in England in 1848. The House of Commons met on a Saturday to pass the *Habeas Corpus* Act for Ireland. There was no time for obtaining the Royal assent, and the Bill was despatched to Ireland that very night. The *Habeas Corpus* was suspended on the following day. An objection was

raised as to the legality of that measure, on the ground that the Bill did not receive the assent of the Crown until afterwards. But that objection was over-ruled. He only mentioned this case to show what serious results were likely to arise from such technical objections being taken, if, after agreeing to the second reading of the Bill and allowing a week to pass, we should now alter the date from which it should take effect. As, however, the Council had decided against his view of the case, he would say nothing more on the matter. He would only remark that he did not think any possible advantage would be derived from the motion of the Honorable and learned Chairman, as he conceived that it might give rise to legal quibbles.

Mr. SCONCE said, that there was a long established usage, that no law took effect in the Mofussil except from the date of the receipt and promulgation of the *Calcutta Gazette* containing it in each District.

THE CHAIRMAN'S Motion was then put and carried.

Mr. WILSON'S Motion for the substitution of "*such* agreement" for "*his* agreement" was carried.

Mr. WILSON'S Motion for the omission of the words "and for the cultivation of which a cash balance was made" being proposed—

Mr. SCONCE said, no member of this Council was more desirous than himself to assent to any proposition by which the object of the Right Honorable Member's amendment could be thoroughly attained, but he had a strong opinion as to the inexpediency of making the enforcement of the Act depend partly upon cash payment and partly on account of an old debt taken from the cultivator. He conceived that the Council would err exceedingly if they thought that the object of the present movement among the ryots was to put money into their pockets. We might be sure that they, the ryots, had higher and ulterior motives. They manifestly showed that the cultivation of indigo was irksome to them. He therefore thought that the Council should consider these circumstances before they came to legislate

in the matter, lest their legislation should prove to be of an *ex parte* character, which he was sure it was the wish of the Council to avoid as far as possible. We should retain what was the main principle of the Bill, namely to compel ryots to fulfil their engagements with the planters in cases in which cash had been advanced, thus looking upon the cash payment as an essential condition in the case. Through-out the past week the Lieutenant-Governor had been instructing the Magistrates to carry out the Act, and they had treated it as law on the assurance given by the second reading. Whatever assurances had been made by the Magistrates to the ryots, had become in a measure a pledge. The law of last Saturday had been sent into the Mofussil, and many ryots, he believed, had thus been encouraged to adhere to their engagements. One important ground of that Bill was the payment of cash. If the Council were now to do more than that, if they introduced also balances of account standing in the name of the ryot at the close of last season, they would very materially vary the principle of the Bill. But he would also ask the Council to remember the ground upon which the interference of the Legislature had been on this occasion invoked. It was said that large sums, many lakhs, had been paid by the planters to ryots by way of advances, and we were told that these payments were put in jeopardy by the refusal of the ryots to fulfil their contracts. But he (Mr. Sconce) conceived that a manifest distinction was observable between a cash payment and the nominal advance supposed to be covered by an old debt. In no proper sense could the neglect to cultivate indigo, when the advance consisted of a balance due by the ryot for last year's cultivation, be called a mis-appropriation of the nominal advance; without cash, there could be no mis-appropriation. In enforcing the contract you must look to the consideration. Money was a good consideration. But when you came to a debt, what was it? What did it mean? It meant that, during the

Mr. Sconce

operations of last season, the crops had failed, and that the whole year was lost to the ryot. For the year, his land was lost to him, as was the labor which he had devoted to the cultivation of it. By the year's operation he was left in debt, and it was that debt which it was proposed to accept as a consideration for the new contract. On that ground he (Mr. Sconce) thought that it would be injurious to the ryot and unjustifiable in principle that the full provisions of this Bill should be had recourse to for the enforcement of an outstanding debt. He would remind Honorable Members that, though disturbances were reported to have taken place in only one or two Districts, the terms of the law were general, and would apply to Dacca and Mymensing as well as to Nuddea. For these reasons he was averse to adopt the amendment of the Right Honorable Gentleman.

Mr. HARRINGTON said, at the time the Bill was introduced by the Honorable Member for Bengal, it appeared to him very doubtful whether, looking to existing enactments, there was any real necessity for this Bill, and whether, if any fresh legislation was called for, it should not take some other form. The consideration which he had since given to the subject had failed to remove his doubts, and what had fallen that day from Honorable Members who had spoken in the debate, he must confess, had rather tended to strengthen them. The existing enactments to which he referred were Regulation VI. 1823 and Act X. of 1836. The present Bill did not differ very materially from the provisions of those two enactments further than that, while by them the enforcement of the law was left to the Civil Courts, it was proposed to devolve on the Magistrate the duty of putting in execution the provisions of the present Bill. It was quite possible that the Magistrate was a more formidable person in the eyes of the native community than the Judge, and that the Magistrate's Court, or, as it was called, the Fouzdaree Court had greater terrors for the masses than the Civil

Court, and it might be well to transfer to the Magistrates the jurisdiction now exercised by the Civil Courts under the enactments to which he was referring. He doubted whether more than this was necessary, or whether the present Bill would prove really as beneficial to the planters as the existing Regulations, or afford them speedier or better means of obtaining effectual redress. Section II. Regulation VI. 1823 provided:—

“If any person shall have given advances to a ryot, or other cultivator of the soil, under a written engagement, stipulating for the cultivation of indigo plant on a portion of land of certain defined limits, and for the delivery of the produce to himself, or at a specified factory or place, such person shall be considered to have a lien or interest in the indigo plant produced on such land, and shall be entitled to avail himself of the process hereinafter provided for the protection of his interest, and for the due execution of the conditions of the contract.”

Then came a Section, which provided:—

“If any person who may have made advances on conditions of the nature above described, shall have just reason to believe that an individual under engagement with him is evading, or is about to evade, the execution of his contract, by making away with and disposing of the produce otherwise than as stipulated, or that he has engaged secretly or openly to supply the same to another, it shall be competent to such person to present a petition of complaint to the Zillah or City Judge within whose local jurisdiction the land stipulated to be cultivated with the indigo plant may be situated, filing with the same the original deed of engagement by which the produce may be assigned, and engaged to be delivered to himself or at his factory, and certifying in his petition that such deed was voluntarily and *bona fide* executed by the individual complained against.”

Rules of procedure followed, which were of the simplest and most summary character.

Now, supposing an indigo planter to have conformed to the conditions of the Sections which he had read, that was to say, to have taken a written engagement mentioning not only the quantity of land which the ryot was to cultivate, but also its limits, so that no dispute could arise as to the particular land con-

tracted for, he (Mr. Harington) did not see what more summary law the planter required or could desire. He believed, however, it was not usual to take written engagements. The agreements were generally verbal, and in the absence of any specification of the nature contemplated by the law, constant disputes had arisen which had resulted in the present state of things. That was the fault not of the law but of those for whose benefit and protection the law was intended. The word used in Regulation VI. of 1823 was “advances”, by which he (Mr. Harington) understood cash advances on account of the current season's cultivation. The Honorable Member for Bengal, in introducing the present Bill, had led them to understand that it was intended to apply only to cases in which such advances had been made, but he (Mr. Harington) feared that the effect of omitting the words mentioned in the motion of the Right Honorable Gentleman opposite (Mr. Wilson), taken with another motion which the Honorable and learned Vice-President led them to expect on Saturday last he intended to make, would be greatly to alter the character of the Bill in this respect, and he should therefore vote against the amendment.

SIR BARTLE FRERE said, he would premise by observing that there was not a Member of that Council who would not sooner cut off one of his hands than have anything to do with one-sided legislation. The object of this Bill was, they all knew, as much for the protection of the interests of the ryot as of the planter. Honorable Members would recollect the state of things last week. It was true that we were not now on the eve of a serious disturbance, but he must say that a man had a greater power of looking into futurity than he (Sir Bartle Frere) confessed he had, to say that the Bill was not as much needed now as it was last week. Vast interests had been imperilled, and perhaps were so still. The Honorable Member for Bengal had drawn a distinction between cash advances and balances of old accounts. So far as his (Sir Bartle Frere's)

experience went, he had found it to be a very difficult matter in examining Native accounts to say what was a cash advance and what not. It was often impossible to say what amount of cash was advanced to a debtor. The transactions were often so complicated that they would set at fault the most acute accountant. According to the view of the Honorable Member, no discretion whatever was to be left to the Magistrates, whereas he (Sir Bartle Frere) thought that the Magistrates might safely be trusted with such a power without fear of any injustice being done. If they were to wait till they had settled a Bill which should be liable to no abuse, he (Sir Bartle Frere) feared they must give up the Bill altogether. He gave full weight to the argument of the Honorable Member for the North-Western Provinces that there were legislative enactments in the Statute Book very similar to the provisions of the present Bill. That was precisely what he (Sir Bartle Frere) had stated last Saturday, namely, that we required no new principle of law but new machinery. In ordinary cases you might very properly leave persons to the remedy provided by the Civil Courts.

Mr. WILSON said, he did not wish to trouble the Council with any further observations in the matter. He only desired to say that the Honorable Member for Bengal and the Honorable Member for the North-Western Provinces had entirely misapprehended the object of his amendment. His object merely was to remove a doubt, and not to alter a principle of the Bill.

Mr. SCONCE said, he desired to make one or two observations in reference to what had just fallen from the Right Honorable Gentleman. He would assure him that he did not labor under any misapprehension as to the object of his (the Right Honorable Gentleman's) amendment. He (Mr. Sconce) spoke of the small change proposed to be introduced, by importing into the contract a new element, that is, to include old balances. Let us look at the matter in another sense. Suppose a Ryot contracted to cultivate 20 beegahs, for which, as was

ordinarily the case, he required an advance of 2 rupees a beegah, or 40 rupees for the whole. Instead of receiving an advance in cash of 40 rupees, 35 rupees was presumed to be the balance of an old debt, and the remaining 5 rupees only was what he received in cash. With a view to the adjustment of accounts, he could conceive a fraction of the whole estimated advance, say a sixth, or an eighth, to consist of an old claim. But if the terms of the law remained general, as would be the effect of the Right Honorable Gentleman's amendment, any old claim, whatever might be its amount, might be brought in. His (Mr. Sconce's) ground of objection therefore was to the general terms of the Law as the amendment of the Right Honorable Gentleman would leave it, but certainly he was under no misapprehension as to the terms in which he had drawn the Section of the Bill now referred to.

THE CHAIRMAN said when the Honorable Member for Bengal introduced this Bill last week, he (the Chairman) understood him to say that the Lieutenant-Governor sympathised with the planters, and desired to give them a more summary redress than they now possessed. Now, what was the nature of the case? An indigo planter entered into a contract with a ryot to cultivate a certain number of beegahs. So much was allowed for each bundle of indigo brought into the factory. Last year, probably, being a bad season, the ground cultivated did not yield a sufficient number of bundles of indigo to cover the advances, and the ryot was unable to repay the amount of the advance made to him by the planter. Now, suppose the case put by the Honorable Member, that an advance of 40 rupees consisted of 5 rupees in cash and 35 rupees the amount of an old arrear. There was no doubt that the advance was made by the planter on a former occasion. The ryot wanted an advance to enable him to carry on this year's cultivation, and came to the planter for a cash advance. The planter tells him—"Here is an advance of 5 rupees

for you. This, with the 35 rupees you owe me, will make up 40 rupees." Both these amounts together formed the consideration for the present contract, and for the 40 Rupees the ryot bound himself to cultivate a certain number of beegahs. Now, if the actual cash advance only was to be considered, how could the Magistrate say to what portion of the land which the ryot had agreed to cultivate the 5 rupees, and to what portion the 35 rupees belonged? It would be impossible for the Magistrate to decide such cases at all, and then the Bill, as it stood, would prove useless. If, as a free agent and without any force or fraud, the ryot had entered into a contract to cultivate a certain number of beegahs and to sell the produce to the planter at so much a bundle, he ought to perform his contract. The rights of the parties were fixed by an agreement relating to the present season. He (the Chairman) saw no difference in principle between a contract on a total cash advance and a contract on an advance partly of cash and partly of an old arrear.

Mr. HARRINGTON explained, in reference to what had fallen from the Honorable Member of Council on his left (Sir Bartle Frere), that he had never intended that, in cases of the nature of those with which they were now dealing, the planter should be referred to a regular suit for redress. The procedure laid down in existing enactments was as summary as that contained in the Bill before the Council; and, while he fully admitted that the planter was entitled to every proper support which this Council could give him, he (Mr. Harrington) must repeat that he much doubted whether the planter would really gain anything by the passing of the proposed Bill.

After some further discussion, Mr. Wilson's amendment was put and carried.

The CHAIRMAN moved the insertion of the words "or otherwise to fulfil his engagement" in lieu of the words just omitted.

The Motion was carried, and the Section as amended was then passed.

Section II provided as follows :—

"On hearing the answer of the person complained of, and on taking such evidence as both parties may adduce, if the complaint be established to the satisfaction of the Magistrate, the Magistrate shall assess a certain sum as damages, not exceeding five times the said advance made, and five times the value of any seed that may have been furnished to him for such cultivation, to be paid by the defendant; and failing the immediate payment of the damages assessed, may order the defendant to be imprisoned in the civil jail for a term not exceeding three months; and may, on the motion of the complainant, furthermore proceed to levy the damages assessed from the property of the defendant, in the mode provided for enforcing decrees of Court under Act VIII of 1859. Provided that, if the amount of the said damages is paid or levied within the aforesaid term of three months, the defendant shall be released from jail on that amount being paid or levied."

Mr. WILSON moved the omission of the words "not exceeding five times the said advance made, and five times the value of any seed that may have been furnished to him for such cultivation, to be paid by the defendant," and the substitution of the words "sustained by reason of the breach of the contract." He said, his object in moving this amendment was not to increase the stringency of the law in any degree, but he was afraid that the words which he proposed should be struck out would give rise to doubts, and might lead to the supposition that it was intended that the full amount of the penalty specified in the Section should be awarded in every case, whereas what was really intended was to leave a large discretion to the Magistrate.

The CHAIRMAN concurred in the proposed amendment.

Mr. HARRINGTON objected to the alteration proposed in this Section. He observed that the effect of the alteration would be to involve the Magistrate in a protracted and intricate enquiry as to the amount of damages actually sustained by the planter, by reason of the failure of the ryot to fulfil his contract, and to leave him to award any amount of damages he might think proper. Now, as the Bill allowed no appeal from the order of the Magistrate, he (Mr. Harrington)

thought that this would be giving too large a power to the Magistrate, and he should therefore oppose the amendment. With reference to what had fallen from the Right Honorable Gentleman opposite, he would only observe that all Criminal Regulations fixed a maximum of punishment, but no Magistrate ever supposed that that maximum was to be awarded in every case; he knew that the intention of the law was to place a limit on his powers within which he might pass such sentence as he deemed adequate to the offence.

The question being put, the Council divided—

Ayes 7.

Mr. Sconce.
Mr. Forbes.
Mr. LeGeyt.
Mr. Wilson.
Sir Bartle Frere.
Sir James Outram.
The Chairman.

Noes 1.

Mr. Harington.

So the Motion was carried.

THE CHAIRMAN moved the insertion of the following words after the above :—

“ If it shall appear to the Magistrate that the person who has agreed to cultivate the indigo plant is still able to perform his contract, the Magistrate shall order him specifically to perform the same, and shall also, in such case, award a certain sum to be paid as damages as an alternative.”

Agreed to.

THE CHAIRMAN then moved the insertion of the following words after the above :—

“ In cases in which the land to be cultivated with indigo plant is defined by the agreement, the Magistrate may order the attachment as a security for the damages assessed, or to be assessed for the breach of the agreement of any other crop of the defaulter that may at any time, during the present season, be growing on such land.”

Agreed to.

MR. HARINGTON suggested the necessity of inserting words so as to remove all doubts as to who was to pay diet money for the ryots during term of their imprisonment, namely, whether the Planters or the Government.

Mr. Harington

THE CHAIRMAN said, that he did not think the insertion of the words necessary. If the Act was silent on the subject, it would be understood that the Government would bear the expense. If prisoners were in jail, they must be fed.

MR. WILSON concurred in opinion with the Honorable and learned Chairman, and said that, because the imprisonment was to take place in the Civil jail, it was not to be supposed that the imprisonment was of the same nature as that of a man put into jail at the suit of another. The reason why the defendant was to be imprisoned in the Civil jail was to show that, notwithstanding the imprisonment was the act of the Magistrate, the offence for which the defendant was imprisoned was not of an ordinary criminal nature.

MR. HARINGTON expressed himself as quite satisfied. His only object in mentioning the subject was to prevent doubts from arising hereafter as to the payment of the diet money for persons ordered to be confined under the Act. The publication of this report would show what was the intention of the Council on the point.

THE CHAIRMAN moved the omission of the words “ and failing the immediate payment of the damages assessed,” and the substitution of the words “ if after an order of specific performance of an agreement, the defendant failed to perform the agreement, or to pay the amount of damages ordered to be paid as an alternative, or if after an order for payment of damages the same be not immediately paid, the Magistrate”

The Motion was carried, and the Section as amended passed.

THE CHAIRMAN moved the insertion of the following new Section after Section II :—

“ In case it shall appear to the satisfaction of the Magistrate that the agreement has been obtained by means of fraud, force, or unlawful intimidation, the complaint shall be dismissed.”

Agreed to.

MR SCONCE then moved the insertion of the following new Section after the above :—

“If any complaint preferred under this Act be dismissed for want of proof or appearance of the complainant, or for any other cause, the Magistrate may order the complainant to pay such amount for costs and compensation as he may think reasonable. In default of payment of any such amount, the same may be levied by distress and sale of the property of the person ordered to pay the same.”

Agreed to.

Section III provided as follows :—

“If any person, from and after the 24th day of March 1860 shall, by violence, threats, or otherwise, intimidate, or attempt to intimidate any other person who shall have entered into any such agreement as aforesaid, with the intention of inducing such person to break the conditions thereof; or if any person from and after the date aforesaid, shall conspire with any other person or persons for the purpose of causing the breach of any such contract or contracts as aforesaid, he shall, on conviction before a Magistrate, be liable to a sentence of imprisonment, with or without labor, for a period not exceeding six months, or to a fine not exceeding two hundred Rupees, or to both, such fine being commutable, if not paid, to a further period of imprisonment not exceeding six months.”

THE CHAIRMAN moved the omission of the figures “24th” and the substitution of the figures “31st.”

Agreed to.

MR. SCONCE moved the omission of the words “or if any person, from and after the date aforesaid, shall conspire with any other person or persons for the purpose of causing the breach of any such contract or contracts as aforesaid.” He thought that the Clans should be confined to cases of intimidation, and should not embrace the communications that one ryot would hold with another relative to his land. One might say—“well I shan’t sow,” and the other reply—“nor will I:” and upon such words an eavesdropper might charge a conspiracy.

THE CHAIRMAN said, he had much pleasure in supporting the amendment of the Honorable Member for Bengal. If the Honorable Member had not moved it, he (the Chairman) should have done so. It appeared to him to be a most dangerous

thing to punish a man for conspiring to do an act which might not after all be done. He quite agreed with the Honorable Member as to the expediency of confining the Clause to overt acts.

The Motion was then carried and the Section passed.

Section IV provided as follows :—

“If any person shall maliciously destroy or damage, or if any person shall maliciously command, compel, or persuade, or shall with others maliciously conspire to command, compel, or persuade any other person to destroy or damage any growing crop of indigo, he shall, on conviction before a Magistrate, be liable to be sentenced to imprisonment, with or without labor, for a period not exceeding six months, or to a fine not exceeding two hundred Rupees, or to both, such fine being commutable, if not paid, to a further period of imprisonment not exceeding six months.”

THE CHAIRMAN said, he had a similar amendment to propose in this Section. He would move the omission of the words “or shall, with others, maliciously conspire to command, compel, or persuade.”

SIR BARTLE FRERE said, there was a difference between this and the preceding Section. He thought that the word “maliciously” used in this Section would make the provision safe enough.

THE CHAIRMAN said he did not think it right to punish men for an agreement or combination to commit an offence where no act was done in pursuance of it, and which might never be committed.

The Motion was carried and the Section as amended then passed.

Section V provided as follows :—

“No appeal shall lie from the decision of a Magistrate under this Act.”

MR. FORBES moved the addition of the words “when the damages assessed shall be under one hundred Rupees.” He said that, as the Bill was originally introduced, there might have been no objection to not allowing any appeal from the decision of a Magistrate, but now that a Magistrate would have unlimited discretion, the question of appeals assumed quite a different aspect. He would therefore propose the addition of the above words.

MR. SCONCE said, he thought there should be an appeal from the order of a Magistrate under Sections III and IV.

SIR BARTLE FRERE said, if you give one appeal or even part of an appeal, you take away the whole benefit of the Act. Every one of those districts was within easy reach of the Lieutenant-Governor, who not only would have the power, but would, he (Sir Bartle Frere) was pretty sure, have considerable pleasure in reviewing the proceedings of the Magistrates in any case of proved injustice or harshness.

MR. SCONCE said, he very much doubted whether his Honor would undertake such a task. As an instance, he would mention that not long ago he read some official correspondence in the newspapers, in which he (Mr. Sconce) believed the Lieutenant-Governor distinctly threw off the duty of reviewing the proceedings of Judicial Officers in Non-Regulation Provinces. He (Mr. Sconce) would move, by way of amendment on the Motion of the Honorable Member for Madras, the omission altogether of Section V, and the substitution for it of the following:—

“An appeal may be preferred to the Sessions Judge from any order made by the Magistrate under Sections III and IV of this Act, in cases in which a sentence exceeding two months may be awarded.”

MR. WILSON said that, since his arrival in the country, if he understood any thing to have been more the subject of complaint than another, it was the universal practice of appeals from one Court to another; and if he had heard that any measure of this Council had given more satisfaction to the public than another, it was the Act passed last year, by which this practice of appeals in Civil cases had been, if not entirely abolished, considerably abridged. The measure now before the Council was a summary one, and he deprecated strongly the adoption of any amendment having for its object to allow an appeal from any decision of a Magistrate under the proposed Act.

MR. FORBES' Motion and MR. SCONCE'S amendment were then severally

put and negatived, and the Section was passed as it stood.

Section VI (which provided by whom the power of a Magistrate under the Act might be exercised) was passed as it stood.

THE CHAIRMAN moved the introduction of the following new Section after Section VI:—

“A decision of a Magistrate shall be a bar to any further proceeding for the same breach of agreement. No decision under this Act shall have any force or effect in regard to anything not to be performed during the current season.”

Agreed to.

Section VII provided as follows:—

“This Act shall have effect from and after the 24th day of March 1860, within the territories subject to the Lieutenant-Governor of Bengal. And no complaint or prosecution shall be entertained under this Act, unless preferred within six months from the date aforesaid.”

THE CHAIRMAN moved the substitution of the figures “31st” for the figures “24th.”

Agreed to.

THE CHAIRMAN also moved the substitution of the words “and shall not extend beyond” for the word “within” before the words “the Territories subject to the Lieutenant-Governor of Bengal.”

The Motion was carried, and the Section as amended then passed.

After much discussion, Sir Barnes Peacock moved the introduction of the following Section:—

“All orders made or acts done before the 4th day of April 1860, which would have been lawful if the Bill to enforce the fulfilment of indigo contracts, as read a second time on the 24th day of March 1860, had then become law, are hereby declared to be valid. And all Magistrates and other Public Officers are hereby indemnified for any acts done before the said 4th day of April 1860, which would have been justifiable under the said Bill if the same had become law on the said 24th day of March 1860.”

Agreed to.

THE CHAIRMAN then went back to Sections I, III, and VII, and moved as to each the substitution

of the words "4th day of April" for the words "31st day of March."

The Motions were severally carried, and the Sections, as further amended, then passed.

SIR JAMES OUTRAM then moved the introduction of the following Sections:—

"The Lieutenant-Governor of Bengal shall, as soon as conveniently may be, issue a Commission to such persons as the said Lieutenant-Governor shall think fit, for the purpose of enquiring into and reporting on the system and practice of indigo planting in Bengal, and the relations between the Indigo Planter, and the ryots and holders of land in Bengal aforesaid. The said Commissioners shall fully enquire into the matters aforesaid, and shall, as soon as they conveniently can, report to the Lieutenant-Governor the result of their enquiries, and shall in their report or reports suggest such alterations, if any, as may, in their opinion, be beneficially made in the law relating to the system and practice, and the relations aforesaid.

"In case of the death or resignation of any of the said Commissioners, or of any of them becoming unable or refusing to act, it shall be lawful for the other Commissioners or Commissioner to act alone, and all the powers by this Act given to Commissioners shall and may be exercised by the continuing Commissioners or Commissioner alone, but only until such vacancy can be filled up. It shall be lawful for the said Lieutenant-Governor, from time to time, and he shall, as soon as conveniently may be, without issuing a new Commission, appoint some other person or persons to act as a Commissioner or Commissioners jointly with the continuing Commissioners or Commissioner, and in such case all the powers conferred by this Act shall and may be exercised by the said newly appointed Commissioner or Commissioners jointly with the continuing Commissioner or Commissioners.

"It shall be lawful for the Commissioners aforesaid, by a summons under the hand of any one of them, to require the attendance before them, at a time and place to be mentioned in such summons, of any person or persons whomsoever, residing or being within the Lieutenant-Governorship of Bengal, whose evidence shall, in the judgment of the Commissioners aforesaid, be material to any of the matters of the enquiry aforesaid, and to require the person or persons so summoned to bring and produce before them all such books, papers, deeds, and writings as to them, the said Commissioners, shall appear necessary for arriving at the truth of the matters directed to be enquired into by the said Commissioners, all which persons shall accordingly attend before the said Commissioners, and shall produce such books, papers, deeds, and writings as shall be required of them, and shall be in their custody and control, or in

the custody and control of any one of them, according to the tenor of the summons. Provided always that no person shall be compelled to attend before the said Commissioners, or to give his evidence at a greater distance than fifty miles from the place where such person shall be residing.

"It shall be lawful for the Commissioners aforesaid, or one of them, to administer an oath, or in the case of persons allowed by law, to make affirmation instead of taking an oath, an affirmation in such form as to them, the said Commissioners, shall seem fit, to all persons who shall be examined before them, touching the matters to be enquired into by them as aforesaid. Provided that nothing herein contained shall render it necessary for the said Commissioners to take evidence upon oath or affirmation, unless they shall think fit or expedient so to do.

"If any person, upon whom any such summons shall be served, by the delivery thereof to him, or by the leaving thereof at his usual place of abode, being a person living within fifty miles of the place at which he shall be required to attend, without reasonable cause (to be allowed by the Commissioners aforesaid,) fail to appear before them at the time and place mentioned in the summons, or shall refuse to be sworn or to make affirmation (as the case may be), or shall not make answer to such questions as shall be put to him touching the matters directed, or which may hereafter be directed, to be enquired into by the Commissioners aforesaid, or shall refuse or fail, without reasonable cause, (to be allowed by the Commissioners aforesaid,) to produce and show to the said Commissioners any such paper, book, deed, or writing being in his possession or under his control, as to the Commissioners aforesaid shall appear necessary for arriving at the truth of the matters to be enquired into by them, the Commissioners aforesaid shall have the same powers in all respects, touching any such persons so failing to appear or refusing to be sworn, or to make affirmation, or not answering such questions as shall be put to him, or refusing to produce and show any such book, paper, deed, or writing as aforesaid, as the principal Court of original Civil jurisdiction, within the limits of which the said person shall be residing, may by law exercise against any person for making default of appearance, or for refusing to be sworn, or to give evidence on any issue joined in any action depending in such Court."

With regard to the second of the above Sections, after some conversation on the suggestion of the British Indian Association that the Commissioners should not be at liberty to hold their proceedings, unless at least three of their body be present at their sittings—

MR. WILSON said, he believed that the provision objected to by the

British Indian Association was taken from the English Act relating to the appointment of Commissions of Enquiry. The object of the Clause was to provide for the interregnum between the death or resignation of one Commissioner, and the appointment of a successor.

The Sections were then severally passed.

THE CHAIRMAN moved the introduction of the following Section :—

“ Whenever a summons is issued for the attendance of a witness under this Act, the Commissioners may, if they think fit, order such witness to receive from the Collector such travelling and other expenses as he would have been entitled to receive, had he been summoned to appear and give evidence in the principal Court of original Civil jurisdiction in the District.”

Agreed to.

SIR JAMES OUTRAM moved the addition of the following Section :—

“ Every person who, upon examination upon oath or affirmation before the Commissioners aforesaid, shall wilfully give false evidence, shall be liable to the punishment of perjury.”

Agreed to.

The Preamble recited as follows :—

“ Whereas it is expedient, pending a Commission of Enquiry into the practice of indigo planting in Bengal, which the Executive Government purposes to appoint after the close of the present season of cultivation, to make temporary provision for enforcing, by summary process, the execution of agreements entered into for the cultivation of indigo plant; and better to provide for the punishment of certain unlawful acts connected with such cultivation. It is enacted as follows :—”

SIR JAMES OUTRAM moved the substitution of the words “ to issue” for the word “ pending” in the beginning of the Preamble.

Agreed to.

SIR JAMES OUTRAM then moved the omission of the words “ which the Executive Government purposes to appoint after the close of the present season of cultivation,” and the substitution of the words “ and the relations between the Indigo Planters, and the

Mr. Wilson

ryots and holders of land in Bengal and”

The Motion was carried, and the Preamble as amended then passed.

The title was passed with the addition of the words “ and to provide for the appointment of a Commission of Enquiry.”

The Council having resumed its sitting, the Bill was reported with amendments.

MR. SCONCE then moved that it be read a third time and passed.

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

THE VICE-PRESIDENT moved that the Bill as read a third time, and the Bill as read a second time, be published in the *Calcutta Gazette*.

Agreed to.

MR. SCONCE moved that Sir Bartle Frere be requested to take the Bill, as read a third time, to the President in Council, in order that it might be transmitted to the Governor-General for his assent.

Agreed to.

EMIGRATION TO ST. VINCENT.

THE VICE-PRESIDENT moved that the Council resolve itself into a Committee on the Bill “ relating to the Emigration of Native Laborers to the British Colony of St. Vincent.”

Agreed to.

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

ZILLAH COURT OF FURRUCKABAD.

MR. HARRINGTON moved that the Council resolve itself into a Committee on the Bill “ to repeal certain Laws relating to the Jurisdiction of the Zillah Court of Furruckabad.”

Agreed to.

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

KING OF OUDE.

MR. HARRINGTON moved that the Council resolve itself into a

Committee on the Bill "to provide for the execution of processes within the precincts of the residence of His Majesty the King of Oude."

Agreed to.

Section I provided as follows:—

"When any process, issued by any Civil Court, Collector, or other Revenue Officer in Her Majesty's East Indian Territories, is required to be served or executed within the precincts of the premises occupied by the King of Oude, such process shall be transmitted to the Officer appointed to be Agent with His Majesty on the part of the British Government, and such Officer shall cause such process to be served or executed, according to the exigency thereof, and shall return the same, with a certificate of what shall have been done thereon.

SIR CHARLES JACKSON referred to the words "precincts of the premises" as being too vague and indefinite. Was it not quite enough to exempt the houses in which the King and his Begums lived? If any person were to visit Sir Lawrence Peel's late residence at Garden Reach, he would see that a new town had grown up around the house; and he (Sir Charles Jackson) feared that, if this Act passed, it would be an Alsatia. If the Council were to make a whole town privileged, as in fact the Bill proposed to do, was there no danger of its being converted into a refuge for criminals, or a receptacle for stolen property?

MR. HARRINGTON said, the Honorable and learned Judge appeared to have overlooked the last Section of the Bill, which was as follows:—

"It shall be lawful for the Governor-General in Council to define, for the purposes of this Act, by notification in the Calcutta Gazette, the limits of the precincts of the premises occupied by the King of Oude, and from time to time in like manner to alter such limits."

There was no reason to suppose that the Governor-General in Council would carry the operation of the Bill beyond what was necessary in reference to the object contemplated in its introduction. As noticed by him on former occasions, the Bill proposed an exemption from either Civil or Criminal processes, but merely provided a mode for the execution of those

processes, leaving it discretionary with the Magistrate, as regards Criminal processes, to adopt that mode or not as he might think proper.

THE CHAIRMAN said, he did not clearly understand whether this Bill was for the benefit of the King of Oude, or for the benefit of the public. If for the benefit of the public, then the word "may" should be substituted for the word "shall."

MR. HARRINGTON said, the Bill was certainly intended for the benefit of the King of Oude; but though primarily intended for His Majesty's convenience, it was fully expected that the public would also benefit by its provisions, and that processes which it would be useless to attempt to serve without the assistance of the Agent with the King and of some of His Majesty's Officers, would, through their instrumentality, be served without difficulty. He had lately had an opportunity of speaking on the subject with the Governor-General's Agent at Moorshedabad, where similar provisions had been introduced by legislative enactment in respect to the Nawab Nazim of Bengal, or rather the precincts of his Palace, and he was assured by that Officer that, so far from any inconvenience resulting, the very contrary had been the case, and that while it rarely, if ever, happened that a process sent to him for execution was not served, if the officers of the various Courts were left to their own resources, their return would very frequently be *non est inventus*. He (Mr. Harrington) could easily believe this from his own experience at Banda. The Nawab of Banda formerly enjoyed similar privileges to those proposed to be given in the present instance, and he (Mr. Harrington) never experienced any difficulty in getting the processes of his Court served within the premises occupied by the Nawab of Banda and his followers. All that he did was to entrust the process to an Officer of the Nawab appointed for the purpose, and the result was that it was immediately served. The same, he had no doubt, would happen in the case of the King of Oude and his followers under the

operation of the present Bill, should it pass into law. The residents of Garden Reach, who had petitioned against the Bill, objected that the legislation in the case of the Nawab Nazim of Bengal was of very old date, and they argued that a different principle should govern modern legislation; but they appeared to have overlooked the fact that the original laws relating to the Nawab Nazim of Bengal had been repealed, and that a new Act, containing similar provisions to those of the Bill now before the Council, was passed so recently as the year 1854, when the whole subject was fully considered. In framing the present Bill, he had closely followed the wording of the corresponding enactment for Moorshedabad, and he must repeat his conviction that the effect of the measure would be materially to facilitate the execution of legal processes within the precincts of the premises occupied by the King of Oude, and by consequence to promote the cause of justice.

Mr. WILSON said, the object of the Bill, no doubt, was a very good and proper one. As he understood it, the exception which was intended to be given was personal; but some little care in the wording of the Bill might be needful to prevent the exemption from being construed into a local one. There was, as Honorable Members were aware, a spot in Edinburgh, known as "the precincts of Holyrood," where the exemption was local and not personal, and no end of rogues and violators of law had made Holyrood their place of escape. It was necessary to define clearly that no local exemption was intended, or we might have at Garden Reach a rendezvous for fugitive offenders of all sorts.

After some further discussion, Mr. Wilson moved the omission of the words "the precincts of."

The Motion was carried, and the Section as amended then passed.

Section II was passed after a similar amendment.

Section III was passed as it stood.

Section IV and the Preamble and Title were passed after corresponding amendments to the above; and the

Mr. Harrington

Council having resumed its sitting, the Bill was reported with amendments.

TOLLS (CIRCULAR AND EASTERN CANALS).

Mr. SCONCE moved that the Council resolve itself into a Committee on 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)."

Agreed to.

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

CONSERVANCY (PRESIDENCY TOWNS AND STRAITS SETTLEMENTS).

THE VICE-PRESIDENT moved that the Council resolve itself into a Committee on the Bill "to amend Act XIV of 1856."

Agreed to.

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

BILLS OF EXCHANGE, &c.

SIR CHARLES JACKSON moved for the discharge of the Select Committee on the Bill "to facilitate the remedies on Bills of Exchange, Promissory Notes, by the prevention of frivolous or fictitious defences to actions thereon in Her Majesty's Supreme Courts." He said that the subject of this Bill would form part of the new Code of Civil Procedure which was now in the course of preparation for the Supreme Courts.

Agreed to.

MARINE COMMITTEE.

THE VICE-PRESIDENT moved for the discharge of the Select Committee appointed to take into consideration the projects of Law connected with the Marine Department, and to prepare such Bill or Bills as might be necessary with reference thereto. He said that, since the Committee was

appointed, the Act for the Regulation of Ports and Port-dues had been brought in and passed. Subsequently the Acts relating to the levy of Port-dues, and the Act relating to Merchant Seamen, had been passed; and as there was nothing further to be done by the Committee, he begged to move for its discharge.

Agreed to.

ADMINISTRATION OF THE LAW (SUPREME COURTS).

THE VICE-PRESIDENT moved for the discharge of the Select Committee on the Bill "for the further improvement of the Law as administered in Her Majesty's Supreme Courts; for the transfer and abridgement of the Ecclesiastical jurisdiction thereof; and for giving additional powers in certain cases to Justices of the Peace, with regard to offences committed out of their jurisdiction." This was a Bill which was brought in by Sir Lawrence Peel, and he (the Chairman) was now the only Member of the Committee on that Bill. As he saw no necessity for proceeding with the Bill, he would move for the discharge of the Committee.

Agreed to.

TENASSERIM AND ARRACAN.

THE VICE-PRESIDENT moved for the discharge of the Select Committee on the Bill "to provide for the administration of Civil and Criminal Justice, and of Police, and for the collection of the Public Revenue in the Provinces of Tenasserim and Arracan." He said that this case stood over pending the settlement of the Codes of Civil and Criminal Procedure. There was in the Code of Civil Procedure passed last year a Clause authorizing the Executive Government to extend the Act to Non-Regulation Provinces, and, under the authority of that Clause, the Act, he believed, had been extended to the Tenasserim and Martaban Provinces. As the Code of Criminal Procedure, now before the Council, also contained a similar pro-

vision, he saw no necessity of proceeding further with this separate Bill.

Agreed to.

REGISTRATION OF DECREES.

THE VICE-PRESIDENT moved for the discharge of the Select Committee on the Bill "to provide for the Registration of Decrees of the Civil Courts, and to prevent alienations of property in fraud of creditors." He said, that the subject of this Bill ought to be taken into consideration in connection with the general Bill brought in by the Honorable Member for Madras "for the Registration of Assurances."

Agreed to.

PENAL RECOGNIZANCES.

THE VICE-PRESIDENT moved for the discharge of the Select Committee on the Bill "for the better prevention of offences against the public tranquillity, and to amend the law regarding the taking of bonds for keeping the peace." This was a Committee appointed by the late Member for Madras (Mr Elliott). The matter had excited considerable discussion at the time, but all that was necessary to be done was provided for by the Code of Criminal Procedure.

Agreed to.

ATTACHMENT OF TENURES, &c.

THE VICE-PRESIDENT moved for the discharge of the Select Committee on the Bill "to facilitate the trial of rights to attach tenures and to eject occupiers of land in certain cases, and to prohibit the enforcement of such rights without the assistance of a Court of competent jurisdiction." He said, as the great object of this Bill had been provided for by the Act relating to the Limitation of Suits, there was no necessity for proceeding any further with it.

Agreed to.

EXECUTORS AND ADMINISTRATORS.

THE VICE-PRESIDENT moved for the discharge of the Select Committee on the Bill "to remove doubts

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,
Hon. Sir H. B. E. Frere,
Right Hon. J. Wilson,
P. W. LeGeyt, Esq.,
H. B. Harrington, Esq.,
H. Forbes, Esq.,
Hon. Sir C. R. M. Jackson,
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

APPENDIX.

MINUTE ON THE DESPATCH OF THE SECRETARY OF STATE RESPECTING A
PAPER CURRENCY, BY THE RIGHT HON. JAMES WILSON.

Dated Governor-General's Camp, Meerut, 25th December 1859.

THE Despatch of the Secretary of State, No. 109 of the 4th of November, deals with the two subjects, of a Paper circulation and of a Gold coinage as applicable to India. In this minute, I propose to confine my attention to the former of these questions, and to deal with the latter in a separate minute.

The Secretary of State expresses the views of the Government in the following terms:—

“Her Majesty's Government are fully sensible of the advantage which might be derived from introducing a well regulated Paper currency into India; but the wisdom of cautiously avoiding any measure calculated, however slightly, further to increase the sensitiveness of the Indian Money Market, is so manifest, that they are not disposed at present to direct the introduction of a Paper currency, whether in the form of Government Notes, or by means of extended privileges to the Chartered Banks. I am, however, anxious that your attention should continue to be directed to this subject; and I shall be prepared to give every encouragement to a well considered measure for the purpose, whenever the time shall appear to you to have arrived, for introducing it.”

While, therefore, the Secretary of State appears to be in favor of the introduction of a well regulated Paper currency into India, he was indisposed to give any positive directions that measures should be taken with that view—I suppose in deference to the apprehensions expressed in the Despatch of the Government of India of the 27th of April, that in the then state of the Indian Money Market, such a step might be viewed with mistrust by the community. But he expresses an anxiety that the subject should continue to engage the attention of this Government. And as soon as it should appear that a sound measure could be proposed, without any danger of misapprehension, I infer that we may rely upon every encouragement being given to it by Her Majesty's Government. It would certainly be much to be regretted, should the circumstances under which so salutary a system was introduced, raise an impression that it was adopted rather as a means of momentary relief from a monetary pressure, as has been too often the case when Governments have resorted to an issue of paper, rather than as a sound financial reform calculated to confer great benefit upon the country

and to effect an extensive economy of its available capital, and equally valuable therefore at all times without reference to any momentary circumstances. It must be evident, however, that suspicions, such as have been referred to, must be excited only in proportion as it may appear that the steps taken are calculated to furnish immediate means to the Government of raising money. If for example, the Government were to issue notes inconvertible, or even with the profession of their being convertible in payment of its own expenditure, and without therefore retaining in any shape a security to represent such issues, an impression of that kind might be well founded; but if, on the other hand, the Government erects a system of substituting paper for coin, retaining and setting aside as a strictly appropriated security available at all times for the redemption of such paper, the whole of the valuable consideration which it receives in exchange for such notes at the time of issue, then it must be quite clear that no such mistrust can exist as to the motives of the Government, to whose treasuries or means of expenditure at the moment the measure could not add one single Rupee. I lay it down, therefore, as a rule, that this apprehended danger must be regarded as real or not, only in proportion as the plan proposed is intrinsically sound or unsound. But it may be said that it is against the prejudices of the ignorant, who would not discriminate very closely between a sound and an unsound system, and not against the opinions of the well informed, who could understand such a distinction, that we have to take precaution. It may, however, be assumed, that already the public credit is so much improved as compared with the condition in which it stood in April last, and, moreover, that, in the meantime, the question of a Paper currency has been sufficiently discussed by the public as desirable for the good of the country, that in no quarter is any real objection likely to be now raised against its introduction. I assume, therefore, that the time has arrived to which the Secretary of State refers, “when a well considered measure” may be safely adopted. And I, therefore, propose to proceed to consider the best means by which this important object can be attained.

2. In considering the subject of a Paper currency for India, the circumstances by which it must be governed are

so novel, and the position of the Government is so peculiar, that it may be useful to review the question from its foundation, in order to arrive at a clear perception as to the best mode in which so useful a reform can with perfect security be applied. In the advanced stage in political economy at which we have arrived, there is so much of general principle universally admitted, that many of the preliminary considerations may be simply stated as admitted, axioms requiring neither argument nor proof to sustain them.

3. As the first of these truths, it may be stated that the only object of a currency is to facilitate the exchange of commodities, by representing some common standard of value to which that of all other commodities is made referable, and in which it is expressed.

4. For reasons well known and fully admitted, the precious metals (gold and silver) have been adopted as the general standards, which, for the greater convenience of transactions, have been coined into pieces of uniform weight and fineness known as money.

5. This coin, so far as it is used for currency, causes a real abstraction of capital from its ordinary and profitable channels, but the apparent waste so entailed is more than counterbalanced by the additional value which is given to the remaining capital as a consequence of the greater facility thus afforded to the exchange of commodities. But in no direct way, as is too often supposed, especially by those who advocate an inconvertible Paper currency, can the available capital of a country be added to by an increase of a mere circulating medium, whether it be metallic or paper.

6. It is admitted that, inasmuch as there are no two commodities which uniformly retain the same relative value to each other, so strictly speaking, there can only be one standard of value, although, from the circumstances of gold and silver varying so little within any moderate period of time, there are not wanting many examples, ancient and modern, when a double standard of the two has been adopted, by fixing an arbitrary relative value to the two metals. This subject, as I have already stated, I propose to treat fully in a separate minute upon the gold sovereign question, and I will therefore now proceed upon the fact that in India the more correct principle of a single standard has prevailed, and that that standard is silver.

7. Inasmuch then as the coin required for circulation is a real abstraction from the available active capital of the country, it follows that any method

that can be adopted by which the quantity of coin required for the transactions of the country may be reduced, with perfect security to the maintenance of the standard, to that extent so much capital will be released from an unprofitable employment and returned into the channel of re-productive uses. The chief methods by which such economy can be effected, are through the medium of Banking operations, by Cheques or Orders, transferring sums of money from one account to another, without the intervention of coin, by Drafts, Bills of Exchange or Hoondees drawn from one point upon another and used as remittances; but the great means of economising coins is by the issue of Bank Notes payable to bearer for small sums, uniform in amount and suited to the daily wants of a population in relation to the character of their dealings, and bearing so high a credit that they are received from hand to hand without hesitation as money. What Cheques and Drafts for large amounts are to the trading and rich classes in large transactions, Bank Notes are to the community at large in the transactions of everyday life.

8. Independent of the great advantage of a well secured Paper currency in economising the capital of a country in the manner already pointed out, it effects a considerable saving in three other important ways: *first*, it reduces to a great extent the cost of a mint; *second*, it saves, to whatever extent it displaces coin, the serious wear and tear to which the latter is exposed; and, *third*, it affords great facilities to the public in the use of money, and especially in its transmission from place to place; and these advantages are experienced to the greatest extent, when the coin, as in India, is nearly exclusively of silver, and therefore of great bulk in proportion to its value.

9. It has, indeed, been objected to a Paper currency, that it has the effect of lessening the amount of the precious metals in a country, and therefore of placing it in greater difficulty, in the event of a demand for bullion, to correct an adverse exchange. This objection is, however, obviously based upon a fallacy. On the contrary, as has been shown by Ricardo and other high authorities, the use of paper at such times tends materially to modify the effects of a drain of bullion, and the panic which usually attends such an event. It is true that, to whatever extent paper supplants the metals in a country, there will be less of the latter in *circulation*. But it is an entire mistake to suppose that at such a time any of the

coin in circulation can be released for export: on the contrary, it is consistent with all the best and most recent evidence upon the subject, and the experience of the recent commercial panics in England, that at such times the discredit and apprehension which prevail invariably lead to an extra demand for currency, not so much for circulation, as for strengthening the reserves of Country Bankers and others, but which tends to aggravate the external demand at the moment. Thus a purely metallic circulation, in place of aiding the demand for external purposes at the time of a drain, aggravates it by requiring at the same moment to be increased. But when a sound and well regulated Paper currency exists, in which the public have confidence and which is a legal tender, it is readily accepted and used to strengthen such reserves at times of discredit, leaving more bullion available for the foreign demand. This effect was particularly observable during the panics of 1847 and 1857, when the circulation of Bank of England Notes in the hands of the public considerably increased. Again, it must be borne in mind, that the economy of available capital, effected by the use of notes, leaves a larger fund disengaged in the form of bullion or otherwise of other commodities as the means of adjusting foreign claims. Coin in use required for active circulation cannot to any extent ever be made available for foreign payments.

10. But in order to render paper, which has of itself no intrinsic value, a safe and useful substitute for coin, there are certain conditions which must attach to it: these may be thus stated:—

First.—The paper must be identical in exchangeable value with the coin it represents.

Secondly.—To be identical in value, it should be identical in quantity with the coin which is displaced by its use; so that in point of fact, the mixed currency of notes and coin would be of the same amount as if it were wholly of coin.

Thirdly.—All the laws which would determine variations in the quantity of coin in circulation from time to time should apply equally to a mixed circulation of coin and paper: the latter not being an addition to the currency, but only a substitution of a portion of the coin which would otherwise be required.

Fourthly.—In order that paper should perform all the functions of coin, it is essential that it should be a legal tender for all payments, except by the issuers, by whom it should be convertible into the coin it represents at the will and on the demand of the holder.

11. In order to obtain all these conditions of a safe and secure Paper currency, and to maintain its value at all times to the full of the coin it represents, and so to prevent depreciation, the great essential is that it shall at all times be readily convertible on demand at the will of the holder into such coin, on presentation to the issuers of the paper.

12. But it is not enough, and especially in a country like India, where the system is new, and credit in such issues has yet to be created, that the convertibility of paper shall be professed or even enacted by law: it is needful that such a suitable reserve of silver shall be provided and maintained as shall ensure such convertibility at all times; and, moreover, the assets of an undoubted and available character shall always exist sufficient to represent the entire amount of such issues, and especially set aside and appropriated for that purpose. And it is worthy of remark that it is exactly in proportion as such provisions are known to exist for the security of a Paper currency, that the circulation will be freer and that least demand for conversion or payment is likely to be made.

13. By maintaining at all times a fixed proportion of silver to the amount of notes in circulation, and convertible into Public Securities for the remainder, not only is the immediate convertibility of any probable portion of notes likely to be presented provided for, and the ultimate payment of the whole specially secured, but a natural and self-acting limit is placed upon the amount of the circulation—a limit which would expand and contract according to the wants of the community in the same manner as to the same extent as a purely silver currency would do.

14. It will be readily admitted, that these conditions being attained, we should have a perfect Paper currency fulfilling all the legitimate advantages to be derived from so economical a substitute for coin, and at the same time perfectly secured against any of the abuses to which it is liable.

15. Such being the case, it remains to be considered in what way these principles can best be applied in India, and the considerations will naturally be run under the following heads:—

First.—The agency through which such issues shall be made.

Second.—The manner in which the essential securities and conditions laid down can be best applied, and the machinery necessary to secure their continuance and permanency.

Third.—The functions of the body intrusted with the issuing of such paper.

Fourth.—The denomination of the notes, to be issued.

Fifth.—The securities to be taken against forgery.

First. Then, as to the agency through which issues shall be made. Paper money is issued usually either by Governments or Banks. The main objection to Governments undertaking these functions is the neglect which has usually existed as to any strict regulations by which they could be bound to the necessary precautions for maintaining the convertibility of the note, and thereby placing such a limit upon the amount of issue as should secure its identity of value with the coin. The consequence of the absence of such a check has too frequently been to lead to over-issues and great depreciation of the value of the notes. As sovereigns have too frequently not hesitated to tamper with their coin by reducing its intrinsic value, so they have abused their power of issuing notes by making them inconvertible, but at the same time a legal tender. The two vices are similar in their character. Otherwise, and upon general considerations, it might fairly be thought that Governments were the best agencies through which notes could be issued, as their credit may be supposed to be the highest in the State, and inasmuch also as the credit of individuals, or of private corporations could hardly be made the basis of a legal tender. And no doubt this would be the case, provided any means could be discovered for placing an independent check upon the amount of issue, and of taking security for the maintenance of a sufficient metallic reserve to guarantee the convertibility of the note. The absence of such independent checks hitherto has led to the common practice of leaving the issue of notes to Banks, public and private, although the function of issuing notes is not necessarily part of the business of the Banker. Very few examples, however, exist, where an attempt has been made to give to such notes the character of legal tender. This has necessarily resulted from the absence of any absolute guarantee which the State has taken for the payment of such notes. The private and Joint Stock Banks in England, Scotland, and Ireland, furnish no security whatever for their notes; although, by the Acts of 1844 and 1845, a fixed limit is placed upon the amount of their issues. Their notes are not a legal tender. In France the Bank of France gives no security to the State, nor is there any attempt made to place a limit upon its issues, except that

which arises from the condition that the notes shall always be convertible, and which, as long as that condition is maintained, will no doubt act as a natural limit. But no security is taken for the maintenance of a metallic reserve, or for the ultimate payment of the notes. Although, therefore, the question has often been raised before the Government, whether the notes should be made a legal tender, it has on these grounds up to this time declined to adopt the suggestion. In the State of New York and in other States of the Union, notes are issued by all the Banks, but by law they are compelled to deposit with a public department, Public Stocks of the State, or of the Union to the full amount of their issues, which are held as a specific security for the ultimate payment of the notes. The notes are convertible at pleasure by the Banks, but no arrangement exists for ensuring the maintenance of a specie reserve for that purpose. When, therefore, those Banks temporarily suspended payments two years ago, the notes fell to a slight discount, notwithstanding the fact that the State held security for their ultimate payment. The notes are not a legal tender. Indeed, it may be laid down as a rule to be strictly observed, that if notes are to be made a legal tender, without any risk of their abuse, two conditions are requisite:—

First.—That a provision should be strictly maintained for a sufficient metallic reserve to ensure the immediate convertibility of the note at all times.

Second.—That there shall be absolute ultimate security for the payment of the notes. These two conditions for a legal tender paper money are somewhat inconsistent with the other business and obligations of Banks. Banks of issue have a variety of claimants—depositors, holders of their drafts or bills of exchange, and note-holders. To set aside so large a portion of their assets in coin and securities as would be required to cover their note issues, for the particular use and security of one class of their creditors, would be to reduce the security of the others, and, in the event of failure, would lead to a direct preference to one class of creditors to the injury of the others.

16. The nearest approach that has yet been made to the conditions I have laid down as necessary to secure a paper issue of *Legal Tender*, is in the case of the Bank of England under the Act of 1844. By that Act a separation has been made between the two branches of the business of the Bank, the one being called the Issue Department and the other the Bank-

ing Department. The functions of the Issue Department are only to issue notes for coin or in the purchase of bullion, and to exchange bullion or coin in redemption of their notes. The functions of the Banking Department are those of a general banking business in all its parts. In theory, and in practice inside the walls of the Bank, the two departments are as much separated and as independent of each other, as if they belonged to two separate bodies. In the Issue Department a certain proportion of bullion is always held regulated by law, which secures the immediate convertibility of the notes, and the balance of the issues over that amount is represented by Government Securities. There would, therefore, appear to be ample security, both for convertibility into coin, and for ultimate payment of the notes, which are constituted a legal tender. But there is this defect in the plan, which, however, in the case of the Bank of England, is of little consequence. The Bank of England, as a whole, is a single corporation of proprietors, and however it may be able to make such separations of its functions, yet it cannot by that separation, even under the direction of the Act of 1844, set aside and earmark any part of its assets for the sole benefit of a particular class of its creditors, the note-holders. It is, therefore, undoubted, that notwithstanding the appropriation of the bullion and securities in the Issue Department to the notes, the whole assets of the Bank are in common liable to meet the demands equally of all the creditors of the Bank. In the case of so wealthy an establishment as the Bank of England, with a paid-up capital and reserve of profits amounting to about seventeen million sterling, and whose transactions and positions are at all times so open to the public by means of their weekly returns, this defect in the application of the principle insisted upon can only be regarded as nominal. But it would be far otherwise were it attempted to create in India a Bank of corresponding magnitude. In order to be profitable, it would necessarily have to embark in all the ordinary business of banking, and however prudently conducted, there would be all the early risks attendant upon commercial success; and it would be a long time before the same confidence could be reposed in it as there now is in the Bank of England. To make such a new Bank, therefore, the instrument for supplying a Paper currency of legal tender, it would be necessary to make an actual separation and appropriation of bullion and securities for the purpose, and not a mere nominal one as in the case of the Bank of

England. And such an actual appropriation of a large portion of the assets of a Bank to one class of its creditors would be inconsistent with the just claims of others, and would be so injurious to the credit of the establishment as to be impracticable.

17. But if the objections to a legal tender note circulation by Banks generally are so strong, in India they become much more so. If it is desirable to establish in any country such paper money, it is essential that it should be of general use throughout, and issued under a single authority. We have only to consider how impossible it would be for any Banking Establishment to extend its agencies over the greater part of India, to see that no such Bank could possibly fulfil the functions of conducting universally the circulation of notes.

18. But, on the other hand, if there are special reasons why this function could not be performed by Banks, there are very special grounds which point to the facility which the Government of India possesses, more than any other Government in the world for such a duty. In the great capitals of the Presidencies, and in many of the large emporiums of trade, little difficulty could arise, however the circulation might be conducted, but it is the Government alone that has agencies established in every part of India however remote. Moreover, it is through these agencies, in the collection of land and other revenues, in the payment of troops, in the purchase of commissariat stores, and in disbursements for the performance of public works, &c., that a great bulk of all the monetary transactions of a great part of India takes place; and therefore, whatever may be the currency in use, it is really constantly passing out of, and into the Government Treasuries. This fact alone would secure to notes issued by the Government, not only the most extensive use, but their being available for payments of revenue, would instantly establish them in high credit with the people.

19. I have no doubt, therefore, that the only means by which a paper note circulation can be extensively applied to India, such as shall be universally current and can be safely made a legal tender, is through the agency of the Government, and that it possesses means peculiarly favorable for the useful exercise of such a function.

20. This brings me to the second head for consideration, the manner in which the essential conditions already laid down as needful to maintain the convertibility of the note at pleasure, and in any case

its ultimate security, can best be applied. What we have to do is not merely to lay down theories which ought to be complied with, but also to erect a machinery as simple as possible, for securing the practical observance of the rules necessary to give effect to those theories. In order to do this, I would propose, in the first place, that the functions to be performed by the agency to be erected, should be confined exclusively to those now performed by the Issue Department of the Bank of England, *i. e.* to the exchange of notes for coin and bullion, and the payment of notes in coin or bullion, and in issuing orders for notes at one branch for bullion or notes received at another on such conditions as may be fixed; and that it should undertake no other business of any kind whatever, either for the Government or for others. I see no advantage that could arise from employing this agency for the deposit of the Public Balances, while such a connexion might endanger that perfect separation from the Government Finances and Expenditure, which I hold to be necessary, in order to maintain the complete integrity of the system. In order then to avoid any danger of the system being tampered with by the Government of the day, the duties connected with the issue of notes should be intrusted to officers rendered as independent as possible of the Executive Government. They might be appointed by the Governor-General in Council, but they should not be removable except by the Secretary of State, and their functions should be strictly defined by an Act of the Legislature, to which they should be bound to adhere under heavy penalties.

20). The establishment which I would erect for the objects described would be in connexion with the mint. I would form a Currency Commission composed of one Chief Commissioner, with whom I would associate the Master of the Mint and some other public functionaries. The Chief Commissioner being the acting officer for the management and issue of notes, while the others should form only a check upon the conduct of the department, upon the reserve of coin to be maintained, and upon the stock of notes in hand, in the same way that certain public functionaries at all our commissariat stations exercise a check upon the chief. Deputy Commissioners would be appointed, one for each Currency Circle, into which the country would be divided in the manner hereafter described, with whom would also be joined certain other public officers who might be found at the station, whose duty it would be periodically

to check the balances of cash and notes of the local issuing department.

21. The business of the commissioners in Calcutta should be:—

First.—To manufacture all the notes required, not only for their own district, but also for the whole of India. For many reasons, which it is not necessary to refer to, it is essential that all the notes should be made at one place. But following the practice of the Bank of England, the notes intended for the use of different Provincial Circles would be dated from the centre at which the Bank of Issue of the Circle would be placed. As, however, the numbering and dating of the notes is a separate process of printing, the whole stock of the half completed notes would be available to be completed for any circle, as they might be required from day to day.

Second.—To exchange with the Treasury, and with private persons on demand, notes of the district for coin, and coin for notes of the district.

Third.—To purchase silver, bullion, and foreign coin at the fixed price per oz. Thus giving the importer of silver the opportunity of converting his silver at once into money, and avoiding the inconvenience such as was recently felt at Bombay, when money could not be obtained for silver, simply because the mint could not turn out coin sufficiently fast. This would be giving to the merchants in India a similar facility for disposing of their silver at once for notes or coin, as the London merchant possesses of disposing of his gold to the Bank of England.

Fourth.—To supply from day to day the demands of the local issuing Banks with notes, keeping accounts with each.

Fifth.—To purchase and hold Public Securities to whatever extent should from time to time be deemed advisable, and which should be in conformity with the Regulations laid down by law.

Sixth.—To give orders upon district issuing Banks for notes in exchange for coin, or in payment for Calcutta notes, on terms to be stated and published monthly.

22. Similar functions as are described in Secs. 2, 3, 5, 6, would apply equally to the commissioners at Bombay and Madras, respectively; that is, they would respectively issue their own notes for coin, and would pay coin for their notes; they would purchase silver at a fixed price, they would purchase and hold securities against a portion of their issue, and they would grant orders upon other Banks for notes in exchange for coin or for their own notes.

23. The functions of all the other issuing Banks would be only those described in 2 and 6 to issue notes for coin, to pay coin for their notes, and to give orders at the prescribed rates upon other Banks for notes in exchange for coin or for their own notes.

24. The notes so issued to be a legal tender, everywhere throughout India as well by and to the Government officers as between private persons, excepting only at the different places of issue, where the notes of each district will be payable in coin. Everywhere the notes will consequently be receivable for Government revenue, or for any other demands of the Government, for payments into court under judicial proceedings, and all other purposes whatever, and at every centre of issue the notes of the circle will be payable in coin.

25. I reserve at present the question, whether all notes may not be made payable at the Presidency capitals within which they are issued. I am inclined to believe such may safely be done without any chance of loss to the Government, but the point requires further consideration. I mean that all notes issued in Bengal, the North-Western Provinces, and the Punjab, should be payable at Calcutta as well as at the place of issue, and that all notes issued in the Presidencies of Bombay and Madras respectively, should in like manner be payable in Bombay and Madras. I incline to think that the course of the exchange between the interior and the shipping ports is always such as would admit of this concession without loss, and if so, it would be a great advantage to the circulation of the notes. That the tendencies of the exchange will always be as they in fact are at present in favor of the interior of India, is plain from the fact that the quantity of produce which comes down for shipment is much larger than of goods going up. At the present time in the North-West, a bill on Calcutta for 100 Rupees may be purchased for 98 Rupees, showing a premium of 2 per cent. in favor of Up-country. Assuming then that it is safe to make all the notes payable in the Presidency Towns, the condition of the circulation would be exactly that of Bank of England notes: the notes would be payable for revenue *every where*, each note would be payable in coin *at the place of its issue*, and all notes of the Presidency wherein issued would be payable in coin at the capital of the Presidency.

26. In order to maintain the instant convertibility of the note at the place of issue, the commissioners shall be obliged

at all times to retain an amount of coin, bearing such a proportion to the notes in circulation as shall from time to time be determined upon, but never less than one-third, and for the remainder of their issues they shall hold Government Securities. As I have already intimated the Government Securities, representing the issue of the Provincial Commissions, should, for the sake of convenience, be purchased and held at the Presidency Towns, but each District Commissioner would have the amount, representing the coin or bullion he had remitted for such investment at his credit, and to that extent he would have authority to draw for coin if required from time to time. By this means the duty of buying and selling securities would be entirely confined to the Chief Commissioners at the Presidency Towns. One obvious advantage of thus aggregating in the hands of the Chief Commissioners in the Presidency Towns the portion of the assets of the provincial issuers to be invested in securities, leaving in their hands only the amount of coin required to secure convertibility, would be, that they would generally be able to furnish coin on demand to one branch to make up a deficiency in the reserve where required, by the surplus of others, without actually selling securities. In point of fact, the effect would be to enable the Chief Commissioner, without frequent action upon the securities, to maintain the just average reserve among all the branches, by applying the temporary redundancy of coin in the one to the temporary deficiency in another, always maintaining the desired proportion in the aggregate. These transactions, however, after the system was fairly established, would be of rare occurrence, as the amount of notes in circulation, and consequently the reserve of coin and of securities to represent them, do not vary much from time to time over extensive districts.

27. It may be well now to consider the manner in which the system would come into operation, and in which it would particularly act. I will take Bengal as an example.

28. As it would be desirable that there should be only one class of notes in circulation, and that all others, except those of the Government, should be withdrawn, an arrangement would be made with the Bank of Bengal to substitute Government notes for their own now in circulation within a certain period of time.

29. Attached to the mint in Calcutta would be a great Central Bank of Issue. There the notes for the whole of India would be made, as the Bank of England notes for all the branches in England are

made in Threadneedle Street. The notes to be issued at Calcutta bearing date accordingly, while those made for the different branches, would be dated from each branch as the Branch Bank of England notes are dated from each of its branches: in every other respect the notes would be the same. So far then as the Calcutta circulation was concerned, the first operation would be that the commissioner would at once receive from the Public Treasury a large proportion of the coin now held in the Treasury, into the Issue Department in the mint, for which they would give a corresponding amount of notes. The Banks would also have to provide themselves with notes in exchange for a portion of their coin to supply their customers. Thenceforward the Treasury would pay every thing in notes, small sums only being paid in coin. But the recipients of the notes would always be able to obtain coin for the notes at the Issue Department in the mint. In the next place, merchants importing silver, in place of carrying it to the mint and waiting till it was coined as at present, would at a certain fixed price carry it to the Issue Department in the mint and obtain notes for it at once. In practice these notes would be paid into the Banks to the credit of the importing merchant and would be exchanged for coin at the convenience of the Banks. But, practically, their reserves would be held in notes as far more convenient than the small silver coins in which they are now held. This part of the business of the Issue Department would thenceforward be self-acting. When coin was wanted, notes would be carried in and exchanged for it; when notes were required, silver bullion or coin would be given for them; when silver was imported, it would be taken to the Issue Department in the mint, and exchanged for notes. Notes would be issued under no other circumstances either to the Government or any other party. The operation is exactly that which is performed by the Issue Department of the Bank of England. For a considerable period at first, until the system got firmly rooted, I would retain a very large portion of the whole coin and silver obtained in exchange for notes in hand, but after a time I would purchase Public Securities with a portion, but under no circumstances retaining less than one-third of the amount of the circulation in coin.

30. With regard to the Provinces, I would divide Bengal and the Upper Provinces into convenient districts for the purpose, to be denominated *Currency Circles* in distinction to the Revenue divisions and districts at present existing,

adopting one of the chief existing stations, such as Benares, Allahabad, Delhi, &c., as their centres. The deputy commissioner would each be furnished with a stock of notes dated for his district. The first thing he would do would be to furnish each Treasury in his district with a quantity of notes in exchange for a portion of coin held by them, and the Treasuries would pay the notes in satisfaction of demands upon them. They would also receive them in payment of revenue. The deputy commissioner would in like manner supply local Banks and others, but only in exchange for coin or silver, and he would always be prepared to give the local Treasuries, or to private persons, coin in exchange for notes if required.

31. As soon as the system was well introduced, a portion of the silver obtained for notes would be forwarded to the Chief Commissioner in Calcutta, to be invested in Public Securities. The amount of such remittances of coin would be placed to the credit of the branch, and would be available in case of need for the use of the branch. But these remittances should never be made to an extent which would leave the local branch with a reserve in coin less than one-third of the circulation of the branch. The only other business which the branches would perform would be to give orders upon other branches in exchange for coin or notes at the established rates of the day. These orders would be adjusted as between the different branches in the books of the chief office in Calcutta.

32. By these arrangements, there would exist an absolute check upon the amount of the circulation, as well as a guarantee that it would fluctuate in quantity exactly as if it were purely metallic. The convertibility of the note would be secured by the large reserve of coin, and the ultimate payment of the notes by the balance held in Government Securities, while a large profit would accrue to Government from the interest of such securities thus held against the portion of the notes not represented by coin. Another and not inconsiderable advantage would be that the withdrawal of so large an amount of Public Securities from the market would raise the price of the remainder, and in that proportion the credit of the Government.

33. On this part of the subject, it is only necessary to add that I would, by enactment, provide for a monthly publication in the *Gazette* of the amount of notes in circulation by each branch, with an aggregate of the whole; also of the amount of coin and bullion held by each

branch, with an aggregate of the whole; and of the amount of securities held by the commissioners in Calcutta, Bombay and Madras respectively, on account of the branches, and the aggregate of the whole, in a form to be given in the Schedule of the Act. Such a return would have a great effect in creating a confidence in the system.

34. The *fourth point* to be considered is the proposed denomination of the notes to be issued. In considering this question there are many peculiarities in the case of the proposed issues to be taken into account. We have first to bear in mind that there can neither be temptation nor opportunity for over-issues of paper, whatever be the denomination. This will be apparent, when it is considered that there will be but *one* single agency for the issue of notes, and therefore no competition to force notes on the market. That notes will only be issued in exchange for coin or bullion, and in no instance, as in the case of Banks, in the form of discounts, loans, or advances upon credit; and, lastly, that the whole amount of the notes in circulation will be at all times represented to their full value in coin, and Public Securities strictly appropriated in the hands of the commissioners. Not one of the grounds of apprehension which have been urged against notes of a small denomination, to the effect that they had the tendency to render credit too easy in the case of competing Bankers, issuing paper by way of advances, would exist in this case. In the plan proposed, the same security would exist for notes, however small the denomination.

35. But the most important consideration of a practical kind in determining this point, is to have reference to the character of the transactions of the country in their amount. In India the chief peculiarity of monetary transactions is, their extreme number, and their minute character. Notes of a large denomination could only find comparatively a very limited circulation, and if issued, would soon be returned in exchange for coin from the mere necessity of providing for small payments. The consequence would be that the issuing branches would be constantly called upon to convert the notes simply, because they were of a denomination not suited to the transactions of the country.

36. In some of the British Colonies (in Newfoundland in particular) notes of the value of *one dollar* have been found a safe and convenient circulation, (the convertibility having been maintained), because the transactions with the fishermen and others are of such small amount. In the Mauri-

tius, notes of the denomination of 10 shillings or 5 Rupees have circulated for some years under Lord Grey's principle without abuse, and have been found extremely useful to the Planters and the public. In Ceylon the Bank issued five-shilling notes for many years, and when the limit was raised to ten shillings, which it is at present, it was regretted both by the Planters and the public. By the charters of the two Banks in Ceylon, they are now limited to notes of ten shillings, which circulate to a considerable extent, and, Sir H. Ward informs me, are found to be a great convenience. Throughout Prussia and others of the German States, notes of the denomination of one *thaler* or *3s.* have for many years circulated without any tendency to depreciation. In none of these cases, however, do the same securities exist for the maintenance of convertibility as we propose to take in India.

37. In the first instance, I would propose to begin with notes of the denomination of 5, 10, 20, 50, 100 and 500 Rupees. The effect of these denominations would be that remittances would be made in the larger notes, and exchanged for daily use, not in coin, as would be the case if there existed notes only of a high denomination, but into notes of the lower denominations. All payments below 5 Rupees, and fractional payments above, would be made in silver and copper.

38. To have a circulation of large notes only, would merely be to enable the public to remit a considerable sum from one place to another, and to throw upon the Issuing Department of the Circle the duty of providing Rupees in exchange, whereas, if smaller notes were issued, the change would be given in them.

39. The *fifth and last consideration* is, as to the securities to be taken against forging. Upon this point, I have had much communication with the Governor and Deputy Governor and the officers of the Bank of England. Long experience seems to have brought them to a position in which forgery may be said to be now almost impossible. They rely chiefly upon the quality and peculiarity of the paper, and of the water-marks by which each denomination of note is distinguished. Besides these, however, they have a series of checks in the numbering and lettering of the notes. To such an extent do these private checks exist, that if the whole of a note were destroyed, except only the number and the letters appended to the number, thus 1789 A, the Bank Cashiers could at once tell the amount, the date, and the place of issue of the note, and whether or not the note had been presented.

for payment. It is a curious fact in relation to forgery under the present arrangements of the Bank, that no new attempt has been made at a new plate for a Bank of England note for the last thirty years or more. There are three forged plates only in existence, and whenever a forged note makes its appearance, it is from one of these plates, all of which have existed for 40 or 50 years. Another curious fact about forgeries of notes is brought out in a Parliamentary Return I moved for in 1858. From that it appears that, including Ireland and Scotland, where notes of small denominations prevail, the number of prosecutions for forgery in the United Kingdom in respect to coins is much greater than in respect to notes.

40. The Governor and Directors of the Bank of England, desirous of affording the Indian Government every assistance in their power, have generously afforded to waive all their peculiar privileges in respect to paper, water-mark, printing, &c., in our favor, to allow the paper for India to be made in the same establishment, of the same materials, and with appropriate water-mark suited for Indian notes, and to give us the aid of their mechanical and other officers, to secure for us at once all the advantages which long experience has afforded to them.

41. However clever, therefore, Indians may be at imitating writing or printing, the paper used by the Bank of England, with the water-marks which are visible to the common eye, would be a great security against even the attempt being made, and even if made, we may be satisfied that what has been found impossible in England, would be at least not less so in India.

42. But the difficulty of forging such notes would not rest even there; it would require a long time and a large outlay of capital to complete the rudest imitation of such notes. To make all the moulds, &c., necessary to complete a new Bank of England note with all the experience which the Bank possesses, with all the aid of its able mechanical officers, and with an unlimited command of capital, would occupy upwards of two years. The simple question of cost, therefore, and the little chance of ultimate success, would, in India more even than it does in England, deter the attempt. So rare indeed is the faculty of preparing the plates for the water-mark in the paper, that it may be said to be confined to a single family employed by the Bank of England.

43. Again, even supposing the attempt were made, the difficulty of uttering false notes in India would be very great, at least

in any such sums as could form an inducement for forgery. With the great advantages which we should thus enjoy through the Bank of England, I think that the risk of forgery in the case of India would be reduced to a minimum.

44. It would be difficult, with the extent of information we possess, and in the absence of any experience, to form even an approximate opinion as to the extent to which a paper circulation might be carried in India. During the last twenty-three years, *one hundred and five crores of Rupees*, no less a sum than £105,000,000 in Rupees, has been coined at the Indian mints. That the whole, or nearly so, of this sum has been retained in India and now exists in one form or another in addition to the stock then on hand, is certain. No doubt a considerable portion has been converted into ornaments and applied to other purposes; but even making a full allowance on this score, the amount of coin actually in use at the present time must be far greater than is generally supposed. In the Government Treasuries alone the balances are seldom less in Rupees than from eleven to thirteen millions of pounds sterling. But whatever the amount to which the circulation of notes might rise, under the system proposed, no objection could be offered to it however great, inasmuch as the coin and the securities held against the notes would continue to rise in the same proportions. One of the great advantages of the system is that it would be entirely self-acting, at all times accommodating itself to the legitimate wants of the community.

45. Much has been said of late as to the cost of producing notes and the profit of a paper circulation. According to the system followed in the Bank of England, no doubt the cost of producing notes is very considerable. The largest use of the notes issued is in London, and among the London Bankers. As a matter of convenience to them in receiving and paying away notes of consecutive numbers, the Bank never re-issues the same note a second time. It not unfrequently happens, therefore, that large amounts of notes, which pass out of the Bank in the morning, are again paid in, cancelled and destroyed on the same day. The average life of each note under these circumstances is therefore very short. But in the branches in the Provinces, where the habit of re-issuing exists, it is very different. But even under these unfavorable circumstances, the net profit of the Bank issues against fourteen millions of securities is estimated, after all deductions are made for expenses of management of every description, at £283,000 a year,* of

* See Mr. Goulbourn's letter to the Governor of the Bank in 1841.

which the sum of £120,000 is paid to the Government as the share the public is entitled to for the privilege enjoyed by the Bank.

46. But whatever advantages the Bank of England may enjoy, those which attach to a paper circulation in the hands of the Government of India would be much greater in amount and more varied in character. In the first place, the working of a Paper circulation for Government purposes alone would tend to an economy in the employment of the Military as Treasure escorts variously estimated in number. In the next place, there would be no motive for the Issue Department in India to cancel the notes in the manner done in the Bank of England. Indeed, notes would rarely come into the Issue Department at all, except when worn out, or when an accidental demand arose for bullion. Into the Government Treasuries no doubt they would come freely, but they would be re-issued as by any private Banker. There would, therefore, be nothing like the same waste of notes. In the third place, the profit of the issue of the Bank of England against the Public Securities held by them must be measured by the interest which those securities bear, which is 3 per cent. ; while the securities which would be held in India against the profitable portion of the circulation would pay at least 5 per cent. interest. The effect would be the absorption of a given amount of the existing Indian debt to be held in the Issue Department, the interest being paid to that department, but again passing into the Public Exchequer as the profit of the department. It would practically and in effect be the same as cancelling so much public debt. And in the last place, a great advantage would be gained to the Indian Government by the practical withdrawal of so much of the Public Stock, the enhancement of the value of the remainder as a consequence, and with it a corresponding improvement in the credit of the Government. But over and above these great and special advantages which the Government would derive, the public would obtain advantages in the shape of new facilities of an important nature from the use of a convenient and sound Paper currency, as compared with the present inconvenient coinage.

47. There remains, however, yet to be noticed an advantage which would arise from the system, which though common to all countries which adopt a Paper currency, would particularly apply to India. I have already indicated the enormous amount of silver, which has been absorbed in the circulation of India, and I have shown in the early part of this minute that the precious metals so used for cir-

ulation, however useful and necessary as an instrument of exchange, nevertheless in effect constitute an absolute reduction of the capital of the country available for re-productive purposes, and therefore that any means by which, through the instrumentality of paper, coin can be released from circulation, must have the direct effect of restoring a large portion of such coin to the stock of the re-productive capital of the country. The portion so restored would be governed by the extent to which the Issue Department invested the coin received for notes in the purchase of Public Securities. The operation would be this:—suppose one of the Banks to issue notes in exchange for coin to the extent of three crores of Rupees, one crore would be retained as a reserve to meet demands for conversion, two crores would be applied to the purchase of Public Stock to be held in security for the balance. This purchase would disengage the capital of the persons from whom the purchase was made to that extent, and which would be at once available for other purposes. This operation would increase the price of Public Securities by the additional demand, and would tend to reduce the rate of interest by increasing the fund available for employment in mercantile and industrious pursuits, and thus the economy of capital alluded to in the early part of this minute would be effected to whatever extent the Issue Department held Public Securities against the notes in circulation, which after a time must necessarily amount to a very large sum.

48. I regard it rather as an advantage than otherwise, that the introduction of this system of paper money would necessarily at first be gradual on account of the impossibility which would exist of furnishing notes for the whole of India, except after some considerable time. I would propose therefore to apply the practice first to Calcutta and the Circle in Bengal, which, in the division of the country, which we shall make, will be attached to it, and next in like manner to Bombay and Madras; gradually extending the system into the Mofussil as our means of producing the notes shall enable us to do so. The advantage of a scanty supply of notes in the first place would be that a demand would be created for them on account of their superior convenience in advance of their supply. But I should hope within two years at the outside to have the whole system in full operation.

49. I desire that this proposal for a sound paper circulation in India may be considered as a plan altogether apart from, and independent of, the creation of a large Banking Corporation adequate to the re-

quirements of the trade of the country, and through which all the business of the Government may be transacted, as that of the English Government is with the Bank of England. I do not wish that I shall be understood in proposing this plan in any way to close the consideration of the establishment of such a Bank which might, in fact, represent the Banking Department of the Bank of England performing all the functions which that department does towards the Government and the public. From what I have already said, it will be obvious that the creation of a Government Issue Department will be in no way inconsistent with the establishment of such a Banking Company.

50. In conclusion, I would beg to express a strong opinion that a paper circulation established by the Legislature on so wide but so sound a basis, the opera-

tions of which would be always known to the public by means of the monthly returns, would, in place of exciting mistrust in more ways than one, place the credit of the Government upon a sounder basis, and would certainly expose it to less risk than it now incurs by the temptation which is held out to disaffected persons by the existence of numerous small Treasuries scattered all over the country, whose balances consist exclusively of coin. And I own therefore that I think the moment has arrived to which the Secretary of State in his Despatch refers, when the establishment of such a system may not only be recommended, but, I would even say, when no time should be lost in making the necessary preparations for its adoption.

GOVERNOR-GENERAL'S
CAMP;
Meerut, 25th Dec. 1859.

MINUTE ON THE PROPOSAL TO INTRODUCE A GOLD CURRENCY INTO INDIA,
BY THE RIGHT HONORABLE JAMES WILSON.

Dated Governor-General's Camp, Meerut, 25th December 1859.

In the Financial Despatch No. 109, dated the 4th of November 1859, from the Secretary of State, upon the subject of a Paper currency for India, the consideration of the Indian Government is invited to the question which has recently been much discussed, of introducing the English "Sovereign," or some other gold coin, into the circulation of India, as being one intimately connected with that of a Paper currency.

2. The discoveries of gold of late years, and its diminishing price in relation to silver, added to the great demand which has latterly existed for the latter metal for shipment from England to India and China, have combined to create a strong public feeling in favor of making use of gold in some form or other as part of the circulating medium of India.

3. No one will be inclined to deny that if we had to begin a system of currency *de novo*, the most convenient of all the various systems now in practice would be found to be that used in England, where gold is the standard, gold coin the general money in circulation, and silver tokens, of limited tender, the subordinate coins.

4. But we have to deal with a long established standard of silver in India, in which liabilities to a large amount, in the shape of public debt, and obligations of varied character running over a long series of years, have been incurred in silver. For it must be borne in mind that a contract to pay a given sum of money is nothing more nor less than a contract to

deliver a given weight of that metal which is the standard at the time the contract is made, and that to alter or vary the standard, and to adopt another metal because it is cheaper, is simply to enable the debtor to break faith with the creditor. It is true that the metal in which a debt has been contracted may fall in value by a large increase in its quantity, but that is a risk which the creditor runs, and of which he has no right to complain; in like manner, the metal may rise in value, but that is a risk which the debtor incurs when he enters into the transaction, and of which therefore *he* has no right to complain. If two men enter into a contract, one to deliver, and one to receive a given quantity of wheat, at a distant day, however much wheat may have fallen in price in the meantime, the receiver has no right to complain, any more than the deliverer would have, had it in the meantime risen as much in price. But if the person whose duty it was to deliver wheat, finding that it had risen much in price since the contract was made, sought to deliver barley or some other grain, which in the meantime had become relatively cheaper, the injustice of such an attempt would be plain. But it would be equally unjust, after a contract had been made in a silver standard, to change the standard into gold, because it was becoming more plentiful, and in relation to silver, likely to become cheaper.

5. Since the first discovery of California, this subject has been much forced into discussion, owing to the various ways in which

a great and sudden increase in the supply of gold was likely to affect various countries. The first impression was that a great fall would take place in the price of gold as measured in silver. Up to this time, however, the change in the relative value of these two metals does not at the outside exceed five per cent. Before the gold discoveries, silver was rarely so low as 4s. 11d. the oz.; since, it has seldom reached, or at least exceeded, 5s. 2d. the oz.; but under the apprehension of a fall, the Government of Holland, proverbial for its caution, was the first to take alarm, and having then a circulation of both gold coins and silver coins, which were a legal tender at a fixed relation to each other, they demonetized the gold coin, leaving silver, the ancient standard, the only legal tender.

6. In Belgium, a similar state of things existed. Their standard and chief coins were silver, but they had, chiefly for the convenience of travellers, attached a fixed rate to the gold coins of England and France, and had coined 20-franc pieces of their own. They followed the example of Holland, demonetized gold and fell back upon the single silver standard and coin.

7. In India coins both of gold and silver were in partial circulation. The mint proportion which those coins bore to each other was that of 15.153 of fine silver to one of gold. The gold coin was not however a legal tender, but as the intrinsic value of the gold coin in the market was at least equal to the silver Rupees which it represented, there was no difficulty in passing them, and the Government accepted them in the public Treasuries at the nominal rate at which they were coined. But as soon as the price of gold began to fall, and the Gold Mohur piece was no longer of the same value as 15 silver Rupees, it was evident if the Government continued to receive them into the Treasuries without the power of paying them out at the same rate, that a great accumulation of gold pieces would have taken place, which the Government could not use as money, and upon which in the sale it must have lost considerably. To avoid this, the Government had the choice of two plans, the one to reduce proportionately the rate at which the gold coins would be received, so as still to leave a margin for loss; the other to prohibit the receipt of gold coins altogether, and to accept only the legal tender coins of silver. They adopted the latter.

8. In the United States at that time they had a double standard of gold and silver, and coins of each metal. But as silver became dearer in proportion to gold, it was shipped away to so great an extent as to lead to great inconvenience for the

want of small coins, the place of which could not be supplied with gold. In 1853, therefore, the American Government had recourse to the plan of reducing the weight of the silver coins, (the dollar being reduced from 412½ grains to 384 grains of silver,) so as to make them tokens like the English silver coins, limiting their tender to five dollars; and thus adopting a single standard of gold.

9. In France, a double standard had prevailed at least since the decree of Napoleon the First, in 1801. By that decree the relative value of gold and silver was fixed in the proportion of one to 15½, but as six francs are retained at the mint for coining a kilogramme of gold into 155 pieces of 20 francs each, and 1½ francs are retained for coining a kilogramme of silver into 40 pieces of five francs each, the proportionate value of the two metals as coined is one of gold to 15.54, rather above 15½ of silver.

10. From 1801 to 1850, the market price of gold had always a tendency to rise, and being more valuable in proportion to silver, than the rate fixed by the decree of Napoleon, disappeared altogether from circulation and commanded a *premium*. Silver consequently became the only actual circulation. Since the gold discoveries, the price of gold has fallen somewhat below the fixed rates, and in consequence, since 1850, a sum equal to *one hundred and thirty millions* sterling of gold has been coined at the French mint, and a corresponding amount of silver has been exported. For many years prior to 1850, little or no gold had been coined. This has led to a daily increasing scarcity of small coin and to great inconvenience as a consequence. And it is quite certain, if the price of silver continues to rise, that the French Government must resort to some such plan as has already been adopted in the United States, in order to maintain in circulation silver coins for inferior denominations. Indeed, it is chiefly the fact that a large portion of the silver coin now in circulation in France has become considerably reduced below their full value by wear, that has prevented their being exported.

11. In all the German States, in which formerly gold coins circulated at fixed rates, they have been demonetized, and under a convention made in 1857, to which I shall have further to allude hereafter, silver has been reverted to as the sole standard.

12. From these examples, it would appear that, wherever the integrity of the single standard had been in any degree departed from, the small change in the relative prices of the metals which has taken

place, not exceeding as I have shown, five per cent., has immediately led to inconvenience and to an alteration in practice, which in the matter of the money of a country is always to be deprecated. In England fortunately the single standard has not been tampered with, and it is accordingly almost the only country in which no change whatever has been made, in consequence of the gold discoveries. No doubt there were at first, not wanting those who being owners of the public stocks, or recipients of fixed incomes, endeavored to create a feeling in favor of some change in order to avoid the depreciation in their property, which they apprehended from the reduced value of gold. But they were at once reminded that all contracts were made in gold, and that whether gold rose or fell in value, the contract as between debtor and creditor must be maintained.

13. With all this experience before us, we are called upon to consider how far it would be wise again to tamper with the principle of a single standard in India, by admitting gold coins into the circulation under some assumed regulation which would avoid inconvenience.

14. I at once say that I know of no conceivable regulations by which such an object could honestly be attained. But I am willing to consider all the various proposals which have been made for that purpose. These may be divided into five heads: *first*, some propose the "sovereign," or some other gold coin should be introduced, and which should circulate at its market price from day to day measured in silver; *second*, others propose that such a gold coin should be made bearing the exact value of a given number of Rupees, say ten, and that it should be made a legal tender for that sum for a limited period, say a year, when it should be re-adjusted, and again valued and made a legal tender for a further similar period at the new rate; *third*, some propose that the English Sovereign should be introduced as a legal tender for ten Rupees, but limited in amount to twenty Rupees, or two sovereigns; *fourth*, some propose to preserve a single standard, but to change it from silver to gold, adopting silver tokens, for subordinate coins; *fifth*, some propose the simple adoption of a double standard of silver and gold, which all the others repudiate.

15. As applicable to most of these schemes, I may remark that the chief object of a coin is that it shall represent a defined and fixed value, well known to the simplest of the people. When it is deprived of this quality, it is reduced to the more condition of a commodity which

is to be bought and sold at rates varying with the fluctuations of the market. The true attribute of the coin is thus gone.

16. This remark applies with great force to the first mentioned of the four plans, for supplementing the Indian currency with gold coins. And if we consider what the practical effect would be, the proposal must be dismissed as wholly impracticable. Let a gold piece be coined to-day, representing the exact value in gold of ten Rupees, to-morrow the price of gold, either from a change in its intrinsic value or from an alteration in the exchanges with England, where it is the sole standard, rises to ten Rupees and four annas, next day it rises to ten Rupees and eight annas, in a day or two more an importation having taken place from Australia, it falls to nine Rupees twelve annas, and then to nine Rupees eight annas, and so on, being influenced by all the accidents from day to day, which determine the price of gold expressed in silver.

17. These fluctuations moreover may not only take place, from day to day, but even during the same day. It would be impossible that such coins could answer the place of money. The cambists and money-dealers could no doubt buy and sell and deal in such coins just as they do now in the metal itself, but except the fact that the quantity and quality of the metal would be ascertained without weighing or assaying, they could just as easily deal in and buy and sell gold bars. To call a coin "money," the value of which could not be vouched for from one day to another, to say nothing of the trouble of ascertaining and computing the fluctuations, would be a mere misnomer, and it is certain that no community would suffer the risk and inconvenience of such a system, that could possibly avoid it.

18. The second plan proposed, though not open to the same objections, is still open to others almost as grave. A gold coin is to be made the exact value of ten Rupees, it is by law to be declared a legal tender for that sum for a year or some specific period of time, both in the hands of the Government and the public. During that period the price of gold measured in silver is continually falling, a profit is gained by the bullion-dealers by importing gold, getting it coined, and forcing it into circulation at the fixed periodical rate. As the year draws to a close, when it is known that the rate will be revised, and the circulating value of the coin reduced in conformity with the fall of gold, every one makes an effort to get rid of the gold coin, a struggle takes place, in which the public Exchequer takes a promi-

ment part, for every one to divest himself of gold coins, and thus to avoid an inevitable loss. But on some one it must fall, and there could not but be great dissatisfaction in the public to find on a given day the value of a large quantity of the coin in its possession, which they had no choice to refuse, depreciated by two, three, or four per cent.

19. When the monetary convention was entered into between the Austrian Government and the States of the Zoll-Verein in 1857, with the view to obtain a uniform and general currency, silver was adopted as the existing standard, but as some States were anxious to retain a right of coining gold, after the greatest consideration, no better plan could be devised than this most imperfect one. But the difficulty of giving a fixed value was found to be so great, that Article XVIII. of the treaty declares that "the silver value of the conventional gold coins will be alone regulated by the relation of the supply to the demand, and they will therefore not possess the property of representing an amount of legal silver coinage, as a medium of payment." But it is further provided by Article XXI., "that each State is to be at liberty to allow such gold coins, to be taken at their Treasuries, in lieu of silver at a rate of exchange to be beforehand decided upon. Such pre-decided rate of exchange shall last at the utmost six months, and at the close of the last month, is to be each time re-considered for the next similar period."

20. As far as I can learn, and as might have been expected, a system of gold currency, so imperfect and exposed to such uncertainty, has practically remained a dead letter. To show the opinion which the parties to the convention entertained of the plan, they took care in Article XXII. to stipulate that all paper money issued by the State should be solely for silver, and payable in that metal. I may conclude then that it would not be thought desirable to adopt this plan.

21. The next and third proposal is to permit the circulation of the sovereign to a limited amount, say of *twenty Rupees*. This idea seems to have originated in the system adopted in England of giving to the silver coins the character of tokens, not of full value, and limiting the amount of tender. But it must be borne in mind, that while this can be done with the low priced metal which represents small transactions, it cannot be done with the high priced metal, the chief object of which is to represent large payments. The objections to the plan may be thus stated:—As long as gold was of a value above the ratio

which the coin represented, it would not be circulated at all, but when it fell below that value, every effort would be made to force it into use. The consequence would be that shop-keepers and small dealers would receive many of their payments in a coin with which they could not make large payments without a loss. They might receive £100 in a day from fifty customers, and when they came to place the £100 in the Bank, or to use it for a payment to a merchant, they would have to submit to a loss equal to the discount upon the gold. From the Mint Regulations in England, a similar loss cannot happen. A similar source of loss would be experienced by Railway Companies, whose fares would be paid in a coin which they could not dispose of in large sums except at a loss.

22. The fourth proposal is to adhere strictly to a single standard, but to change it from silver to gold. As I have already said, I freely admit that if we had to begin *de novo*, convenience would point to a gold standard with silver token coins as the best, although public opinion has been by no means agreed upon this point. It is curious to observe the fluctuations of views upon this subject, and how much they are governed by expediency and convenience at the moment. In 1837, during the panic, silver happened to be rather abundant in the London Market, and difficult to be converted into Bank notes or gold, not being a legal tender. A great pressure from the merchants of London at that time, and again in 1847, under similar circumstances, was made upon the Government of the day to admit silver into circulation, exactly similar to that which now prevails in respect to gold where silver is the standard. I have a very clever pamphlet lying before me, entitled "The Injury, Insufficiency and Inconvenience of a Gold Standard," in which arguments are used quite as strong against that system as now prevails against a silver standard. If a Government were to vacillate in a vital matter of this kind, according to the convenience or interest either of the debtor class or the creditor class, the integrity of any standard would be entirely lost.

23. But though I admit that a gold standard does possess superior advantages, yet, as I have already shown, in a country where all obligations have been contracted to be paid in silver, to make a law by which they could forcibly be paid in any thing else, would simply be to defraud the creditor for the advantage of the debtor, and to break public faith.

24. The fifth and last plan proposed is to adopt a double standard, such as

prevailed in the United States previous to 1853, and such as still prevails in France. The system of a double standard is practically a permission for the debtor to pay his debts from time to time in the cheapest of the two metals. As I have already remarked, where such a system has existed from ancient times, and where under it the great bulk of obligations have been contracted, the creditor has no right to complain of being paid from time to time in the cheapest of the two metals, because that was the condition of his contract. But in cases where a single standard has long prevailed, the adoption of a double standard is just as much a breach of faith as a simple change of the standard. For it must be plain that the introduction of a double standard is practically the adoption of the cheaper of the two metals at the time.

25. But unjust as such a change would be, inconvenient as a double standard has proved in practice, and inconsistent as it is in principle, yet I have no doubt if it is desired to have the use of both metals in a circulation of full value as coin, that it is the best mode in which that object can be attained. In all the other ways in which it has been attempted to circulate gold coins with a silver currency, the principle either of a varying value from day to day, or that of a periodical adjustment of value, the coin circulating in the meantime as a legal tender, has been found needful. Under either of those plans, the holders are less or more subjected to immediate and individual loss, in the case of periodical adjustment as is proposed in Germany, it may be, to considerable loss. But in the operation of a double standard, the one coin which is gradually becoming of less intrinsic value, gradually and from day to day displaces the coin which is undergoing appreciation. Large supplies of the cheapening coin come from the Mint, and corresponding quantities of the appreciating coin are bought up and exported at a profit. But as long as the two coins circulate together, and to whatever extent they do so, they are in the hands of the public, of the same nominal value, and continue without any intermission to answer the same purpose for all daily uses. However objectionable therefore a double standard may be, and however inconsistent with theory, I hold it to be the least objectionable of all the plans yet proposed for combining the use of the two metals in coins of full intrinsic value, circulating in the same currency.

26. But I would ask—What advantage could be expected from the adoption of

gold in India? Upon this subject there is, I believe, much confusion of ideas. It is said that gold is becoming more plentiful, and that the demand for silver is making it scarce. Now the extent to which this is true in practice must be measured by the rise which has taken place in the market price of silver, which I have shown does not exceed 5 per cent. But supposing it were greater, would that be a reason for using gold? If India requires a supply of the precious metals, it can only be obtained in exchange for its products in foreign markets, and the quantity of those metals, whether of gold or silver, will be obtained in the exact proportion which they bear to the products of India for which they are exchanged. India is quite, as well off to receive silver as gold, and perhaps better, inasmuch as silver seems to be an appreciating metal, while gold is probably still falling. Nor can it be deemed to be a disadvantage to India that the silver remitted for its products has to be obtained in exchange for the gold received from California or Australia in London. These different movements in the distribution of the precious metals to the points at which the exchange of the world direct them, are all determined by general broad principles, which are self-acting and which any artificial attempt to disturb or control can only tend to derange.

27. In whatever form India receives its payments from the exterior world for the balance of its exports over its imports, whether in gold or in silver, can matter not, so long as the full value is received.

28. I know it is said that gold coins are much more convenient for circulation than silver. If this refers to the removal of Government Treasure from one part of the country to another, then I much doubt if any important advantage would attend gold coins. The expense of removing coin is no doubt in a very small degree determined by its weight and bulk, but to a much greater extent by the necessity of protecting it. It would require just as much of an escort to protect the sum of £100,000 in gold, as if in silver, and perhaps even more so, inasmuch as the compactness and lightness of gold would render it a more tempting and handy prize to the robber, than bulky and weighty silver. Again, I doubt much whether there would not be somewhat greater danger to local Treasuries containing gold coin than silver. It is a very suggestive fact that during the mutiny the Gold Mohur of 15 Rupees commanded such a premium, owing to their greater convenience for concealment or removal, that the

price of 26 and 27 Rupees was given for them.

29. But if the convenience referred to alludes to the use of gold coins for private expenditure, then I readily admit their value to that extent. But I would submit that, for this purpose, and for all others that have been suggested, a well-regulated paper currency, such as I have described in another Minute of this date,

would answer much better, while the ancient single standard of the country in which all existing obligations have been contracted would be maintained in all its integrity.

JAMES WILSON.

GOVERNOR GENERAL'S CAMP, }
Meerut, 25th December 1859. }
