INDIAN LEG. COUNCIL DEBATES

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P. L.

Saturday, April 27, 1861.

PRESENT :

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

Hon'ble Sir H. B. E. Frere,	H. Forbes, Esq.,
Hon'ble Major-General Sir R. Napier,	A. Sconce, Esq.,
Hon'ble S. Laing,	C. J. Erskine, Esq.,
H. B. Harington, Esq.,	and
	Hon'ble Sir C. R. M. Jackson.

SALT DUTY (BOMBAY); PORT-DUES (AMHERST); AND MINORS.

THE VICE-PRESIDENT read Messages, informing the Legislative Council that the Governor-General had assented to the Bill "to empower the Governor-General in Council to increase the rate of Duty leviable on Salt manufactured in, or imported into, any part of the Presidency of Bombay," the Bill "for the levy of Port-dues in the Port of Amherst," and the Bill "to amend the law relating to Minors."

LIMITATION OF SUITS.

THE CLERK presented to the Council a Petition from the Calcutta Trades Association, praying for an amendment of Act XIV of 1859 (to provide for the limitation of suits).

SIR BARTLE FRERE moved that the Petition be printed.

THE VICE-PRESIDENT said, the Honorable Member who had just sat down, had been good enough to send him a copy of this Petition. The Petitioners represented that they were not aware until a recent period that the law of limitation would affect their rights. The law certainly very materially affected their rights, for it reduced the period of limitation for the institution of suits concerning trade-debts from six to three years. As the Act would begin to take effect from the 5th of May next, if, as was represented by the Petitioners, they were ignorant until a recent period that the law would affect them, it appeared to him that a Bill should immediately be brought in to suspend the operation of the Act till such time as the Petitioners could take steps for the recovery of their claims. Otherwise not only the Petitioners, but others, might fairly complain, if they were ignorant of the effect which the law would have upon their interests, that they had in a manner been taken by surprise. Under these circumstances, he proposed afterwards to move for a suspension of the Standing Orders, to enable him to bring in, and pass through all its stages, a Bill to suspend the operation of the Act till the 1st January 1862. He would not detain the Council now with any further observations on the subject, but would fully explain the circumstances of the case when he should move for leave to bring in the Bill.

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

PETITION OF MR. SCHOKMAN.

THE CLERK reported to the Council that he had, under the 27th Standing Order, certified on the back of a Petition of Mr. John William Schokman, that in his judgment it was not framed in accordance with the 22nd Standing Order, forasmuch as it did not relate to any matter connected with the business of the Council.

BREACH OF CONTRACT.

THE CLERK presented to the Council a Petition of Ryots of Kedarnuggur, in the District of Nuddea, against the Bill "to provide for the punishment of breach of contract for the cultivation, production, gathering, provision, manufacture, carriage, and delivery of Agricultural produce."

THE CLERK also presented five other Petitions from ryots of Jessore similar to the above.

SIR BARTLE FRERE moved that the Petitions be printed and referred to the Select Committee on the Bill.

Agreed to.

CATTLE TRESPASS.

THE CLERK presented to the Council a Petition from the Indigo Planters' Association, praying for fur-

ther amendments in Act III of 1857 (relating to trespasses by Cattle).

MR. SCONCE said, before moving that this Petition be printed, he desired to state that it was his purpose to move at a future stage of to-day's proceedings, that the Bill should be referred to a Select Committee with a view to their taking the whole law into consideration, and in order that the local Governments might be consulted as to the necessity of amending, on any other points than the Bill now provided for, Act III of 1857. At present, the Bill merely embodied the offences already enacted in the Penal Code, but it might also be desirable to amend the law on other points, and the postponement of the consideration of the Bill would afford opportunity for that purpose. He begged to move now that the Petition be printed.

Agreed to.

TREASURE TROVE.

THE CLERK reported to the Council that he had received a communication from the Home Department, forwarding a Despatch from the Secretary of State on the subject of Treasure Trove in India.

SIR BARTLE FRERE moved that the communication be printed.

Agreed to.

FINANCES OF INDIA.

The Order of the Day being read for Mr. Laing to make a Financial Statement for 1861-62—

MR. LAING rose and spoke as follows :—

I rise, Sir, for the purpose of submitting to the Legislative Council, on behalf of the Government, the Budget of India for the year 1861-62. The occasion is too grave for me to indulge in preface. India has been eagerly watching for this Statement, to learn whether she is solvent or bankrupt, and England turns an anxious eye to the East to know whether her Indian Empire is to be a future source of strength or of weakness.

In presence of such great interests, one sort of eloquence alone is admissible—that of facts—and to them I address myself.

In the first place, how do we actually stand? When my predecessor, the late lamented Mr. Wilson, brought forward his Budget for 1860-61, little more than twelve months ago, he showed that India had long suffered under a chronic Deficit, which, since the Mutiny, had increased to a frightful amount. For thirty-three years out of the preceding forty-six, the average Deficit had amounted to £2,500,000 a-year, and the three years alone, from 1857 to 1860, had added £38,000,000 to the National Debt. The prospective Deficit for the year 1860-61 was estimated by Mr. Wilson at £6,500,000.

He proposed to meet it partly by new taxes, partly by reductions, and partly by drawing on the Cash Balances, which were then unusually large, owing to the success of recent Loans.

Unfortunately, of these anticipations, the last only was fully realized. The actual Deficit of 1860-61 has been £6,678,000, and it has been met by a corresponding reduction of the Cash Balances in India and England, which, on the 30th April 1860, stood together at £19,600,000, and on the 30th April 1861, will have been reduced to about £14,500,000.

Let me explain this more fully.

Mr. Wilson proposed,—in addition to those augmentations of Salt, the Customs, and Stamp Duties, which had been already enforced, and of which the year 1860-61 had the benefit,—two new Taxes, the Income Tax and the License Tax. Of these the first was passed into law, but at so late a period, that the year 1860-61 was only partially benefited by it.

The figures of the Regular Estimate, published in February last, which give the latest authentic Returns, and close the year 1860-61 with a final Deficit of £6,678,000, include £803,550 of Mr. Wilson's Income Tax. No accurate Estimate was attempted of the produce of the new Taxes at the time, but it was roughly stated that the Income Tax might produce about £2,500,000 a-year and the License Tax about £1,000,000.

I fear these Estimates are greatly over-stated.

From the Returns of the Income Tax, which are now nearly completed, I can hardly venture to take its total annual net produce at more than £1,400,000. The License Tax is still a matter of conjecture, but looking at the fact, that with an average payment of 1½ Rupees per head, which is as much as we should get with three classes at 1, 2 and 3 Rupees, it would require 7,000,000 of tax-payers, representing 35,000,000 of population, to give us £1,000,000. I do not think we should get any thing like it. The Estimate of the Authorities of Bengal would not make the License Tax yield above £400,000 for all India. This may be too low, but I believe that £2,000,000 for a full year's net produce of the Income and License Taxes together is quite the outside of what we could safely reckon upon. Assuming, then, the License Bill to have passed, and Mr. Wilson's Financial measures to have been in full operation for the year, how should we stand?

The Deficit of 1860-61 is £6,678,000, but nearly £700,000 of this is occasioned by payments for compensations on account of the Mutiny, which will not recur; so that the real Deficit is in round numbers £6,000,000. Mr. Wilson's new Taxes would have given us £2,000,000 in 1861-62, as against £800,000 in 1860-61, or an improvement of about £1,200,000 in Revenue, but from this must be deducted about £700,000 for certain wind-falls, in the shape of Sale of old Stores, repayments by Native Princes, and so forth, received in 1860-61, and which will not be received again in 1861-62.

The position, therefore, left us by the Budget of 1860-61 is simply this. Deficit £6,000,000, less £500,000 improved Revenue; remaining Deficit £5,500,000.

Perhaps some Members of Council may have seen a much more favorable Statement, which was recently made by the Secretary of State to the British House of Commons.

It was stated that, whereas Mr. Wilson had estimated the reductions of Expenditure in 1860-61 at £1,700,000, and subsequently at £2,500,000, they had turned out in reality to be £3,300,000; so that after saving £3,500,000 in 1859, we had again saved £3,300,000 in 1860, which, with £3,500,000 of new Taxes, extinguished our Deficit and made us independent of Loans, except to complete our Railways.

This statement was made in perfect good faith by the Secretary of State, on information which he had a right to rely upon, but unfortunately that information mistook wishes for facts and anticipations for realities. There was *not* a reduction of £3,300,000 as supposed by Sir C. Wood, or even of £1,700,000 as estimated by Mr. Wilson, but a positive increase of £213,000 in the total Expenditure of 1860-61 over that of 1859-60.

The figures which I read from the Regular Estimate, corrected up to last February, show that the total expenditure was £46,417,000 in 1859-60, and £46,630,000 in 1860-61.

Even if we allow £700,000 for the Mutiny Compensation, the actual reduction of 1860-61, compared with 1859-60, will be less than £500,000.

The difference arose thus.

The reduction of Expenditure in India was over-estimated by £1,500,000, owing to a too sanguine expectation that the recommendations of the Military Finance Commission would be carried out in 1860-61.

The increase of Home Expenditure for Debt, Railways, and Army was overlooked. The produce of the new Taxes was taken, £1,500,000, too high, and it was forgotten that £800,000 of the amount had been already received in 1860-61, and was included in the Statement, showing the Deficit of £6,000,000.

No allowance was made for the temporary nature of some of the Receipts of 1860-61, such as the Punjaub Trade Tax and Sale of Stores. These errors together amount to upwards of £5,000,000, and just make the difference between the equilibrium announced in England, and the Deficit of £5,500,000, which is the real result of last year's Budget, after crediting it

with a full year's proceeds of all the new Taxes, including the License Tax, which is not yet sanctioned.

I will not attempt to conceal from you that this was an unsatisfactory result. To find that, after the great effort made last year, the Income Tax had produced less than £1,500,000, that reductions had almost stood still, and that we were approaching a new Financial year with our Cash Balances nearly exhausted, and our Expenditure £5,500,000 a-year ahead of our Income, was indeed calculated to inspire gloomy apprehensions.

Nor were these apprehensions relieved by the aspect of the Railway question, which showed at least £20,000,000 to be wanted in the next three years to complete lines of the first necessity, for which capital no provision had yet been made, and which the Home Government would probably be compelled to borrow.

All idea of help from England for general Expenditure was therefore clearly out of the question, and it was even doubtful whether funds could be provided to save us from the serious disaster of having to suspend Railway works which were approaching completion.

Well, there yawned the Deficit of £5,500,000 wide and deep. There was no chance of craning, no time to look to the right or left, for the exhausted Cash Balances, hungry and inexorable, were howling in our rear.

To stick the spurs well in, and go straight at it, was the only plan.

Before I ask you to follow me, let me pause for a moment and make one remark. I have said that this was no occasion for personal observations, but there is one which I am anxious to make, lest I should be misunderstood.

I have described a gloomy state of things. I am now going to show you a brighter picture. In making a lengthened statement, it is not always possible to avoid speaking in the first person, and thus appearing to claim for myself individually the credit of acts of the Government.

I wish emphatically to repudiate any such claim.

Mr. Laing

In a Government like that of India, it is manifest that the Governor-General must be, for good or evil, the mainspring of all policy.

It is not for me to speak of Lord Canning. When a man has filled such a post in such times, his character belongs to History. But this I may say without indiscretion, that if any one has represented His Excellency as lukewarm and indifferent in the cause of reduction, he is entirely mistaken.

From the first time I met him in India, down to the present day, Lord Canning's language to me has been the same—that he would carry out any practicable amount of reduction rather than inflict new and oppressive Taxes on the people of India.

Nor should I be doing justice to my colleagues in the Council, if I omitted to state that they have been, one and all, and on all occasions, animated by the same spirit. Indeed, it stands to reason, that so much could not have been done in so short a time, if the ground had not been tilled, and the crop sown, and all but ripened by their exertions.

Sir, as far as I have seen, all concerned have done their duty, but among the many able Officers and Servants of the State, who have given us their aid and co-operation, there is one body whose services have been so pre-eminent, that I should be wrong not to mention them.

I mean the Military Finance Commission, whose Members have labored, often under difficulty and discouragement, with a zeal, an industry, and an intelligence which are indeed beyond praise.

If the future historian of India should have occasion to mention, that in the year 1861 India was saved from a great Financial danger, that history will be very imperfectly written if it omits the names of Colonel Balfour, and his colleagues, Mr. R. Temple and Colonel Simpson.

Nor would I willingly omit to mention the name of Captain Rennie, to whom, in conjunction with the Civil and Military Finance Commissions, it is mainly owing that we have been

able to effect important reductions in the Navy and Marine.

I return now to my figures. Recollect the Deficit is £6,000,000, and the problem is how to meet it.

In my experience of public life, I have always found this maxim hold good—that there is no such thing as an Art or Mystery in State Craft.

The broad principles of common sense, which apply to private, apply equally to public affairs, and that which is not simple is seldom sound.

Well, if a private individual finds that his balance at his Banker is running dry, and that he is spending beyond his Income, what does he do? He cuts down his Expenditure—this is what we have done. We have reduced our Expenditure by £3,600,000.

Recollect, in 1859, we reduced our Expenditure from the War standard by £3,500,000; in 1860 by £500,000; and in 1861 we shall reduce it further by £3,600,000.

That is a great result, and I will now explain how we arrive at it. The great reduction is of course in the Native Army. Here was the greatest excess—here the greatest scope for economy.

In April 1857, or immediately before the Mutiny, it appears from Official Returns, that the total established strength of the Indian Army, including Queen's Troops, was—

Europeans.....	45,522
Natives	266,852

The cost of this Army was in round numbers £11,500,000 a-year in India, and £1,250,000 in England; but this was below the proper cost, as it was only attained by allowing the "Effective" European Force to remain dangerously below its "established" strength. The real cost should have been about £12,000,000 in India, and £1,500,000 in England.

In 1858-59, owing to the Mutiny, this cost rose to £21,000,000 in India, and £3,750,000 in England, showing a total increase of £11,000,000 on the Expenditure of 1856-57, to which should be added an increase of £1,000,000 for Military Police.

This was the *maximum* point at which reductions began.

In 1859-60 the Military Expenditure in India was reduced to £17,750,000, and in England to £2,750,000, making a total reduction of £4,250,000. In 1860-61 the Expenditure in India was £15,279,000, in England £2,750,000, showing a further saving of £2,500,000, which, as I explained just now, has been swallowed up by the increase of interest on the Debt and other charges, and which still left the cost of the Army of India £5,250,000 more in 1860-61 than it was in the year before the Mutiny.

This Army consisted in 1859, according to a Return of the Military Finance Department which I hold in my hand, of 284,529 men, exclusive of 69,254 Military Police—or in all of 353,783 armed Natives. We had, therefore, at the commencement of 1860, 60,000 more armed Natives in our pay than in 1857, in addition to the increased European Force, and the increased cost of our Army was £5,250,000 a-year.

Now, how has the Government dealt with this state of things?

In the first place, they have decided that there shall be no hybrid Corps, like Military Police, which really swell the Native Army without appearing on its roll. At least 50,000 men of Military Police and Miscellaneous Local Levies have been disbanded, or are in course of disbandment, and with the exception of about 8,000 Military Police in Bengal, who have been retained for the present for special reasons connected with the organization of a Constabulary in that Presidency, you may say that nothing of this sort remains in India. When we say "Army" we mean "Army," and when we say "Police" we mean "Police"—Constables with batons under Civil Authority, and not Sepoy Regiments under a new name.

Next, we have reduced all Native Infantry Regiments to a uniform force of 600 Privates, or 712 Natives of all ranks per Regiment.

Finally, we have broken up and disbanded Regiments.

Upon this point I think the Government of India has hardly done itself justice in not making public some

comprehensive view of the extent of reductions effected.

In Bengal there were, in 1857, 146 Regiments of Native Infantry, in 1859 the number was 98, in 1860 it was reduced to 91; and of these 8 are under orders for disbandment, and an order for reducing 11 more has been passed and will appear in a few days in the Gazette, bringing the number to 72 Regiments, or less than half the number before the Mutiny.

Madras, before the Mutiny, had in all 55 Regiments of Native Infantry, including 2 of Veterans and 1 Pegu Battalion. The number was raised in 1859 to 62 Regiments—it is now 53 Regiments.

Bombay had 34 Regiments before the Mutiny. In 1859 there were 40. Of these 6 have been disbanded, and orders passed to disband 4 more.

As regards Native Cavalry, Bengal had, in 1857, 50 Regiments. In 1859 there were 56 Regiments. At present there are 43, and orders have just passed for disbanding 11, leaving the total number 32. This includes all Native Cavalry of the Punjaub, Central India, and elsewhere, as well as those under the Commander-in-Chief. Madras had 8 Regiments of Native Cavalry in 1857; the number has been reduced to 4.

Bombay had 9 Regiments in 1857. These were recently converted into 14 Regiments of reduced strength, on the Irregular Footing, which will be reduced to 9, or lower.

I say nothing of Native Artillery, for no such thing exists, except a few Mountain Batteries at unhealthy posts on the frontier.

The result is, therefore, that 77 Native Regiments are broken up since 1859, *viz.* 44 of Infantry and 33 of Cavalry.

Of these, 24 Regiments of Infantry, and 20 Regiments of Cavalry, are the result of the reductions now ordered, or enforced within the last few months.

The effect of these reductions is to lower the strength of the Native Army from 284,000, at which it stood in 1859, to about 140,000 men.

Including Military Police, the reduction of Native Armed Force since 1859 will be very nearly 200,000 men, of whom upwards of 100,000 men have been reduced within the last few months.

I should mention that, in effecting these reductions, it has been thought right to make some addition to the pay of the Irregular Native Cavalry, who find their own horses and provisions. Prices have risen so much, that it is difficult for them to keep out of debt on their old pay, and soldiers in debt are always dangerous. But I place it on higher grounds. It is the duty of the State to treat liberally men who are ready to shed their blood for us in case of danger, be they Hindoos or Mussulman, English or Native—here at least the maxim should apply that the labourer, while found faithful is worthy of his hire.

I spoke of the above reductions as carried out, because they are so in a great measure; and what remains is distinctly ordered in a manner which admits of no discussion. Madras has taken the lead in reductions, but Bombay is well up, and Bengal, as you will see, is coming with a rush, and will perhaps, make a dead heat of it on the post.

The Military Finance Department, who are constituted as a permanent Department of the Supreme Government, to see to the enforcement of all that relates to Estimates and Military Finance, give us means, like those which the Treasury and War Office in England possess, of ensuring the observance of Estimates, and of checking Expenditure.

So much for our Native Army.

In our European Force, no material change is proposed on that now existing.

Concurrently with these reductions of Force, we have made corresponding reductions in the Commissariat, Ordnance, and other Military Departments, and in the Expenditure on Barracks. The general result is that our Military Expenditure of all sorts, including Military buildings, will be reduced, from last year, by £3,220,000.

Our Estimate of Military Expenditure in India for the year 1861-62, which has been revised with great care by the Military Finance Department,

is £12,800,000, or £2,479,000 lower than in 1860-61. But this does not show the whole amount of permanent saving, as the reductions cannot all be carried out by the 1st of May, and Native Troops cannot be disbanded without gratuities.

The Estimate of this Military Finance Department is £12,199,242 as the cost for a year of the Establishment now decided upon for permanent adoption, and £600,760 as the temporary cost for this year in Gratuities, Bounty, Pay, and other expenses, before the reductions are fully carried out.

It is right to state, however, that for £500,000 or £600,000 of this reduction, we are indebted to a suspension of the usual demands for Stores, owing to the vast accumulations of recent years.

I am sanguine, however, that when the new Police is fully organized, and after another year or two of peace and tranquillity, the Native Army may be still further reduced, and the total Expenditure in the Army kept at £12,250,000, or even brought down to 12 millions in India, and 2 millions in England.

In the meantime, our actual reduction for the ensuing year is £3,220,000, but of this £409,000 is in Military Buildings, of which we give the benefit to Civil Public Works.

In this Estimate of Military Expenditure, I have only allowed for a small decrease on the Home charges, proportionate to what we know of the actual diminution of numbers in Depôt, *viz.* from £2,772,610 in 1860-61 to £2,500,000 in 1861-62.

But I hope and believe the reduction will be much larger.

It is perfectly manifest, that the officers and men, belonging to Indian Regiments in *Depôt* at home, are as much a reserve for England as for India. In the event of any sudden and serious danger threatening England, there is no doubt that these Troops would be available there, and it is not fair that India should pay the full cost of the Reserve Establishments in England under such circumstances.

The day is past when England can consider India as a sort of milch-cow, on whom to draw for a little here and a little there, in order to round an English Budget, or ease an English Estimate. Strict and impartial justice must be the rule in all money matters between England and India, if England wishes to get a return for her capital, which will soon amount to £100,000,000 invested in Indian Securities and Railways, and if she wishes to see India become, every day, more and more, the best source of supply for her raw produce, and the best market in the world for her staple manufactures.

I know that arrangements are pending at Home, by which we hope to commute all charges for Depôts or otherwise, for a fixed sum per head for every soldier in India; and if a fair settlement is made, I look for a considerable further reduction on the Military Estimate.

In reducing the expense of the Army, we have not been unmindful of the Sister Service.

The Indian Navy cost nearly £1,000,000 a-year, and what was there to show for it? It is no disparagement to the well-known courage of our gallant Indian Navy, to say that the whole fleet could not stand a single broad-side from a man-of-war of modern construction and armament. In the event of a Naval war, we must trust to Britannia to rule the seas, and really, in these hard times, India cannot afford to go on paying a million a-year for the honor and glory of having a Navy of her own, which is no real protection.

Nor does it seem the wisest of policies to run Government Steamers on our rivers, competing with Railways and Steamers, of Companies, on whose capital we are guaranteeing 5 per cent. Accordingly the axe has been laid to the root of that tree, and our Budget of 1861-62 shows, by way of commencement, a reduction of Naval and Marine charges, £536,000 from £856,070 as it was last year, and £1,000,000, as it would have been, with no reductions, now that our steamers have returned from China.

This reduction will, I hope, be carried still further, when arrangements, now

pending, are completed, by which a small but efficient force of the Royal Navy shall be constantly stationed in the Indian Seas, which will give us much more security against any possible hostile attack than we have ever hitherto had.

Nor have we been unmindful of economy in our Civil Expenditure.

The first four heads of the Abstract of the Budget Estimates, which I hold in my hand, comprise the Cost and Charges of collecting the Revenue, Civil and Political Establishments, Law and Justice, and Police, which include the whole cost of Civil Administration in India, except for Public Works.

The aggregate of these four heads is £14,864,004 in 1861-62 against £14,876,389 in 1860-61, showing a decrease of £12,385, instead of the large increase which has been steadily going on of late years.

But this gives a very inadequate view of the real saving in Civil Administration, for the Charge in 1861-62 includes £350,000 more than in 1860-61, for the increased cost of Opium, Salt and Income Tax, and £150,000 for contingencies connected with the Famine, for none of which is Civil Administration proper at all responsible.

The total Charge would, therefore, have been £500,000 more in 1861-62 than in 1860-61, had the cost of Civil Administration remained the same.

But it is £12,385 less, so that the saving in Civil Administration cannot be taken at less than about £500,000.

For this large reduction in Civil Expenditure, we are very much indebted to the Civil Finance Commission, who have aided us in reducing outlay, rooting out abuses, and revising Estimates, with the most meritorious zeal.

A portion of this has been effected in the Police, which, under the old system, was both costly and inefficient, and here the assistance of the Police Commission has been of the greatest value. But there has also been a saving in a variety of minor Departments, which, although small in the individual cases, amount up to a large sum in the aggregate.

The system of Budget Estimates has already afforded us valuable means of checking this sort of Expenditure in detail, and I have no doubt that it will be found, every year more and more, an efficient instrument for checking extravagance, and enforcing a wise economy—an economy which, let me observe in passing, is only to be attained in conjunction with efficiency, and is wide as the poles apart from anything like shabbiness and stingyness. A Government, to be well served and generally respected, must never do a sharp and screwish, or a mean and illiberal act, or, depend upon it, the paltry saving of to-day will come back, with ten-fold expense and hundred-fold discredit, on the morrow.

I may as well observe here, that the Estimates, of which I now give the general results, are all taken from the detailed Estimates settled under the new system, of which such portion as may be useful for public information will be presented and printed as soon as time permits, so as to enable those who take an interest in such matters, to trace details of Expenditure under different heads and in different Governments.

The next head of Expenditure in my Budget shows an increase, not a reduction, but I think you will pardon this when I say that it is for Civil Public Works.

The Imperial Assignment for Civil Public Works is £3,121,129 in 1861-62 against £2,897,671 in 1860-61, or £223,458, increase; in addition to which £230,000 more will be spent next year than this from local funds, and the amount required for repairs is smaller, so that on the whole the Expenditure on new works of improvement will be about £500,000 more in 1861-62 than in 1860-61.

Of this a large portion will go in making roads, which I believe to be, as a general rule, the most advantageous way of spending money in most parts of India.

We shall especially urge on the construction of good roads in the principal Cotton districts, so as to be prepared to bring the resources of India into play to supply the threatened deficiency

of Cotton from America. Immense interests are at stake on this question, not only material, for who can measure the extension of Commerce, and the mutual benefit to England and to India which would result from a transfer of the chief supply of Cotton from America to the East; but moral also, for the issue for which Wilberforce contended, and for which England has sacrificed her West Indian Colonies and poured forth her millions like water,—the issue of Slavery or Freedom is staked mainly on the question, whether America's danger is to be India's opportunity. If Cotton, produced by free labor, can undersell Cotton the produce of Slavery, then, and not till then, the cause of Freedom is finally gained.

Private enterprise, and private enterprise alone, can decide this great issue, but the Government have certain duties to perform, and they will not perform them negligently. To press on the construction of roads and communications; to pass just laws for the enforcement of contracts; to provide ready tribunals for dispensing justice; to impress on all connected with them the importance of encouraging independent English enterprise by every means consistent with justice, and with the equal rights of our native subjects—these are within the legitimate functions of Government; and you may depend upon it, Sir, that it shall not be said of us, that Slavery triumphed and India missed its opportunity, because its Government was too blind to discern, or too weak to carry out, the policy which, at a great crisis, Providence had clearly pointed out to us.

In addition to roads, we shall spend more money on Canals, and especially in developing those works of irrigation in connection with our Great Canals, which have proved of such infinite value in averting the consequences of the Famine. Colonel Cotton has truly said, that Water is Gold in India; it is more than Gold, it is *Life;* and among the most lamentable consequences of our Financial embarrassments, has been the necessity of starving works, which convert Famine into Plenty.

I have now gone through all the principal heads of Expenditure, except for Railways. I shall have to pay about £100,000 more than last year for guaranteed interest, after deducting net Traffic Receipts, the increase of Traffic not having kept pace with the increase of Capital paid in by the Companies.

But I shall save the £473,334 set down last year for loss by Exchange on Railway Capital, for, as nearly as I can estimate, the interest due by Railway Companies on advances made by Government, will balance any loss by Exchange from further payments under existing contracts, and I take it for granted, that the Home Government, on whose attention it has been urged, will not think of extending a single contract with this most objectionable Clause.

The interest on Debt has increased by £313,299, owing to the recent Loan in England, and a full year being payable in the whole of the 5½ per Cent Loan in India.

I thus arrive at the general result of a total Expenditure for the year 1861-62 of £41,554,699, as compared with £45,154,449 in 1860-61, showing a reduction of £3,599,750.

I proceed now to the other side of the account, to show what my Revenue will be to meet this Expenditure.

LAND REVENUE.—The total Revenue for 1861-62 is £18,951,156 against £18,762,447 in 1860-61. This increase has arisen, notwithstanding a loss of £360,000 in the North-West and Punjaub, owing to the Famine, in consequence of sales of lapsed Estates in Bengal, and of a general slight increase in districts unaffected by the Famine.

Including the loss of Land Revenue, the grants for relief and the cost of extra works in the suffering districts, the total loss by the Famine in this Budget may be taken at about £600,000.

INCOME TAX.—The estimated Receipt for 1861-62 is £1,948,094, but this is not a fair representation of the produce of the Tax for a year, as it includes a large amount of arrears from the previous year. The gross

annual produce of the Income Tax may be taken at about £1,750,000, from which must be deducted the cost of collection, say 10 per cent., and the loss on the Moturpha and Trade Taxes in the Punjaub and Oudh, which are partially superseded by the Income Tax, amounting to £186,827, leaving £1,389,000, or say in round numbers £1,400,000 as the net annual produce of the Tax.

CUSTOMS.—An allowance of £200,000 has been made for a falling off in the Import Duties on British Manufactures at Calcutta and Bombay, owing to the dulness of trade; but this is made up by the increase of the Salt Duty, and the buoyancy of various minor receipts from Customs, especially on the Inland lines.

A further allowance of £40,000 is made for a reduction of the Duty on imported Twist and Yarn from 10 to 5 per cent. The Duty was raised last year by Mr. Wilson, who estimated the gain to the Revenue at £67,000, but it has only amounted to about half that figure, and no one can doubt that it is a Duty which ought not to be maintained at a rate which might stimulate the growth of a protected interest.

The principle of free trade is to impose taxes for purposes of Revenue only, and if Yarn be a fit subject for taxation, there ought to be an excise on the native manufacture, equal to the Customs Duty on the imported article, unless the latter be so small in amount, that it would be palpably not worth while to establish a counter-vailing system of excise.

With a 5 per cent. Import Duty this might be the case, but at any higher rate, untaxed native Yarn would manifestly be a protected article, and any interest which might grow up, would infallibly share the fate of other protected interests, and find itself, at some early day, left to struggle with foreign competition.

I wish I could at once reduce the Duty on Piece Goods and other manufactures from 10 to 5 per cent., but, unfortunately, the amount of Revenue is too large to enable me to propose it without imprudence. Looking at the precariousness of the present high price of Opium and the possible contingencies of the Famine, I should not be justified in parting with £400,000 of Revenue, without seeing, very clearly, how I could replace it.

But that is no reason why I should not at once deal with Yarn where the amount is small, the failure of the high Duty palpable, and the case urgent, because parties are actually building mills and importing machinery on the strength of the high Duty.

If, upon equal terms, those parties can compete with Manchester, by all means let them do so; but it would be unfair to induce them to invest Capital on the faith of a protective Duty, which certainly could not be maintained for a couple of years.

SALT will show a large increase, *viz.* from £3,391,630 in 1860-61 to £3,980,000 in 1861-62.

In 1859, the rates of Duty on Salt were as follows :—

Bengal ...	Rs.	2	8	0 per Maund.
Madras ...	„	0	14	0 „
Bombay ...	„	0	12	0 „
North-West.	„	2	0	0 „
Punjaub ...	„	2	0	0 „
Oudh ...	„	2	0	0 „

The Government then proposed to raise the Duty generally by 8 annas per maund, but after some correspondence with the Local Governments, the following rates were adopted :—

	Rate adopted.			Increase on old rate.		
	Rs.	As.	P.	Rs.	As.	P.
Bengal	3	0	0	0	8	0
North-West and Oudh	2	8	0	0	8	0
Madras	1	0	0	0	2	0
Bombay	1	0	0	0	4	0
Punjaub	2	2	0	0	2	0

The expectation of increased Revenue has been fully realized.

The produce of the Salt Duties (exclusive of imported Salt) rose from £2,602,000 in 1858-59, the last year of the old Duties, to £3,391,000 in 1860-61,

showing an increase of £789,000, to which must be added about £100,000 for the increase of Duty on imported Salt, levied through the Customs.

The slight increase of Duty, therefore, imposed in 1859, and which I believe no one has felt, has produced nearly £1,000,000, or two-thirds as much as the Income Tax.

The fact is, the increase of Duty had no effect whatever in checking consumption. The amount per head, or for each family, paid for Salt, is, as Mr. Plowden conclusively showed in 1855, very slight, and the general rise of wages and increase of prosperity have made this slight amount comparatively still slighter; so that a large increase of consumption has gone on concurrently with an advance of Duty.

In Madras the Returns show an average consumption of 480,000 maunds a month, for the sixteen months since the Duty was raised, as against 456,000 maunds per month, for the corresponding period under the old Duty.

In fact, a rise of Duty of 12½ per cent. coincided with an increase of consumption of 5 per cent., and the Revenue gained 15 per cent.

In Bombay an increase of 33 per cent. on the Duty raised the Revenue 36 per cent., showing here also an increase of consumption.

In Bengal the result was still more favorable, and in the North-West the result was extraordinary, showing an increase of no less than 30 per cent. in consumption, coincident with a rise of 25 per cent. in Duty.

In the face of facts like these, there could be no reasonable doubt that a further slight increase may be borne, without oppressing the people or checking consumption, especially as the approaching opening of the Railways will, in many cases, cheapen the price of Salt in the interior.

It would not, however, have been wise to hazard the results already obtained, by too large an advance so soon after that lately made.

Accordingly, after consultation with the local Governments, the following additions have been made, *viz.*:—

In Bengal, Bombay, and Madras, 4 annas per maund, raising the Duty to Rupees 3-4 in Bengal, and Rupees 1-4 in Madras and Bombay.

In the North-West and Oudh 8 annas, raising the Duty to Rupees 3, and doing away with the preventive line at Allahabad.

In the Punjaub 1 Rupee, assimilating the Duty on this side of the Indus to that on the North-West.

In Nagpore Rupees 1-8 and in Sinde 1 Rupee per maund will be imposed where no Duty now exists.

A corresponding increase is made in the Customs Duties on imported Salt.

The effect of these additions of Duty, estimated on the actual rate of consumption, with some allowance for a possible falling off, though I see no reason to anticipate any, gives me an additional revenue of £598,370.

OPIUM.—Bengal Opium has only been taken at the same figure as last year, though the actual market price is Rupees 600 per chest higher, which would warrant an increased Estimate of fully £1,500,000.

An increase on Bombay Opium is taken of £468,000, owing partly to the increased Duty of Rupees 100 per chest, to take effect from October, and partly to the increased number of passes over last year's Estimate, which are expected from the present crop, and will be realized either before the 1st May, or soon afterwards.

As there is no prospect of any material increase of the supply of Bengal Opium in the coming year, I see no reason why the present high prices may not continue for some time, and if so, we shall unquestionably realise a much larger sum from Opium than is put down in this Estimate.

STAMPS.—The Estimate for 1861-62 is £1,216,040, which is £383,370 more than last year and £557,052 more than in 1859-60, which was the last complete year of the old Duties.

This increase is very satisfactory, and in fact the additions made to the Salt and Stamp Duties last year, have

yielded a larger Revenue than the Income Tax.

MISCELLANEOUS.—The different heads of Miscellaneous Receipts show a falling off from last year of £750,000.

This arises from certain wind-falls in 1860-61 not being repeated For instance, £340,000 was received in one sum last year from the Rajah of Putteala, on account of certain Ceded Districts, which of course does not recur. The other heads of Revenue are as nearly as possible the same as in 1860-61.

The general result is, that the Revenue of 1861-62 will amount to £41,294,595 as compared with £39,285,731 in 1860-61, showing an increase of £2,008,864.

My Expenditure was £40,254,699, without Railway interest, or £41,554,699 with it. So that, in the former case, I should have a surplus of £1,039,896—in the latter, a deficit of £250,104.

In 1860-61 the Deficit, exclusive of Railways, was £4,176,544, and with Railways, £5,868,718.

On the strictest principles, a large portion of the difference between the £1,800,000 paid for guaranteed interest, and the £550,000 of net Receipts from opened Railways, is chargeable to Capital.

It might even be contended that a portion of the large Expenditure on Canals and other re-productive works is so chargeable, but as regards at least £1,000,000 of the charge for Railway interest, there can be no doubt that it is as much a charge against Capital as the cost of making the line.

This shall properly be shown in the accounts, but, on the whole, I think it more prudent for the present to provide for it as current Expenditure.

The charge is likely to continue for several years at least, the money must be paid, and I think it extremely important to show that we have no arrears, and that henceforward our Receipts for the year will honestly cover all our Expenditure.

I think this specially important for the following reason.

The fear of new taxation is often worse than the reality of new taxes.

In all countries, and more especially in a country like India, it is most undesirable to keep the minds of the people constantly harassed by an indefinite apprehension of fiscal changes.

Now there is no guarantee that a Government can hold out against new Taxes as long as it has a Deficit. The money it must have to pay its way, and as it cannot borrow for ever, new Taxes must be tried if the old ones do not suffice. But if the old Taxes do suffice, no sane Government will risk unpopularity by resorting to new ones, and the Nation may rely confidently that, if any change be proposed, it will be in the pleasant form of reduction.

Now, if we fairly extinguish our Deficit while we are about it, including the Railway interest, I think we may say that we shall be in this position.

It is true that the high price of Opium is precarious, and that our Customs Duties are in some cases too high. But I hope and believe that further reduction, especially in Military Expenditure on the Native Army, will be found practicable; our Land Revenue would at once improve on the cessation of Famine; the Salt, the Customs, the Excise, the Stamps, and other branches of Revenue cannot fail to increase with the opening of Railways, and with the increased trade and prosperity of the country.

On the whole, apart from wars, of which I cannot see any present prospect, or from some sudden calamity, like a great Famine, which is in the hands of Providence, I may truly say that, as far as I can see, if we honestly extinguish our Deficit now, no Chancellor of the Exchequer need ever be sent again from England to India to devise new Taxes. That part at least of his mission will be gone, and, with Prospero, he may bury his magic wand certain fathoms deep, and renounce his Art.

Do you then go with me in saying that, after having fought so many, and I fear such weary rounds, with this huge bully Deficit, we shall not let him claim a cross, or call it a drawn battle? If so, in the language of the Ring, let us go in and finish.

Or, if you prefer, an Indian simile. As this tremendous tiger has given us such a fright, let us pour a parting shot into his carcase, to finish him off effectually, and make assurance doubly sure.

The means are ready to my hand in the License Tax, which has been so long announced, and so nearly passed into a law, that nothing remains but to read the Bill a third time. Every one, I believe, expects it, and has long looked upon it as part of the Financial scheme announced by the Government; but I must confess that I feel great reluctance to proceed with it until I can combine it with an amendment of the Income Tax, so as to make the united measure one of relief and satisfaction to India, rather than of oppression and burden.

I have told you frankly that, financially speaking, I think the Income Tax has been a failure. It lays down a great and just principle that the capital and trade of India, as well as as her land, shall contribute, in a fair proportion, towards the support of the State. From that principle I believe no Government of India will ever recede, and as regards incomes, which are fixed and certain, and can be ascertained without prying into people's private affairs, there is no fairer mode of applying it than by a percentage on the amount of income.

But when you come to trading and professional incomes, or incomes which cannot be ascertained, without calling for complicated returns and instituting private enquiries, I believe that some fixed scale of assessment under a graduated License Tax, is a better mode of applying the principle.

I would almost lay this down universally, for I think it is a fatal objective to a tax, that it conduces to extensive demoralization by holding out a premium to fraud, and that its inevitable tendency is to embark the Government in a constant warfare with a large section of its subjects—a warfare carried on by vexatious petty interference and inquisition on the one hand, and by evasion and chicanery on the other.

Certain I am, that India, at any rate, is no place for such a Tax on incomes going as low as £20 a year, and that the Government would be wanting in their duty if they did not address themselves to the task of endeavoring so to amend this portion of the Income Tax, as to raise the necessary revenue in a manner less open to objection. Such an amendment could not be introduced as part of the present Budget, for obvious reasons; but I hope, before long, to be in a position to mature a measure, and until that is the case, I am anxious, as I before stated, to keep the License Tax in reserve, and not impose it in a crude form as a separate measure, without compensation or equivalent.

To raise even £600,000 by the License Tax, we must send the tax-gatherer to 4,000,000 doors, or, in other words, must affect 20,000,000 of our population.

That is a serious matter, and, although I should not shrink from it in case of necessity, I confess that I should prefer making the License Tax part of a general scheme for mitigating the Income Tax, and moulding the two together into a system more simple, satisfactory, and congenial to native habits and wishes.

Well, then, I hear you say, "How about the Deficit? Is it to be a drawn battle after all, or a stale-mate, when we thought the next move would win the game?"

By no means. I have a move in reserve, which I think will effectually check-mate him.

I invite your particular attention to this, which I hope is the concluding part of my statement, for I consider it to be the most interesting, as it is the most novel feature of the Financial Scheme of the Government.

I want about £500,000 fairly to weather my Deficit, and get into smooth water with a small surplus.

The obvious resource would be, to dock it from Public Works.

The Government, as I have already shown, have been so far liberal to Public Works of a useful nature, as to propose to give them £500,000 or upwards more than last year.

length be, what it has never yet been—a nation.

You may say that this is a vision, and this much is certain, Sir, that neither you nor I will live to see it fully realized; but I reply that it is something for a Government to have a policy, a high and distinct, though distant, aim, and I think I may safely say that this is an aim in which every enlightened Hindoo and Mussulman, as well as every enlightened Englishman, may cordially unite with us and join us in praying in the words of the inspired Psalmist, "that our works may be so done in truth and equity, as to stand fast for ever and ever."

If, Sir, we have succeeded even tolerably in restoring our Finances and conjuring away that spectre Deficit which rode upon us like the grim nightmare hag of the old Norse Saga, I rejoice in it, not so much for the immediate relief, as because I hope and believe that it is an earnest of further improvement.

If six months have sufficed to get rid of six millions of Deficit, I see nothing of which the Government of India need despair, with energy and decision, with prudence and clear insight. Success like failure is contagious, and in Politics, as in War, the moral causes are to the physical, as the Great Napoleon said, as ten to one. Therefore, Sir, in addressing ourselves, to further reform, the word *impossible* shall be banished from our vocabulary, and we shall succeed, because we have succeeded already, and because we are determined to succeed again.

And now, Sir, nothing remains but to thank you and the Council for the patience with which you have listened to me, and to sum up in two words the result which I had laid before you.

The Deficit was £5,868,718. We have met £3,599,750 of it by reductions, £2,008,864 by improved Revenue, and £500,000 by transfer to local Budgets.

Therefore, I have a clear surplus of £239,896 of Income over Expenditure, including in my Expenditure £1,300,000 on account of Railway interest, which is properly chargeable to Capital.

My Cash Balance in India, on the 1st May next, will be £12,850,000, which is higher than was expected, partly because the Receipts from Opium have been large, and partly because recent reductions of expenditure are beginning to tell.

After allowing for the payment of £950,000 of Prize Money, and for an Expenditure of £500,000 per month, or £6,000,000 in the course of the year upon Railways, it is estimated that we shall arrive at the 1st May 1862, with a Cash Balance of £14,264,302. I shall want no loan, therefore, as far as I can see at present, unless something altogether unexpected should occur, which I have no reason to anticipate.

There is no danger of the Railways now in progress being suspended, though strict economy must be enforced in making the money go as far as possible in opening additional miles of Railway, and not in costly works or ornamental stations.

These results, let me once more repeat, have been obtained mainly by enforcing economy. On the continued enforcement of that economy, the future welfare of India mainly depends. I have been careful, as far as as possible, to adopt no figure in my Budget which was not based on positive facts, and on the Estimates of the responsible authorities. As regards the Military Estimates, which are the most important, Colonel Balfour and his colleagues in the Military Finance Department have gone through them in minute detail, and pledge themselves for their sufficiency, provided the orders already passed by the Government are properly carried out.

That is our affair, and you may depend upon it that, with the welfare of India and our own credit at stake, we shall take good care that we are promptly obeyed.

I anticipate no difficulty, for I have always heard, that in the ranks of the Indian Service, as in those of the Army, there is a noble spirit which makes men obey distinct orders, promptly, nay cheerfully, even in cases when the orders may have been contrary to their own judgment. But in this case,

Mr. Laing

I believe there is not a man in India whose judgment does not go with us, and who does not feel that, in largely reducing the Native Army, we are following the path, not only of Financial reform, but of Political prudence.

With this conviction the eye of Government will be on every Officer who has anything to do with the realization of these, our first properly framed and duly considered Budget Estimates, and he will find us prompt to recognize merit, not prompt to accept excuses or to admit of failure.

I have nothing more to add.

As I said at the commencement, I say now, there is no eloquence on such an occasion as this, but that of facts.

An oratorical triumph I do not seek, I am not an orator by nature, and if I were, I should disdain, in presence of such great interests, to resort to artifice, or to appeal to anything but reason.

But there are my facts. Take them, sift them, scrutinize them, for it is my conviction that they are solid and substantial facts and not shams.

It is not for me to anticipate the verdict of public opinion on the policy of the Government of which I am a Member; but this I will say, that I await it with confidence. I may be mistaken, but my belief is, that impartial men who understand Indian affairs, will, both here and in England, accept the results submitted to you to-day as, on the whole, not discreditable to Lord Canning's Government, and not discouraging as regards the prospects of this great Eastern Empire, which is,—or ought to be, and by the blessing of God *shall* be,—the brightest jewel in the Crown of our beloved Sovereign Lady Queen Victoria.

REPEAL OF REGULATIONS AND ACTS.

The Order of the Day being read for the adjourned recommittal of the Bill "to repeal certain Regulations and Acts relating to the Procedure of the Courts of Civil Judicature not established by Royal Charter," the Council resolved itself into a Committee for the further consideration of the Bill.

The Bill passed through Committee after several amendments in the Schedule, and, the Council having resumed its sitting, was reported.

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

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

CRIMINAL PROCEDURE.

The Order of the Day being read for the adjourned Committee on the Bill "for simplifying the Procedure of the Courts of Criminal Judicature not established by Royal Charter," the Council resolved itself into a Committee for the further consideration of the Bill.

The postponed Section 20 being read by the Chairman—

MR. SCONCE said, he wished to make the Motion of which he had given notice. The effect of the Section before the Council, as it now stood, was that, when a European British subject, charged with an offence, had to be committed to the Supreme Court for trial, only a Covenanted Civil Servant or a European British subject could make the commitment. Many classes of Magistrates would therefore by this alteration be rendered incompetent in the discharge of their duties as Magistrates. One very intelligent, highly competent class was the East Indian community, gentlemen who in every respect, but the accident of birthplace, might be fully described as European British subjects. Another class, almost of the same competency, were all the native servants of Government. However long such officers might have served Government, this Section placed a bar upon them by providing that no person who was an East Indian, or a Mahomedan, or a Hindoo, should be able to commit for trial a European offender. That was as to the absolute commitment. But the next Section sufficiently showed that the Council was sensible that, if that rule were carried out, great inconvenience would arise, and with the concurrence of

a Committee of the whole Council a Clause was inserted which provided that, when a charge was preferred against a European, an East Indian or Native Magistrate might arrest or hold him to bail, transmitting the proceedings to a Magistrate competent under the 20th Section to commit him for trial. So far, therefore, the Council was satisfied that they could not, in the public interest, wholly debar Native Magistrates by allowing them power and discretion to a certain extent. Now what would be the effect of the Section as to the present law? It would be at any rate largely to curtail the authority which all the Uncovenanted Magistrates were competent to exercise under the present law. Every Native Magistrate in Bengal, whether he was a Justice of the Peace or not, might at present arrest, enquire, take the answer of offenders, summon, and examine witnesses. Even if he were not a Justice of the Peace, he might make the case in every point complete, except that he must transmit the offender, being a European British subject, to a Magistrate at the Presidency who was a Justice of the Peace. A Native Magistrate might do all this; he might exercise the fullest discretion in proceeding against a European British subject, and if satisfied of his guilt, he might send him to a Justice of the Peace for the purpose of commitment to the Supreme Court. By this law, therefore, everything might be done, that was necessary to be done, except the bare commitment. But by the proposal now before the Council the power of holding preliminary enquiry was withdrawn. Therefore it seemed to him that it would be a retrograde step if the purpose of this Bill were, as this Section tended to show, absolutely to disqualify Native Magistrates from acting in the case of European British subjects. His idea of what the Section ought to be was that it should have universal application. Upon this principle the procedure should be formed. There ought to be no distinction between the Magistrates. He was not speaking now of the trial of European British subjects; that was not involved in the question now before the Council, but would come up by and bye when the question regarding the amalgamation of the Courts had to be considered. He was now speaking merely of the functions of a Magistrate in the course of proceedings preliminary to trial, and the universal rule ought to be to declare every Magistrate competent to exercise any duty which by law devolved on him. That principle amounted to this, that you avoided exclusion and disqualification. He would again refer the Council, as he had done two years ago, to the provisions of the 3 and 4 Wm. IV, c. 85, s. 87, by which it was provided that,

> "no native of the said territories, nor any natural born subject of His Majesty resident therein, shall, by reason only of his religion, place of birth, descent, color, or any of them, be disabled from holding any place, office, or employment under the said Company."

Such was the universal principle which, in 1833, the British Parliament adopted. Neither religion nor place of birth should render any man incompetent to be a Magistrate. There was nothing in the shape of a sectional or national distinction that should be allowed to operate as a bar to public employment. Whatever test or standard of employment the law saw fit to prescribe or reserve was, as he read the 3 and 4 William IV., a standard of personal qualification, which might be moral or educational. If you admitted that, the matter seemed to him to reduce itself to this, that you must vest Government with the power of choosing these men, and Section 19 fully met the case by providing that the local Governments might empower any subordinate Magistrate to prepare cases and commit offenders for trial before a Court of Sessions or Supreme Court. He supposed that the capacity to exercise such functions might be found as well in Native Magistrates as in European. He supposed that the Government should be trusted to do what the law could not do. The law might arbi-

trarily and absolutely exclude certain classes of Her Majesty's subjects, whereas the Government might select its officers according to their capacity and qualification, and he thought this principle might be thoroughly accepted by the Council.

He would ask the Council to observe that the same principle was enforced in the 2 and 3 William IV., c. 117, whereby provision was made for the appointment of Native Justices of the Peace for the Presidency towns. Now, what were the words of that Act? The Act was in the first place not confined to the persons to be appointed to the Presidency towns. The Act was extended to all persons within the British Territories in India. Any person resident in the territories of India might be appointed a Justice of the Peace for a Presidency town. Ordinarily it might be supposed that, when you wished to make a Justice of the Peace for a Presidency town, you would choose a resident. But in that case it was any resident, without distinction as to place of birth or religion, and what he wished more particularly to notice was this. The words of the Act of Parliament were "Whoever should appear to the Government to be properly qualified." So that the Act of Parliament, as far back as the 2nd and 3rd year of the reign of William IV., gave the Government the power to look only to the personal qualifications of their Magistrates, whether they were natives or Europeans, and the same rule should, he thought, be followed now. With these remarks he begged to move that Section 20 be omitted.

THE CHAIRMAN said, he was not sure that the Honorable Member who had just sat down understood the meaning of Sections 20 and 21 in the same sense as he (the Chairman) did. It might be that he was wrong in his interpretation of those Sections. But it appeared to him that, according to the definition given in the Bill of the word "Magistrate," that word included all persons who exercised any of the powers of a Magistrate. As, therefore, in speaking of commitment, the word "Magistrate" was used, any persons exercising the powers of a Magistrate might commit European British subjects for trial but for the Section which enacted that only a Covenanted servant of Government or a European British subject should have the power to commit European British subjects for trial. As the law now stood, the only person competent to commit a European British subject was a Justice of the Peace. A Native Magistrate might hold a preliminary investigation, might hear a complaint, and arrest a European British subject charged with an offence triable before a Supreme Court. He could not, however, send him down to the Supreme Court for trial, but must send him to a Justice of the Peace for commitment. It would be very injurious to a European to be sent down from Peshawur or any other distant place in charge of the Native Police, under a burning sun and with no conveniences for travelling, for the purpose of being tried before a Supreme Court. He might be sent down upon a false or groundless charge, and then, after he had been acquitted in the Supreme Court, he would have to find his own way back to the place from which he was sent down. The very travelling and having to find his way back again would be a great injury to him. Now, let us see who could be appointed Justices of the Peace. Under the 33 Geo. III., c. 52, s. 151, the power was given to the Supreme Court of appointing Justices of the Peace, who must be either Covenanted servants of the East Company or British Inhabitants, the words "British Inhabitants" in Acts of those days meaning European British subjects and not Natives. Therefore, as the law now stood, he apprehended that no man could be appointed a Justice of the Peace, unless he were a Covenanted servant of the Government or a European British subject. Similar laws were enacted for the appointment of Justices of the Peace at Madras and Bombay. Then the law was passed to which the Honorable Member for Bengal had

alluded—the 2 and 3 William IV., c. 117, by Section I of which it was enacted—

"It shall and may be lawful for the Governor-General in Council of Fort William in Bengal, the Governor in Council of Fort Saint George, and the Governor in Council of Bombay, respectively for the time being, to nominate and appoint, in the name of the King's Majesty, his heirs and successors, any persons resident within the Territories aforesaid, and not being the subjects of any Foreign State, whom the said Governor-General in Council and the Governors in Council respectively shall think properly qualified, and who will bind themselves by such oaths or solemn affirmations as may from time to time be prescribed in that behalf by the said Governor-General in Council and Governors in Council respectively, to act within and for the Towns of Calcutta, Madras, and Bombay respectively as Justices of the Peace."

Now, he recollected that in Bombay, by some mistake, Natives had been appointed Justices of the Peace not only in the Presidency Town, but out of it. In Bengal, Native Justices of the Peace had been appointed only in Calcutta. The Act expressly limited the appointment of Native Justices of the Peace to the Presidency Towns. In consequence of what took place at Bombay, a letter which he could not find at present, but which the Honorable Member for Bombay would probably remember, was sent by the Court of Directors in which it was pointed out that the 2 and 3 William IV. was expressly limited to the Presidency Towns, and that it was never intended to appoint Native Justices of the Peace out of the Presidency Towns. There was a great difference between the appointment of Native Justices of the Peace within Presidency Towns and their appointment in the Mofussil. In the Presidency Towns there was not so much danger as in the Mofussil, for if a Native Justice of the Peace committed a European to the Supreme Court in Calcutta for trial, the European would be imprisoned in the Great Jail, where he would probably remain a month or so, at the expiration of which time he would either be acquitted or convicted. But that Act did not give a Native Justice of the Peace power to compel a European to travel from one distant Station to another, and to be kept in a Jail, probably wholly unfit for the reception of Europeans, and to be carried down in the custody of the Native Police, merely because he had been committed for trial. There was not, therefore, that danger to be apprehended from the appointment of Native Justices of the Peace in the Presidency Towns, which there was from their appointment in places at a great distance from the Metropolis. Consequently the Statute 2 and 3 William IV. c. 117, was not applicable to the question under discussion; and according to the present law, no European British subject could be committed in the Mofussil for trial before a Supreme Court, except by a Justice of the Peace who must be a Covenanted Civil servant or a European British subject. Now let us see whether the present Bill altered that law. Section 20 prevented a Native Magistrate from committing European British subjects to the Supreme Court. Section 21 went on to provide as follows:—

"When a European British subject is charged with an offence triable by a Supreme Court of Judicature, any Magistrate may hear the complaint against such person, and may issue a warrant of arrest or hold to bail such person with a view to the complaint being investigated by a Magistrate authorized to hold the preliminary enquiry, and to commit or hold to bail such person for trial before such Supreme Court."

Then there came a provision as to the Procedure to be followed when a European British subject was arrested by an officer not being a Covenanted Civil servant or a European British subject; Section 22 providing as follows:—

"When a European British subject has been arrested under a warrant, issued under the last preceding Section, by a Magistrate, not being a Covenanted servant or a European British subject, such Magistrate, if he considers that there is sufficient ground for proceeding, shall forthwith forward the person arrested to a Magistrate authorized to hold the preliminary enquiry and to commit or hold to bail such person for trial before the Supreme Court, or if the offence with which such person is charged is bailable shall, if sufficient bail be tendered, admit him to bail for his appearance before such Magistrate."

So that it appeared to him that the provisions of this Bill were substantially the same as those of the law which now existed. The Bill empowered a Native Magistrate to hear complaints against and to arrest European British subjects, and to forward them to a Justice of the Peace for the purpose of commitment; but he was not to commit on his own authority. That was all that was required by the existing law and fully met the requirements of the case. A Native Magistrate very often did not understand the language of the European British subject, or the law administered in the Court in which the trial was to take place, and if he was to be sent down, possibly upon a charge on which he might eventually be acquitted, the greatest injury might be inflicted.

Therefore he thought that this Bill provided for what the law now required. All that it did away with was the necessity of issuing Commissions of the Peace. It did not matter whether a Magistrate was appointed a Justice of the Peace by the Supreme Court or not, if he had the necessary qualifications for the office, or in other words, if he was a Covenanted officer or a European British subject. If he were so qualified, the Governor-General in Council might cause him to be put into a Commission of the Peace, and probably every Covenanted Civil servant or European British subject, exercising the full powers of a Magistrate, would be appointed a Justice of the Peace. But it was said that this was a violation of the Charter Act 8 and 4 William IV. c. 85, s. 87. Now let us see the object of that Section. The Section provided as follows:—

"No native of the said Territories, nor any natural-born subject of His Majesty resident therein, shall, by reason only of his religion, place of birth, descent, color, or any of them, be disabled from holding any place, office, or employment under the said Company."

That Section did not qualify every Native to hold every office. The mere effect of it was that he was not disqualified to hold any office by reason of his religion, color, or race. Was he qualified to be a Judge of the Supreme Court? Certainly not, because it was required that a Judge must be a barrister of seven years' standing. A Native was not disqualified to be a Judge of the Supreme Court, by reason of his place of birth, but he would not be qualified to hold that office, unless he were a barrister of seven years' standing. Then, as regards the office of Sudder Judge, a Native could not be appointed to that office, because by the 53 Geo. III. it was specially provided that that office should be held only by a Covenanted Civil servant. It was ruled not long ago in England that the Registrar of the Sudder Court must be a Covenanted Civil servant. Therefore a native, as such, was not qualified to be either a Judge of the Supreme Court, a Judge of the Sudder Court, or a Registrar of the Sudder Court. The object of the Section of the Charter Act referred to by the Honorable Member for Bengal was not to qualify Natives to hold every office, but to prevent their place of birth or color from disqualifying them. In like manner, a European British subject was not disqualified to hold any office, but he was not as such qualified to hold every office. Place of birth or religion was not to disqualify a man, but he must possess the necessary qualification before he could be appointed to certain offices.

The present Bill was not intended to alter the existing law. If the Section before the Council did make any such alteration, he had no hesitation in saying that it went farther than was intended. What was intended when this Bill was last settled by the Council was that Native Magistrates should be able to forward to Justices of the Peace European British subjects for committal to the Supreme Court. For these reasons it appeared to him that this Section would leave the law exactly as it now stood; and unless it were shown that it did alter the existing law, he should vote in support of the Section.

MR. ERSKINE said that in the first place it might be well that he

should offer a few words of explanation as to a remark that fell from the Honorable and learned Vice-President relative to the supposed appointment some time ago of natives of this country to be Justices of the Peace in the Mofussil in Bombay. It was quite true that some native gentlemen, then residents in the Mofussil, had been appointed to the Commission of the Peace. But the Bombay Government had explained that the appointments then made were for the Island of Bombay only, and not for its dependencies, and that there had therefore been no infraction of the law. He (Mr. Erskine) must also, before going farther, admit that the statement just made by the Honorable and learned Vice-President on another point, removed some of the objections which he (Mr. Erskine) had felt to the Section they were discussing as it then stood. It would produce less inconvenience if it were known that it allowed any competent Magistrate to act, if necessary, up to the point of commitment; and to restrict merely the power of making commitments. But in that case probably it would be advisable, should the Section be retained, to omit the words relating to preliminary enquiries which might be liable to misconstruction. The Honorable and learned Vice President, as he (Mr. Erskine) now understood him, desired the retention of this Section on the ground that it merely declared and re-enacted the existing law. But surely it was hardly possible to accept, as a mere declaration of law, a Section which would transfer the principal duties hitherto performed by Justices of the Peace to a section of the ordinary Magistracy, as such, and which would at the same time transfer from Parliament to that Council the responsibility of maintaining in force what, with due deference, he must call a rigid rule of disqualification for the performance of those duties. But without insisting on that point at present, he would rather ask whether the laws thus referred to were the work of yesterday? Had there been no change in the state of this country since they were enacted? Had there been no increase in the number of persons in the Mofussil competent to act in the Commission of the Peace? Clearly the restrictions against employment in public duties were evils in themselves, and he knew of no reason for supposing that the Acts of Parliament which imposed them were less open than other Acts to alteration as the circumstances of the community were altered. Indeed, the laws on this subject had already, from time to time, been brought under revision by Parliament, and had, from time to time, been amended—and all those amendments, in as far as he (Mr. Erskine) was aware, had been in the direction of relaxation. Why, then, should they doubt that if these laws were now again to be reconsidered by Parliament and again to be amended, the amendments would still be in the same direction? For, after all what would the proposed concession amount to? Even if this Section were to be struck out of the Code, that would make no change whatever in the law as to the trial of British subjects. It would not give any powers even of committing such persons for trial to any new class of persons or to any subordinate grade of Magistrates indiscriminately. But it would remove disabilities. It would enable every Magistrate, exercising the full powers of a Magistrate, to make commitments to the Supreme Court; and it would enable every local Government to select a sufficient number of other competent persons for similar duties from among the most experienced and the most respectable persons within its reach. And why should the Council hesitate to make so slight a concession as this? or why should they be pressed to declare and to enact that all but a privileged few were to be disabled by law, on other grounds than mere personal incompetency, from being selected even to perform the Magisterial duties above referred to? or to declare that the local Governments were not to be trusted with a discretion to select on their own responsibility, and on grounds of personal fitness, a sufficient number of persons to discharge those duties? He (Mr.

Erskine) need not offer opinions as to the probable effects elsewhere of the grant of some discretion of that kind. But he felt convinced that, in the Presidency with which he was connected, a reasonable authority for the selection of its own Magisterial Agency of all kinds might, with great safety and with great advantage, be confided to the local Government. That Government was already empowered by law to confer on any person the full powers of a Magistrate. Those powers carried with them authority to try and to punish even British subjects for certain assaults and contempts and other offences. And why should persons who might be trusted with these powers of trial and final judgment in one class of cases relating to British subjects, not be trusted with the mere power of commitment for trial in others? Why should the Government, which was trusted to select for the one class of powers, not be trusted to select for the other class also? For it must be remembered that a native of this country, even if he were not exercising the full powers of a Magistrate, might nevertheless have served for years as Judge of a Small Cause Court even in a Presidency town, or as a Police Magistrate in a Presidency town. He might have acted for years as a Justice of the Peace at the Presidency. He might have held other important offices, and even judicial offices, under the Government. He might have been educated in England. He might be resident, as a man of high character and high status, in a part of the country in which no Covenanted Servant or European British subject either resided or was likely to reside. Yet, even if this were so, even if the Government had confidence in the character of such a person, and had already received from him approved and faithful service, it would be debarred, if this Section should pass, from availing itself of his aid and his influence in the position analogous to that of a Justice of the Peace. Again, there was in this country, as his Honorable friend the Member for Bengal had reminded them, a large and growing community of Christian men, who nevertheless could not in strictness be designated European British subjects. Some Members of that community might have highly distinguished themselves in the public service, and shown much force of character in times of public peril—and this was not an imaginary case; they might have proved that they possessed courage and temper and loyalty, and yet, if this Section were to become law, the Government which these men served, and which honored them, would be unable to authorize any one of them, whatever might be his position at the time, even to prepare and commit for trial a simple case of theft (for instance) by a British subject in the Mofussil, and this not from any apprehension of a want of vigor or of impartiality on his part, but simply because he might not be able to show that he was serving Government under a covenant, or that he was legally and technically entitled to be called a European British subject. Indeed, a gentleman might be the most influential landholder in Bengal, but a Frenchman or a German. He might have his cotton screws or his cotton factories, and be one of the largest employers of labor in the Southern Maratha country, but a native of New-York. And, if so, whatever his influence and intelligence and stake in the country and the requirements of his neighborhood, the Government would be prevented by this Section from availing itself of his services as a Magistrate or Honorary Magistrate in committing for trial a class of cases in connection with which those services might be especially valuable, and in connection with which also there might from year to year be more and more occasion for them. Surely such rigid, such sweeping legal disabilities as these must be as impolitic in this country as they had been proved to be in every other. And surely it was hardly consistent—he would not use a stronger expression—to withhold the most ordinary and reasonable powers of selection on grounds of personal fitness for the discharge of the duties now referred to, from persons to whose hands

was confided the entire administration of the Government of a great Presidency. He (Mr. Erskine) would not pursue the subject farther. But there were two points to which perhaps sufficient prominence had hardly been given in the remarks of the Honorable and learned Vice-President, and to which, therefore, he would urgently request the attention of the Council. The one was the very marked distinction which undoubtedly did exist between the grant of power to try and to pass final judgment in any class of cases, and the grant of power merely to commit those cases for trial elsewhere. The other was the marked distinction which also did exist between the grant of powers of any kind to whole classes of men or of Magistrates indiscriminately, and the grant merely of authority to a Government to select, on their own responsibility, and on the score of special qualification, individual officers to exercise those powers. The proposal of his Honorable friend the Member for Bengal went no farther than this, that the local Government should have authority specially to empower a sufficient number of the best men within their reach, to exercise the preliminary powers of commitment hitherto exercised by Justices of the Peace, and to this extent the proposal certainly had his (Mr. Erskine's) best support, and would, he hoped, have the support of other Honorable Members also.

MR. HARINGTON said, it was not his purpose upon the present occasion to enter into the very large question, as to whether European British subjects should or should not be tried, equally with natives, by native Magistrates, because he did not think the question fairly or properly arose upon the Section which they were now discussing, though with reference to remarks which had fallen from Honorable Members opposite (Messrs. Sconce and Erskine), he must observe that the question was not one of individual or personal qualification; it was a question of policy; it was a question of old and much valued privilege, and he must express a hope that the European British subjects in this country would not be deprived of any privilege which they now enjoyed in Criminal matters until an equivalent was provided which should satisfy all reasonable men. When this Section was last under the consideration of a Committee of the whole Council, he understood it to have been definitively determined, that so long as the Courts in the Mofussil were not authorized by law to try European British subjects except for the most trivial offences, in other words, so long as serious offences, when committed by European British subjects, continued, as at present, triable by the Supreme Courts of Judicature alone, the preliminary enquiry into such offences, when so committed, including the commitment to the Supreme Court, should be confined to the Covenanted Servants of Government, who had hitherto always been European British subjects, or European British subjects specially empowered for the purpose, provision being at the same time made which would allow any officer of Government in the Criminal Department, whether European or native, to apprehend any European British subject charged with the commission of a serious offence, and to carry him before a Court or Officer authorized to make the preliminary enquiry, and to commit to a Supreme Court. The object of this provision, which, if he recollected aright, was introduced on his Motion, was to prevent a European British subject who had committed a serious offence from escaping, because there was no Officer on the spot competent to apprehend him. He pointed out that if this were allowed, it would be a great evil, and would cast a serious reflection upon the administration of justice in the interior of the country. He believed he was right in saying that the Section which they had been asked to strike out, conferred no new privileges on European British subjects, or any privilege which they had not always enjoyed in practice, and here he must remark that he thought the Honorable Member for Bengal was wrong in supposing that, in the Bengal Presi-

dency at least, the Native Magistrates were authorized under the law as it now stood to entertain charges of serious offences against European subjects, and to enquire into the same with a view to commitment to the Supreme Court. Regulation XV of 1806 of the Bengal Code seemed carefully to guard the European British subject, and to render him amenable to the City or Zillah Magistrate alone, and under the Act of Parliament quoted by the Honorable and learned Vice-President, only Covenanted Officers could hold the appointment of City or Zillah Magistrate. If the City or Zillah Magistrate was a Justice of the Peace, he made the commitment to the Supreme Court direct, but if he was not a Justice of the Peace, he was required to send the accused to a Justice of the Peace. He did not find these powers given by any law to the Native Magistrates. Looking, then, at the Section now before them as only maintaining the existing law and practice, and seeing nothing in the present Code which would compensate European British subjects for the loss of the privilege of which they would be deprived, if the Motion of the Honorable Member for Bengal for the omission of the Section were adopted, he should vote against the Motion.

MR. SCONCE said, he wished to explain, with reference to the Regulation of 1806 to which the Honorable Member for the North-Western Provinces had alluded, that, when that Regulation was passed, it was declared that a Zillah or City Magistrate should do so and so. But when we came much later, by a subsequent law, to appoint Deputy Magistrates and to confer on them all the powers of a Magistrate, they became essentially competent to exercise the same powers as were vested in a Zillah or City Magistrate, by the older Regulations, emanating from the same local legislature.

SIR BARTLE FRERE said, the Honorable Member for Bengal, whose approaching departure from among them they all must lament, could not have chosen a more important subject with which to signalize his last day in that Council.

The subject was one which had caused much excitement and irritation. But, if calmly and dispassionately considered, some at least of the irritation might be mitigated by a full and frank statement of the views each Member held, and a fair discussion of the reasons on which they rested.

He would but very briefly advert to the past history of legislation on this subject, but would beg attention to the fact that from the earliest times the much abused Courts of Directors took measures to plant English Courts, as complete copies as they could devise of the Courts in Westminster Hall, in each of the principal seats of their trade and power. At first in the small Settlements they were Mayors' Courts, or Recorders' Courts, such as would have suited a small trading community in England. But gradually developing themselves with the increasing wealth and importance of the Presidency towns, they finally became the Supreme Courts, as we now found them, with some considerable variation in their chartered jurisdiction and practice, but all closely modelled on the English pattern, and all having the same aim of securing those essentials which Englishmen deemed necessary characteristics of a perfect Court of Justice. A Bench chosen from the most eminent practical lawyers, placed in rank and social position so high as to secure from the unthinking multitude that respect which the virtues and learning of the Judges would command from the more reflective classes, aided by advocates belonging to that Bar which was one of the glories of England and the chief nursery of her Statesmen, and administering the law as it had been handed down to us by English ancestors, and as it was from time to time amended by the wisdom of Parliament, and all this machinery acting under all the safeguards and checks which open Courts, oral proceedings, and perfect publicity could furnish to secure a pure and impartial administration of justice.

But it was to be especially observed that none of the Charters of these

Courts made any distinction of race or origin, save as a guide to jurisdiction. The Courts were at first established in factories, and had, therefore, jurisdiction over none save British subjects and factory servants, but the Charters provided that justice was to be administered to all alike without distinction, favor, or affection. The only limitations were territorial limitations of jurisdiction, and the practice of these Courts had been in conformity with these principles. Any idea of having one criminal law for one race, and another law for another race, would have been scouted.

Hence the respect and affection with which the Supreme Courts were, and always had been, regarded by all classes. Hence the justice of their boast that they had ever been looked on by Natives as well as Europeans as the great bulwark of their liberties and rights of property and person.

It would have been well if this system had been extended as our empire rapidly increased. There was of course much in the paraphernalia of our Supreme Courts which was suited only to large metropolitan cities, but there was nothing to have prevented the multiplication of Courts possessing the same essential claims to confidence, and it was to be lamented that we did not go on as we had begun, and multiply such Courts, Recorder's Courts or Supreme Courts, as each fresh centre of commerce came into our hands, or felt the want of such tribunals. The obligation to do so was never denied, and the provision of Courts of Justice superior to those then in use in the Mofussil, and, in all essentials possessing equal claims to public confidence with the Supreme Courts, was recognized as a national duty by the framers of the Charter Act of 1833, and it was partly owing to the expectation then held out of a general reform of all Courts that the multiplication of Courts on the model of those in the Presidency towns was deferred.

It was not necessary to dwell on the labors of the Commission of which Lord Macaulay was the first Member, nor on the circumstances which delayed the execution of the noble project which he was sent out to carry into practical effect. The reform of laws was a vast and ever growing task, and our empire would not stand still. It went on increasing with such marvellous rapidity, that no legislation could keep pace with it, and the consequence was that vast Provinces were to this day governed by Codes of law improvised by their conquerors, and rapidly adapted to their varying wants from the portions of older legislation which happened to be most suited to them.

But the work of law reform had never stood still, and the Council had lately passed a Code of Criminal law which came up to the high standard laid down by the most ardent of the great law reformers who first conceived the idea of a great uniform Code for all India.

The Code now before us was the Companion Code of Criminal Procedure, and was by far the more important of the two, inasmuch as a bad law well administered was more tolerable than a good law ill administered. The portion now under discussion related to the all important question of jurisdiction.

The Honorable and learned Vice-President had taken much pains to prove that the Clause which it was proposed to omit was simply declaratory of the law as it now stood. If this were the case, he (Sir Bartle Frere) would have no objection whatever to them, but the fact was, they did restrict the present law in what appeared to him a most objectionable manner. As the law now stood, no one, who was not a Justice of the Peace, could commit any European British subject for trial before the Supreme Court. The Clause of the Bill now under consideration took away this power from Justices of the Peace, and confined it to "Covenanted Servants of Government and European British subjects," who must, under Section 19, be especially empowered by Government to act in this behalf.

Now, did the words "Covenanted Servants of Government and European British subjects, so empowered," mean

the same as "Justices of the Peace?" Certainly not. The Honorable and learned Vice-President had justly pointed out that no one who was not a Covenanted Servant of Government or a "British inhabitant" could act as a Justice of the Peace beyond the limits of the Presidency towns. This was quite true, but then the Honorable and learned Vice-President had argued as though "British inhabitant" and "European British subject" meant the same thing. But he (Sir Bartle Frere) need hardly say they did not. European British subjects formed but a very small portion of the class which came legally under the definition of "British inhabitant." Indeed it was very difficult to say what constituted either a "European British subject" or a "British inhabitant," though it might be possible to say what did not. However, there were large classes of the community, he need only specify the highly respected class of Eurasians, who were clearly among the British inhabitants, but many of whom could certainly not establish their claim as European British subjects. Many of these, in Bombay at all events, were Justices of the Peace, and among the most respected of that body, but all would be disfranchised by this Bill.

Now, it was instructive to trace how these Clauses had got into the present Bill.

There were no class or blood exemptions from jurisdiction in the original Code, as it was first introduced into that Council. Section 8 Chapter II of the Criminal Procedure Bill for Bombay, prepared and brought in by the Honorable and learned Vice-President, and read a first time on the 24th January 1857, provided as follows :—

"No person whatever shall by reason of place of birth or by reason of descent be in any criminal proceeding whatever exempt from the jurisdiction of any of the Criminal Courts."

Section 19 went on to provide—

"It shall be competent to the Government to direct that any subordinate Criminal Court shall be authorized to hold the preliminary enquiry into cases triable by the Sessions Courts, and to commit or hold to bail, parties to take their trial before such Court and to exercise all the powers necessary for such purposes."

This and the cognate Codes for Bengal and Madras were subsequently consolidated into the Criminal Procedure Bill for simplifying the Procedure of Courts of Criminal Judicature not established by Royal Charter, as presented by the Select Committees on the several Bills relating to Bengal, Madras, Bombay, and the North-Western Provinces, with their joint Report on the 30th April 1859.

Sections 1 and 2 of Chapter I, provided as follows :—

"1. The Criminal Courts of the several grades, according to the powers vested in them respectively by any law for the time being in force, shall take cognizance of all offences punishable under the Penal Code or under any special law, except offences which are by any such law made punishable by some other authority therein specially mentioned.

"2. The Criminal Courts shall have jurisdiction over all persons in respect of such offences, except such persons as by any Act of Parliament or by any Regulation of the Codes of Bengal, Madras, and Bombay respectively, or by any Act of the Governor-General of India in Council are or shall be expressly exempted from such jurisdiction."

Chapter II., Section 19, of the original Bill, had become Section 20, empowering

"any subordinate Criminal Court to hold the preliminary enquiry into cases triable by the Court of Session."

To this, at some subsequent period which he could not trace, were added the words "or by any of the Supreme Courts of Judicature," which by involving the committal of Europeans for trial by the Supreme Court, raised the present question. There were then added in Committee of whole Council, Sections 21, 22, and 23 which now respectively stood as Sections 20, 21, and 22 of the present Bill.

Now he (Sir Bartle Frere) entirely concurred with the principle of the original Bill, and considered that if our Courts were what they ought to be and what we were bound to make them,

"no person whatever should by reason of his place of birth or by reason of his descent, be in any criminal proceeding whatever exempt from the jurisdiction of any of the Supreme Courts;"

and he hoped yet to see the principle carried out.

But this was a less extensive Bill in scope. It did not apply to Supreme Courts, before which alone Europeans could now be tried. He could well understand men wishing to keep up the position and privileges of the Supreme Court, and he would not wish to subject any one to Mofussil jurisdiction who was now exempt from it, till the Courts of the Mofussil had been so reformed as to possess all the substantial safeguards for the proper administration of Justice which the Supreme Court now possessed. Great progress had been made and was still making in this respect by the provision of systematic and uniform laws, the greater care applied to the selection and education of Judicial Officers, and the increased and more vigilant supervision exercised over them by both the Government and public. He felt assured that the time was not far distant when we should be able to act fully up to the principles originally laid down in this Code without feeling that we had deprived any class of Her Majesty's subjects of any real safeguard for the administration of justice which they now possessed. But you could not, in these matters, legislate with benefit much in advance of public feeling and opinion, and for this, if for no other reason, he would be content in a Bill of this kind, which did not take into its scope all the Courts in the country, and which was avowedly not a final and universal measure, to await yet longer for the embodiment of those great principles of universal equity which would, we might trust, characterize all our general and permanent legislation.

But while we might be content to stand still, we should be careful not to go back. These provisions in Sections 20 to 22 were retrogressive with reference to the present practice which reserved to the Supreme Courts and Justices of the Peace and Magistrates the ordinary jurisdiction over European British subjects. Sections 20 to 23, however, restricted the jurisdiction to Covenanted Servants and European British subjects, and extended the exemption to all Europeans and Americans. This restriction virtually disfranchised large classes of Justices of the Peace in Bombay and possibly also in Madras. There was a great difference between the law at Bombay and in Bengal. The 33 Geo. 3rd c. 52 s. 151, empowered the Governor-General and Governors of Madras and Bombay to appoint Justices of the Peace for the Presidency, and in the case of Bengal for the Provinces of Bengal, Behar, and Orissa, but in the case of Madras and Bombay only for the Presidency towns and "the places thereunto subordinate" including all dependencies, so that a Bombay Justice of the Peace, if he were a Covenanted Servant, or British Inhabitant, could act as Justice of the Peace in any Province subordinate to Bombay. In practice, there were large classes of non-official European and Uncovenanted Officers acting in Bombay as Justices of the Peace. Among the latter he would mention but one, Mr. Charles Forgett, the Chief of Police, a man universally respected, and to whom, more than to any one man, Bombay owed the quiet it enjoyed during the eventful months of 1857.

He found that last year there were no less than 442 Justices on the Bombay Commission. Of these 160 were resident in Bombay, including 55 native Justices qualified to act for the Town and Island only. But among the European Justices he found, besides Covenanted Servants and Military men, 2 Solicitors, 4 Barristers, 28 European Merchants, 2 Railway Officials, 26 Uncovenanted Civil Servants, 11 Medical Officers, the Municipal Commissioners, the Police Magistrates, Naval Officers, the Principal of a College, a Judge of the Small Cause Court, the Official Assignee, the Agent to the P. and O. Company, and the Secretary to the Bank of Bombay; and in the list of native Justices, he found some who would be here classed in the Eurasian community. Now all these would be dis-

franchised by the present Bill. It would do away with one main duty of Justices of the Peace, and there could be no doubt that the office would speedily fall into disuse. Now, in Bombay at all events, this would be a serious evil not only as regards their judicial duties, but in Municipal matters. The Justices in Bombay had the entire direction of all Municipal affairs, and he appealed to his Honorable friends opposite (Sir Charles Jackson and Mr. Erskine), whether they were not managed at least as well as at the other Presidencies.

For this large and useful body of Justices representing every class and race in the country, the Bill proposed to substitute Covenanted Civil Servants and European British subjects selected and empowered by Government. He would ask, was not this a step backward, and was it not mischievously retrograde?

And here he must notice what seemed to him a serious fallacy in the argument of the Honorable and learned Vice-President. He had argued as though the Honorable Member for Bengal had maintained that the circumstance of a man's being a native was any qualification for office. Of course, the Honorable Member meant no such thing. He simply meant that it ought to be no disqualification. It was, in fact, no disqualification for much higher Judicial Office. The Honorable and learned Vice-President had truly said, there was nothing to prevent any of the natives of India, who were now studying for the Bar, being called to the Bar, and, if he were fit for it, entering the Civil Service and becoming Chief Judge of the Sudder, or even Chief Justice of the Supreme Court. But this Bill said that a man who could do all this, if he was really fit for it, should not make the preliminary enquiry into the case of a man who was to be tried before the Supreme Court, should not commit him for trial, though he was not disqualified from sitting to try him as Chief Justice. This surely was hardly consistent.

Again, the Honorable and learned Vice-President had pointed out that only those Justices of the Peace, who were Covenanted Servants or "British inhabitants," could act as Justices of the Peace beyond the Presidency towns. This was quite true, but then the limitation was one of Commission, not of race or color or legitimacy, and as such, it had no sting. The distinction of Covenanted and Uncovenanted was one, the reason for which every day weakened and rendered it less tenable and more odious. So that of European British subjects, of two Christian inhabitants with equal claims to European descent, one was, the other was not, a "European British subject;" both were equally good Christian "British inhabitants," and both were eligible to be Justices of the Peace, but only one came within the definition of this Clause as a European British subject. The qualification of Justices of the Peace was amply restrictive, and provided every safeguard for none but qualified men being admitted—much better security, in fact, than under the proposed Bill, inasmuch as there was much more publicity and more checks on the publication of a Commission by the Judges of the Supreme Court than in a simple appointment in the Gazette.

The Honorable and learned Vice-President contended that the alteration which it was proposed to make in the law was in the interest of the European who might be accused of any crime, and he supposed the case of a man sent down from Peshawur to the Presidency, and there found to be guiltless of any offence which deserved committal for trial. But he (Sir Bartle Frere) submitted that this was a very exaggerated picture. In the first place, it was not at Peshawur or in the Punjab, but much nearer the Presidency, that non-military Europeans were found in the greatest numbers, and it was quite as great an evil in the aggregate to drag many innocent men, each one or two days' journey, as must often happen if this Clause were passed, before they could find a Covenanted Servant or European British subject specially empowered to hear the case and to dismiss it, if no grounds for committal existed. The

plan he (Sir Bartle Frere) advocated would obviate this evil. Any Justice of the Peace could dismiss the case if the accused were innocent, and there would be Recorders' Courts or Courts on the model of the Supreme Court, nearer at hand than Calcutta, to try the case if committed for trial.

It had been said these arguments were un-English, that they were only used by men who forgot that they were Englishmen and what India owed to Englishmen, and that they were prompted by hostility to non-official Englishmen. He (Sir Bartle Frere) believed a careful consideration of the matter would show the groundlessness of all these assertions. No one who had passed through the years 1857 and 1858, was likely to forget what was due to Englishmen. No one who had seen, as some of us had seen, a mere handful of such men hold their ground against mutiny, and maintain our supremacy over millions of lately conquered and warlike tribes, was likely to undervalue the weight of an English arm, or the value to peace and order of a single English life.

He would appeal to those who had stood in such situations, how much less was their confidence in the mere physical force of our bayonets than in the justice of our cause. We felt that we had erringly and very imperfectly, but honestly, and to the best of our limited ability, carried out an English policy. We had not treated the natives as a conquered alien race, and we felt sure that by the blessing of God we might hope to prevail, and by His blessing we did prevail. But he felt convinced that the cause he now advocated was the cause of those who would wish to give to non-official Englishmen more weight and free scope for their energies in this country. What argument could you use for giving European property, intelligence, and local interest, their due influence in the country, which should not tell with increased force when the far larger property, the much greater interests, and the at least equal intelligence of the native was in the scale? How could you argue for the rights of property, intelligence, and local interest, when you could be met by the retort that you cared nothing for these things, unless the owners were of the same color and the same blood as yourself?

Moreover, it was not the natives only who suffered by such exclusions and distinctions, but the injustice recoiled on ourselves. The History of every great and conquering nation more or less illustrated this truth.

We had heard much of Roman Policy. Well, what was that Policy? With the leave of the Council he would read a description of it from the latest and one of the most philosophical of our historians :—

"The Roman polity, however," (said Merivale) "presents another side which lays much greater claim to our interest. However selfish and exclusive the sentiments were which constituted its basis, necessity compelled it at sundry periods to admit aliens and even enemies into alliance and association with itself. The annals of the Roman people afford us the most perfect illustration of the natural laws which seem to control the rise and progress of nations. The almost uninterrupted succession of their triumphs, the enormous extent of the dominion they acquired, and the completeness of the cycle through which they passed from infancy to final decrepitude and decay, combine to present them to us as the normal type of a conquering race. One principle seems to be established by their history, namely, that it is the condition of permanent dominion, that the conquerors should absorb the conquered gradually into their own body by extending as circumstances arise, a share in their own exclusive privileges to the masses from whom they have torn their original independence. Thus only can they provide a constant supply of fresh blood to recruit their own exhausted energies, and strengthen the basis of their power while they extend the limits of their conquests.

All conquering nations feel an instinctive repugnance to making their sacrifice of pride and immediate interest; all struggle blindly against the necessity; those alone which in due season submit to it retain the permanence of their institutions and counteract the inherent principle of decay. The obstinacy with which the Dorian conquerors of Sparta resisted this necessity checked their career of aggrandizement, and brought their political existence to a premature termination. We are ourselves witnesses at the present day to the consequences of such resistance in the impending ruin of a more magnificent empire, the dominion of the Turks in Greece and Western Asia. On the other hand, the latest conquerors of our own Island and of Gaul have acknowledged the conditions thus attached to the triumph of

their arms, and the effects of their victory, itself long since forgotten, have endured through a succession of many centuries. It was by gradually communicating to their subjects, however reluctantly, the outward badges and privileges of the conquering caste, that the Normans and Franks averted the reaction which must otherwise, sooner or later, have swept away the progeny of a mere handful of adventurers before the accumulating numbers they had for a time coerced. But in relinquishing the privileges extorted by arms, they have retained the ascendancy naturally due to superior genius, and have each impressed their own character indelibly upon the institutions which all the inhabitants of the soil now regards equally as their own."

But there was another, a still more striking instance in the state of Spanish America. The position of the Spaniards was not unlike that of ourselves in India; they conquered a people individually inferior to themselves in physical force and in the art of war, and they attempted to carry out the policy which was sometimes recommended to us in India—to conquer and protect the people, to prescribe to them their religion and laws, but to exclude them carefully from all share in their own Government. This purpose was carried out with an ability and perseverance which elicited the admiration of historians like Prescott and Helps, who showed at the same time how all that ability was misdirected, and what had been its result. What remained now of the Spanish empire in America?

Look again at North America, and reflect on the consequences which had followed one false step in the fundamental laws of that great nation. It was not the colored population alone which had suffered; the dominant race had reaped in mental and moral degradation a punishment of fearful severity as compared even with the material losses which now threatened them. But we need not go so far. Throughout Europe what was the great question which had arisen and was now agitating all men's minds? It was not as to the comparative physical or moral qualities of this or that people, but how long a subject people who were able to take a share in the Civil administration of their own country should be systematically excluded from it, and be treated as a conquered race. If it was thought that our Mofussil Courts needed further reform before we could safely advance and adopt the only sound principle which could guide us in this matter, he (Sir Bartle Frere) would be well content to remain where we were till further reforms could be effected; but do not let us retrograde. By so doing, rely on it, we would not only miss the glory which might be ours of giving to India a perfect Code for all future time, but we should alienate from ourselves the sympathy of our fellow-countrymen, by adopting a course opposed to that policy which had characterized our nation in every part of the world, had laid the sure foundation of all that was successful in our Colonial policy, and had been hitherto the mainspring of all that was permanently successful in India.

SIR CHARLES JACKSON said, he looked upon this Motion as an attempt to get in the thin end of the wedge, and to disturb that principal on which this part of the Bill was based when last settled in Committee. It was then determined not to create a new exemption, but to leave European British subjects in their present position. The Honorable Member for Bombay had endeavored to draw a distinction, and in so doing he had been followed by the Honorable Member of Government opposite (Sir Bartle Frere); and they contended that this was not an attempt to place Europeans under the Mofussil Courts generally, but only to give the Native Magistrates the qualified jurisdiction of committing European British subjects for trial before a Supreme Court. But all the reasoning of the Honorable gentlemen raised the whole question, whether British subjects should be placed under the jurisdiction of the Mofussil Courts. He (Sir Charles Jackson) declined to argue this motion on the narrow question raised by this Section. If Honorable Members raised the question at all, they must expect it to be treated as a whole, and not argued piecemeal on what might be one of the weak points of the question. Now he was free to confess that the question of

subjecting European British subjects to the jurisdiction of the Mofussil Courts was not in the same position now as it was when in 1849 Mr. Bethune brought forward what were called the Black Acts. He (Sir Charles Jackson) was old enough a resident in India to recollect the violent opposition then offered to those Acts, and the Meetings which were held against them. He remembered that, on the one hand, it was contended by the supporters of the Black Acts, that they merely carried out the broad principle of the equality of all men before the law. On the other hand, it was argued that British subjects had their own Laws and Courts with which they were quite satisfied, and that, before their own laws were taken from them, the Mofussil Courts should be improved, and the Mahomedan law which prevailed in their Courts in Criminal cases should be abolished, and some better law introduced. They did not claim this exemption, as the Honorable Member of Government (Sir Bartle Frere) had said, on the ground that they were conquerors; and had no objection to natives being raised to the same level with themselves. But what they objected to was that they should be deprived of their own Laws and Courts, and reduced to a lower position by being placed under other Laws and Courts which were deemed by themselves and generally admitted to be of an inferior kind. That was the way in which the question was then raised and met. He admitted that the question was not in so strong a position now as it was then. The great man who then ruled India, Lord Dalhousie, at once saw the true state of the case, and directed Mr. Bethune to turn his attention to the Penal Code, and to perfect that before he proceeded farther with the Acts objected to. That was a wise resolve on the part of that Statesman, and the Penal Code having now been passed, it had certainly cut away one of the grounds on which the opposition to such measures was formerly rested. But the other ground still remained, namely, that British subjects as a class had a right to object to being deprived of their own Courts to which they were more or less attached, and placed under other Courts for which they had not the same respect. Before you did away with these exemptions, you must constitute better Mofussil Courts. This had nothing to do with what the Honorable gentleman had said about being conquerors. The question was not whether natives were to be deprived of good Courts or in any way oppressed, for they had much better Courts under our Government than they ever had before; but whether British subjects should be deprived of their own Courts and placed under Courts with which they were not so well satisfied. The Government had only to create a Court with a lawyer at the head of it, at Agra, Lahore, Kurrachee, and other places; and then at once this objection would vanish so far as regards the trial of British subjects before such Courts. But still the objection would remain to the investigation of such cases by a Native Magistrate. Such Magistrates would be generally ignorant of the language of the British subject, and would have no proper jail in which to detain him.

Another point upon which a great deal of stress had been laid was that this Section would be in violation of the Charter Act 3 and 4 William IV. It had been treated as if this Bill were going to exclude natives from particular appointments. It did no such thing. It only said that native Magistrates should not perform certain functions. Surely the Charter Act did not prevent the Council from assigning certain duties to certain officers. That was done by them in many other cases, and the whole argument was therefore as fallacious on this ground as on the other ground so fully answered by the Honorable and learned Vice-President.

The Honorable Member of Government then said that the Code of Criminal Procedure, as it was introduced into the Council, contained no such Clause, and that he should be glad to stand by the Code as it originally stood. He (Sir Charles Jackson) begged to say

that in its original form that Code contained an exemption which would have been a disgrace to any Legislature, if allowed to stand. The Code of Criminal Procedure, as originally framed by the Commissioners in England, proposed to create a new exemption—to exempt certain classes, such as the whole of the Covenanted Civil Servants of Government and others, when charged with certain offences, from the jurisdiction of Criminal Courts to which all other classes were subject.

SIR BARTLE FRERE explained, that what he had said was, that he should be glad to stand by the Section now under discussion in the form in which it stood in the Code as introduced by the Honorable and learned Vice President in 1857. He did not allude to any other portions of the Code, nor to any previous edition of the Code drawn up by the English Law Commissioners.

SIR CHARLES JACKSON resumed. That was certainly some explanation, though it did not disturb his argument. He would take this opportunity to say that the Clause to which he had been referring, and which had been attributed in another place to the learned Members of this Council, was put into the Code by the able Commission by which it had been framed. When the Bill was read a second time, the Clause was opposed with great indignation by Sir Arthur Buller, who was supported by the then Chief Justice (Sir James Colvile) and the present Vice-President, then a Member of Government; and in consequence of that opposition, the Clause was immediately struck out as soon as it could be, when the Bill proposed by the Commissioners got into a Select Committee of this Council.

Then it was said that the Section now before the Council would disfranchise a great number of Native Justices of the Peace in Bombay. No Act of that Council could restrict the operation of the Act of Parliament referred to, and he, for one, had no objection to the appointment of Justices of the Peace in Presidency Towns. With a large European community and a vigilant Press to supervise and watch their proceedings, he should not object to it for a moment, because they were there under the control and check of public opinion. But that was not the case with regard to Native Magistrates at a great distance from the Presidency.

The Honorable Member (Sir Bartle Frere) had referred strongly to the events of the last three years. But he (Sir Charles Jackson) must say that the events of those years had not impressed his mind with the desirableness of giving the proposed power to Native Magistrates. Before this could be done, Government must provide good Courts and Jails. British subjects did not claim exemption as conquerors, but they insisted on good Courts; and as this exemption had already won for all classes a Penal Code, so in like manner he believed it would eventually extort for all the inhabitants of this country good and efficient Courts.

SIR ROBERT NAPIER said, the Honorable and learned Vice-President had clearly set forth the evils to which a European British subject was liable in being sent down to Calcutta for trial from a distant station. He had witnessed those evils himself. He had known the case of a European being sent down for trial from the Mofussil, who had returned after no less a period than a year, there not having been any evidence against him. He could not think it expedient to place the power of sending Europeans down for trial in the hands of Natives. He would not object to Natives of this or any other country, provided they had a Christian Code to guide them, or such an English education as would enable them thoroughly to understand the wants and nature of Englishmen. But we knew that, though an exceptional case might possibly exist here and there, as a rule Natives possessing those conditions were not to be found in the Mofussil. Unless, therefore, he were sure that no person should be made a Justice of the Peace who did not possess those conditions, he would not alter the Clause, but would propose that it stand as at present.

THE CHAIRMAN said, he would make only a very few observations with regard to what had fallen from the Honorable Member of Government on his right (Sir Bartle Frere). In alluding to the Justices of the Peace at Bombay, the Honorable Member had referred to gentlemen who were on the Commission of the Peace, and he had alluded to one gentleman in particular, who, he believed, was in every way qualified to be entrusted with all the powers of a Justice of the Peace in any part of the country. But because you found one gentleman who was so qualified, that was no reason why all should be included in the same category. This Bill applied exclusively to the Mofussil and did not affect the Presidency Towns. The Code originally prepared by Her Majesty's Commissioners in England, did apply to the Presidency Towns as well as to the Mofussil. But then it was proposed that there should be a High Court of Judicature, and the Code was prepared with reference to that plan. It was afterwards determined that the question as regarded the establishment of a High Court should remain in abeyance. This Council had no power to abolish the Supreme Courts without the sanction of the Home Government, and had received no authority to that effect. With the exception of that part of the Code, therefore, which related to the High Court, the Bill was read a first time, as it had been prepared by some of the highest authorities in England. They were Sir John Romilly, Sir John Jervis, Sir Edward Ryan, Mr. Cameron, Mr. Macleod, Mr. Ellis, Mr. Lowe, and Mr. Hawkins. Those were the gentlemen who prepared this Code. Yet even they did not propose to render all classes alike amenable to all the Criminal Courts of the Country. They proposed to establish a High Court of Judicature, Courts of Sessions, Courts of the Magistrates, and subordinate Criminal Courts, and to give the Magistrates' Courts power to pass sentence to the extent of two years' imprisonment with hard labor. But they also proposed that the High Court and Sessions Courts exclusively should have jurisdiction over certain classes of offences. By Section 10, Clause 3 of the Code prepared by Her Majesty's Commissioners, it was declared that the High Court and Sessions Court exclusively should have jurisdiction in respect of "offences however punishable under any Clause of the Penal Code, charged against public servants of the first four classes described in Clause 14, whether as such public servants or otherwise." Now, the first four classes of public servants described in Clause 14 of the Penal Code as it then stood, were :—

"*First*, every Covenanted Servant of the East India Company ; *Second*, every Commissioned Officer, Military or Naval, in the service of the East India Company ; *Third*, every Commissioned Officer of the King's Army, while serving under the Government of India ; *Fourth*, every Judge."

These four classes, therefore, were, by the Code of Criminal Procedure, as framed by Her Majesty's Commissioners in England, proposed to be exempted from the jurisdiction of Courts of the Magistrates and the subordinate Criminal Courts in respect of any offence punishable by the Penal Code charged against them, whether as such public servants or otherwise. It had been asserted that, when the Code of Procedure was sent out from England, the Judges or the lawyers, he was not quite sure which, who had been bred up in the English law and who were Members of the Legislative Council, had actually proposed to exempt from the jurisdiction of the Courts of Justice to which all other men were to be subjected, one class and one only, namely, the Civil Servants of Government, and that so monstrous a proposal was not to be found in the annals of any despotism that ever existed. He had not the honor of being a Judge at that time, and he could not say whether he was intended to be included among the persons against whom the charge had been made or not, but he begged to state publicly that there was not the slightest foundation for the charge. No one in this Council

had ever proposed to exempt the Civil Servants of Government as a class. The exemption of that class and three others was contained, as he had already explained, in the Code as it was prepared by Her Majesty's Commissioners in England. When the Code, as prepared in England, was read a first and second time, in order that it might be brought fully and fairly before the public, it was upon the express understanding that no Member was to be considered as pledged to any part of it. He remembered that, on the occasion of the second reading, both of the learned Judges who then held seats in this Council (Sir James Colvile and Sir Arthur Buller) repudiated in the strongest language the Clause in question, and he himself expressly stated his concurrence with them in the opinions which they then expressed, and the Clause was struck out in Select Committee before the Code ever came under the consideration of a Committee of the whole Council. The charge, therefore, against both the Judges and himself, if he was intended to be included in it, was a most unfounded statement made behind their backs, which most certainly could not have been made in their presence without contradiction.

SIR BARTLE FRERE asked, if the Honorable and learned Chairman was referring to what had fallen from him?

THE CHAIRMAN said, he was alluding to what had been recently stated by a certain nobleman in the British Parliament. He did not think that a man of honor had a right to make a charge with a view to disparage another, especially in his absence, and when he could not defend himself, without previously ascertaining the true state of facts. He had alluded to this circumstance because his attention had been called to it by the present discussion.—But to revert to this Code. Although the Clause had been since struck out, yet the principle of exemption had been established by the Code as originally framed by Her Majesty's Commissioners in England. There was no doubt a difficulty in dealing with European British subjects. It was not intended to make them liable to final trial in the Mofussil Courts as they now existed. That principle was admitted by every Member of the Council now present. Therefore, there was to be some exception. What then became of the principle of equality on which the Honorable Member had laid so much stress? Under the Mutiny Acts for the European Troops, it was provided that offences of a criminal nature, and not strictly military offences, might be tried by General Courts Martial, if committed beyond 120 miles from the Presidency Towns. But it was expressly provided that the offenders were not to be exempted from the jurisdiction of the Criminal Courts. Now he would ask, suppose an Officer of the Queen's or Company's Army were charged before a Native Deputy-Magistrate with an offence; was he to be committed by him for trial before the Supreme Court, and marched down in the custody of the Native Police, to be tried before that Court, and to be imprisoned on his way in a jail not adapted to the confinement of Europeans? And this led him also to ask in what place European British subjects were to be imprisoned, if they were to be rendered amenable to the Criminal Courts of the country? So long as there was an exception with regard to trial, there ought to be an exception with regard to commitments for trial. There was a great difference between sending down Europeans from distant stations in the Mofussil to the Supreme Court for trial, and sending them to a Sessions Court. In the latter case they would have but a short distance to travel; but when it came to sending them down to the Supreme Court in the custody of the Native Police, upon a charge of which they might eventually be acquitted, it became a matter of vital importance. It was, therefore, necessary to make this exception until the administration of justice in this country was so reformed as to allow of European British subjects being tried by the Courts of Session. But so long as the necessity still existed of sending them

down from distant stations for the purpose of being tried before the Supreme Court, the power of commitment ought not to be placed in the hands of persons, unless they were Covenanted Civil Servants or European British subjects.

Then there was another matter to which the Honorable Member (Sir Bartle Frere) had referred, and in which he had been well met by the Honorable and learned Judge (Sir Charles Jackson). It was contended that this Section aimed at the exclusion of Natives only. But this was not so, for, by referring to the 19th Section, it would be seen that only Magistrates of the 1st and 2nd Class could hold preliminary enquiry into cases triable by the Court of Session or a Supreme Court, and therefore a Magistrate of the 3rd Class, whether he was a European or Native, was not qualified to perform that duty. In point of principle, therefore, there was no difference; and the only question was a question of policy, whether European British subjects were to be liable to be committed by Natives, when they were not to be rendered liable to be tried by Natives. It appeared to him that the Clause under discussion ought to be retained as it now stood, and he had heard nothing to induce him to vote in support of the Motion.

The question being put, the Council divided—

Ayes 3.	*Noes* 6.
Mr. Erskine.	Sir Charles Jackson.
Mr. Sconce.	Mr. Forbes.
Sir Bartle Frere.	Mr. Harington.
	Mr. Laing.
	Sir Robert Napier.
	The Chairman.

So the motion to omit Section 20 was negatived.

SIR BARTLE FRERE then moved the omission of the words "Covenanted Servant of Government or a European British Subject," and the substitution of the words "Justice of the Peace."

THE CHAIRMAN said, the Honorable Member who had moved this amendment had given no reason for the substitution of the words proposed, beyond what could be collected from his speech on the previous question. He (the Chairman) thought that in legislation every thing ought to be expressed in the clearest and simplest terms and in just so many words as were necessary to convey its real meaning. He did not know if the Honorable gentleman wished to restrict the Clause so as to give the Government a power of selecting those officers who should be entrusted with the duty of commitment. He could not suppose that there were any servants of Government, exercising the full powers of a Magistrate, who ought not to be vested with the power of commitment. But if the Honorable gentleman thought that the words of the Section, as it now stood, were too wide and ought not to apply to any person unless he were also a Justice of the Peace, he (the Chairman) had no objection to insert the words "having been appointed a Justice of the Peace" after the words "Covenanted Servant of Government or a European British subject." But he objected to the insertion of the words "Justice of the Peace" merely to conceal what was meant, or if it rendered reference to another Act necessary to know what was meant.

SIR BARTLE FRERE said, he did not wish to occupy the time of the Council by repeating the arguments he had already used, but it appeared to him that the words "Covenanted Servant or European British subject" meant something very different from a "Justice of the Peace." What he stated before was that we should abide by the law as it now stood, and that no person who was not a Justice of the Peace should be able to hold a preliminary enquiry. That was a different thing from saying that he must be a Covenanted Servant of Government or a European British subject. The Honorable and learned Vice-President said, "let us use words which express what we mean," and it was because the definition which it was proposed to substitute for the words "Justice of the Peace" did not express what was meant, that he (Sir Bartle Frere) objected to them.

He (Sir Bartle Frere) was himself a Covenanted Servant of Government, and he gloried in being one, and he hoped he should never be ashamed of being one. But that was quite a different thing from wishing to limit the office of Justice of the Peace to Covenanted Servants, and thus excluding a number of persons, who were quite as good Englishmen in every respect as ourselves, from exercising the same power. He had said that he was willing to remain where we were at present, but not to go backward. This Section would restrict the present functions of Justices of the Peace to two classes; one, the Covenanted class, might any day cease to exist as a distinct body of the Government service, and the other distinction, that of "European British subject," would exclude many men who now exercised the office of Justice of the Peace, and were every way worthy of it. He, therefore, thought that the words "Justice of the Peace" stated more correctly and precisely what was meant or wished to be said. As far as regards safeguards, he did not think that any one would be put into a Commission of the Peace who was not worthy of it; he must be selected by Government, and then his name must be inserted in a Commission issued by the Judges of the Supreme Court, and this was a much greater safeguard than mere selection by Government.

MR. FORBES asked the Honorable Member (Sir Bartle Frere), with reference to what had fallen from him regarding the expediency of being able to make use of the services as Justices of the Peace of Foreign Europeans, or Americans residing in the interior, if he was under the impression that a Foreigner could be appointed a Justice of the Peace? He understood the Honorable and learned Vice-President to say that no one, owing allegiance to a Foreign Potentate, could be appointed a Justice of the Peace. In putting this question, however, he wished it to be understood that it was his intention to vote in support of the proposed amendment.

THE CHAIRMAN said, the words of the Statute 2 & 3 William IV, c. 117, were—

"It shall and may be lawful for the Governor-General in Council of Fort William in Bengal, the Governor in Council of Fort St. George, and the Governor in Council of Bombay respectively, for the time being, to nominate and appoint, in the name of the King's Majesty, his heirs and successors, any persons resident within the territories aforesaid, *and not being the subject of any Foreign State*", &c.

MR. FORBES said, then the case was as he had supposed, that a Foreigner would not be able to be appointed a Justice of the Peace, and consequently the amendment of the Honorable Member would not secure the object he had in view. He (Mr. Forbes), however, had no intention to oppose the amendment, but should give it his support.

SIR BARTLE FRERE said, his object was not that a person who was not a British subject should be appointed a Justice of the Peace. There were at the Cape Dutchmen by descent, who were born in a British Colony. Were you to exclude them?

SIR CHARLES JACKSON said, he did not quite understand the object of the proposed amendment. As he understood the law, Natives might be appointed Justices of the Peace for the Presidency towns, but in the Mofussil no one could be a Justice of the Peace who was not a Covenanted Servant of the Government or a European British subject. If the object was at some future time to bring in an Act of Parliament extending that power to Natives, so an Act might be brought in to alter the terms of the Section as they at present stood to effect the same purpose. Not understanding the object of the amendment, he should certainly vote against it.

MR. LAING said, he would explain shortly why he should vote for the amendment. He had voted against the last Motion for the omission of the Section, notwithstanding the able speech of his Honorable Colleague opposite (Sir Bartle Frere), not that he advocated the policy of exclusiveness against Natives, but because he thought that, as cases of

the nature referred to in the Section would occur principally in the Presidency towns which were already provided for, the practical issue was, whether, for the sake of a few exceptional cases, powers should be given to Native Magistrates in the Mofussil, who could not try Europeans, to commit them for trial, and send them down possibly 1,000 miles to Calcutta. He was not satisfied that such a power could be safely given, and therefore he voted with his Honorable Colleague opposite (Sir Robert Napier) against omitting the Clause. But as the object would be equally attained under the amendment in a less invidious way, he should support it.

THE CHAIRMAN said, he thought it would be safer to let the Section stand as it was, because it really expressed what was meant. If the amendment were carried, it would be very easy for a Member of Parliament to propose the introduction of a Bill authorizing the appointment of Natives as Justices of the Peace in the Mofussil, and thus by a side-wind do what we were endeavoring to prevent. Such a proceeding would attract less notice than if leave were asked to bring in a Bill authorizing Natives to commit European British subjects for trial. It was because one class of words attracted attention, and another did not, that he preferred to use words which would be fully understood and which expressed their own meaning.

SIR BARTLE FRERE said, with regard to what had fallen from the Honorable Member for Madras, the words "Covenanted Servant of Government or a European British subject" were restrictive. As he had said before, the words "European British subject" would exclude any one born in a British Colony, in the Mauritius, for instance, or at the Cape or Australia, or in Canada, of French or German or Dutch parentage of pure European blood, and for three generations, perhaps, British subjects, but African or Australian or American British subjects, and not European British subjects. He had known of gentlemen in the service of Government, who were in that position, who were now Justices of the Peace, but who would not be able to act if the office were limited as was proposed.

The question being put, the Council divided :—

Ayes 6.	*Noes* 3.
Mr. Erskine.	Sir Charles Jackson.
Mr. Sconce.	Sir Robert Napier.
Mr. Forbes.	The Chairman.
Mr. Harington.	
Mr. Laing.	
Sir Bartle Frere.	

So the Motion was carried, and after some further amendments, the Section was passed as follows :—

"No person who is not a Justice of the Peace shall commit or hold to bail any European British Subject to take his trial before a Supreme Court of Judicature."

Section 21 (which provided the procedure to be observed when a European British subject was charged with an offence triable by a Supreme Court) was passed after a corresponding amendment.

Section 22 provided as follows :—

"When a European British subject has been arrested under a warrant, issued under the last preceding Section, by a Magistrate not being a Covenanted Servant or a European British subject, such Magistrate, if he considers that there is sufficient ground for proceeding, shall forthwith forward the person arrested to a Magistrate authorized to hold the preliminary enquiry, and to commit or hold to bail such person for trial before the Supreme Court, or if the offence with which such person is charged is bailable, shall, if sufficient bail be tendered, admit him to bail for his appearance before such Magistrate."

THE CHAIRMAN moved the omission of the above Section, and the substitution of the following :—

"When a European British subject has been arrested under a warrant, issued under the last preceding Section, by a Magistrate not being a Justice of the Peace, if such Magistrate considers that there is sufficient ground for proceeding, he shall forthwith forward the person arrested to a Justice of the Peace, or if the offence with which such person is charged is bailable, shall, if sufficient bail be tendered, admit him to bail for his appearance before such Justice of the Peace. When the person accused is brought or appears before a Justice of the Peace under this Section, such Justice of the Peace shall himself hold a preliminary enquiry into the case before he commits or holds to bail such person for trial before the Supreme Court of Judicature."

Agreed to.

Section 23 (relating to the arrest of Europeans not being British subjects or of Americans) was omitted, on the Motion of Sir Bartle Frere.

Section 24 was passed as it stood.

The Council resumed its sitting.

ROHILCUND DIVISION.

MR. HARINGTON postponed the Order of the Day for the adjourned Committee of the whole Council on the Bill "to remove certain tracts of country in the Rohilcund Division from the jurisdiction of the tribunals established under the general Regulations and Acts."

STAGE CARRIAGES: PORT-DUES (CONCAN).

MR. HARINGTON postponed the Orders of the Day for a Committee of the whole Council on the Bill "for licensing and regulating Stage Carriages," and on the Bill "for the levy of Port-Dues in the Ports of the Concan."

CATTLE TRESPASS.

MR. SCONCE moved that the Bill "to amend Act III of 1857 (relating to trespasses by Cattle)" be referred to a Select Committee consisting of Mr. Harington, Mr. Forbes, Mr. Erskine, and Sir Charles Jackson, with an instruction to report within one month.

Agreed to.

SMALL CAUSE COURTS.

MR. HARINGTON postponed the Motion (which stood in the Orders of the Day) for the adoption of the preliminary Report of the Select Committee on the Bill "to amend Act XLII of 1860 (for the establishment of Courts of Small Causes beyond the local limits of the jurisdiction of the Supreme Courts of Judicature established by Royal Charter)," and for the suspension of the Standing Orders, in order that the Bill may be passed through its subsequent stages.

BREACH OF CONTRACT.

MR. LAING moved that Sir Bartle Frere be substituted for Mr. Beadon in the Select Committee on the Bill "to provide for the punishment of breach of contract for the cultivation, production, gathering, provision, manufacture, carriage, and delivery of Agricultural produce."

Agreed to.

MUNICIPAL ASSESSMENT (RANGOON, &c.).

MR. FORBES moved that Sir Bartle Frere be substituted for Mr. Beadon in the Select Committee on the Bill "for extending certain provisions of Acts XIV and XXV of 1856 to the town and suburbs of Rangoon, and to the towns of Moulmein, Tavoy, and Mergui, and for appointing Municipal Commissioners and for levying rates and Taxes in the said towns."

Agreed to.

REPEAL OF REGULATIONS AND ACTS.

MR. HARINGTON moved that Sir Bartle Frere be requested to take the Bill "to repeal certain Regulations and Acts relating to the Procedure of the Courts of Civil Judicature not established by Royal Charter" to the Governor-General for his assent.

Agreed to.

COURTS OF REQUESTS (STRAITS SETTLEMENTS.)

MR. FORBES gave notice that he would, on Saturday the 4th May, move the first reading of a Bill to extend the jurisdiction of the Courts of Requests in the Settlement of Prince of Wales Island, Singapore, and Malacca.

LIMITATION OF SUITS.

THE VICE-PRESIDENT said, he mentioned when the Petition of the Trades' Association was presented this morning, that he would move to bring in a Bill to postpone the operation of Act XIV of 1859. That was an Act for the limitation of suits, and would come into force in a few days. The Petitioners represented that it had only recently come to their knowledge that the law in question would seriously

affect their rights, and they referred to the Section which reduced the period of limitation for instituting suits in respect of shop Bills from six to three years. Now the Act certainly would affect their rights, forasmuch as by the old law they would have had twelve years in the Mofussil and six years within the local limits of the jurisdiction of the Supreme Court, so that, if three years should have elapsed on the 5th May next, they would absolutely be barred of their rights, while according to the old law, they would have had three years longer in the Presidency towns, and nine years longer in the mofussil. Therefore, although the Act had been duly published in the Gazette, yet as the Petitioners were not aware of it, they would be barred of their rights, if they did not sue at once in the next few days.

For these reasons he proposed to suspend the operation of the Act for a few months, so as to give the Petitioners, and other parties, who might have to offer any serious objections to the Act, the opportunity of stating their objections before the Act came into force. He thought that it would be rather a difficult matter, after the Act had come into operation, to place parties in a right position. Rights would have been acquired, suits decided, and a subsequent Act might not remedy the evil. He therefore thought it safer to suspend the operation of the Act before it took effect.

He deemed it proper to mention that there had been no haste in passing Act XIV of 1859. The Bill was read a first time on the 7th July 1855, and a second time on the 28th of the same month. It was brought in by Sir James Colvile, and many of its Clauses were taken from a Bill on the same subject drawn by the Indian Law Commissioners. The Bill was published in the Gazette on the 1st August 1855, and nothing was done with respect to it until January 1859, when, after having passed through a Committee of the whole Council, it was republished for two months, and the Bill was finally passed on the 30th April of that year. Thus every possible opportunity was given to the public to make known their objections to the Bill as originally brought in, and to the Bill as amended in Committee. He believed that only one Petition had been presented against the Bill, and that did not proceed from the present Petitioners. Still he did not think it right to allow a Bill of this kind to come into operation when it appeared that some of the parties, to whom it applied, were not aware, until recently, that they would be affected by it. He would propose to suspend the whole law till 1st January 1862, but if any Honorable Member could show any good reason, he (the Vice-President) had no objection to confine the Bill to the Clause of which the the Petitioners complained.

With these remarks he begged to move that the Standing Orders be suspended, to enable him to introduce and proceed with a Bill "to amend Act XIV of 1859 (to provide for the limitation of suits)."

SIR BARTLE FRERE seconded the Motion.

MR. HARINGTON moved that the Petition of the Calcutta Trade Association be read.

The Petition having been read—

MR. HARINGTON said, he had very serious doubts whether this Bill ought to be allowed to pass. He had supposed that the Petitioners, whose Petition had just been read, objected to the time at which the new law of limitation was appointed to come into operation, and that they prayed for an extension of that time, but he found that such was not the case. What the Petitioners complained of, was the law itself, or rather one Section of it, which they thought would injuriously affect their interests, and they asked for a modification of that Section. The Petitioners declared that they had only recently become aware of the existence of this particular Section; but "recently" was a very indefinite period, and the Petitioners had clearly had ample time to make themselves acquainted with the provisions of the Act now proposed to be amended, and of stating their objections to any part

The Vice-President

of those provisions before the Act became law. The Petitioners enjoyed peculiar advantages for making themselves acquainted with the laws proposed in this Council, residing as they did within a few hundred paces of the Council Chamber, and it was their own fault if they failed to avail themselves of the advantages which they possessed in this respect. The Bill, in which the new law of limitation was contained, after being settled in a Committee of the whole Council, was ordered to be re-published for two months. The object of the re-publication was to give the public at large an opportunity of knowing how the Bill had been settled, and of stating objections to any of its provisions; but this period had been allowed to pass without any objections being made by the Petitioners. Nearly two years had elapsed since the Bill became law, during all which time the Petitioners had remained silent; but now that the period had nearly arrived for the Act taking effect, they came forward and asked the Council to modify a most important Section. It was obvious that there was not time for any Bill that might now be passed to reach many parts of the country before the date on which Act XIV of 1859 would come into operation. In those places the law would be acted upon from that date, and if its operation were suddenly suspended at this late period, he thought that great confusion would ensue, and that much injustice might be done. He had reason to know that the Vakeels of the Mofussil Courts, and the people generally were well acquainted with the provisions of the new law of limitation, and were aware of the fact that the law would come into operation in the course of a few days. No representations against the law had come up from Madras or Bombay or from any other quarter, and he must say he did not think that they would be justified in suspending the law merely on the representations contained in the Petition which had only to-day been presented to them. For his own part, he was not prepared to alter the particular Section complained of by the Petitioners.

MR. LAING said, he thought that the course proposed by the Honorable and learned Vice-President was the right one. He did not think that a law of this nature should be amended without the fullest consideration, and the course proposed would admit of this being done.

MR. SCONCE said that Act XIV of 1859 would not take effect until Sunday next, and the Council might postpone the passing of the proposed Bill till next Saturday, reading the Bill only a first time to-day.

SIR BARTLE FRERE said, he thought the Bill did not touch the principle of the law, but merely suspended its coming into operation for a few months. The same thing was lately done with regard to the Penal Code. When an important law was not generally known, it was only right to allow time to let it be generally known, particularly when a large class came forward and said, as the present Petitioners had done, that it had only recently come to their knowledge that the law of limitation would seriously affect their rights. He thought there was no doubt that many persons, not only those gentlemen who had signed this Petition, but several Merchants also, were not till lately aware of the law being about to take effect.

MR. FORBES said, he did not think that the postponement of the Penal Code was a case in point. The Penal Code would not, when it was postponed, have been law until the 1st of May, whereas this law had been in force for two years. He thought this case would establish a very inconvenient precedent. If we postponed a Civil law, because its provisions were not generally known, we might next be called on to postpone a Criminal law. It was well known that the Penal Code created many new crimes, and if, on its coming into operation in January next, a criminal at the bar of the Supreme Court were to plead ignorance of the law in bar of conviction, he doubted very much if the

learned Judges of that Court would admit the plea as valid.

THE VICE-PRESIDENT said, he did not quite follow the argument of the Honorable Member for Madras. If a man committed a crime, of course ignorance of the law was no plea. But this Act provided that all suits commenced before the 5th of May next, would not fall within the operation of the law, but be governed by the periods of limitation heretofore in force. If the Petitioners were obliged to commence suits at once and take out writs, there might be a great deal of inconvenience occasioned, and, as regarded the Mofussil, even that course might be impossible. Now what injury would there be done to the other parties if this Bill were to pass. The only injury was that they would not have the benefit of a Statute of limitation. That was not a remedy availed of by any man of honor, unless his receipts were destroyed, and he did not think that the Council would injure any one by now delaying this Act, and continuing the present law till January 1862. If the consideration of the Bill were postponed till Saturday next, there would not be time to give notice of the suspension of the Act to all parties; and therefore if the Act was to be suspended, it ought to be suspended at once. It must be observed that the present Bill was not a law for altering the law of contract between the parties. It merely proposed to declare what should be the *lex fori*, by providing that the Courts should not take cognizance of claims brought after a certain time.

The Motion for the suspension of the Standing Orders was then put and carried.

THE VICE-PRESIDENT moved that the Bill be read a first time.

The Bill was read a first time.

THE VICE-PRESIDENT moved (the Standing Orders having been already suspended) that the Council resolve itself into a Committee on the Bill.

Agreed to.

The Section being read by the Chairman—

Mr. HARINGTON moved that the operation of the Bill be restricted to suits of the nature of those referred to in the Petition of the Calcutta Trade Association. The Section in which mention was made of these suits, was the only Section of the Act, of which the Petitioners complained. No objection had been taken to any other part of the Act, and he could not see why the operation of the whole Act should be suspended for several months, simply because the Petitioners objected to a single Section of it. If, therefore, there was to be any legislation at all at this time, he thought it should be confined to the part of the Act to which exception had been taken, and that it should not go further. Had the Petitioners complained that they had overlooked the particular Section of the Act which obliged them, within a certain period, to institute all claims, which would be affected by the provisions of the Act, otherwise they would be barred by the new Statute of limitation, and that in consequence of this oversight, a large number of claims remained uninstituted, for the institution of which, within the prescribed period, there was not now sufficient time, he might have felt more disposed to listen to them, but this was not their case. The Petitioners complained of the law itself. With regard to the particular Section objected to by the Petitioners, he would only say that it was not introduced by him, though he quite agreed in it. He believed he was right in stating that one of the beneficial effects which were expected to result from the introduction of this Section was that it would put a stop to the very large credits given by the tradesmen in the Presidency towns, whereby so many young men were led into extravagance and ruined.

Mr. LAING said, he thought that, as regards the particular Clause complained of by the Petitioners, there could be no doubt as to the propriety of passing this Bill. He rather agreed with them that the period of three years was too short a limitation for the limitation of trade debts. The period in England was six years, and he

thought that the same term should prevail in this country. Therefore, though he was quite willing to pass the Bill as regards that particular Section, he was not prepared at present to agree to the suspension of the whole law, for there were many points in it which required careful consideration, and he would wish that the Bill should stand over till the next Meeting of the Council.

After some further discussion, the consideration of the Bill was postponed.

The Council adjourned till Tuesday the 30th instant at 5 o'clock in the afternoon.

Tuesday Evening, April 30, 1861.

PRESENT :

Hon'ble Sir Barnes Peacock, *Vice-President*, in the Chair.

The Hon'ble Sir H. B. E. Frere,	A. Sconce, Esq.,
The Hon'ble S. Laing,	C. J. Erskine, Esq.,
H. B. Harington, Esq.,	and
H. Forbes, Esq.,	The Hon'ble Sir C. R. M. Jackson,

REPEAL OF REGULATIONS AND ACTS.

THE VICE-PRESIDENT read a Message informing the Legislative Council that the Right Honorable the Governor-General had given his assent to the Bill "to repeal certain Regulations and Acts relating to the Procedure of the Courts of Civil Judicature not established by Royal Charter."

LIMITATION OF SUITS.

THE CLERK presented a Petition from the Landholders and Commercial Association of British India, praying for an amendment of Act XIV of 1859 (to provide for the limitation of suits).

Also a Petition from certain native inhabitants residing in the suburbs of Calcutta, praying for a postponement of the operation of the above Act.

THE VICE-PRESIDENT said that, as these Petitions related to the Bill which was about to come before the Council to-night, he begged to move that the Clerk be requested to read them at length.

The Motion was carried, and the Petitions read accordingly.

The Order of the day being then read for the adjourned Committee of the whole Council on the Bill "to amend Act XIV of 1859 (to provide for the limitation of suits)," the Council resolved itself into a Committee for the further consideration of the Bill.

MR. HARINGTON said that he had employed the short time which had elapsed since the adjournment, on Saturday last, of the further consideration of this Bill, until to-day, in looking into the papers connected with the passing of Act XIV of 1859, which this Bill had been brought in to amend by suspending the operation of that Act from the 5th May next until the 1st January 1862, and the result had been to confirm the doubts previously entertained by him as to the sufficiency of the ground shown for the proposed suspension of the law, certainly to the extent to which this Bill went. But before proceeding further, he felt that it was due to the Calcutta Trades' Association, on whose Petition they were now acting, that he should at once call attention to the fact that the Petitioners in their Petition had not asked that the operation of any part of Act XIV of 1859, much less that the operation of the entire Act should be postponed by the suspension of the Standing Orders, and by the passing of a temporary law pending future legislation. The Petitioners merely took exception to a single provision contained in Act XIV of 1859, and they asked the Council, in proper and respectful language, to amend that provision. This was all that the Petitioners prayed for. Their perfect right to come up to the Council with such a prayer did not admit of a moment's doubt. The Petitioners considered themselves aggrieved by a law passed by this Council, and using, as had already been observed, proper and respectful language, they asked the Council to remove what they, the Petitioners, regarded as a grievance by amending the law. Nothing could be more reasonable or proper in itself than this. Petitions of a