

*Thursday,
19th March, 1896*

ABSTRACT OF THE PROCEEDINGS
OF THE
Council of the Governor General of India,

LAWS AND REGULATIONS

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ABSTRACT OF THE PROCEEDINGS
OF
THE COUNCIL OF THE GOVERNOR GENERAL OF INDIA,
ASSEMBLED FOR THE PURPOSE OF MAKING
LAWS AND REGULATIONS,

1896

VOLUME XXXV



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Abstract of the Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892 (24 & 25 Vict., cap. 67, and 55 & 56 Vict., cap. 14).

The Council met at Government House on Thursday, the 19th March, 1896.

PRESENT :

His Excellency the Viceroy and Governor General of India, P.C., G.M.S.I., G.M.I.E., LL.D., *presiding*.

The Hon'ble Sir A. E. Miller, K.T., C.S.I., Q.C.

The Hon'ble Lieutenant-General Sir H. Brackenbury, K.C.B., K.C.S.I., R.A.

The Hon'ble Sir J. Westland, K.C.S.I.

The Hon'ble J. Woodburn, C.S.I.

The Hon'ble Alan Cadell, C.S.I.

The Hon'ble Mohiny Mohun Roy.

The Hon'ble A. S. Lethbridge, C.S.I., M.D.

The Hon'ble M. R. Ry. P. Ananda Charlu, Rai Bahádúr.

The Hon'ble J. D. Rees, C.I.E.

The Hon'ble G. P. Glendinning.

The Hon'ble Nawab Amir-ud-Din Ahmad Khan, C.I.E., Bahádúr, Fakharuddoulah, Chief of Loharu.

The Hon'ble Rao Sahib Balwant Rao Bhuskute.

The Hon'ble P. Playfair, C.I.E.

QUESTIONS AND ANSWERS.

The Hon'ble RAO SAHIB BALWANT RAO BHUSKUTE asked :—

“(1) Are the Government of India aware of a restriction of age imposed on students seeking admission into the High Schools of the Hyderabad Assigned Districts?

“(2) If so, do they not think such a restriction not obtaining in any other province highly prejudicial to the cause of higher education in a non-regulation province considerably backward in education?”

The Hon'ble MR. WOODBURN replied :—

“1. The only information which the Government of India have on the subject is contained in the Review by the Resident, Hyderabad, of the Report on Public Instruction in the Hyderabad Assigned Districts during the year 1892-93. In commenting on the average number of students in the Akola and Amraoti High Schools respectively, the Resident observed that the two schools

[*Mr. Woodburn; Babu Mohiny Mohun Roy; Sir Alexander* [19TH MARCH, *Miller.*]

appeared to be worked on different lines as regards conditions on which boys were admitted or re-admitted; and, while conceding to head masters a reasonable discretion, he expressed the opinion that a maximum age should be prescribed for each class, and that a boy who has exceeded this age should be regarded as disqualified.

“2. The Government of India not having seen the rule, if any, referred to, are not able to express an opinion on it, but they will make enquiry on the subject.”

The Hon'ble BABU MOHINY MOHUN ROY, on behalf of the Hon'ble SIR GRIFFITH EVANS, asked :—

“I beg to draw the attention of the Government of India to a letter from the Incorporated Law Society, Bombay, to the Government of Bombay, dated the 18th May, 1893, urging the necessity for amending section 136 of the Transfer of Property Act, and to ask whether the subject of the letter has been referred by the Government of India to any, and what, Local Governments or High Courts for opinion; whether any, and what, opinions have been received by the Government on this subject or on the desirability of amending the chapter of the Transfer of Property Act relating to 'actionable claims;' whether the opinions (if any) received, or the majority of them, were that some amendment was desirable; whether the Government of India have considered the above-mentioned letter and opinions, and also a case on the subject of 'actionable claims' decided by a Full Bench of the Calcutta High Court on the 2nd April, 1894, and reported in the Indian Law Reports, Calcutta Series, Volume XXI, page 568; whether they have come to any conclusion as to the desirability or otherwise of legislation on the subject; and whether the Government of India are prepared to make any statement as to whether they intend to deal with the matter or not.”

The Hon'ble SIR ALEXANDER MILLER replied :—

“The subject-matter of the letter mentioned by the Hon'ble Member was referred to all the Local Governments and High Courts for opinion, and replies have been received from all the authorities referred to. There is a general agreement that some amendment of the chapter of the Transfer of Property Act relating to actionable claims is required though there is considerable difference of opinion as to the form which the amendment should take. The Government of India have these opinions as well as the judgment in the case of *Muchiram Barik v. Ishan Chunder Chuckerbutty*, reported in the Indian Law Reports, Calcutta Series, Volume XXI, page 568, and referred to by the Hon'ble Member, under their consideration, but have not arrived at any conclusion on the subject as yet.”

1896.]

[Sir James Westland.]

FINANCIAL STATEMENT FOR 1896-97.

The Hon'ble SIR JAMES WESTLAND introduced and explained the Financial Statement for 1896-97. He said :—

“ Famine Insurance Grant.

“ I desire to begin my Statement by referring to the often-discussed subject of the Famine Insurance Grant. The policy which underlay this grant may for present purposes be described as a determination, as far as possible, to raise not merely so much revenue as was necessary for the needs of the current year, but an amount of Rx. 1,500,000 besides, which could be devoted either to the actual relief of famine when it occurred, or to measures calculated to prevent the recurrence of famine or to facilitate measures of relief on its occurrence.

“ 2. The following are the actual figures of the account during the fifteen years for which it has been running :—

YEARS.	Famine Relief.	Construction of Protective Irrigation Works.	CONSTRUCTION OF PROTECTIVE RAILWAYS.		Reduction or avoidance of Debt.	TOTAL.	Declared Surplus (+) or deficit (—) in accounts.
			Charged under Famine Relief and Insurance.	Charged under Railway Revenue Account.			
	Rx.	Rx.	Rx.	Rx.	Rx.	Rx.	Rx.
1881-82	34,883	135,449	682,403		715,151	1,567,886	+3,595,451
1882-83	22,103	263,443	—133,129		1,343,555	1,495,972	+674,837
1883-84	9,205	283,223	649,248	..	581,137	1,522,813	+1,879,707
1884-85	7,350	253,046	946,457	..	341,504	1,548,357	—386,446
1885-86	40,695	186,807	589,000	29,271	683,498	1,529,271	—2,801,726
1886-87	1,041	107,979	200,000	151,812	..	460,832	+178,427
1887-88	402	91,006	..	285,199	..	376,607	—2,028,832
1888-89	7,799	70,537	..	430,182	..	508,518	+37,018
1889-90	68,288	71,457	..	462,009	460,255	1,062,009	+2,612,033
1890-91	5,579	74,392	..	482,351	520,029	1,082,351	+3,688,171
1891-92	23,423	77,931	484,795	231,681	682,170	1,500,000	+467,535
1892-93	70,841	60,793	984,469	383,897	..	1,500,000	—833,412
1893-94	496	56,351	1,060,954	371,768	..	1,489,569	—1,546,998
1894-95	10,258	43,110	556,867	389,765	..	1,000,000	+693,110
Total of 14 years	302,363	1,775,524	6,021,064	3,217,935	5,327,299	16,644,185	+6,228,875
1895-96 (Revised Estimate)	10,500	40,200	534,800	414,500	..	1,000,000	+951,400
Total of 15 years	312,863	1,815,724	6,555,864	3,632,435	5,327,299	17,644,185	7,180,275

[*Sir James Westland.*]

[19TH MARCH,

“ 3. It will be seen that the exigencies of finance have occasionally prevented the Government from completely fulfilling its self-imposed obligation. It has sometimes, as in 1893-94, set aside the required sum as famine insurance, without actually possessing it in the form of a realized surplus of revenue, and it has occasionally, as in 1886-87 and the succeeding years, practically given up the obligation as too onerous, and postponed its fulfilment until the financial crisis was over. But, taking the fifteen years as a whole, the Government has set aside Rx. 17,644,185 of its revenue for the purposes of famine relief and insurance (almost entirely the latter), and has over and above this realized a surplus of revenue of Rx. 7,180, 275.

“ 4. What, then, have we done during this time in the way of carrying out the original policy? Besides spending Rx. 312,863 upon actual famine relief, we have spent out of the Famine Insurance Grant, that is, out of our revenue, Rx. 1,815,724 upon the construction of Irrigation Works, and Rx. 6,555,864 upon the construction of Railways designed as a protection against famines; and we have upon the guarantee of this Insurance Grant raised capital for the construction of two large Railway systems—the Bengal-Nagpur and the Indian Midland. We have, moreover, charged off against our Revenue account and set aside an amount of Rx. 5,327,299 in the form of reduction or avoidance of debt, that is, we possess this sum as a sort of accumulated surplus of Revenue over and above the forward total of our ordinary surpluses.

“ 5. I need not say that this is a far better position than what was considered in any way probable when the famine insurance policy was initiated, for the anticipation then was that we would actually spend about Rx. 15,000,000 upon Famine Relief in ten years and not have any part of it in hand in the shape either of completed works or of money unspent. The improvement is due for the most part to the fact that we have during these fifteen years been much more free from famines than we in any way anticipated. To what extent famines may be awaiting us in the future it would be rash to speculate; one thing we do know is, that our financial and our protective preparation for them is infinitely superior to what it was at the time when the famine insurance policy was laid down.

“ 6. While therefore we continue to regard famine insurance as an essential portion of our financial policy, we consider ourselves fully justified, for the present at any rate, in measuring it by a lower standard than was applied in 1880; and we consider that we will in the present state of our finances meet all the necessary obligations of famine insurance if we set aside in each of the years under consideration, not Rx. 1,500,000, but Rx. 1,000,000 out of our revenue for the purpose; or, to state the operation more exactly, if we aim at establishing a standard of revenue sufficient to provide Rx. 1,000,000 instead of Rx. 1,500,000 for famine insurance.

1896.]

[*Sir James Westland.*]

“ 7. When I presented the estimates of March, 1894, the Government had determined that the new revenue required to meet the serious fall in exchange was enough for the country to bear at the time, and that it was not expedient to raise the further sum required to meet the obligation of famine insurance. But a year later, that is, in March of last year, I was able to report that the revenue realized had been actually enough to provide a considerable amount on account of our famine obligations. I left the matter at that point, stating that it was not much more than a difference in the manner of stating the facts, whether we said that we had a surplus of Rx. 990,000 without providing for famine insurance, or a smaller surplus, say Rx. 440,000, after providing in part for that insurance. But the obligation of Famine Insurance is an obligation upon us whether we actually meet it or not, and it follows that any surplus that we declare, without meeting it, is not a true surplus. When, therefore, in December last, we came to making up our actual accounts for 1894-95 and forecasting our revised estimates for 1895-96, finding as we did that we had enough of revenue to meet this obligation, we considered that the time had come when we should set aside our determination, of March, 1894, to suspend the Famine Insurance Grant; and that we should duly provide for it in our accounts, and should declare as the actual surplus of the year only so much revenue as remained over after we had duly charged off the Famine Grant. That grant therefore has now resumed its position in our accounts; only for the reasons I have already given, we measure the obligation for the present at Rx. 1,000,000 instead of the higher figure hitherto adopted as its limit.

“ Accounts of 1894-95.

“ 8. The accounts of 1894-95, as I presented them this time last year, were estimated to work out to a surplus of Rx. 990,500. As they now stand when actually closed they are better, under the ordinary Revenue and Expenditure heads, by Rx. 259,477; but then, as we have, in pursuance of the policy I have just explained, charged off an additional amount of Rx. 556,867 on account of Famine Insurance, the result is on the whole worse by Rx. 297,390, and the declared surplus for the year is Rx. 693,110.

“ 9. On the Revenue side, the total difference is only Rx. 33,329 made up of about 20 lakhs short collections of Land Revenue (both ordinary and irrigation) more than compensated by petty improvements under almost all the other heads. On the Expenditure side, excluding consideration of the Famine Grant, there were small savings under almost all the heads, and the total difference was Rx. 226,148 to the good. The Revised Estimates, as I presented

[*Sir James Westland.*]

[19TH MARCH,

them in last year's Financial Statement, may therefore be said to have been more than justified by the actual making up of the accounts.

“ Revised Estimates of 1895-96.

“ 10. The result of the Revised Estimates of the year still current may shortly be set forth thus : We have paid for the Chitral Expedition, we have restored the Famine Insurance Grant to the extent just mentioned, we have restored the contributions we levied, in 1894-95, from the Provincial Governments, and we have a surplus, over and above, of Rx. 951,400.

“ 11. To take up these subjects in their order : the Chitral Expedition has cost us Rx. 67,200 in the accounts of 1894-95, Rx. 1,647,500 in the Revised Estimate of 1895-96, and a further sum of Rx. 20,000 will come under payment in 1896-97, giving a total of Rx. 1,734,700 in India, besides a sterling expenditure in replacement of stores of £16,000. It has left us a legacy of permanent expenditure in the occupation of Chitral and of its communications, which has involved in 1895-96 an expenditure of Rx. 102,200, and will involve in 1896-97 an expenditure of Rx. 231,700. It is expected that it will be possible to reduce this figure when we pass beyond the initial stages of the occupation.*

“ The Financial Statement is not the place in which to defend the policy of the expedition or the occupation which has followed it; and I have here merely to note the fact that against a Budget provision of Rx. 150,000 which was announced as intended to meet the cost of preparations which it was hoped might not eventuate in war, we have expended Rx. 1,749,700 plus £16,000, being an excess (omitting exchange) of Rx. 1,615,700.

“ 12. The contributions which we took from the Provincial Governments in 1894-95 amounted to Rx. 405,000. We expressed at the time the reluctance with which we called in to our aid balances which the Local Governments might legitimately claim as pledged to them for the purpose of administrative improvement, and we indicated that we would restore them, if happily the financial position of the Government should sufficiently improve to warrant our doing so. We think that it has done so, and even were this not fully the

*The figures in this paragraph are irrespective of the “ Political ” Expenditure, which comes to Rx. 20,000 in 1895-96 and Rx. 22,000 in 1896-97, and includes enrolment of levies to hold the road; also of Military Works Expenditure, Rx. 21,600 in 1896-97.

1896.]

[*Sir James Westland.*]

case there are some circumstances which would in one or two of the cases make it necessary or advisable for us to make the repayments.*

" 13. The Provincial finances of the North-Western Provinces suffered very severely in 1895-96 by reason of the failure of Irrigation Revenue. So much and such seasonable rain fell during the cold weather of 1894-95 that the cultivators were able very largely to dispense with their usual drafts on the irrigation canals, and the revenue dropped from its ordinary standard of 56 or 57 lakhs to only 36½. However beneficial this was to the cultivators, it obviously involved a severe strain on Provincial resources, and although every economy has been enforced, the Provincial balance has been reduced to a figure which, especially in view of the scarcity impending in some parts of the province, cannot be regarded as safe. Here, therefore, a necessity for restoration arises which we would have to face even were our own position less strong than it is.

" 14. The Central Provinces Administration has also been unfortunate. For three successive years the crops in the Jamalpur Division have been so scanty that the Government has been obliged in some measure to forego its claims for Land Revenue, and in that and other ways the Provincial balance has there also been depleted. The circumstances under which we took from that Administration a contribution of Rx. 43,000 are now reversed, and we there also would be obliged to restore this year what we obtained last year.

" 15. Burma, from which we obtained 18 lakhs, gave us a contribution out of all proportion to its size and importance as compared with other Provinces. Owing to special circumstances, it was able at the time to afford it, and in a sense may still be said to be so. But Burma is a young and expanding province, where the Local Administration can beyond a doubt make most excellent use of any funds it possesses, and where local needs press more heavily than in older and better equipped provinces. Moreover, when the provincial contract comes under revision, as it will before next year, we shall have to include Upper Burma, of which the finance is at present entirely

*These contributions pass into our accounts by a redistribution of the Imperial and Provincial shares Land Revenue. The figures are as follow:—

	1894-95 (ACCOUNTS).		1895-96 (REVISED).	
	Imperial column.	Provincial column.	Imperial column.	Provincial column.
	Rx.	Rx.	Rx.	Rx.
Distribution according to Provincial Contract	16,171,796	9,236,476	16,647,800	9,544,700
Contribution	+ 405,000	—405,000	—405,000	+ 405,000
Figures entered in the Accounts or Estimate	16,576,796	8,831,476	16,242,800	9,949,700

[*Sir James Westland.*]

[19TH MARCH,

Imperial, in the contract; and this addition will render it expedient that the provincial balance should be higher than the amount at which it is at present maintained. The 18 lakhs which we restore will be only partly spent during the approaching year and the bulk of it will remain in hand as a useful and almost necessary equipment for the undertaking by the Provincial Government of the financial management of the newest province of India.

“ 16. Bengal, Madras, Bombay and Assam are well enough off, I am glad to say, to do without the money we propose to restore to them; but the repayment of the money to them, and its ultimate expenditure by them upon provincial or local necessities, only makes up to them and to the interests they administer for the severe economy which was forced upon them by the recent financial stress.

“ 17. The total improvement in our financial position involved in our ability to provide the few items I have mentioned may be thus tabulated :—

	Rx.
Chitral Expedition paid for out of Revenue Account	1,615,700
Famine Insurance Grant restored	534,800
Provincial contributions repaid	405,000
Surplus Rx. 951,400, as against Budget Rx. 46,200	905,200
	<hr/>
	3,460,700
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“ 18. We have now to enquire from what main sources we have obtained this large improvement.

“ 19. The first of these is in Exchange. Our Budget Estimates were built upon an exchange of 13·09 pence, but the amount we have actually realized (or will have realized when the year closes) is 13·68 pence. The difference which this imports into the account in the item of English expenditure alone is as follows :—

	Net expenditure in England.	Exchange at 13·09d.	Exchange at 13·68d.
Budget figure, 1895-96	£15,739,600	Rx. 13,116,300	..
Revised Estimate, 1895-96	£15,490,700	..	Rx. 11,680,000
	<hr/>		
Difference	£248,900	Rx. 207,400	

so that the improvement in Exchange gives us a benefit of Rx. 1,436,300, of which Rx. 207,400 is due to the smaller net expenditure, and Rx. 1,228,900 is due to improvement in the rate of remittance. To this, moreover, we have to add the additional saving under the head of Exchange Compensation Allowance, which enters the Indian figures of the Estimates and amounts, in

1896.]

[*Sir James Westland.*]

the Imperial section, to about Rx. 76,000. This, however, will be taken into account in the comparisons we have to make between the totals of the expenditure in the Revised Estimates and the original Budget figures, and therefore is not separately mentioned here.

“20. The second considerable advantage comes to us in the Opium account, in which I regret to say that our payments have been diminished by another season of short crop. The Budget and the Revised Estimates compare thus :—

	Budget.	Revised.
	Rx.	Rx.
Revenue	6,860,600	7,057,100
Expenditure in India	2,753,900	2,077,300
NET	4,106,700	4,979,800

showing a better result upon our accounts by Rx. 873,100. The extremely precarious nature both of the revenue and of the expenditure under this head compels us to make estimates that are apt to err upon the safe side. Our habit has been to make a fair estimate of revenue and a full estimate of expenditure, so as to avoid putting our expectations at too high a figure.

“ I am sorry to say that the coming crop does not promise to be more than an average one, but it is really very difficult to estimate what the produce will be until the actual operation of collection has commenced.

“21. The two heads I have dealt with account for Rx. 2,309,400 (1,436,300 + 873,100) out of the total improvement of Rx. 3,460,700 which presented itself for explanation. The remaining amount Rx. 1,151,300 is mainly accounted for by an improvement of Rx. 243,400 under the principal Revenue heads (excluding Opium), and by savings amounting to Rx. 462,000 in the ordinary Army expenditure in India. These two items, added to the savings in the English account (excluding Chitral) of £264,900, give a total of Rx. 970,300.

“22. Under the principal Revenue heads, excluding Opium which has already been considered, we have obtained on the whole Rx. 58,775,600, against a Budget Estimate of Rx. 58,368,400, giving us an improvement on Imperial account of Rx. 243,400 (as just mentioned) and on Provincial account of Rx. 163,800. Land Revenue is a little less than estimated owing to poor seasons in Northern India, but we have the usual advance in Salt, Stamps, Excise, Customs (notwithstanding the diminished amount of duties on cotton, largely due to short imports) and Forest Revenue.

[Sir James Westland]

[19TH MARCH,

“ 23. Under Army expenditure in India, the figures are as follow :—

	Budget. Rx.	Revised. Rx.
Chitral Expenditure in India	150,000	1,749,700
Other Expenditure	16,920,500	16,458,500
TOTAL	17,070,500	18,208,200

so that the net savings (excluding consideration of the Chitral Expedition) amount to Rx. 462,000, of which Rx. 170,000 is due to low prices of food, and Rx. 53,700 due to lower rates of payment of Exchange Compensation allowance. For other details, I refer to Part II of the Statement.

“ 24. Under other heads I shall note only one or two principal differences, omitting reference to a large number of small increases on the receipt side, and small savings on the estimates of expenditure taken in Budget.

“ 25. The Post Office and Telegraph Departments in India have given us a net improvement on Imperial Account of Rx. 38,600 and Rx. 66,300 respectively.

“ 26. The Railway net earnings have been less than were anticipated in the Budget, the comparative figures being as follow :—

	Budget. Rx.	Revised. Rx.
State Railways—		
Gross Earnings*	18,001,900	18,375,100
Working Expenses	8,697,000	9,033,700
Net Earnings	9,304,900	9,341,400
Guaranteed Railways—		
Net Earnings	3,495,000	3,270,000
TOTAL	12,799,900	12,611,400

“ The loss is on the whole Rx. 188,500; made up of a gain on Provincial Account of Rx. 55,200 (mostly due to the Eastern Bengal Railway), and a loss on Imperial Account of Rx. 243,700. The Great Indian Peninsula Railway was in this, as in last, year responsible for practically the whole of this loss, having produced only Rx. 1,600,000, against a Budget Estimate of Rx. 2,000,000. The following Railways brought in a gain which has compensated for a part of this loss: North-Western Railway, Rx. 205,000 better than Estimate; Bombay, Baroda and Central India, Rx. 132,500; East Indian, Rx. 100,000.

*Includes £200 in England.

1896.]

[*Sir James Westland.*]

“ 27. There was also a considerable falling-off in Irrigation Revenue, the comparative figures being as follows :—

	Imperial. Rx.	Provincial. Rx.
Budget	1,716,600	767,700
Revised	1,662,500	662,600
Loss .	<u>54,100</u>	<u>105,100</u>

Part of this loss I have already alluded to in connection with the refund of contribution to the North-Western Provinces, and the remainder arises from smaller demands in Madras and in Sindh.

“ 28. Under Civil Departments, we have the usual savings in expenditure as compared with estimates. The figures are—

	Imperial. Rx.	Provincial. Rx.	Total (excluding exchange). Rx.
Budget	3,813,100	11,102,700	14,915,800
Revised	3,790,300	10,926,300	14,716,600
	<u>22,800</u>	<u>176,400</u>	<u>199,200</u>

It will be seen that it is mostly to Provincial Account that these savings accrue. For the further detail of the figures I refer to Part II of the Statement.

“ Cotton Duties Legislation.

“ 29. The favourable forecast of our financial position which we were able to make in January last induced us to include, in the readjustment which we were then making of the Cotton Duties, a proposal to reduce their standard from 5 to $3\frac{1}{2}$ per cent. So far as imported goods are concerned, we estimate to lose by the reduction in the rate of duty on woven goods and the abolition of it on yarns Rx. 535,000; but against this we estimate that the Excise Duty, by its extension to coarser counts of goods, will give us Rx. 40,000 more than last year's estimates. The net annual reduction of Revenue is, therefore, just under Rx. 500,000; and a small portion of it comes into the current year's accounts.

“ Rate of Exchange.

“ 30. In setting forth the Budget Estimates for 1896-97 the first point to be settled is what rate of exchange is to be taken.

[*Sir James Westland.*]

- [19TH MARCH,

" The rate at the beginning of 1895-96 was about $13\frac{5}{16}d.$, and it remained about that figure for the first quarter. During July it slightly fell, but it recovered in August. In September it rose to $13\frac{1}{2}d.$, and throughout October $13\frac{3}{4}d.$ was firmly established. In November and December it continued to rise, and the first drawings of the Secretary of State in the current year 1896 were over $14d.$ The rate remained about $14d.$ throughout January, and during February and March it has gradually strengthened to about $14\frac{3}{4}d.$ *

" 31. The prospects indicated by these figures are decidedly encouraging; but as last year the Government of India made up their minds to avoid any speculations as to the future, so this year also they have determined in their estimates to take no account of the recent, and perhaps yet unexhausted, rise in the exchange. They consider it very important under present circumstances to be on the safe side, and have fixed the exchange to be taken in the Budget Estimates at a rate which would certainly have been deemed wise and prudent in the beginning of February, though to many persons it may appear in the light of more recent events to err on the safe side. The rate we have taken is $13\frac{3}{4}d.$, being only slightly in advance of the realized rate of 1895-96. If we could calculate on a rate approaching the present current rate of $14\frac{3}{4}d.$ * the time would have come for a revision of our general financial position; and we believe that no one will consider our position sufficiently assured for any such measures.

" Budget Estimates, 1896-97.

" 32. Taking this rate of Exchange, our Budget Estimates of Revenue and Expenditure for the coming year work out to a surplus of Rx. 463,100.

" 33. The English figures, both of Revenue and of Expenditure, differ very little from those of last year's Budget. The differences are noted in detail in Part II of the Statement, and need not be further examined here. In the Exchange upon the net English Expenditure, however, we gain a very great advantage, as will be obvious from the following statement :—

	Budget, 1895-96.	Budget, 1896-97.	Better, 1896-97.
Net Expenditure in England £	15,739,600	15,735,300	4,300
Net Exchange on the same Rx.	13,116,300	11,729,900	1,386,400

*Has fallen during the week to $14\frac{1}{4}d.$

1896.]

[Sir James Westland.]

giving a total improvement of Rx. 1,390,700. Our further comparisons therefore are confined to the Indian figures of the Budget Estimates of the two years :—

INDIA ONLY.	Budget, 1895-96.	Budget, 1896-97.	1896-97. Better + Worse —
	Rx.	Rx.	Rx.
Revenue—			
Imperial share . .	72,430,000	72,787,100	+ 357,100
Provincial share . .	24,180,800	24,529,700	(a)
TOTAL . .	<u>96,610,800</u>	<u>97,316,800</u>	<u>+ 706,000</u>
Expenditure—			
Imperial share } . .	43,527,900	44,858,800	—1,330,900
Provincial share . .	24,804,100	25,416,100	(a)
TOTAL . .	<u>68,332,000</u>	<u>70,274,900</u>	<u>—1,942,900</u>

“ 34. The total improvement in the Budget as compared with last year, that is, the enhancement of the surplus from Rx. 46,200 to Rx. 463,100, is Rx. 416,900, and is the sum of the following improvements just stated :—

	Rx.
In English Expenditure and Exchange	1,390,700
In Revenue (Imperial share) in India	357,100
In Expenditure (Imperial share) in India	<u>—1,330,900</u>

But my explanations relating to Indian Revenues and Expenditure will be clearer if I disregard for the moment the operation of the Provincial Contracts, and explain the total excess of Revenue Rx. 706,000 and the total excess of Expenditure Rx. 1,942,900.

“ 35. Under the principal heads of Revenue, the chief increases that we count upon, as compared with the estimates of last March are, Stamps, Excise and Forest, Rx. 385,000. We also receive under Tributes from Native States an enhancement of Rx. 102,700, the term having now expired for which the

(a) Through the operation of the Provincial contracts, these Provincial differences are prevented from affecting the Imperial surplus.

[*Sir James Westland.*]

[19TH MARCH,

Government of India agreed to remit Rx. 105,000 out of the full amount of tribute due from Mysore.

“ Against these increases we have provided for decreases, first, of Land Revenue, Rx. 276,300, due partly to bad seasons in Northern India, and partly to the fact that the estimates of 1895-96 provided for certain arrears due from the previous year; and secondly, of Customs Revenue, Rx. 332,800, being the excess of the loss caused by the recent reduction of Cotton Duties over the better receipts we expect under other heads. Under Salt, we practically repeat last year's figure.

“ 36. We estimate for an increase of Post Office and of Telegraph Revenue; but under Railway Earnings the figures we take are somewhat less than what we expect to realize in 1895-96, though slightly better than the Budget Estimate of that year. The following figures may be compared with those stated in paragraph 26 above :—

	Budget Estimate, 1896-97.	Revenue side. Better + Worse —	Expenditure side. Worse
State Railways—	Rx.	Rx.	Rx.
Gross Earnings . . .	18,322,100	+320,200	
Working Expenses . . .	9,010,800		313,800
Net Earnings . . .	9,311,300		
Guaranteed Railways—			
Net Earnings . . .	3,233,000	—262,000	
TOTAL . . .	12,544,300	+58,200	313,800

“ The reduction in net earnings is greater than appears at first sight, inas-much as we start, on April 1st, 1896, with 341 miles broad-gauge, and 385 miles metre-gauge, more of State Railways than were open on April 1st, 1895.

“ 37. Under the head of Irrigation a large increase of revenue is expected, namely, Rx. 235,500 on Imperial account and Rx. 163,500 on Provincial account. The first mostly arises in the Punjab, and second in the North-Western Provinces, both being due to the increased demand for water in consequence of the present dry season.

1896.]

[Sir James Westland.]

" 38. I set forth now the sum of the various differences on the Revenue side, of which I have given a detailed explanation.

		BUDGET, 1896-97, COMPARED WITH BUDGET, 1895-96.	
		Better. Rx.	Worse. Rx.
Stamps, and other Progressive Revenues	.	385,000	
Tributes	. . . . .	102,700	
Land Revenue	. . . . .		276,300
Customs	. . . . .		332,800
Post Office and Telegraph	. . . . .	154,200	
Railways (Revenue side only).	. . . . .	58,200	[313,800] (a)
Irrigation	. . . . .	399,000	
		<hr/> 1,099,100	<hr/> 609,100
NET	.	<hr/> 490,000	<hr/>

" The total for explanation was Rx. 706,000, so that Rx. 216,000 is explained by the numerous smaller differences which we have not taken into account.

" 39. Passing to the expenditure side where the excess in the present estimates is Rx. 1,942,900, and remembering that we are dealing only with the Indian figures, there is little difference in the totals of the direct demands on the revenue. We have provided a smaller amount than last year, but still what we believe to be sufficient, for the collection of the opium crop; and we have had to provide a little more than last year under Salt and Forest.

" 40. Under Post Office and Telegraphs we provide Rx. 56,600 more than last year, all of which comes back to us in increased revenue.

" 41. The estimates under Civil Departments, Imperial and Provincial, come to Rx. 14,483,300 against Rx. 14,359,300, the increase of Rx. 124,000 being entirely in the Provincial column; it is distributed in small amounts over nearly every head, and is due to the general expansion of business and of administration.

" 42. Almost the only increase under the Miscellaneous group is that of Rx. 35,300 under superannuations.

" 43. Next come two large increases, both of which have been already mentioned, *viz.*, the restoration of the Famine Insurance Grant, which adds Rx. 543,500 to the estimates, and this year includes a provision of 7 lakhs for

(a) This item comes on the Expenditure side, and therefore does not enter the present totals.

[*Sir James Westland.*]

[19TH MARCH,

Famine Relief, the necessity for which may arise in the North-West Provinces; and the increase of Rx. 313,800 for the working expenses of State Railways.

“ 44. Under Irrigation and Civil and Military Works the provision in the estimates is—

	Imperial. Rx.	Provincial. Rx.
Budget, 1895-96	3,274,200	5,411,500
Budget, 1896-97	3,448,800	5,716,500
Excess in 1896-97	174,600	305,000

giving a total excess of Rx. 479,600, mostly Provincial.

“ This is due in a general way to the fact that our financial position warrants our resiling from the extreme limitation of the grants under these heads, which it has been necessary to enforce in the past two years. The grants under Imperial include an enhancement from 5 to 8 lakhs of the provision made for the restoration of irrigation canals in Upper Burma; and a grant of 6 lakhs for water-supply in Bangalore, which is a charge upon that part of our general revenues which comes to us in consequence of our arrangement with Mysore in respect of the revenue and expenditure of the civil and military station of Bangalore.

“ 45. The grants made under the head of Army Services in India will be better understood if I classify them in this fashion :

	Budget, 1895-96. Rx.	Budget, 1896-97. Rx.	Excess, 1896-97. Rx.
Chitral Expedition	150,000	20,000	—130,000
Special Mobilization Expenditure . . . . .	..	494,900	+494,900
Other and ordinary services	16,920,500	16,965,200	+44,700
TOTAL	17,070,500	17,480,100	409,600

“ The first of these items has been already explained. The second is a sum which has, with the approval of the Secretary of State, been included in the Estimates for preparations for mobilization of the Field Army. The amount includes the provision of all the material and equipment necessary for the mobilization of the whole Field Army, an addition of about 1,750 mules and 2,350 camels to the present establishment, and a reserve of 1,000 artillery horses. The necessity for this provision has long been recognized, but since 1891, when a sum of 35 lakhs was provided for mobilization preparations, our

1896.]

[*Sir James Westland.*]

financial condition has not allowed us to devote any money to this purpose. The provision made also includes the cost of gear and of establishments for the care of the additional animals for the current year.

“ Under the third head which shows an increase of Rx. 44,700, we have to bear in mind that the increase of pay to the Native Army, which came into effect for only eight months in 1895-96, itself requires an additional provision of Rx. 110,000, as it will operate for twelve months of 1896-97; and if this is left out of account the scale of expenditure for the year is Rx. 65,300 less than that of last year, although it includes the new charge of Rx. 231,700, for occupation of Chitral, mentioned in paragraph 11 above. But for the details of increases and decreases, I refer to Part II of the Statement.

“ 46. I state now the sum of the excesses of expenditure which I have picked out for separate explanation :

	Rx.
Post Office and Telegraphs	56,600
Civil Departments	124,000
Miscellaneous	35,300
Famine Insurance	543,500
Railway Working Expenses	313,800
Irrigation and Public Works	479,600
Army Services	409,600
TOTAL	1,962,400

“ 47. Some smaller differences, not mentioned in detail, reduce this total, as already stated, to Rx. 1,942,900.

“ Capital Expenditure.

“ 48. The Capital Expenditure on Irrigation was taken at Rx. 700,000 in the Budget Estimates of 1895-96, and a little more will be spent. Rx. 750,000 has been provided in the estimates for 1896-97. The details of the grant are specified in one of the appendices to this Statement; about one-third of the whole amount is spent in the development of the Chenab Irrigation Canals, in connection with which the Government of the Punjab are carrying on a remarkably successful colonization scheme. In the remainder of my remarks I shall refer to Railways only.

“ 49. The Budget Estimates provided for Rx. 3,700,000 only, but certain questions were then pending with reference to the Assam-Bengal Railway, and both for that Railway and for the East Indian Railway arrangements were made for increased expenditure and for raising money for it by sterling

[Sir James Westland.]

[19TH MARCH,

debentures in England. The expenditure, including English as well as Indian, which we anticipate during the year amounts to Rx. 5,378,300, and arrangements have been made for spending a still larger sum, Rx. 7,270,000, in 1896-97.

“ 50. The principal items in this programme are as follow :—

	1895-96. Rx.	1896-97. Rx.
East Coast Railway, including Bezwada Extension	690,000	197,800
Mu Valley, including extension northward to the Irrawaddy	121,900	100,000
New Railway from Mandalay to the Salween river at Kunlon	50,000	620,000
North-West Frontier lines, Mari-Attock and Muskaf-Bolan	468,000	495,000
Rai Bareli to Benares	60,000	240,000
Kotri-Rohri Chord Line on the east side of the Indus river	675,700	511,000
Bezwada-Madras Railway	140,000	800,000
East Indian Railway, including a new branch, Mogul-Sarai to Gya	555,000	850,000
Assam-Bengal Railway	1,438,300	1,750,000
Rutlam-Ujjain Branch	131,600	47,500
North-Western Railway	199,100	289,900
Eastern Bengal Railway, including doubling of the line Ranaghat to Poradha	141,600	407,500
Tirhoot Railway Extensions . . . . .	..	400,000

“ 51. The totals which we have above stated will be thus provided :—

	1895-96. Rx.	1896-97. Rx.
By grant under—		
34—Protective Railways	534,800	473,500
48—State Railways—Construction	3,622,200	5,506,700
Out of sterling Debentures or Capital raised by—		
East Indian Railway Company	245,000	737,800
Assam-Bengal Railway Company	976,300	552,000
TOTAL	5,378,300	7,270,000

“ 52. Besides the Railways and Railway schemes included in the above figures, arrangements have been made during the year—

- (1) For the commencement of work on the following lines, of which the sterling part of the expenditure is to be provided by the Com-

1896.]

[*Sir James Westland.*]

pany in England, and the Indian portion of the expenditure by money advanced by Government in India :—

(a) Bengal-Nagpur Railway Company's connection with Calcutta. Total cost, Rx. 5,032,754.

(b) Indian-Midland Railway. Saugar-Katni connection. Total cost, Rx. 1,082,232.

(2) For two branch lines to be constructed on behalf of two Branch Line Companies by existing Companies, *viz.*, Ahmedabad-Parantij by the Bombay, Baroda and Central India Railway Company, and South Behar by the East Indian Railway Company.

In these last two cases the Government of India have not to find the money, but in the case of the Bengal-Nagpur and Indian-Midland Railway Companies' operations it is estimated that we shall have to advance in India—

	1895-96. Rx.	1896-97. Rx.
Bengal-Nagpur	73,600	750,000
Indian-Midland	30,000	400,000

“ 53. A Company known as the Southern Punjab Railway Company has been formed during the year for constructing a line from Delhi westward to Samasata (400 miles); and arrangements are being made for some extensions of the Bengal and North-Western Railway, costing about Rx. 2,120,000. The transaction in connection with these do not pass on the Government Accounts.

“ 54. The following is a statement of the mileage of railways at the several dates mentioned :—

	1st April, 1895.	1st April, 1896.	Further mileage under construction.
<i>Standard Gauge—</i>			
State Lines and Guaranteed Lines .	10,155·5	10,504·	1,406·9
Other Lines	720·2	942·5	504·4
<i>Metre Gauge—</i>			
State Lines	6,548·	6,927·3	1,331·9
Other Lines	1,164·	1,224·4	292·2
<i>Special Gauge—</i>			
State Lines	36·	36·	..
Other Lines	239·5	239·1	29·
TOTAL .	18,863·2	19,873·3	3,564·4

[*Sir James Westland.*]

[19TH MARCH,

“ 55. A good deal of attention has been given during the year to the question of Railway Finance, that is, of how best to raise the money required for the development and extension of open State Lines and for new construction. It is obvious that such a programme as I have been explaining goes far beyond the capacity, so far as we have as yet ascertained it, of the Indian investment market. The question is still under examination.

“ Debt and Remittance.

“ 56. Under the head of Debt the Secretary of State had no transactions in 1895-96, except the renewal of £2,000,000 of temporary loan as entered in his original Budget Estimates. In 1896-97 he proposes again to renew or replace this loan when it falls due on 11th May, 1896. His proposals also include the issue of £2,400,000 India Stock in order to discharge £2,000,000 India Debentures falling due in August, and £313,700 South India Railway Debentures falling due in July.

“ 57. His estimate of the amount of drawings required to meet his disbursements is £18,300,000 in 1895-96 and £16,500,000 in 1896-97, but the withholding of the allotment of last week will probably decrease the former of these figures, and the deficit will have to be made up by an equivalent increase in the latter.

“ 58. The large balances which we have held in our Indian Treasuries since the failure of drawings in 1893 have now been spent, mainly on Railway Capital Expenditure, but we had still in December, which is our month of lowest balances, about two crores in excess of the amount which we reckon as absolutely necessary to carry us over till the period when our revenue again begins to come in. With the large capital outlay before us in 1896-97 which I have been describing in the above paragraphs, we shall now have to resume our practice of borrowing, and we calculate that we shall have, in the course of the current year, to issue a loan of four crores of rupees.

“ 59. These figures, both as to borrowing and as to drawing of Council Bills, are given with the usual reservation to the Secretary of State of full power to alter the figures as he may find occasion.

“ Provincial Finance.

“ 60. The so-called contracts with the Provincial Governments come to an end with the year for which Budget Estimates are now being presented; and the Government of India will have to take up its quinquennial task of ex-

1896.]

[*Sir James Westland.*]

aming the operation of the current contracts with a view of deciding what modifications of them are called for in respect of the next five years' period.

" 61. In view of this approaching revision of contracts I have thought it advisable to draw up a statement which will show, as clearly as the nature of the problem will permit, the real financial relations between the Central Government and the several Provincial Governments. It is curious that nearly every Province in India assumes that it is the possessor of a large surplus of revenue, and that only the necessity of maintaining the expenditure of other and poorer Provinces, or something which is vaguely termed 'Imperial necessities,' prevents its enjoying the full benefit of its own revenues. The figures I present will, I hope, serve to dissipate this notion, by showing what amount of revenue each Province provides after meeting its purely local needs in the way of Civil Administration, and what becomes of these surpluses of revenue, when they are contributed to the common account and used by the Central Government in meeting expenditure incurred upon the common account.

" 62. Part of the revenues, indeed, it is not possible to distribute among Provinces; Customs, Salt and Opium, for example, cannot be put down as revenues of the Provinces in which they happen to be received; and Railway revenues it is also impossible to distribute provincially. These revenues, together with the surpluses of the revenues remaining to each Province after paying the charges connected with Civil Administration, are the funds that are received by the Central Government for expenditure on the combined account. They are used in meeting the charges in respect of Public Debt, the cost of the Army, and the expenses of the Central Administration. The question whether each Province is, or is not, a paying Province is the question whether these several contributions of surplus revenue represent a sufficient or an insufficient share of the burden of the expenditure shown as that of the general account. I do not deny that on this point there may be room for difference of opinion, but I trust these figures will show that there is at least no foundation for the theory, to which expression has certainly been given in more than one place, that the so-called provincial surpluses of revenue are absorbed by the Imperial Government for expenditure on objects that are foreign to the Provinces in which they arise.

" 63. I have to add that the figures reproduced in this Statement are not built upon any theory of distribution but are taken directly from Accounts Nos. 2 and 3 of the General Statements in the Finance and Revenue Accounts. The process of compilation is shown in Annexures A and B, and each figure

[Sir James Westland.]

[19TH MARCH,

in these annexures may be traced into its details by means of the Finance and Revenue Accounts.

TRANSACTIONS OF THE IMPERIAL GOVERNMENT.

NET REVENUES, 1894-95.		NET EXPENDITURE, 1894-95. ¹	
	Rx.		Rx.
Unexpended Revenues of the several Provinces—		Expenditure in India—	
Central Provinces	451,762	Central Administration in India, including (1) Government of India; (2) Baluchistan, Ajmer, Andamans, Coorg, and other minor provinces; (3) Political relations with Native States; (4) Royal Indian Marine	1,301,809
Burma	1,392,081	Army Expenditure (net)	16,331,074
Assam	387,563	Interest, including that payable in respect of Railways and Irrigation	4,221,706
Bengal	4,478,300	Famine Insurance	609,918
North-Western Provinces	5,554,171		<u>22,464,507</u>
Punjab	1,813,823		
Madras	4,922,655	Expenditure in England—	
Bombay	2,712,287	(For details see Accounts 2 and 3, Finance and Revenue Accounts)—	
	<u>21,712,642</u>	Army Expenditure (net), including Military Works and Special Defences	£4,323,719
Revenues not distributable by Provinces (net)—		Interest, including that payable in respect of Railways (net)	£8,347,232
Opium	5,710,250	Superannuations and absentee allowances (net)	£1,694,800
Salt	8,131,094	Other items (of which the largest are the cost of India Office and Marine charges)	£1,138,231
Customs	2,709,359		<u>£15,508,082</u>
Post Office, Telegraph and Mint	526,296	Exchange on the same	12,809,068
Miscellaneous (Nos. 4, 7 and 8)	548,442		<u>28,403,050</u>
	<u>17,625,441</u>	Net charged to General Revenues	50,867,557
Net Earnings of Railways in India	11,061,724	Imperial surplus	693,110
		Deduct—Provincial Deficit	560,860
			<u>132,250</u>
TOTAL GENERAL REVENUES	<u>50,990,807</u>	GRAND TOTAL	<u>50,990,807</u>

" 64. The figures show that the Central Government after all has a very much larger burden of expenditure than all the Provinces put together, and that it cannot consent to be regarded as merely an extraneous claimant for such revenues as each Province may find available after the demands of its Civil Administration are satisfied. On the contrary, it must assert the theory that the first claim on the revenues of the Provinces is the claim of the expenditure which the Central Government has retained in its own charge. I am afraid that there is, in non-official circles at least, a disposition to regard the Provincial Governments rather as surrendering portion of their revenues for 'Imperial' purposes than as receiving an assigned portion of them from the Imperial Government for 'Provincial' uses; and the statement of figures which I have drawn up may serve as a useful preliminary to the discussion of the assignments we may find ourselves able to make in the new Provincial contracts.

1896.]

[*Sir James Westland; Sir Alexander Miller.*]

“ Conclusion.

“ 65. Last year, in presenting the Financial Statement, my final estimate of the position was that though we were as yet far from a complete restoration of our fortunes, we might claim to have made a fair amount of progress towards their restoration. Our prospects are now very much more hopeful. Our revenues are advancing, our expenditure is well in hand; but above all, the rate of exchange shows a tendency to establish itself at a figure, which, if maintained, will remove our most serious anxieties. I refrain from any prophecies as to the future; but it is pleasant to know that the direction in which our financial position is changing, which always contains many elements over which we have practically no control, will have to suffer a considerable reverse before we are again in the difficulties which we had to face two years ago.”

The Hon'ble SIR JAMES WESTLAND continued—

“ I am authorised by His Excellency to say that the discussion on the Budget will take place at next Thursday's meeting. I wish also on my own part to say that if any Hon'ble Member desires information on any matter of detail which he does not find in these papers, if he will only give me notice beforehand of the points on which he desires to have information, I shall be glad to procure it for him.”

CRIMINAL PROCEDURE CODE, 1882, AMENDMENT BILL.

The Hon'ble SIR ALEXANDER MILLER presented the Report of the Select Committee on the Bill to amend the Code of Criminal Procedure, 1882. He said :—“ The Select Committee have, as I anticipated, thought that after the alterations which I proposed to make in section 3 of the Bill as introduced, the difference which was left was not worth while making, and it was better to leave the law as it stands at present than to make a minute difference which might probably be misunderstood and was not really in its then form very effective. Accordingly section 3 has been left out entirely. The rest of the Bill has been passed very nearly—I think quite—in the words in which it was presented, except that the Select Committee have added a clause of some consequence for the purpose of relieving special jurors from what might otherwise have operated as an inconvenient burden upon them. Continuing the names of special jurors on the ordinary list, which involved the possibility of their being called upon to serve not only as special jurors but also as common jurors, might act rather harshly against men who had been specially selected for the more difficult and responsible position of special jurors, particularly

[*Sir Alexander Müller; Sir James Westland; Rao Sahib* [19TH MARCH
Balwant Rao Bhuskute.]

as it was likely that the cases which they would be called upon to sit upon as such would be long and complicated cases; and accordingly the Committee have introduced a clause authorising the Court before whom any such case is heard to relieve the jurors who sat on that particular case from the obligation of serving again for twelve months instead of the ordinary release for six months, if the Court thinks that the service performed on that particular occasion warrants the privilege. With this difference the Bill remains very much in the position in which it was when it was submitted to the Select Committee, and I do not think it will be necessary for me to enter on any examination of its provisions, which have been already explained more than once in this Council."

EXCISE ACT, 1881, AMENDMENT BILL.

The Hon'ble SIR JAMES WESTLAND moved that the Report of the Select Committee on the Bill to amend the Excise Act, 1881, be taken into consideration. He said :—" In making this motion I desire to offer only one remark, and that is with reference to the dissent which the Hon'ble Mr. Bhuskute has added over his signature to the Select Committee's Report. In Mr. Bhuskute's opinion, so far as the ganja produced out of the hemp cultivation in India is concerned, an acreage duty is preferable to duty on ganja itself. I have to say that the Government are quite unable to accept that view. The question was threshed out at great length by the Hemp Drugs Committee, and the Government of India after fully considering the subject decided to adopt the recommendation of that Committee and to levy a duty on ganja as a quantitative duty and not by means of an acreage tax. The method of taxation which recommends itself to Mr. Bhuskute would really cut at the root of the whole of the recommendations which were made on the subject of ganja, and the control over its cultivation and distribution which formed the principal part of the recommendations of the Hemp Drugs Committee. For these reasons the Government are unable to accept the view of the Hon'ble Mr. Bhuskute on this point. Mr. Bhuskute has not given notice of any amendment, and I presume he has no intention of moving one."

The Hon'ble RAO SAHIB BALWANT RAO BHUSKUTE said :—" My Lord, as a member of the Committee to which the present Bill was referred, I am bound to acknowledge the willingness with which the Hon'ble Sir James Westland received the suggestions that were made to him. I go in perfect harmony

1896.]

[*Rao Sahib Balwant Rao Bhuskute.*]

with the Bill as amended. Yet I am anxious to place one point before Your Excellency's Council for consideration.

"In paragraphs 563-569 of the Report of the Hemp Drugs, the Commission regard prohibition as unjustifiable, infeasible and inadvisable, and recommend an effective control on them.

"The following considerations, I hope, are pertinent to the subject :—

- (1) There is no uniform standard of administration and taxation.
- (2) There are great inequalities in them not only between hemp and hemp, but also between hemp drugs in general and other quite different stimulants.
- (3) In most provinces the basis of good administration has been but very recently laid, and there has as yet been no sufficient time for judging of the working of the prevailing systems.

"Referring now to the Central Provinces, I beg to summarise, as cursorily as possible, the working of the excise laws there. Cultivation there is free. There exists even to the present day the system of monopoly of wholesale. Its main feature is that Government interferes at the point where the ganja passes from the wholesale to the retail vendor, to fix the price at Rs. 3 per ser, and that the monopoly of the wholesale vend is given to a small selected number of persons who tender for payment of duty at Rs. 2 per ser plus as much of the difference between Rs. 3 and Rs. 2 as can be got from them. This interference in the natural operation of the laws of supply and demand renders it difficult to ascertain the necessity for increasing the direct duty which has remained stationary. The number of retail licenses and that of population per license have slowly but steadily decreased, showing that the number of consumers is becoming smaller. The proportion of consumers to the entire population, so rapidly growing, has gone very low. This is, indeed, a very satisfactory state of things.

"To raise the limit of taxation, either direct or indirect, with a view to restrict the cultivation of hemp is therefore needless. I have for this reason suggested the inexpediency of raising the limit of taxation.

"A direct duty in most provinces is not only unsuitable but may stimulate smuggling and afford facilities for evasion. It might also create gross inequalities and inadequacies in the license fees. An acreage duty will serve the purpose of the Bill, namely, it will restrict the cultivation of hemp and will

[*Rao Sahib Balwant Rao Bhuskute; Rai Ananda Charlu* [19TH MARCH, Bahádur.]]

more easily regulate the purchase and sale of the drug like that of the country liquor or opium.

“ Thus, my Lord, an acreage duty is more desirable than the direct duty. The Hon'ble Finance Minister himself has been struck with the desirability and advisability of the former. He has therefore made the latter optional and left it to the discretion of the Local Governments. What I would humbly suggest is the former only so far as the home or inland rearing of the plant is concerned. It is therefore desirable to make it clear that there is no alternative to the acreage duty on hemp cultivation in India.

“ So far as regards ganja imported from foreign countries, as acreage duty is impossible, the second clause proposed must be confined to it only. The clause therefore should take the form of a proviso rather than that of an alternative.

“ It may run somewhat as follows :—

‘ Provided that where the ganja is imported from foreign countries a duty not exceeding twenty rupees per seer shall be levied in lieu of the acreage duty.’

“ My Lord, there is one other circumstance indissolubly blended with this tax on cultivation. The restriction proposed must not be so heavy as to divert the consumption of a bad stimulant to a worse one. On comparing the taxation on hemp drugs with that on country liquor we find that the latter is more lightly taxed than the former. To raise the limit of taxation on hemp would confer a further advantage on the liquor. I am sure no Government will levy the tax at the maximum laid down. Yet this raising of the limit, though not meant to be carried out to the letter, might breed discontent. I therefore propose the acreage duty of Rs. 100, as it was in the Bill, be retained.”

The Hon'ble P. ANANDA CHARLU, RAI BAHADUR, said :—“ I second the Hon'ble Mr. Bhuskute's suggestions if they require a seconding.

“ The primary object of this Bill is not to raise a revenue from ganja, but to keep hemp cultivation under a severe check. That object is best attained by imposing a tax on every acre under hemp cultivation in the country. Such a measure must needs comprehend every case, and it will further have the merit of simplicity. I would therefore omit the alternative, so far as local production of ganja is concerned.

1896.]

[*Rai Ananda Charlu Bahádur.*]

“ The item of foreign ganja has indeed to be dealt with. This I should deal with by a proviso, as shown by the Hon’ble Member from the Central Provinces. Even if this would result in unequal incidence of the tax, I would not feel sorry. That would keep out opium from the land, and it would be a decided advantage. Free-trade principles cannot have an application to deleterious commodities.

“ Next, I object to the raising of the tax so high as Rs. 200 per acre. It has been conclusively established before the Hemp Commission that, to a certain extent, the drug is indispensable and non-injurious. The tendency of legislation should therefore be to minimise and not to destroy its production. The tax to be imposed with this object should be heavy enough to be prohibitive, but not so heavy as to debar the requisite supply. We can therefore well legislate for a maximum limit of Rs. 100 per acre, unless indeed that we are resolved to start with something over Rs. 100 as the minimum tax under the Act now proposed to be passed. If such an initial start is intended, I feel bound to say that it would be an uncalled-for hardship, for inflicting which we have no sort of warrant. My hon’ble friend from the Central Provinces has given facts and figures for this indictment.

“ A third point, to which my hon’ble friend has not chosen to allude, deserves Your Lordship’s anxious consideration as well. It is the provision in the Act for the enhancement of the duty, brought about by the local executive application and the imperial sanction thereof. I dislike such a recourse in matters of importance, such as taxation. The now historic jury notification of Bengal cannot but make one too chary about safeguarding important interests and rights against this sort of arrangements, which do not take the public—those concerned—into confidence and thus deny to them an opportunity and a voice to show how and where the shoe would pinch. A measure passed after these latter have had their say would ensure contented acceptance, and this it should always be the aim of the Legislature to secure.

“ Nothing short of making such changes legislative measures would promote this aim. We are not enacting a law of the Medes and Persians, and we could very well come to reconsider it, if occasion should arise. If I remember right, such an occasion will come somewhat soon, according to the foretelling of the Hon’ble Mover himself. I ask for no division. But I earnestly commend these suggestions to Your Lordship’s anxious consideration.”

[*Mr. Cadell; Sir James Westland.*]

[19TH MARCH,

The Hon'ble MR. CADELL said :—" As an old Excise-officer I should like to make one or two remarks with reference to what has just been stated. In the first place, with reference to the alternative, I think that in entering upon a new departure it is very desirable that the Local Government should have as free a hand as possible, and should be empowered to impose an acreage duty, or a duty on the drug when manufactured, as they may find it desirable. With reference to the first point, regarding which very serious objections have been taken, the Hon'ble Members who have spoken have not supported their contentions by any statistics. As far as I can make out, Rs. 200 per acre, the rate which it is proposed to empower Local Governments to impose, is not at all too high. It is necessary in this case to allow of a certain margin, and the report of the Hemp Drugs Commission shows that the production of ganja may be so great that even the full limit of Rs. 200 would not be at all excessive, and in certain parts of Upper India where it is possible to produce charas I have no hesitation in saying that Rs. 200 per acre is not a rate which is too high. I therefore think that section 11 should be passed as it stands. Hon'ble Members may fully trust the Local Governments not to impose excessive duties or to hamper to any extent which is unnecessary or undesirable the cultivation of the hemp plant, from which these drugs are derived."

The Hon'ble SIR JAMES WESTLAND said :—" I am afraid that I must, for the reasons stated by the Hon'ble Mr. Cadell, also oppose any proposal to alter the maximum of the acreage taxation from Rs. 200 to Rs. 100. I was not altogether prepared for this being brought forward in the shape of a formal amendment, but I remember distinctly that when we made the calculation in the Select Committee we ascertained that a taxation of Rs. 200 per acre would, considering the possible outturn per acre, be very much less than the actual rate of taxation which is at present levied on ganja in the Province of Bengal. I perfectly agree with Mr. Bhuskute in his opinion that the administration of ganja as at present conducted in the Central Provinces is capable of very great improvement. This was one of the points brought out by the Hemp Drugs Committee, and there is very little doubt that the Local Government would in the light of the criticisms of the Hemp Drugs Committee be perfectly willing to admit that there was much room for improvement in their system. But I wish to make it clear in the first place that this provision for an acreage duty is not the ordinary method by which it is intended to levy a duty on ganja. I have more than once explained in connection with this Bill that the intention is to levy the duty by quantity, and that all our excise administration both in respect of liquor, and opium as it at present stands, is an endeavour to get as complete a control as possible over these drugs and liquors at the point from

1896.]

[*Sir James Westland; Sir Alexander Miller.*]

which they start. We attempt to control opium by getting it into our possession when it is cultivated, and then we issue it with a quantitative tax. We attempt the same thing as regards liquor; we establish central distilleries where all the liquors are produced, and we try to get a complete control over the taxation by causing a duty per gallon and per strength to be levied at the point at which it is issued. The Hemp Drugs Committee strongly recommended the same system in respect of ganja. It is that which is the object of the present Bill, and to go back to a system by which we levy the duty on ganja by acreage and afterwards have no control whatever over the drug would be turning back the hands of the clock altogether and going back to the primitive system which for years in respect to other drugs we have been trying to abandon. The intention of the Bill throughout is to provide for the ganja coming into our control immediately after it is cultivated and when the intoxicating drugs are produced from it, and never to allow it to pass out of our control until we have levied the proper duty upon it.

“The Hon’ble Member who represents Madras has intimated that he thinks the Legislature should undertake a duty which up till now has been continually laid upon the Local Governments—that is, the duty of fixing the precise amount of taxation to be levied in respect of ganja, and I presume also in respect of spirits and of opium. The Legislatures—not only the Supreme Legislature in Calcutta but the Local Legislatures—have all given the Local Governments a fairly free hand in this matter, and the Local Governments’ habit is to fix the rates of duty very largely with reference to local circumstances. They are also bound to change them with reference to local changes, and these changes are not infrequently taking place. It is impossible for me to admit the comparison which the Hon’ble Member draws between the danger of giving the Local Government powers of effecting alterations in the matter of the administration of justice and the danger of giving it power in the matter of raising the tax upon spirits, opium or ganja by a rupee or eight annas, and levying it according to what it thinks to be the requirements of the place where it is levied. I have to remark also that the Act does not impose upon the Local Government any obligation to levy the duty at the rate fixed as a maximum; but, in order to show that the duty of Rs. 20 *per ser* mentioned in the Act is not an unreasonable amount to be fixed as a maximum, it is sufficient to say that in Bengal the duty already is very nearly half that amount.”

The Hon’ble SIR ALEXANDER MILLER said:—“I would like to add one or two words to what has been said in regard to this matter. When the

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[*Sir Alexander Miller; Sir James Westland.*] [19TH MARCH,

question of raising the acreage duty from Rs. 100 to Rs. 200 was originally before the Select Committee I was rather disinclined to adopt it, because I thought Rs. 100 sounded a fairly heavy taxation in the matter; but when figures were produced which showed that, taking an average crop, and making a proper allowance for the expense of cultivation and of bringing the drug to the market, a taxation of even Rs. 200 an acre was distinctly lower than the actual duty levied in Bengal at this moment, and considering that, where you have to substitute the acreage taxation for the more reasonable and regular method of a tax on the drug actually produced, the object is to make one a fair equivalent of the other, it seemed to me that Rs. 200 was on the whole, once the figures were explained, a very small sum to fix. I only mention this fact as showing that it is not by any means an arbitrary or extreme figure, but one which after consideration was felt by the Committee to be about as low as we could reasonably keep it."

The motion was put and agreed to.

The Hon'ble SIR JAMES WESTLAND also moved that the Bill to amend the law relating to the Excise-revenue in force in Northern India, Burma and Coorg submitted by the Select Committee on the Bill to amend the Excise Act, 1881, be passed, as recommended in their Report. He said:—"Hon'ble Members will no doubt see that this motion is worded in a somewhat different form from that in which the final motion on a Bill is usually put. It is ordinarily proposed that the Bill as amended be passed, but I took the opportunity in presenting the Select Committee's Report to point out that the Select Committee had recommended not only that the Bill which they themselves were studying should be passed as amended, but that the Act which that Bill proposed to amend should be passed with all its amendments up to date, so that the Excise Act might be brought upon the Statute-book as one whole instead of being scattered over the past fifteen years of it. As no amendments have been proposed in any part of the Excise Act which does not relate to this matter of ganja, I presume I may take it for granted that Hon'ble Members have listened to the appeal I made to them at the last meeting to abstain from making any recommendations for the amendment of the Excise Act apart from ganja, and are willing at present to perform a task which although not of such a high standard as new legislation is yet of an extremely useful description, namely, that of pure consolidation. I mentioned at the last meeting the verbal alterations—and the only verbal alterations—which the Select Committee had made in the consolidation Bill: I mentioned them in order to show that the alterations were merely grammatical and did not affect

1896.] [Sir James Westland; Sir Alexander Miller.]

in any way the scope or operation of the Act. In addition to these purely verbal amendments the proposed Excise Act contains a repealing clause different from that of the original one; namely, it repeals the Excise Act of 1881 and all the intermediate amending Acts. It also contains the usual continuation clause by which we declare that all licenses and farms issued and all rules passed under the Acts now being repealed shall be taken to have been passed under the Act which it is now proposed to place upon the Statute-book. With these explanations I propose that the Bill which forms the second annexure of the Select Committee's Report, namely, the Bill to amend the law relating to the Excise-revenue in force in Northern India, Burma and Coorg, be passed as recommended by the Select Committee."

The motion was put and agreed to.

UNITED KINGDOM PROBATES BILL.

The Hon'ble SIR ALEXANDER MILLER moved that the Bill to provide for the recognition in British India of Probates and Letters of Administration granted by Courts in the United Kingdom be taken into consideration. He said:—"I thought until this morning that the motion was one which might be taken almost as formal, taking into consideration the object of the Bill as described on its introduction. I have had, however, put into my hand a letter addressed, not to me, but to the Hon'ble Sir Griffith Evans, by the Administrator General of Bengal, and I think I ought to read it to the Council. Speaking for myself, I think that this letter entirely misconceives both the object and the action of the Bill, and I do not think that it shows any reason whatever why the Council should hold its hand in passing it. But I think that, coming from the Administrator General, it is right that the Council should have the letter before them, in order that they should consider whether or no there is any reason for hesitating about passing this Bill.

"Before I read the letter I should like to explain exactly what the Bill proposes to do. Under the law as it originally stood within known times in the history of England, when a man died leaving *bonâ notabilia* in more than one diocese in England, his executor was obliged to prove his right to probate in every diocese separately. That was put an end to many years ago by the high hand of the Archbishop of Canterbury, whose Courts decided for him that where there were *bonâ notabilia* in any two dioceses of the province the probate granted by the Court of Canterbury should extend over the entire

[Sir Alexander Miller.]

[19TH MARCH,

province. But until 1857, if a man died possessed of *bonâ notabilia* in Canterbury and also in York, and much more if he had *bonâ notabilia* in Scotland or Ireland, it was necessary for the executor to prove the will in due form before each of the provincial tribunals, going through the whole trouble and expense, not only in the Prerogative Court of Canterbury and the Exchequer Court of York but also in the Courts of Scotland or Ireland, as the case might be. That was put an end to as far as England and Wales were concerned in 1857 when the Probate Court was established with jurisdiction over all England and Wales, and since that time an Act has been passed, somewhere in the sixties, I believe, enabling probates and letters of administration granted by the Probate Court in England to be sealed in Ireland, and *vice versâ*, and I believe that the same procedure prevails as regards Scotland; so that it is now only necessary, where a man dies leaving *bonâ notabilia* in different parts of the United Kingdom, for the executor to prove his title before one Court—the Court of the domicile of the deceased—and then without further proof of his title, and merely on the production of the probate, he gets it sealed in the other Courts, and has the same rights as regards the collection and distribution of property—exactly the same, no more and no less—as he would have had if he had gone through all the expense of proving his title over again.

“The Colonial Probates Act of 1892 proposes to extend to the British possessions at large the same privileges with regard to probates and letters of administration as have already been granted as regard different parts of the United Kingdom to the extent which I have described, but it provides naturally enough that they should take this particular form: if the Legislature of any British possession makes proper provision for the recognition in that possession of probates granted in the United Kingdom, then it is to be open to Her Majesty, by an Order in Council, to declare that the Colonial Act shall apply to that British possession, and that probates granted in that possession shall be capable of being sealed and recognised in the United Kingdom. The result, therefore, of passing an Act which has the effect of making due provision of probates granted in the United Kingdom, then it is to be open to Her Majesty to recover property in India, or a resident in India whose testator has left property which he wishes to get hold of in England, will only be obliged to prove his title in one Court, and then, by simply producing the probate granted by that Court he will, by a simple application, be enabled to get that sealed in the other Court, and will then have just the same power, and no more, as regards property situated in the other country as he would have had if he had gone to all the expense of a separate probate in that country.

1896.]

[*Sir Alexander Miller.*]

“It will be seen that the only effect of the sealing is to put a man in the same position as if he had got a grant. What Mr. Broughton says is this:—

‘The objects of the measure are I suppose (1) the saving of expense, (2) reciprocity. I think it can be shown that no expense will be saved, and that on the contrary extra charges will be inevitable.’

“He does not attempt to explain how they can be, and I think that it must be manifest to everybody that it must be a much less expensive proceeding to produce before the Court or before the Registrar of the Court a document under the seal of the Court in England which on being sealed simply will have the operation of a grant, and no more than the operation of a grant—and that is an important part of the consideration—than there could be even in the case of an undefended suit brought by a man for the purpose of obtaining a grant. In the first place, in such cases he must at least produce either the original will or a certified copy of it, for the making of which he would have to pay; secondly, he would be bound to produce the witnesses, or at any rate their evidence, at least if either of the witnesses was still alive, and he would be obliged to get an order of a Court instead of a purely ministerial act. I do not see how a grant could possibly be obtained on cheaper terms than by the proceeding proposed.

“Then Mr. Broughton goes on to say that there is no reciprocity.

“I do not think there is a question of reciprocity myself, but the real question is the convenience of the executor or administrator on whom the extra burden of cost and trouble is thrown by the existing system. He says:—

‘And there is no reciprocity; for people who leave property in England and in India almost always have lived in India and made their money here; if they die, their families at once leave the country. The object of their representatives in England then is to get the Indian estate out of India as soon as possible; there are generally no creditors in England, they are all in India. But the object of the Indian representative is to pay the creditors here and remit the balance to England for distribution among the next-of-kin.

‘It is therefore not only a proposal lacking in reciprocity but most prejudicial to the interests of creditors.’

“Now that of course is an entire misapprehension. There cannot be a question of the English representative and the Indian representative as two different persons having different duties. If a man has left a will, his executor

[*Sir Alexander Miller.*]

[19TH MARCH,

is entitled as of right to prove that will both in England and in India, and that quite irrespective of whether he is living in England or in India, and, if the man has died intestate, his next-of-kin are entitled to get a grant on giving certain security, from which they are not relieved by this present Bill. The only case in which any question would arise is that occasionally the next-of-kin being resident in England would not take the trouble, if the assets in India are small, to take out letters of administration; and in that case the Administrator General's Act throws upon the Administrator General himself the duty of dealing with the property. It is quite possible that the effect of this Act may be that in many cases the next-of-kin will send their letters over here to be sealed in India, when otherwise they would have allowed the estate to be administered in the Administrator General's hand. I do not see that this is any injury to the creditors, and it is a benefit to the estate to save the commission which would have to be charged, and properly charged, in the Administrator General's office. Please do not let any one imagine that I am imputing to the Administrator General any personal object in making this objection for the purpose of bringing business to his office; I do not suppose that any such idea ever entered Mr. Broughton's mind, but I do want to point out that this is the only way in which any such distinction as he suggests between the English and Indian representatives could possibly arise.

“In the only other case which might occur, of a creditor taking out letters of administration in England because none of the next-of-kin chose to do so, the Act will be inoperative; because the Administrator General's Act in India lays down distinctly that no Court is to grant letters of administration to any one except to the executor, the residuary legatee, or one of the next-of-kin, or the Administrator General, and therefore where a creditor had obtained the letters in England he would not be able to get them sealed in India because the Administrator General's Act would forbid it, and the Act has been carefully drawn so as to say that they ‘may’ be sealed with the seal of the High Court, and that if they are so sealed that should only have the same effect and operation in British India as if they had been granted by the High Court. Now, letters of administration granted by the High Courts in India in direct contravention of the Administrator General's Act—*i.e.*, to a creditor or other disqualified person—would obviously be null and void; and therefore, even if by inadvertence such letters of administration as I have mentioned would be sealed here, they would have no effect as against the law which prevails here and which throws all administrations of that kind on the Administrator General. The Act also goes on to provide in express terms that the only case

1896.] [*Sir Alexander Miller; Mr. Playfair; Mr. Rees; Sir James Westland; Lieutenant-General Sir Henry Brackenbury.*]

in which any real question might arise—that is, where a creditor resident in India might think it desirable to object to the assets being withdrawn from this country to England before his debts were paid—wherever such a question arises the Court has power to direct not merely the ordinary administration bond which makes the administrator responsible for administering the property, but a special provision with adequate security for the special protection of the creditors before allowing the property to be taken away.

“Under these circumstances I ask the Council whether they think it desirable to postpone what seems to be a useful provision for the purpose of saving expense to the representatives of deceased persons on representations which, I repeat, appear to me to be based on an entire misapprehension of the existing law and on the operation of the Bill, if passed.”

The Hon'ble MR. PLAYFAIR said:—“I have also before me a copy of Mr. Broughton's letter to the Hon'ble Sir Griffith Evans, and Mr. Broughton appears to think, as far as I can judge from his letter, that further time should be granted to the legal profession to consider the Bill which was introduced last Thursday. Monday and Tuesday were High Court holidays, and in consequence of this the legal profession may not have had an opportunity of considering the question.”

The Hon'ble MR. REES said:—“No doubt the usefulness of this Bill is apparent to Hon'ble Members of Council who have had the advantage of hearing the Hon'ble Legal Member's exposition, but the fact that the Administrator General, as we are informed, has misunderstood it shows that it is liable to misconstruction, and it therefore may appear desirable that the usual course should be followed, to the end that the public and the legal profession may be aware exactly of what is contemplated.”

The Hon'ble SIR JAMES WESTLAND said:—“I would suggest that, as this Bill has proved not to be a non-contentious matter, and that as Sir Griffith Evans has not had an opportunity of speaking on the point, it is desirable that we should not hurry legislation in the matter, and that an opportunity should be given to those concerned, and the legal profession particularly, of examining the Bill and expressing their opinions upon it. I therefore think the Bill should be postponed.”

The Hon'ble LIEUTENANT-GENERAL SIR HENRY BRACKENBURY said:—“I agree with the Hon'ble Sir James Westland that under the circumstances,

[Lieutenant-General Sir Henry Brackenbury; Mr. [19TH MARCH, 1896.]
Woodburn.]

and especially as Sir Griffith Evans, whose great legal knowledge we should like to have the benefit of on this subject, is absent from the Council, it would be most desirable that the Bill should be postponed."

The consideration of the Bill was therefore postponed.

MEMONS BILL.

The Hon'ble MR. WOODBURN moved for leave to introduce a Bill to render it permissive to members of the Memon community to declare themselves subject to Muhammadan law. He said:—"A very few words by way of explanation will suffice in regard to this Bill. The Memon community in Bombay are persons of Hindu origin whose ancestors embraced Muhammadanism. It has been held by the Courts in Bombay that in certain matters this community is subject not to Muhammadan law but to Hindu custom. Repeated representations have been made to the Government of India by members of that community asking that provision should be made by which they should be enabled to declare themselves Muhammadans and to be subject to Muhammadan law. That desire on the part of the community is not universal, but there are so many members of the community who do desire it that the Government of India have yielded to their prayer and have prepared this Bill, which is a permissive Bill, allowing any members of the community who so desire it to register themselves as Muhammadans and subject to Muhammadan law."

The motion was put and agreed to.

The Hon'ble MR. WOODBURN introduced the Bill.

The Hon'ble MR. WOODBURN moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English, and in the local official Gazettes in English and in such other languages as the Local Governments may think fit.

The motion was put and agreed to.

The Council adjourned to Thursday, the 26th March, 1896.

S. HARVEY JAMES,

*Secretary to the Government of India,
Legislative Department.*

CALCUTTA;
The 20th March, 1896.