

*Thursday,
27th December, 1894*

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,

1894

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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 27th December, 1894.

PRESENT :

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

His Honour the Lieutenant-Governor of Bengal, K.C.S.I.

His Excellency the Commander-in-Chief, K.C.B., G.C.I.E., V.C.

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

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

The Hon'ble Sir C. B. Pritchard, K.C.I.E., C.S.I.

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

The Hon'ble Sir A. P. MacDonnell, K.C.S.I.

The Hon'ble Fazulbhai Vishram.

The Hon'ble C. C. Stevens.

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

The Hon'ble Sir Luchmessur Singh, K.C.I.E., Mahārājā Bahádur of Durbhanga.

The Hon'ble Baba Khem Singh Bedi, C.I.E.

The Hon'ble P. M. Mehta, M.A., C.I.E.

The Hon'ble Gangadhar Rao Madhav Chitnavis.

The Hon'ble H. F. Clogstoun, C.S.I.

The Hon'ble P. Playfair.

The Hon'ble Prince Sir Jahan Kadr Meerza Muhammad Wahid Ali Bahádur, K.C.I.E.

The Hon'ble Mohiny Mohun Roy.

The Hon'ble Sir G. H. P. Evans, K.C.I.E.

The Hon'ble F. W. R. Fryer, C.S.I.

NEW MEMBER.

The Hon'ble MR. FRYER took his seat as an additional Member of Council.

INDIAN TARIFF ACT, 1894, AMENDMENT BILL.

The Hon'ble MR. WESTLAND presented the Report of the Select Committee on the Bill to amend the Indian Tariff Act, 1894. He said:—"As it

is my intention presently to move that the Rules of Business be suspended in order that the Select Committee's Report be taken into consideration, I ask Your Excellency's permission to detain the Council for a few moments in order to explain the alterations which the Committee have made in the Bill as first introduced. The first of these occurs in connection with unmanufactured tobacco and follows a recommendation submitted to us by the Government of Madras. The Government of Madras represented that a large trade existed in the Presidency in the import of unmanufactured tobacco which was combined with Indian tobacco and afterwards exported as manufactured tobacco. A reference to the trade returns showed us that the greater part of the unmanufactured tobacco which came to India came to Madras, and that the greater part of the manufactured tobacco which left India was also exported from that Presidency. We considered therefore that the contention of the Government of Madras was a just one, that any import-duty levied on this unmanufactured tobacco was practically an export-duty on the manufactures of Madras. For that reason the Select Committee propose now that unmanufactured tobacco should go free. The amount is extremely small. I think it is only about $3\frac{1}{2}$ or 4 lakhs of rupees worth.

"The second point which the Select Committee took up was the question of the definition of machinery.

"We have carefully considered this question and I may mention to the Council the point of view from which, in the Bill as now framed, we have dealt with the subject, especially as it involves certain considerations which relate generally to the question of customs taxation.

"The principle of the Bill, as has been so often said, is that of levying a general import-duty of 5 per cent. If the rate were not only general but universal, the working of the tariff would be easy, and, as a matter of fact, the difficulties which arise in applying a tariff arise almost entirely out of the exemptions. The exemptions are the peculiarities which we have carefully to hedge round, so as to prevent their being extended beyond the grounds upon which they are based.

"Now, the question may fairly be asked, If we exempt the large and costly machinery of wealthy companies, is it not inconsistent to continue to tax the small machines used by workers in their own trades? But the principle on which the exemption of machinery is justified is this: looking to the fact that there

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is a certain amount of capital which is seeking investment in some productive line of business, we want to attract that capital to those lines of business in which India is interested, or, at any rate, to prevent it being discouraged by the weight of any initial taxation. We therefore proclaim this exemption in their favour, and we consider ourselves compensated by the fact that they will add to the production of the country, which eventually pays its dues to us in some shape or other.

“ Now, this ground of exemption, whether it be a good one or a bad one, does not apply to the small producers of the country ; there is in their case no new capital to attract in the same sense. They may or may not invest their savings in labour-saving machines, but at least they do not require the enticement of an exemption from taxation to determine the precise line in which they shall invest their money, if they invest it at all.

“ The operation may look at first sight like taxing the poorer and exempting the richer. But this is a question that unfortunately arises in every individual case touched by the customs-duty. In each case, taken by itself, it may be urged that it is hard that the burden of tax should be imposed. It is hard lines that the village carpenter should be unable to get his tools unweighted by a tax : it is hard lines that an old woman should not be able to get a warm garment without having a duty added on to its price. There is no answer to these arguments except to say that the money is absolutely required for the purposes of the administration, and that we cannot admit exemptions which are based upon the mere ground that the people who pay the tax would have somewhat fuller pockets if they did not pay it. You cannot work an import tariff on eleemosynary principles, and your exemptions must be based on some other ground than the mere hardship of having to pay the tax.

“ The exemption of machinery I base upon the economic ground I have stated, and I would rather reconsider the question of its exemption than admit a corresponding claim in the case of the innumerable other interests which might argue that they have as much claim to consideration as wealthy mill-owners and industrial companies. The comparative estimation of claims to consideration must to my mind be based upon economic grounds, and not on questions of comparative ability to meet the tax-collector's demands.

“ These remarks will explain the general scheme of our definition of machinery ; and I have only further to remark with reference to it that what we sought

was not a scientific definition of machinery, as such, but a definition which would as accurately as possible include the kind of articles which on the grounds I have stated we proposed to exempt, and could not be stretched so as to include others to which those grounds do not apply. We want a working definition for our customs-houses, and not merely one that will pass a dialectic scrutiny.

"We had some discussion over the question of component parts, with reference to which more than one suggestion was made to us; and objection has been taken especially to the limitation expressed in the words 'which are not adapted for any other purpose'.

"Now, I admit there is a certain difficulty in defining exactly what is a component part of machinery and what is not. It is easy to see that what are ordinarily classed as 'renewals' and 'spares'—duplicates of those parts of a machine which wear out most rapidly—are component parts. It is easy also, I take it, to see that nuts and bolts are not component parts except when they are actually in their place in the machine, or at least are not separately imported. But at intermediate stages between these there may be some difficulty. A cog-wheel, for example, may be imported for the particular purpose of being fitted into a particular part of a machine ready for it, or it may be imported without reference to any particular purpose, and simply as hardware. I cannot help thinking that the circumstances of importation are in such cases a guide to the Customs Collector; and I do not know any better way of indicating the test than that of its being, owing to the special shape, adapted for the particular purposes and not for general use for miscellaneous purposes. Again, there are articles which may be described as parts of machinery, which are perpetually being used up in its working and requiring continual replacement. Take, for example, asbestos packing; there is no more reason why that should be exempt merely because it is used for machinery than for the exemption of lubricating oil. The principles on which we base the exemption of machinery do not apply to what may be called the stores used up in its working.

"It is not possible to work a tariff upon the principle that the same article may be taxed, or may be exempt, according to the purpose which the particular importer has in view. Wire gauze, for example, is used for a hundred different purposes. We cannot allow a paper manufacturer to claim an exemp-

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tion for his importation on the ground that he requires it for the working of his paper machines, and tell all other importers that because they are not paper manufacturers they must pay duty. It is not therefore the mere fact that an article is to be used with, or fitted into, a place in a machine that gives it its claim to exemption, but the fact that in ordinary practice that and no other is the purpose for which the article is imported and used; and that the article is such and of such special character that on its importation it may be at once presumed that use as part of an exempted piece of machinery is the purpose for which it is required.

"We have considered all the suggestions that have been made to us in respect of these definitions and we have adopted several of them, but some of them we considered to go too far, and to be framed on such a principle that, though they were good so far as they went, they did not sufficiently bear in mind the necessity of restricting the exemption to those things alone which ought, on our principles, to go untaxed—a necessity which, from the point of view of the Government, is just as important as that of declaring the exemption itself.

"With regard to mule and water twists, it has been represented to us that there is very great difficulty in distinguishing between the two, and that we would save both importers and customs-houses a good deal of trouble if we combined the two and applied to them both the same valuation. We have followed out this suggestion, and it will be observed also that we have somewhat lessened the valuation from that which was made when the Bill first came before the Council. The reason of this is that it is claimed that twist manufactured in this country is of somewhat lower value than twist manufactured in England. I daresay this may be the case in the higher counts of Indian twist and the lower counts of English twist, but it is obviously impossible for us in legislating both for the duties on the yarn imported into this country and for the duties on yarn manufactured in this country to make a difference between the values of imported and home-manufactured yarns. We have, therefore, taken as the valuation of all yarns a value based on the information received from Bombay chiefly as to the value of yarns spun in India. This valuation we apply in this Bill to the imported yarns, and when I come to explain what the Select Committee have done in the case of the Cotton Duties Bill it will be seen that we have imported into that Bill the very valuations which we have adopted in the Tariff Bill.

"As the Bill was presented to the Council, it contained a classification of grey goods and a discrimination of them by tariff values. This was not done in the case of white goods, as the values of these last vary too much according to quality to admit of the duty being reckoned otherwise than *ad valorem*. The Chamber of Commerce in Calcutta urged that the same principle should be applied to grey goods, and that tariff valuations would lead to inequality and to difficulties in discriminating classes.

"Personally I was opposed to this, and knowing that these grey goods formed an enormous proportion of the imports, and that even with the aid of a system of tariff valuations it would be most difficult for the customs-houses to suddenly adapt themselves to the increased work, I offered to reduce the valuations and to reduce the number of classes, taking the minimum value as the standard for the whole of each class, rather than give up the principle of tariff valuation as applied to grey goods.

"The Hon'ble Mr. Playfair, who so ably represents the Chamber of Commerce in this Council, and who has on its behalf gone through no inconsiderable labour during the past week, consulted the merchants who were chiefly interested in the question, and they adhered to their recommendation that these goods should be assessed *ad valorem*.

"Under these circumstances, I am not prepared to oppose their recommendation. I admit I do so against my own judgment, but I am quite willing to see how the plan works, because under the law as it stands the Government has the power by notification, at any time, to declare a tariff valuation.

"I am not sure that I admit the argument which these gentlemen urged that it is the business of the Government to provide sufficient and sufficiently highly paid establishments to meet the requirements of the Act. Tariff valuations are the customary means, both in India and elsewhere, of providing for this particular difficulty; and it is rather hard to call upon us to give up the ordinary practice in this respect and then bear the whole responsibility for the consequences. However, we will do the best we can, and it is, as I have just said, always possible for us, if difficulties arise in working, to return to the smoother basis of tariff valuations.

"Another point which the Committee took up was the application of the exemption which in this country is given to railway material to tramways.

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The origin of this exemption lies in the fact that railways in this country, for the most part, I may say almost entirely, have been constructed either by Government or by contract with Government, so that railway material was for the purposes of duty practically classed with the Government stores. The payment of duty would only be a payment from one pocket to the other of the Government.

"We do not admit that tramways of that class which are used within municipal limits for the conveyance of citizens have at all the same claim to exemption as railways have. They get a very considerable exemption as it is, because they get, for example, their locomotives free of import, and the greater part of their imported material is iron, which pays only 1 per cent., while the general duty is 5. But beyond this we do not admit that that class of tramway has the same claim on us as railways. At the same time there are tramways which are built for the same purposes as railways—light tramways running into the country and opening it out as railways do; these it is desirable to exempt in the same way as railways, and the only means of providing for this exemption is by giving the Governor General in Council the power of exempting specific tramways by notification. This power, we presume, will be exercised on the principle which I have explained.

"In the case of ships and vessels strong representations have been made to us by Navigation Companies in Calcutta that they ought to be allowed to be imported free of duty, and these representations have received considerable support from the Chamber of Commerce and the Trades Association in Calcutta. The question of the taxation of ships was not actually considered at the time of the Tariff Bill of March last, but as a matter of fact ships are subject to taxation under the Bill as then passed, being either manufactures of iron or wood. However, we admit the strength of the argument that ships are the means of inland communication, and that on this ground they have a claim to be placed on the same footing, in respect to customs-taxation, as railways. They perhaps have a stronger claim, for they are in this country quite independent of Government support, whereas railways have hardly ever been established without considerable concessions from the Government. We recommend the Government to admit this claim on the part of the Navigation Companies, and we have provided that ships and vessels, whether imported in sections or entire, should be reckoned as free of duty. We do not admit any claim that their furniture or tackle should be free from the general

duty of 5 per cent. Of course, when a ship is imported entire, it will be free with its furniture and tackle, but everything else afterwards, when the shipowner has to purchase new furniture and tackle, we regard as the purchase of stores for carrying on his business, and we see no reason to exempt.

"In one or two cases we received a recommendation from the Chamber of Commerce to exempt certain articles on the ground that they are raw material. One of these, for example, was hemp. We are unable to admit that claim, and upon this ground that it seems to us that the exemption of an article of that kind is practically a protection afforded to manufacturers of hempen goods in India. Such an exemption would only result in enabling the manufacturer in his competition with the hemp articles imported to recover from the consumer the difference between the taxed and the untaxed price instead of accounting for it in the form of duty. If we import articles of hemp manufacture subject to the duty, it seems to us that the persons who manufacture in this country should not be unwilling to pay the tax on the raw material.

"There is only one other matter to which I desire to make reference, and that is the claim made by one or two persons that articles which happen at the present moment to be at sea should be exempted from the new duties which we are imposing. The question of the application of the new tariff and the date on which it should come into force has been amply discussed and previously considered. A Bill was introduced into this Council five years ago which laid down the law on the subject after careful consideration not only of the equity of the case but of the practice of other nations.

"It is obvious that goods which are imported after this Tariff Act comes into force will bear a price which represents not only the cost of production as it existed before the Tariff Act came into force, but the addition which the taxation we may now impose makes to the price. That difference, if we were not to apply the Tariff Act to goods at sea, would simply go into the pocket of the importer, that is to say, he would gain a special profit which, were this law not brought into operation, he would not gain. To this special profit, he has no sort of claim. It is upon these grounds that the existing law, as it applies to the imposition of a new tariff duty, distinctly declares that it shall come into force at once, and that no exemption will be allowed on articles at sea.

"These are the principal matters, my Lord, in which the Select Committee have made alterations in the Bill."

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The Hon'ble MR. WESTLAND moved His Excellency the President to suspend the Rules of Business to admit of the Report of the Select Committee being taken into consideration.

HIS EXCELLENCY declared the Rules to be suspended.

The Hon'ble MR. WESTLAND moved that the Report of the Select Committee be taken into consideration.

The Hon'ble MR. PLAYFAIR said :—" My Lord, I think that one and all of the members of the Select Committee have appreciated, as I have done, the great care that has been bestowed upon the troublesome definition of machinery by the hon'ble member in charge of the Bill. In a speech in this Council, a week ago, he declared the intention of Government to exempt machinery which represents capital employed in the productive industries of the country, and although in Select Committee he found himself unable to accept an explanation put forward by the Bengal Chamber of Commerce, with regard to what constitutes component parts of machinery, it is satisfactory to learn, from the remarks he has now made, that the Government interprets that spare parts or renewal parts of machinery are to be exempt from duty. I am aware that occasionally a careful consideration may be required in discriminating between what may be known as stores and what are renewals of machinery connected with a power-loom factory, and perhaps the hon'ble member will say whether he will instruct Collectors of Customs that the circumstances of the importation are to be taken into consideration in deciding cases in which exemption is claimed for spare and renewals as being component parts of machinery. It is also a matter of satisfaction that the Government has included in the free list machinery used in husbandry, whether such is worked by manual, animal or by steam power. I hope it will also be satisfactory to importers that the recommendation of the Import Department of the Bengal Chamber of Commerce has been given effect to, and that piece-goods, grey as well as white, and coloured yarns, have been assessed *ad valorem* for duty. I can now only express the hope that an efficient staff of appraisers, experts in the work, will be engaged, and that Collectors of Customs at sea-ports will endeavour, as far as it lies within their power, to protect traders from harassment and worry in connection with the appraising of their imports for duty, and facilitate the quick delivery of goods."

[*Mr. Westland.*]

[27TH DECEMBER,

The Hon'ble MR. WESTLAND said :—" With reference to the remarks which have fallen from my hon'ble friend Mr. Playfair, I will say in the first place that it is my intention to give instructions to the Collectors of Customs in accordance with the remarks which I have just made to the Council. So far as I can judge from the opinions of the hon'ble member, these instructions will meet the wishes to which he has given voice.

" As regards the employment at the customs-houses of a sufficient staff, I may say that this question has been under the consideration of the Executive Governments, which are in this case the Local Governments, from before the time at which this Bill was laid before the Council. The instructions which we have given to these Local Governments are that we do not wish them to restrict such expenditure as they think to be absolutely necessary for the engagement of competent appraisers. We hope that both in Calcutta and Bombay the Local Governments will find men of mercantile experience who will be able to deal with questions arising in the appraisement of cotton goods, and that they will also have some officers on the customs establishment who will be able to give expert advice on matters relating to machinery. These are the two principal subjects on which difficulties have arisen in the past, and the Local Governments may feel sure that the Government of India will raise no objection to the bestowal on these two objects of any expenditure which they may think necessary."

The Motion was put and agreed to.

The Hon'ble MR. WESTLAND moved that the Bill, as amended, be passed.

The Motion was put and agreed to.

COTTON DUTIES BILL.

The Hon'ble MR. WESTLAND presented the Report of the Select Committee on the Bill to provide for the Imposition and Levy of certain Duties on Cotton Goods. He said :—" With the permission of Your Excellency I wish to make a few remarks only on the subjects which have come before the Select Committee in discussing this matter. The first point which is referred to in the Report of the Committee is the definition of Collector in section 2. We have found it necessary to revise that definition, our object being that we should indicate in the first place that at the principal ports the Act should be administered by the Collector of Customs, and that in other places no officer under

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the status of a District Collector should have the administration of the Act. It may probably be found advisable by the Local Governments to place in the hands of the Customs Collector at the principal ports jurisdiction in respect to mills which lie outside the geographical limits of these ports and which would in default of other arrangements come under the administration of the Collectors of districts. The form which we have given to the definition will enable the Local Governments to do this, if they think it advisable.

“ Another point which came up for the consideration of the Committee was the necessity of allowing for a variation in the yarns from the precise counts which were defined as liable or not liable to taxation. We admit that it is impossible for a millowner who is aiming at producing, say 20s, to avoid producing individual hanks which weigh a little more or less than 20s ought to weigh. We have provided for this variation by inserting in the clause which imposes these duties the definition that the exemption applies to yarns up to those which are ‘commercially known’ as No. 20. As a matter of fact, no millowner will deliberately spin 21s and sell them as 20s, for the simple reason that 21s are more valuable than 20s, but at the same time it is necessary to give him the same amount of latitude which in commercial usage is given when the purchaser of a bundle of 20s finds it may contain some yarns which weigh less or more than 20s theoretically ought to weigh.

“ We have carefully examined the provisions of the Bill as regards the allowance on drawbacks and refunds. The provisions in respect of refunds upon yarns when they are woven into cloth, I must admit, are only of an inchoate character. We have laid down the principle that they are entitled to refund in respect of duty which it is shown they have paid ; but it will be necessary to settle a number of details, in communication with the millowners, before the provisions of the law become easily workable. It will be observed that, in the provision at the end of the Bill for the making of rules under the Bill, we have taken a very wide power to prescribe arrangements under which the requirements of section 21 (relating to these refunds) shall be deemed to be sufficiently complied with. It is under this clause that we hope, in communication with the millowners, to make arrangements to enable the drawback sections to work to their satisfaction.

“ Although it is not a matter arising immediately out of the Select Committee’s Report, I may be allowed to express the satisfaction of the Govern-

[*Mr. Westland; Mr. Fazulbhai Vishram.*] [27TH DECEMBER,

ment that, so far as they can judge from the attitude of their public critics, the Bill before the Council has been accepted, in its procedure, as a satisfactory solution of the problem of the levy of excise-duties upon mill products in India. I pointed out in introducing the Bill that the main object which determined our procedure was that of avoiding as far as possible all harassment of the millowners, and all interference with them, in the conduct of their own business. I would appeal to them now to frankly accept that position, and as our proposals are based on the supposition that they will endeavour to deal fairly by us, without having a Government officer perpetually supervising their actions, so they will endeavour to meet our requirements, and to join with us in making the system work with smoothness and regularity. I feel sure that I may enlist, on this behalf, the support of the powerful association, the Millowners Association of Bombay, and I can assure them that in the executive arrangements which remain to be made we shall, to the utmost of our power, adopt the same principle—that of non-interference with the work of mills, and will use all endeavour to avoid employing any of the compulsory processes which it is of course necessary to reserve in a Bill of this kind. I bear in mind, in these remarks, more especially the question of postponing assessment and facilitating drawbacks by the plan of warehousing. Some of the details of these arrangements we have yet to work out. The general principles and the necessary legal powers are given by the Bill; and our object in making the subsidiary arrangements will be to meet the millowners' convenience in every point which does not endanger the security of the revenue."

The Hon'ble MR. WESTLAND moved His Excellency the President to suspend the Rules of Business to admit of the Report of the Select Committee being taken into consideration.

HIS EXCELLENCY declared the Rules to be suspended.

The Hon'ble MR. WESTLAND also moved that the Report of the Select Committee be taken into consideration.

The Motion was put and agreed to.

The Hon'ble MR. FAZULBHAI VISHRAM moved that in the first proviso to section 5 of the Bill, as amended by the Select Committee, the figures "24" be substituted for the figures "20", and that the second proviso to the same section be omitted. He said:—"My Lord, the remarks which I ventured to offer at the last meeting of Your Lordship's Council render it

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[*Mr. Fazulbhai Vishram.*]

unnecessary for me to say more than a few words with reference to the amendment which stands in my name. The observations made then were directed to show the expediency of raising the limit of exemption from excise-duty from yarns of 20s to those of 24s counts; and I accordingly pressed those views in Select Committee. I fully appreciate, my Lord, the difficulty which it has been explained to me the Government of India is labouring under in dealing with the matter, and which led to the rejection of my proposal in Committee. I do not wish for a moment to add to this difficulty by anything that I say. But, in view of the strong feeling prevalent in this country and the universal consensus of opinion on the subject, I feel it my duty to press my amendment upon the consideration of the Council whatever its fate may be. I venture to hope that, as it gives expression to the prevailing opinion and feeling among the people of India and all persons interested in the industrial development of the country, it may help in clearing away the fallacious notions which seem to influence the consideration of the question in England, and possibly may prove of some assistance to the Government of India in strengthening its hands to do complete justice to the people of whose interests it is the trustee and custodian. My Lord, it has been often stated outside this Council that the authorities at home, to use the ordinary English phraseology, would not have so hampered the discretion of the Government of any other colony or dependency of Great Britain. It is impossible for me to say how far this view is correct, for I am not aware of the relative position of dependence or independence of the Government of India towards Her Majesty's Secretary of State as compared with that of other British possessions. But, speaking with the profoundest respect, it does seem hard upon the people of this country that the well-considered judgment of its Government should be put aside or hampered by views formed upon an insufficient acquaintance of facts. One word more, my Lord, and I have done. The object of Government in bringing forward this Bill is avowedly not of raising revenue, but to place a countervailing duty on such of the productions of India as competes with England. Now, I submit that it has been proved conclusively by facts and figures that our yarns do *not* compete with the imports from England up to the count of 28. As I said at the last meeting, the proportion of low counts up to that number in the imports from England is only one per cent., or, in the words of the Hon'ble Finance Member, 2 per mille, which is much less; and still to tax 20 per cent. of our production is an unnecessary hardship on an industry which has suffered so much of late from one cause or another."

The Hon'ble SIR ALEXANDER MILLER said :—" I should have been rather inclined to record a silent vote on this occasion, but so much has been said, both inside this room and out of it, on the subject of the position of the Council with regard to a question of this kind that I would rather desire—particularly as I am unable entirely to agree either with the utterances of my hon'ble friend Sir Griffith Evans or with those of my hon'ble friend Mr. Westland on this subject—to explain exactly the position in which I think the matter stands.

" It may be admitted that the power of this Council to reject any measure brought before it by anybody, whether as a Government measure or on behalf of a private member, is absolute ; but I do not think that the power to pass or to alter any propositions which are brought before it is so unlimited as the power of rejection. In the first place, it is quite clear that in any case it would be an absurd and unpractical act on the part of this Council to pass a Bill in a form which was necessarily calculated to ensure its rejection by the authorities—whether by His Excellency the Governor General, or by Her Majesty acting on the advice of Her Ministers at home—who have the right to reject it after its passing by this Council. But in the present case there is what I take to be a further, and even more important, limitation upon the action of the Council. It is an admitted constitutional principle that no measure imposing taxation upon the subjects of the country can be introduced even into the House of Commons, except upon the motion of the responsible Minister of the Crown, and that no member, even of the House of Commons, can make any motion tending to increase the amount of taxation which is proposed on behalf of the Crown. It is quite true that, if you look at this measure by itself alone, the motion which has been made by my hon'ble friend Mr. Vishram does not err against that canon, but I cannot help looking upon these two acts as practically one and the same transaction, and regarding not merely the technical form of this proposal, but its bearing upon the whole question of cotton-duties. We are therefore in this position: permission has been given—that is to say, we have been informed—I am taking this statement from that made by Mr. Westland when introducing the Bill—that Her Majesty's Government consent to the imposition of the extra tariff, for which we have just passed a Bill, upon condition that a certain other countervailing duty shall be imposed. We have also been informed by my hon'ble colleague that the further question as to the precise point at which exemption from taxation under this Excise Bill should be fixed has been a matter of discussion with Her Majesty's Government, and

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[*Alexander Miller ; Sir Griffith Evans.*]

that the condition which has been imposed as the price which we have to pay for the permission to introduce the Tariff Act is that this particular figure of 20 should be taken as the limit of exemption. Under these circumstances, I think that, having accepted and passed the Tariff Act, it would be, if not actually dishonest, at any rate a breach of contract on the part of this Council, to take advantage of that sanction and then refuse to perform the condition upon which that sanction was given. For this reason I feel bound to oppose this amendment."

The Hon'ble SIR GRIFFITH EVANS said :—" When this Bill was last under consideration I stated what my position was, and the reasons why I did not oppose the levy of a countervailing excise upon the Indian cotton manufactures which compete with English imports. I will not recapitulate those reasons further than by reminding the Council that the main reason was that the Secretary of State for India had finally decided, in consultation with Her Majesty's Government, and after discussion in the House of Commons, that the 5 per cent. import-duty would be protective unless balanced by a countervailing excise, and had made the levy of a countervailing excise a condition to the imposition of the import-duty, and I did not think it was practically open to the Secretary of State to relax that condition. As financial exigencies compelled us to resort to the import-duty at once, I deemed it useless at present to re-open a question so closed, and thought it wisest to accept this condition and impose the excise at once. But very different considerations apply to this amendment, which raises the question as to the precise limit at which we should draw this line between goods which must be taxed in order to comply substantially with the principle laid down and those whose freedom from taxation will not cause the impost to be protective in its character. The point as regards the question of limit has been very clearly stated by my hon'ble friend Mr. Westland, who has pointed out that, to use his own words when introducing the Bill, ' We carry out the conditions of non-protection imposed upon us by subjecting to an equivalent excise-duty the classes of goods described as primarily belonging to the sphere of non-Indian manufacture.' It is quite clear that this is not a matter of prying into small details, but that there must be some substantial competition before it would be proper to impose this excise. But the Hon'ble Financial Member went on to explain that the proportion of yarn imported below 28s was so small that the

Government of India considered the limit should be drawn at 24s. As he puts it :—

‘The information of the Government of India is that practically nothing below 28s is imported from Manchester, and we therefore proposed to limit our tax to counts higher than 24s. The Secretary of State however believes, from the information supplied to him, that cloth is imported into India which contains (although in combination with finer yarns) yarns of count 24s and desired to make 20s the higher free count.’

“The Hon’ble Financial Member then went on to explain that his statistics about yarn were complete and satisfactory, but that it was more difficult to ascertain the exact facts about woven goods, as no record of the counts were kept by the trade, and it would require an expert examination to ascertain them. He concludes by saying, in effect, that as the matter of fact, regarding which there was difference of information between the Government of India and the Secretary of State, was one which could not be satisfactorily ascertained without an enquiry of some length, the Government of India had arranged to fix the limit at 20s pending the enquiry, and to take power to exempt the counts between 20s and 24s should the result of the enquiry show that it was unnecessary to go so low as 20s in order to avoid protection. The Government have also published a telegram from the Secretary of State fixing the limit at 20s but allowing them power to exempt with his sanction.

“This means that a very harassing tax, which, on the information which was before the Government of India and the further information before us, does not appear to be necessary, is to be imposed pending the enquiry into its necessity, instead of waiting till facts are ascertained showing the necessity before it is imposed.

“I should have thought that the obvious and just course was that pending enquiry we should tax only so far as the information in the hands of our Government and laid before the Select Committee shows is necessary ; but if there is a disputed matter, and if that matter requires expert inquiry, go on with your expert inquiry, and if it appears at the end of that inquiry that in order to avoid protection it is necessary to tax down to 20s, then on the expiration of that enquiry the Financial Member of Council will be able to come before us with a statement that the enquiry has shown that he was wrong and the Secretary of State was right, and he will be able to come before us with an intelligible Bill and give intelligible reasons for asking this Council to vote it, and the consider-

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[*Sir Griffith Evans.*]

ations which have led this Council to accept under protest the excise-duty will operate to enable him to carry that Bill. But it is a different thing altogether that we are asked to do. We are asked to vote blindfold on the off chance that it may turn out that the information which the Secretary of State has received is correct and that the Government here are entirely wrong. On this off chance we are to plague and harass a very important industry by putting on this tax instead of waiting as I have suggested. That is the proposition before the Council. I would ask you to remember how objectionable the tax is. Remember how clearly the Financial Member set forth its objectionable character and the difficulties of enforcing it. Look at the memorandum of the Collector of Customs for Bombay, and you will appreciate its harassing character, and its tendency to induce the Indian mills to confine themselves to counts below the limit fixed and so destroy an existing industry. Remember that this harassing duty, this necessary evil, will, if limited to 24s, affect only 6 per cent. of Indian production, whereas if fixed at 20s it will affect and possibly paralyse 19 per cent. We are asked to inflict this serious evil upon the people of India pending an enquiry as to whether it is necessary to do so or not. Surely, if we are, as I have always understood, a responsible legislative assembly, we have a duty to perform in deciding whether any necessity is shown for fixing the limit lower than 24s. We need no technical knowledge for the present purpose. We simply have to decide what is the reasonable thing to do under these circumstances, and whether we should stay our hands or not. We have the assurance of the Government of India that, so far as the information before them is concerned, this taxation is not necessary, that the information given to the Secretary of State needs testing, that the process of testing needs time, and that the materials for such testing are not at present available. Under these circumstances, did any one ever hear of a more extraordinary proposition than that we should, as I have said, vote this tax blindfold on the off chance that it may turn out necessary? The only reason given is that the Secretary of State has so ordered it, although he is so uncertain of his facts that he has agreed, if the enquiry satisfies him that he is wrong, to allow the Government to take off the tax. It is as though the prosecution in a criminal trial asked the jury to convict on admittedly insufficient evidence on the ground that the Secretary of State desired it and had promised to hold a further enquiry, and if he found the prisoner was innocent to pardon him. Nay, it is stranger, for in that case the prisoner, if acquitted, could not be tried again. Here the Government can have a further trial on fresh evidence. I do not suppose that any legislative assem-

bly has ever had such a request made to it—a request to tax, pending a decision to be come to by the Executive whether the tax is necessary or not.

“ It is an abdication of the power and duties with which this Council has been entrusted by Parliament—an abdication at the supposed bidding of the Secretary of State. I say supposed bidding : for though he may have issued orders to the Executive to introduce the Bill in this form, he cannot order this Council to pass it ; that depends on the vote of the majority of the members. The ordinary and additional members have equal votes, and each vote has equal value, with a casting vote in the President. I will not discuss now the position of those members of the Executive Council who sit in the statutory Council for making laws. Their position is from their dual capacity a complicated and difficult one, and I will leave them to explain it; though, unless the cords have been drawn tighter since the reference to the cases of Sir Henry Durand and General Wilson, I venture to doubt whether their position is quite what has been stated or their action so automatic.

“ But the unfettered discretion of this Council as a body, so far as its power extends, is undoubted, and has been recognised by the Secretary of State over and over again in his published despatches. Even in his well known despatch of 31st March, 1874, which tightened the reins on the Government of India, His Lordship said :—

‘ It is of course conceivable that a Bill of which I have approved, or which has been modified in conformity with my desire, may be materially changed during its passage through the Legislative Council. It appears to me that, as a fact, that body rarely alters Government measures on points of principle ; but, if the case to which I am referring should happen, I do not apprehend that Your Excellency would have any practical difficulty in delaying the progress of the Bill until I have a fresh opportunity of expressing my opinion.’

“ Further, he goes on in a subsequent despatch dated 15th October, 1874, to state, in answer to the objection that any hard-and-fast rule as to the course to be pursued with regard to Bills actually before the Council ‘ might materially affect the position of the Legislative Council ’ :—

‘ The object of the instructions which I have given Your Excellency on this subject is not to fetter the discretion which the law has vested in the various legislative authorities of India.’

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[*Sir Griffith Evans.*]

" This I have always understood to be the constitutional position of the Council as a body, and as regards the absolute freedom of the additional members, official and non-official, to vote as they think wisest and best under all the circumstances of each particular case, I have never heard it questioned. That they should decide in each case as practical men, with a due sense of responsibility and a due regard for consequences and results, goes without saying in the case of men charged to legislate for a great and complex Empire.

" It is not any strange or dangerous doctrine which I am preaching, nor is it a new one. The power of the Council is well safe-guarded and can be no danger to the State. The Bills we pass do not have the force of law until they receive the assent of the Governor General. He may refuse his assent or refer the matter to Her Majesty. Even if he gives his assent, the Secretary of State can disallow the Act, and it will then cease to be law. Moreover, the constitution of the Council is such, and the proportion of official and nominated members is such, and the experience and business capacity of its members is such, that there is no probability of its exhibiting revolutionary or anarchic or even unreasonable tendencies. But without the vote of this Council nothing can become law over the whole of India except in certain cases of emergency. We should be careful to maintain the position assigned to us in the Constitution, and not to abdicate our functions or allow the Executive to make laws while we only register them. The Secretary of State and the Executive Council have no legislative powers and cannot be allowed to usurp them.

" But it may be said the Secretary of State has made this limit of 20s a condition of imposing the import-duty, and will withdraw or veto both the Bills. If I thought this were probable, the same considerations which have induced me not to press for the rejection of this Bill would prevent my pressing this amendment.

" A moment's reflection will, however, show this to be a mere bugbear. The Secretary of State has announced in Parliament his willingness to allow the imposition with a countervailing excise to eliminate the protective effect. He has admitted, in effect, that it is uncertain as yet whether it is necessary to go so low as the 20s. No doubt he has ordered the Government of India to introduce the Bill in this shape and has possibly refused to allow them to introduce it with a limit of 24s, but, if he finds that the majority of this Council decline to inflict such hardship upon the people until the result of the enquiry shows its

necessity, it seems absurd to suppose that he will cause the loss of a crore or a crore and a half in the face of an enormous deficit, which there is no other way of filling, sooner than wait the result of the enquiry and then introduce a Bill to lower the limit if necessary.

"Then there is the clamour of Lancashire manufacturers. But the Secretary of State cannot please them, for they object to any import-duty and say a countervailing excise is useless.

"The information that the Secretary of State relies on is a statement that there is a loom cloth imported containing 24s combined with finer counts. No further information has been laid before the Select Committee to show that any such cloth is manufactured in India so as to come into competition. If it is not so manufactured now, there is no danger of such a manufacture springing up pending the enquiry.

"There is a telegram from Rangoon saying that there is a competition between Manchester and Bombay in dyed yarns between 20s and 24s. The hands are the hands of Esau of Rangoon, but the voice is the voice of Jacob of Manchester. I am told the market is a very small one, and the matter can well be left to the proposed enquiry.

"We need not worry ourselves regarding small details, for it has been shown by the Bombay millowners that about 25 per cent. of the cost of production in India is for stores already paying a five per cent. duty. This amounts to a $1\frac{1}{4}$ per cent. tax—add five per cent. to this and the handicap is $1\frac{1}{4}$ per cent. in favour of England. In dyeing it is said the cost of the imported dyes, etc., is 50 per cent., which makes a $2\frac{1}{4}$ per cent. duty already.

"Also it is not proposed to tax woollen and other manufactures, because the competition is not important.

"Bearing all these matters in mind, and bearing in mind that it is admittedly not finally established that it is necessary to tax below 24s, and that it will be quite easy to do so hereafter, if necessary, and that no cause of urgency for imposing the tax pending enquiry has been made, I invite the Council to accept the amendment.

"There is one more argument which may be used. The Secretary of State has shown great consideration for the Government proposals, and has expressed

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his willingness to be convinced; why not trust to his conversion if our cause be good? Herod of old went further, and in reply to the apostle's arguments, more convincing if possible than the Financial Member's able minute on the limit, is reported to have said: 'Almost thou persuadest me to be a Christian'; we have no reason to doubt the good faith of Herod in this matter, but there were political difficulties and Herod was a governor under the Romans, and I never heard that the conversion was finally effected.

"The responsibility of deciding is our own; let us bear it as we ought and decline to shift it on to the shoulders of the Executive either here or in England. Every man must judge for himself according to his lights as to what is his duty. But, speaking for myself, I feel it my duty in this state of things to ask the Council to adopt this amendment, and not to vote for taxing down to 20s pending enquiry, in the absence of any evidence that it is necessary, and in the face of so much evidence to the contrary."

The Hon'ble BABU MOHINY MOHUN ROY said:—"My Lord, I wish to say a very few words in support of the amendment moved by the Hon'ble Mr. Fazulbhai. It is a very mild amendment. It tends to alleviate the effects of the Excise Bill. At the same time, it is not of such a character as to render it likely that the Secretary of State will reject the Bill on account of this amendment. Our position is this. In order to have an import-duty upon cotton goods, we must have an excise upon similar cotton goods manufactured in India. The two go together. We cannot have the rose without its thorn. The excise will, no doubt, be a thorn in the side of the infant industry of India. It seems, however, that in regard to threads under No. 24, there is little, if any, competition between Manchester and Bombay mills. We may, therefore, safely support the amendment without imperilling the fate of the Bill."

The Hon'ble PRINCE SIR JAHAN KADR MEERZA MUHAMMAD WAHID ALI BAHÁDUR said:—"My Lord, if I did not express my opinion at the last meeting of this hon'ble Council, when these Bills were referred to the Select Committee, it was because I did not think it proper to do so at that early stage.

"I had then, and still have now, grave doubts as to the advisability of imposing any duties on cotton goods manufactured in this country. The industry in question is comparatively in an infant state now in India, and if the manufactured articles here do not enter into competition with the imported articles,

[*Prince Sir Fahan Kadr Meerza Muhammad Wahid Ali* [27TH DECEMBER, Bahádur; *Mr. Playfair*.]

and if the revenue expected to be derived by the imposition of these duties is comparatively very small, it is clear that it will be opposed to sound policy to levy any tax on the Indian cotton goods. But if there be any competition between any description of articles manufactured in this country and articles of the same description imported from foreign countries, then it seems to me that, in the interests of the consumers, I ought to support the proposal of levying duties on goods of this description.

"I take it that it was not questioned that, as regards yarns to the count of 20, there was no such competition. The question now is with reference to the amendment proposed for making yarns to the number of 24 duty free. These are the articles which are consumed by the poor subjects of our gracious Sovereign; and as it seems evident that no articles of this description manufactured in England enter into competition with the articles of the same description manufactured in this country, it would be beneficial to the poorer classes to exempt them from duty.

"Holding this view, I beg to support the amendment just proposed by my friend the Hon'ble Mr. Fazulbhai Vishram."

The Hon'ble Mr. PLAYFAIR said :—"My Lord, the cotton industry is one of the oldest in India. The form it has now assumed, namely, power-loom production, with which this Bill is intended to deal, is only an advance upon the original hand-loom industry. Progress in this direction is undoubtedly the outcome of British influence, perhaps I should say of British example; any way it is an adaptation of Western ideas by the people of this country. I find that the power-loom mills of India date from 1854 and are largely owned by natives, the capital invested amounting to approximately Rs. 1,200 lakhs. In evidence of the support given to the enterprise I find that out of a capital of over Rs. 694 lakhs invested in Bombay cotton mills, less than £300,000 sterling represent English capital. It is, in short, an Indian and Native industry. The industry, as I said in this Council a week ago, in its remonstrance against taxation by excise, does not ask for special favour or protection, but simply wishes to be left alone—to do that for the country which no other agency is doing. It is quite content to continue on its own merits, for the benefit of those associated with it as well as for the benefit of the people at large. The question which this Council has brought itself to consider is as to how far the production of cotton goods in this country competes with that of Lancashire. The Indian millowners

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[*Mr. Playfair.*]

assert that there is no competition between the two. Statistics prove that there is no competition in cotton yarns, because the import of yarns below 24s is practically *nil*, while statistics show indisputably—and the fact I take it has been admitted by the hon'ble member in charge of the Bill—that Indian mills produce only an insignificant quantity of yarns of counts finer than No. 24s. Unfortunately it is not possible to ascertain with statistical precision the amount and value of imported fabrics containing yarns no higher than No. 24s. But those interested in the manufacture of cotton goods in this country located at Bombay and Madras, as well as Calcutta, state that the quantity is very small, and that Lancashire has only a share of these imports. At the same time, we are led to understand that the Secretary of State for India holds some information in respect to the exports of such fabrics from England, but as this has not been laid before the members of the Select Committee, and I have no reason to believe that the Government of India has received the information, it cannot now be brought into the argument. If there is any doubt about the matter, surely the true English spirit will be in favour of giving India the benefit of that doubt, and in effect it is this that the hon'ble member by his amendment asks the members of this Council to do. It has been shown that the yarns exported to China and the far East do not range above counts No. 20s, and that the yarns produced in India ranging between 20s and 24s are consumed by hand-loom weavers throughout India, a class of producers with whom even Manchester will not call for opportunities to compete. A small quantity of 24s spun in Indian mills finds a market in the Straits. It is therefore argued, and I think with much force, that an excise-duty on counts below 24s will not be a countervailing duty, but a direct tax on the production of Indian mills, and I would add, not in accordance with the Statement of Objects and Reasons attached to the Bill, which provides only for a countervailing duty upon the competitive classes of Indian manufactures. It is also asserted by Indian spinners, with which the Government of Madras concurs, that the effect of taxation by an excise-duty on yarns ranging from 20s to 22s, forming a large proportion of the yarns spun in the Madras Presidency, will be to reduce the production of yarns above 20s, for it is the case that yarns of this count will meet the requirements of the hand-loom weavers equally well. And, thus, as the Government of Madras points out, no benefit will accrue to revenue, but great inconvenience will be caused to mills and consumers. The curtailment of production in yarns over 20s will, I venture to say, not be to the benefit of manufacturers or to the advantage of India in general. It will tend to restrict the trade and will compel

the people to be satisfied with a quality of goods inferior in character to what they would otherwise use. It will be prejudicial to the industry in so far as it will prevent the development of trade in the higher class of fabrics, which, in the natural course of events, an improvement in the condition of the people would otherwise bring about. My Lord, I would submit that taxation of the better class of yarns ranging between 20s and 24s means, first, interference with an industry which the Government has every interest to encourage in order to reduce pauperism ; second, an enhancement of the cost of a necessity of the poor throughout India ; and third, a direct discouragement to cultivators to improve the quality of cotton grown which would have to be regretted. Each of these objections is weighty in itself, but taken together they form a menace to an industry that at all events is deserving of consideration if it is not entitled, as the Hon'ble Mr. Westland has admitted, to the fostering care of the Government of India. It is one of those industries to which the members of the Finance Commission referred as helping towards a solution of the difficulties that must arise with the recurrence of times of famine if the people of this country continue to be wholly, or even principally, dependent upon agricultural pursuits. I think it specially noteworthy that neither the Chambers of Commerce of Calcutta, Bombay, Madras nor Cawnpore, representing varying interests, view this excise taxation favourably, and that the balance of commercial opinion is that, if an excise-duty must be imposed, it should be limited to yarns of counts above 24s. The Chamber of Commerce at Rangoon alone approves of excise-duty being limited to yarns above No. 20s counts ; but it must be added that the trade at this port cannot be compared in volume with that of the other centres in India which I have just named. I think it will be found too that there are special reasons connected with the direct trade between the United Kingdom and Rangoon which may influence this decision. I therefore, my Lord, support the amendment proposed by the hon'ble member from Bombay that counter-vailing excise-duty on Indian manufactures should not operate on counts of 24s and under.

“ I have already referred to the interference and irritation that an excise-duty frequently provokes, and I would readily acknowledge the consideration that has been shown to the interests of millowners in the drafting of this Bill so as to minimise such harassment without interfering with efficiency in the working of the Act.

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"I am glad to learn that, among other arrangements, it may be possible to appoint the manager of a mill an excise-officer under the Act. This, I think, may be a convenience and economy in dealing with the delivery of goods placed in a bonded warehouse on the premises when the factory is situated at an inconvenient distance from the Collector. It is necessary that it should be clearly understood that 20s yarn means the standard that commercially passes as that count, which from unavoidable causes may range from counts 18½ or less up to 20½ or thereabouts; in other words, that a proportion of yarn finer than 20s should not necessarily subject a parcel to excise-duty. One of the chief difficulties that may arise under the provisions of this Act may be in showing to the satisfaction of the Collector that goods are entitled to drawback at the time of export under sections 17 to 24 of the Bill. It may be simple enough for a spinner who exports his goods direct from the mill to show that duty has been paid, but I fear that in the case of the middleman, who has purchased from a spinner and after the lapse of some time desires to export his goods, there may be great trouble. I can only express the hope that Collectors will be reasonable in the interpretation of the words in section 19, which have been carefully considered by the Select Committee, 'that it is shown to the satisfaction of the Collector at the port of shipment that the duty on the said yarn has been duly paid;' the word 'shown' having been purposely used to indicate that it is not necessary the goods should be identified."

The Hon'ble GANGADHAR RAO MADHAV CHITNAVIS said :—" My Lord, I beg to support the amendment proposed by my friend the Hon'ble Mr. Fazulbhai Vishram. I have considered the point, and I have come to the conclusion that while the imposition of the excise-duty, for reasons that I intend submitting later on in this Council, before the Bill passes into law, with a view to explain the reasons that led me to sign the Report of the Select Committee and agree to the Bill being passed against the wishes of the general public of this country, must be condemned as mischievous, based upon wholly uneconomical considerations, and particularly affecting my provinces, the drawing of the limit of exemption at the 20s would be regarded as a positive injury; and I feel confident that, after considering the facts and figures supplied by the Bombay Millowners Association in their very able memorial, the Government of India cannot entertain any reasonable doubts as to the justice and propriety of fixing the limit at 24s. As regards my own provinces, Mr. Bezoni Dadabhoy Mehta, the capable manager of the Empress Mills, a gentleman whose experience in mill management extends over

[*Gangadhar Rao Madhav Chitnavis, the Mahārājā* [27TH DECEMBER, of Durbhanga.]]

a period of no less than twenty years or so, telegraphs to me that it is only the 30s and 40s that enter into direct competition with Manchester, so that the limit might be fixed there even at 29s. Taking into consideration the products of all Indian mills, the limit might however be fairly fixed at 24s, and, as the same has been the finding of Your Excellency's Government after very careful consideration, I doubt not that the power taken of raising the limit to 24s will be at once exercised. The Hon'ble the Finance Minister was pleased to remark the other day that, while a measure like the present one is known to be under consideration, an enquiry of a kind that is necessary to arrive at a correct conclusion as regards the limit of counts below which Manchester does not export is impossible. While I quite admit that there may be some truth in this argument, I cannot see the justice of making the Indian mill industry suffer for that simple reason. I cannot see why the presumption should be rather in favour of Manchester than in ours. We find, my Lord, that following the spirit of our penal legislation, a judge does not convict an accused so long as he can reap the benefit of doubt, and even a murderer is justly let off oftentimes on that ground. Is the millowner, I beg to appeal, in a worse position, and must the presumption be rather against him than in his favour? I think it might be also possible to fix the present limit at 24s, and should, as the Hon'ble Sir Griffith Evans has just pointed out, enquiry prove such a demarcation unfair, to bring it down to 20s hereafter, though I may venture to say that sufficient reasons have already been forthcoming to convince Government that the 24s is the fairest limit; in fact, 'the information of the Government of India' itself, to quote the Hon'ble Mr. Westland's words, 'is that practically nothing below 28s is imported from Manchester.' Such a limitation therefore as the Hon'ble Mr. Fazulbhai Vishram proposes would be a mere act of justice and might serve to allay those feelings of distress and indignation with which both the mercantile community and the general public have received the news of this wholly uneconomical and indefensible excise-duty."

The Hon'ble THE MAHARAJA OF DURBHANGA said :—"After the very eloquent speech that has just been delivered by my hon'ble friend Sir Griffith Evans, and the very exhaustive way in which the question has been dealt with by Mr. Playfair, I need only detain the Council for a short time. It is with the greatest pleasure that I wish to say a few words in support of the amendment

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that has just now been moved by the hon'ble member from Bombay. As far as I can make out, there is still a difference of opinion as to whether the outturn from Indian mills of yarns under 24 is sufficient to justify the supposition that their exemption from the payment of excise-duty can, to any appreciable extent, interfere with the trade that Manchester carries on in such classes of yarns. We have no sufficient statistics before us to form any opinion. No proper enquiry has as yet been undertaken. The only thing that is proved, my Lord, is that the total amount of revenue which such a tax is likely to bring in, is, comparatively speaking, of not much importance. And it is, therefore, naturally expected that till a thorough enquiry is taken in hand no tax should be levied. The reason why I support the amendment is not because I wish Indian trade to be protected against that of Lancashire. Every Indian who loves his country will support free-trade. Free-trade is the natural commercial policy of a country like India, which is chiefly a producer with but few manufactures of its own. Nobody regrets more than I do the necessity that has compelled the Government to impose a general system of import-duties. It cannot be denied that it has created a certain amount of unrest amongst some of the commercial classes, and that the policy is unpopular amongst other important classes of the community as well. In my humble opinion, the only possible way to allay this feeling of unrest is to reduce our annual expenditure so as to do away with the necessity of having to impose any import-duties at all. But we are now discussing the question of cotton-duties, and not the budget. And from the remarks that were made by my hon'ble friend the Military Member of this Council in March last, I feel convinced that the Government itself is fully in earnest about the necessity of curtailing expenses. I, therefore, do not wish to say anything further on this subject at present. But if, my Lord, it may happen, as indeed it has happened before and will happen in the future, that for revenue purposes and to meet the needful extraordinary expenses of the State, resort must be had to special taxation, then the imposition of import-duties is the least objectionable form of taxation. At least taxation in this form is much less felt than any sort of direct taxation provided that these duties are low and within the limits where their incidence cannot be felt by the people. As soon as they become felt, they become objectionable. And what I wish to point out to Your Lordship is that, if in India all yarns under 24 are made liable to an excise-duty without a proper enquiry, it will be felt, and can only be justifiable by the admission that this duty is necessary for the purposes of protection."

The Hon'ble MR. MEHTA said :—" My Lord, I also do not propose to detain the Council with any lengthy remarks after the full, eloquent and exhaustive speeches made by my hon'ble colleagues Sir Griffith Evans and Mr. Playfair. Coming in, as I do, at so late a stage of the deliberations of the Council, I trust Your Excellency will permit me to say a word of emphatic protest against the principle and policy which seem to me to underlie the provisions of this Bill. That principle and that policy are that the infant industries of India should be strangled in their birth if there is the remotest suspicion of their competing with English manufactures. In the course of one of his previous speeches Sir Griffith Evans endeavoured to justify that policy under cover of one of his happy illustrations. He conceived that our English rulers were, in adoption of such a policy, so many *Gautamas*, only somewhat inchoate and imperfect. I should have thought another illustration a more apt one. I think they could be better compared to Baillie MacWheeble, the steward of the Baron of Bradwardine, as many of us perhaps remember him depicted in the pages of Sir Walter Scott, who loved his patron and his patron's daughter next (at an incomparable distance) to himself. I protest against such a policy not only in its present immediate operation, but as establishing a most pernicious precedent. Coming to the amendment itself, I submit that it is as just and reasonable as it is temperate. By the Bill we are asked to legislate in the dark, on the faith of some unknown information and evidence in the possession of the Secretary of State for India which is not only not before us, but which, as Sir Griffith Evans surmises, is probably not within the knowledge of Your Excellency's Government. And that, too, against the precise information so carefully collected and detailed in his able minute by the Hon'ble the Financial Member. I ask if it is consistent with the self-respect and dignity of this Council to thus legislate, not only in the dark, but in the face of the conclusions arrived at by the precise enquiry made by the Financial Member. The mill industry of India deserves a better treatment than this at the hands of Government, for it is not only beneficial to the manufacturers engaged in it, but it is beneficial to Government in more ways than one. To mention only one of several, the wages drawn by mill-labourers, who come from the mofussil and are many of them attached to the possession of patches of land, go largely towards payment of land assessment. It is well known that these men, after earning wages for a longer or shorter period, return periodically to their villages where they own their lands, and devote their earnings to reduce their indebtedness to the State. The mill industry has had to pass through

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[*Mr. Mehta ; Mr. Stevens.*]

many vicissitudes. Only last year the currency legislation gave it a severe shock. Before it has quite recovered, it is sought to subject it to another. This is neither wise nor politic in the interests of this country. I suppose I must, like Sir Griffith Evans, leave alone the members of this Council who are so as members of the Executive Council. Their dual position is so fearfully constructed that it is as difficult of separation as Dr. Jekyll from Mr. Hyde. It would be rash to undertake to define their duties and responsibilities in this Council. But I would appeal to other hon'ble members who are officials. The present financial exigency is owing not a little to the services having secured exchange compensation. They joined the Indians in agitating for the imposition of duties on cotton-imports for the purpose of meeting the deficit largely due to exchange compensation. If, after having secured such imposition, they would refuse to support the moderate amendment of Mr. Fazulbhai to succour a Native industry from being harassed and burdened, they would be open to the suspicion that their coaxing tones to induce the natives to join in the agitation against Manchester were suspiciously akin to the interested seductions—made familiar to us by Dickens—of 'Codlins, the friend not Short.' I trust they will stand by those who co-operated with them in the agitation whose object is won in the Bill just passed. But it is said that, If you adopt the amendment, the Secretary of State will veto the new Tariff Act. My Lord, there are two senses in which the saying 'Render unto Cæsar the things that are Cæsar's' is true. It is true not only in the sense of rendering to Cæsar his rights and his dues; but it is true also when it is a question of obligations and responsibilities that lie upon Cæsar. If the grave responsibility lying upon him for the safe administration of the country can, in his opinion, be best discharged by vetoing the Tariff Act if the amendment is passed, leave to Cæsar, that is, the Secretary of State, to undertake and discharge that responsibility. Why should we usurp it? The Government of Her Majesty's Indian Empire must be carried on, and it will be for him then to decide how to save the country otherwise from the yawning deficit which is being prophesied, and which threatens to bring the Empire, I will not say to the verge of bankruptcy, but which will place it in a position of the greatest difficulty and hardship."

The Hon'ble MR. STEVENS said:—"My Lord, I ask the indulgence of the Council, while I explain briefly the reason for the vote which I propose to give, understanding myself to be free to exercise my judgment to the best of my

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ability on the merits of the question before us. It certainly appears at first sight to be driving the doctrine of free-trade rather hard to invite the Legislature of a country to impose a somewhat troublesome and unproductive tax within that country, in order that its own manufactures may be free from any suspicion of advantage, however slight, over imported goods. But the conditions are unusual, and we are compelled to adapt ourselves to them. No one—not even the firmest adherents in England to this extremely developed policy of free-trade—can say anything better for the proposed excise-duty than that it is a necessary evil. From any point of view it should be restricted to the narrowest limits of necessity. It is fortunate for the possibility of arriving at a solution of the difficulties of this case that the interests of Lancashire and those of India are throughout almost the whole extent of the trade parallel rather than opposite. There is, however, a space of comparatively small extent over which there is some difference of opinion, and the task of defining the boundary is that which we have before us. If the inconvenience to Indian manufacture is, as I have said, to be reduced to a minimum, it seems clearly to be the business of those who would impose the restrictions to prove their necessity. It is admitted (apparently without question) that the necessity does not exist in the case of yarns not finer than those which are technically known as 20s. And the Secretary of State, in his instructions to Your Excellency's Government, shows himself ready to be convinced that yarns up to 24s are not fit subjects for a restrictive and vexatious excise-duty. The hon'ble member who has moved the amendment differs in his proposal only so far that he wishes at once to fix by law the boundary which the Secretary of State contemplates as the possible outcome of experiences. I agree with the hon'ble member, and I do so for two reasons. The facts presented to us have convinced me, as they have already convinced the Hon'ble Financial Member as well as the remaining members of the Government, that the line ought not to be drawn below 24s. If it be drawn below that number, the gain to Lancashire will (so far as ascertained facts go) be infinitesimal, while the Executive Government as well as the mills in the west of India will be exposed to all the troubles attendant on the collection of excise over a considerable extent of manufacture.

“My second reason is that it is in a high degree desirable that a settlement should be arrived at which is likely to be accepted as final—final so long as no material change occurs in the conditions. The discussions on the subject of these import and excise duties have been acrimonious and sufficiently protracted;

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It is essential to the maintenance of good feeling between the countries that this should cease at once. I do not think that the proposal of the Home Government will have this effect. It will keep open a margin of debateable ground, and neither party will be likely to relax its efforts until the final decision has come. The lives of Ministries are precarious, and it is impossible to be even sure that this final decision will be in the hands of the same Secretary of State who has conducted the discussion to its present point. A period must ensue in the meantime of uncertainty and controversy, less mischievous no doubt than that which is now passing away, but still harmful, and, if possible, to be avoided.

"In these circumstances it seems that that solution of the problem should be adopted which is most likely to lead to finality, which will give us stable, rather than unstable, equilibrium. This solution, I think, is to be found in the amendment now under discussion. We have nothing whatever to show us that the case as to the introduction of coarse yarns into woven goods is what appears to have been represented to the Secretary of State, nor, if the fact is correct, have we any means of estimating its importance. The hon'ble member in charge of the Finance Department has told us that an enquiry into this question is not one which can be undertaken while the present measure is known to be under consideration. But it seems to me that, so long as the case as between 20s and 24s is kept pending for the decision of the Executive Government, this difficulty must remain. If the amendment should be passed by the Council and accepted by the Secretary of State, as I hope it will, and if hereafter further knowledge of facts should show that the result would be injurious to Lancashire, I venture to think that there is no member of this Council who would not vote to remedy it, not as abandoning his theoretical objections to the excise-duties, but as having accepted, as the only practical settlement within our reach, the Secretary of State's principle, that there shall be no protection, however trifling, of Indian manufactures.

"In the remarks which I made I have merely dealt generally with the subject, for I should have wasted the time of the Council if I had troubled it with details which are familiar to the commercial members, and of which I have no special knowledge; it is enough for me to state my own conclusion, based on the knowledge of others, that it is just and right to risk the lesser and less probable evil rather than to incur that which is greater and more certain."

The Hon'ble SIR ANTONY MACDONNELL said:—"I wish to say a few words with reference to the appeal which has been made to the members of Your Excellency's Council by the Hon'ble Sir Griffith Evans. We are placed under an obligation by Parliament—an obligation which, having regard to its origin, weighs as heavily upon the non-official members of this Council as upon the official members—that no measure shall be passed by this Council on this matter which will have a protective effect. There is, as the Hon'ble Sir Griffith Evans recognised, a solidarity between the Government of India and Her Majesty's Government, and my hon'ble friend will no doubt admit that no action ought to be taken by the Government of India which would place Her Majesty's Government and the Secretary of State at a disadvantage when Parliament meets and when the action of this Council is questioned in Parliament, as beyond any doubt it will be. The mandate of Parliament was that no measure of a protective character should be introduced into this Council. If when Parliament meets this amendment is carried, it is beyond any question that the Secretary of State will not be able to say to Parliament that its mandate has been carried out. He will be obliged to confess that that mandate, namely, that no measure of a protective character should be adopted, has been ignored, and that a measure which is not clearly non-protective has been carried into effect. Now, I am one of those who think that the Hon'ble Mr. Westland owes a great deal to the millowners of Bombay for the information which they gave to him, and I have no doubt that that information was given with absolute honesty. But the millowners of Bombay are but one of the parties to this controversy; it is human to err, and it is perfectly possible that the millowners may eventually come to recognise that the information which they gave as regards the limit at which this line should be drawn was inaccurate, and that if the line be drawn at 24s, the measure will not be free from a protective character. So far as I am able to exercise a judgment in the matter, I think that if the line be drawn at 24s it will have a protective effect. That being the case, I think the Secretary of State has treated this Government with much consideration, and even with magnanimity, in allowing us to draw the line at a point where protection is clearly excluded; and to take power to raise the limit according to the results of experience. By doing this the Secretary of State has placed himself in a position to say to the House of Commons 'I have taken all steps possible to carry out the mandate of this House'; while by enabling us to raise the limit afterwards he has shown his sympathy with the mill industry of India and his respect for the constitutional character of this Council."

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The Hon'ble MR. WESTLAND said:—"It seems to be considered that, in asking the Council to come to a decision which it may not on the merits altogether approve of, I am asking it to do something of an extremely unusual character.

"My Hon'ble friend Sir Griffith Evans describes the power of the Council as free and unfettered and calls upon members to allow no infringement of that freedom. I cannot help thinking that this attribute of a quite independent power arises in some measure from the fact that the authority which in the United Kingdom is the ultimate deciding power in executive matters is also that which exercises legislative authority. And it is assumed therefore that in exercising legislative authority we are also in some way an ultimate deciding power, and we ought to be in some way specially exempted from the consideration of anything that lies outside our own Council Chamber.

"But as a matter of fact I do not believe that there is any Legislative Chamber in the world that is allowed to exercise its functions without regard to some other authority, superior or concurrent. The House of Commons, all-powerful as it is, has over and over again to frame its legislation with reference to conditions laid down by the other house. It has even to withdraw and alter its past decisions in order to secure the passing of its Bills. In asking the Council, therefore, to exercise its powers with reference to the instructions which the Secretary of State has given, I am merely in the position of a Minister who comes to the House of Commons and, addressing them as practical men, asks them to consider in what way they may best attain the object to which the legislation before them is directed, and who, saying that the House of Lords insists upon a particular condition in a matter of detail, asks them to subordinate their own views in the matter to the necessities of the case. The House of Commons does that over and over again, and I am not infringing the liberty of this Council in asking it to do that which the House of Commons can do without infringement of its dignity or independence.

"I already explained last Thursday the position of the Government in respect of the amendment submitted by the Hon'ble Mr. Fazulbhai Vishram. The papers which have been laid before the Council shew that the information which the Government of India possessed was such as to indicate that the taxation of all counts over 24 was an adequate measure of protection to Manchester against any favoured rivalry in this country. We have not the details of the information which is before the Secretary of State, and I cannot help hoping that the fuller

information, which I believe he is gathering, may induce him to give that consent which will enable the Government to exercise the power of further exemption which is secured to them in the Act.

"But I must again recall exactly what the position is. There are certain matters in which India cannot claim the rights of an independent country, and among those matters are the effects of its action upon the general commercial system of the Empire. These must be judged by an authority whose range of vision, and of responsibility, are wider than ours. I am not at present discussing the question whether this should be so; I am only saying that as a matter of fact it is so. It would be equally irrelevant in me to discuss whether India gains or loses more by its acceptance of its position as an integral part of Her Majesty's Empire; I can only say that it is an integral part, and must accept the duties as well as the advantages of its position.

"The Government of India are in the position of one of two contending parties. The demands of Manchester lie one way, those of India lie another, and the authority that has to pronounce between them is Her Majesty's Government. I said last Thursday that I did not at all agree with those who thought that in this contention the adjudicating authority had given the case against India. The judgment is not the same which the Government of India would have given, but by far the most important issues in the case have been adjudged in our favour. On the point in which it is not in our favour, it is practically only reserved for further enquiry. Now I am quite consistent with myself in saying that in this point I think we are entitled to a decision in our favour, and yet saying that I do not dispute the justice of the adjudication and am prepared to accept the judgment.

"My remarks on this subject received, as it seems to me, very considerable confirmation, when last Thursday, within a few minutes of my making them, a telegram from England, which was delivered while we were still in the Council room, announced that the Manchester Manufacturers and Operatives Association had sent to the Secretary of State a protest against his action: they denounced the duties wholly, and declared that the excise-duties proposed were no adequate countervailing provision. The Manchester Chamber of Commerce has followed in the same lines.

"There could be no stronger corroboration than these protests afford of the claim I made last Thursday for the Secretary of State, that his proceedings

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shewed that he had tried to hold the scales fairly between two contending parties. I do not come to this Council merely to say, Here is a decision to which, however unjust, you must assent ; but I come to ask you to accept—I will not say an adverse decision, for that it certainly is not—but a decision that does not give you all you want, as a just pronouncement, and consent to base your legislation on the basis it prescribes.

“ I can understand the position of the hon'ble mover of the amendment, and that he is bound, as the representative of the community in whose name he speaks, to give voice to the opinions they have so strongly expressed upon the subject with which the amendment deals. It is well that the Indian view of the case should be on record in the proceedings of this Council, and the hon'ble member, whether he means to push his amendment to a division or not, and those who have supported him, are right in laying it, and the grounds on which it is based, fully before the Council. Manchester on its side has protested, and why should not Bombay send in its counter-blast? But the protest being recorded, I ask the hon'ble members, as practical men seeking to attain a definite end, whether they are justified in pushing an amendment which they know will render the object at which they aim unattainable? We must have the cotton-duties to balance our budget ; the Excise Duties Bill, as it stands, expresses the only conditions on which we can get them. Is it wise to push an amendment of which we know that the acceptance will cause the failure of the whole scheme by the exercise of the veto which the constitution of the Council reserves to the Secretary of State? The question before the Council, I am bound to tell you, is a Government question, on which the Government will, for the reasons and on the principles I have explained, exercise the whole of its voting power. But I hope that, after the explanation I have given, I may hope to receive the support also of some of those members whose opinions on the merits of the point at issue may coincide with those of the mover of the amendment.”

The Hon'ble **LIEUTENANT-GENERAL SIR HENRY BRACKENBURY** said :—
 “ I had not intended to intervene in this debate, but I must say a few words in consequence of some remarks which have fallen from the Hon'ble Sir Griffith Evans and the Hon'ble Mr. Mehta. The Hon'ble Sir Griffith Evans drew, and I think rightly, a distinction between those members of the Council appointed by Your Excellency as additional members of Your Excellency's Council for making

[Lieutenant-General Sir Henry Brackenbury.] [27TH DECEMBER,

Laws and Regulations, and those members of this Council who hold their seat in it by virtue of their being ordinary members of Your Excellency's Council and who sit in it as ordinary members. I think the position of us, the ordinary members of Your Excellency's Council, in this matter is perfectly clear. We have had for some time past a discussion with the Secretary of State as to the imposition of import-duties upon cotton and an excise-duty upon Indian cotton manufactures. The subject has been minutely and carefully discussed, and we have at last obtained from the Secretary of State a definite decision and instruction that he will agree to the import-duties upon cotton being imposed upon certain terms. We have agreed to introduce a Bill upon those terms, and we, the ordinary members of Your Excellency's Council, have, I venture to think, as the Hon'ble Sir Alexander Miller has put it, entered into a contract to do a certain thing, and we are bound by the terms of the contract to do it.

"As regards the other members of Your Excellency's Council, I do not wish for a moment to raise the question of what they are bound to do, but I would like to say a word as to what I think that they would be wise to do. It has been assumed by the Hon'ble Sir Griffith Evans and the Hon'ble Mr. Mehta that if we were to substitute in this Bill 24s for 20s the Secretary of State would not reject the Bill. I do not feel at all sure of that. I think that, as the Hon'ble Sir Antony MacDonnell has said, the Secretary of State is pledged to Parliament that he will not allow any protective duties to be imposed. He could not, if this amendment were carried, go to Parliament and say, I have not allowed any protective duties to be imposed, being, as he at present is, under the impression, right or wrong, that to relieve cottons up to 24s from excise would be virtually making our import-duties protective duties. I think we should be running a very great risk indeed of the rejection of this Bill by the Secretary of State if we were to insert this amendment. My hon'ble colleagues have probably observed that since this Bill has been introduced meetings have been held in Manchester by the operatives of that city, and that resolutions have been sent to the Secretary of State against allowing these import-duties to be passed, and urging that the excise-duties which we now propose are no equivalent for those duties. Immense pressure will be put upon the Secretary of State at home. If we were now by our action to cause this Bill to be rejected, I think it is very doubtful if we should be allowed to pass these import-duties again, and it would be very unwise of us to flee from evils that we know to evils that we know not. Last year in this Council we were urged to accept an amendment to the Indian

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Tariff Bill which would virtually have had the effect of not passing that Bill at all. My advice then was, 'Pass the Bill as it is: accept what you can get in the way of duties, and let us use our influence with the Secretary of State in the time before us to endeavour to get him to include the cotton-duties between this and next year.' By our action at that time we got the duties in the existing Tariff Act which enabled us to tide over a great financial difficulty: we have now got the Secretary of State's permission upon certain terms to pass import-duties upon cotton. My advice to all members of this Council now is, 'Accept that which you have got from the Secretary of State, and if you can show by satisfactory facts and figures that the limit ought to be raised from counts 20 to 24, let us use that influence, which has in the past nine months been successfully used with the Secretary of State to get these import-duties, to obtain his permission to raise the exemption from 20s to 24s, and do not reject now what you can have, and run the great risk, which you will almost certainly run, of not getting your import-duties at all.' "

His Honour THE LIEUTENANT-GOVERNOR said :—" I too, like my hon'ble friend Sir Henry Brackenbury, had not intended to take any part in this debate, but I feel bound to say a few words of protest against the language used by the Hon'ble Mr. Mehta, whom I understood to refer to the votes of the official members in this Council as being possibly influenced by the fact that they receive exchange compensation allowance. I think it is very much to be regretted that any question of personal interest should be imported into this discussion. I am entitled to believe that the gentlemen who are interested in the mill industry intend to vote conscientiously and with an honest regard to the interests of the country, without any thought of how their pockets will be affected, and I am equally entitled to claim that it shall be believed that the official members of this Council will vote on this subject without any reference to questions which affect their personal receipts and salaries.

"I wish also to make one remark regarding what fell from my hon'ble friend Sir Griffith Evans when he referred to the debateable question whether the counts should be fixed at 20s or 24s, and to the question being *sub judice*. He said that, if we accept the Secretary of State's decision and take these counts at 20, we would be doing an injury which could hardly be repaired to the mill industry of this country; but I think that he omitted to notice that, supposing

the Secretary of State to be right and the facts from Bombay to be wrong, we should be doing an injury which might be irreparable to the Manchester industry in taxing those importations of their yarns which may be found to fall within those counts. Although at present there is no sufficient information before the Council to decide eventually which way the preponderance of evidence may lie, it is possible that the view of the Secretary of State may turn out to be the correct one. On the whole question I entirely agree with my hon'ble friend Sir Henry Brackenbury that the Council will be doing a dangerous and impolitic thing if it opposes the proposals of Government on this subject, and that we shall likely be involved in a serious political and financial danger if the Secretary of State follows out the line, which it is certainly in his power to adopt, of vetoing the Bill which is so essential for equalising the finances of this country."

His Excellency THE PRESIDENT said :—" I have not intervened in the discussions on this Bill, for I felt certain that in the hands of my hon'ble colleague the case of the Government would be placed before the Council in a manner that would not only justify the necessity of the course we thought it right to pursue, but would demonstrate our desire to deal in a fair and considerate spirit with the interests involved. But before I put the question I desire to say a very few words.

" It is alleged in certain quarters—and I am not quite sure that there have not been echos within this room—that, in consenting to introduce this Bill in its present form, the Government has made a cowardly surrender, and has given way to a pressure which, if not unconstitutional, is, at any rate, unusual and oppressive.

" I wish to take exception to any such statement, and I am prepared to show that the Government of India has maintained, and intends to maintain, firmly and without wavering a consistent policy in this matter. So far as the individual action of my colleagues and myself is concerned, Sir Henry Brackenbury, in the discussions on the last Tariff Bill, and again to-day, has said that we are bound to obey the orders given by the proper and constitutional authority. But, for my part, I do not think that exhausts the question. It is claimed that members must be free to speak and vote in this Council

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for the measure they honestly think best. I can accept that proposition only with the qualification that they duly recognise the responsibility under which they exercise their rights in this Council. Only in an entirely irresponsible body can members act entirely as their inclination leads them. In every legislative body a man must sit, unless he has an hereditary right, by what in modern parlance is called a mandate, and that mandate must be given by some authority. I need not remind you that in a Parliament a man is not free to act exactly as he pleases; he is distinctly subject to the mandate he has received from his constituents; and practice has shown that even this is not sufficient, but that to make Parliamentary government effective it has been necessary to introduce party management; and the bonds of party, in the present day, certainly show no sign of being relaxed. Here we have no election, and I am glad to say no party, but every man who sits here sits by the authority and sanction of Parliament; and to say that he can refuse to obey the decisions of Parliament would be absurd. But that is not all. Parliament has provided for the government of the Indian Empire. The British Raj can be provided for in no other way. Parliament has allotted his proper place to the Viceroy, as the head of the Executive in India, and it has given him a Council for the purpose of making Laws and Regulations which cannot have powers in which he does not share. But the Viceroy admittedly is not invested with supreme authority, but, as I understand it, is by distinct enactment entrusted to the Secretary of State and his Council; and to speak of this Council as supreme—if that means that it has independent and unfettered authority—is to say what is not the fact.

“ I speak with some deference, after what fell from the Hon'ble Sir Griffith Evans; but, with all respect for his legal authority, I think that he is not correct in the view he took that a member of this Council is unfettered in the vote he gives here, or that he could 'hand over his responsibility' to the Secretary of State. I am inclined to think that the Hon'ble Mr. Mehta took a more correct view of the matter when he said that he would 'leave the responsibility' with the Secretary of State, because the responsibility which the Secretary of State would exercise would be the responsibility which belongs to him.

"I feel most strongly—as I believe every man who has had even the smallest share in the administration of the affairs of this Empire must feel—the paramount importance of maintaining the credit of the British rule for justice and impartiality; and I have seen with much regret some attempts to divert the discussion of this and other matters into an attack on the motives which are supposed to actuate certain decisions. I, for my part, do not envy the responsibility of the man who makes that sort of insinuation. I undertake to say that it is absolutely necessary that the gauging of Parliamentary opinion should be done in England, and cannot be done from here. The Secretary of State interprets to us the will of Parliament, to which he is directly responsible for the proper performance of his duty; and I protest against the supposition that any man, of any party, taking upon himself the great office of Secretary of State for India is so unworthy of the tradition of British statesmen that he does not do his utmost to bring to the discharge of his responsible duties a spirit of impartiality and fairness; and, if that is so, I also protest against our—I will not say obedience to, but rather—acceptance of his decisions being anything less than ungrudging.

"Now let me for a moment apply the principles I am advocating to the history of the measure now under consideration. Last March the Secretary of State decided, and we accepted the position, that the time had not come when Parliament would sanction the imposition of the duties on cotton. But he qualified that decision in terms I was authorised to communicate from this chair, which seemed to me then, and seem still, to ensure fair treatment to any demand our emergencies might compel us to make. One thing, however, in my opinion, was requisite, and that was that the Government of India should in the interval pursue a firm and consistent financial policy. We have done so; we should not have done so had we followed the counsel we received from some irresponsible advisers. What is the result? The Secretary of State has told us the grounds on which, and the conditions under which, he can undertake the responsibility (a very great responsibility) of justifying before Parliament the policy which we propose. Again he has done so in terms that show his desire to arrive at a fair and impartial conclusion, because on the one point on which an amendment is moved to-day—a point on which admittedly there is a difference of opinion—he has consented to such a wording

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of the Bill as provides for the ultimate decision being based on full and sufficient information.

"The Hon'ble Sir Griffith Evans took the view that no evidence was furnished from England; but I would remind the Hon'ble Member that the Secretary of State has in his hands the evidence which was furnished from India, and he has the evidence which he has obtained himself, and that it is on a comparison of these two branches of evidence that he has come to the conclusion that he must insist upon the Bill being framed as it is now proposed. I would also venture to point out that it seems to be argued in this matter as if the lowering of the line to 20s was putting an additional restriction upon India. I wish to remind you that the condition laid down for the re-imposition of the cotton-duties at all was this, that there should be no element of protection, and that was interpreted to mean that there should be a countervailing excise. That principle being accepted, the natural meaning of a countervailing duty would be that the excise should be co-extensive with the import-duty; the exemption of the lower counts at all is a concession on the part of Her Majesty's Government, and they must decide the question how much they ought to concede in that matter.

"Now, I cannot conceive a greater calamity than this Council voting against this Bill, or adopting an amendment which would be fatal to it. Far be it from me to deny that it is within the competence of the Council to throw out any measure. It would be its duty so to act if the public weal was endangered. But, as I have endeavoured to point out, the vote of this Council, and, as I maintain, of every individual member of it, is given under the responsibility of doing nothing to dislocate the complicated machinery by which this great Empire is governed; and I agree with the Hon'ble Sir Henry Brackenbury that, if this Council does adopt this amendment, it will take upon its shoulders the responsibility of losing this Bill, and of losing, perhaps altogether, the financial resources which we so much need. So far as the Government of India is concerned, it has in this case considered, and will in any other case fully and fairly consider, and forward for consideration, the views which prevail in India, which it is their duty to make themselves acquainted with; but the Government of India do not now, and I am sure will never, shrink from putting before this Council proposals on which, after due conference, a decision has been arrived at in the proper and constitutional form, and from asking the Council, as we do now, to pass the necessary legislation."

The Council divided:—

Ayes.

The Hon'ble Sir Griffith Evans.
 The Hon'ble Mohiny Mohun Roy.
 The Hon'ble Prince Sir Jahan Kadr
 Meerza Muhammad Wahid Ali
 Bahádur.
 The Hon'ble Mr. Playfair.
 The Hon'ble Gangadhar Rao Madhav
 Chitnavis.
 The Hon'ble Mr. Mehta.
 The Hon'ble Bába Khem Sing Bedi.
 The Hon'ble Maharájá Bahádur of
 Durbhanga.
 The Hon'ble Fazulbhai Vishram.

Noes.

The Hon'ble Mr. Fryer.
 The Hon'ble Mr. Clogstoun.
 The Hon'ble Dr. Lethbridge.
 The Hon'ble Sir Antony MacDon-
 nell.
 The Hon'ble Mr. Westland.
 The Hon'ble Sir Charles Pritchard.
 The Hon'ble Lieutenant-General Sir
 Henry Brackenbury.
 The Hon'ble Sir Alexander Miller.
 His Excellency the Commander-in-
 Chief.
 His Honour the Lieutenant-Gov-
 ernor.
 His Excellency the President.

[The Hon'ble MR. STEVENS did not vote.]

So the amendment was negatived.

The Hon'ble MR. WESTLAND then moved that the Bill, as amended, be passed.

The Motion was put and agreed to.

The Council adjourned to Thursday, the 3rd January, 1895.

CALCUTTA; }
 The 4th January, 1895. }

J. M. MACPHERSON,
Offg. Secy. to the Govt. of India,
Legislative Department.