

*Friday,
10th March, 1899*

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

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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., c. 67, and 55 & 56 Vict., c. 14.)

The Council met at Government House, Calcutta, on Friday, the 10th March, 1899.

PRESENT :

His Excellency Baron Curzon of Kedleston, P.C., G.M.S.I., G.M.I.E., Viceroy and Governor General of India, *presiding*.

His Honour Sir John Woodburn, K.C.S.I., Lieutenant-Governor of Bengal.

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

The Hon'ble Mr. M. D. Chalmers, C.S.I.

The Hon'ble Major-General Sir E. H. H. Collen, K.C.I.E., C.B.

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

The Hon'ble Mr. C. M. Rivaz, C.S.I.

The Hon'ble M. R. Ry. Panappakkam Ananda Charlu, Vidia Vinodha Avargal, Rai Bahadur, C.I.E.

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

The Hon'ble Mr. J. J. D. LaTouche, C.S.I.

The Hon'ble Rai Bahadur Pandit Suraj Kaul, C.I.E.

The Hon'ble Mr. Gangadhar Rao Madhav Chitnavis, C.I.E.

The Hon'ble Mr. Allan Arthur.

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

The Hon'ble Nawab Mumtaz-ud-daula Muhammad Faiyaz Ali Khan.

The Hon'ble Mr. J. K. Spence, C.S.I.

The Hon'ble Mr. G. Toynbee.

The Hon'ble Mr. D. M. Smeaton, C.S.I.

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

The Hon'ble Nawab Bahadur Sir Khwaja Ahsanullah, K.C.I.E.

NEW MEMBER.

The Hon'ble NAWAB BAHADUR SIR KHWAJA AHSANULLAH took his seat as an Additional Member of Council.

QUESTIONS AND ANSWERS.

The Hon'ble MR. GANGADHAR RAO MADHAV CHITNAVIS asked :—

"I. Is it not the fact that in the North-Western Provinces and Oudh the Government assessment is 50 per cent. and that the sfr is assessed 25 per cent. lower than the raiyati standard ?

[*Mr. Gangadhar Rao Madhav Chitnavis* ; [10TH MARCH, 1899.]
Mr. Rivas.]

"II. Is it true that in determining the assessment standard for revenue in villages in the Central Provinces during the new settlements Government was influenced by the theory that the Central Provinces are tracts mostly free from famine? Is it not the fact that experiences of the last five or six years have belied this theory?

"III. Is Government aware of the fact that the patel in the Central Provinces, before the advent of the British rule, though he suffered from want of fixity of tenure, realized many direct taxes, such as plough-tax, marriage-tax, a tax on offences, oil-tax, etc., which he was allowed to recover from tenants in addition to rents plus the free unassessed enjoyment of his home farm?

"IV. Will Government be pleased to state if Government, on a report made by the Commissioner of Settlements, was obliged to give relief to malguzars in the Wardha District, and if relief so kindly given and so gratefully appreciated is enough in view of the hardships and losses suffered by landowners since the new settlement?

"V. Will Government, in view of the above circumstances, be pleased, in consultation with the Chief Commissioner, to consider the advisability of ordering a lower assessment in cases of sir land in places where the assessment is 60 or 65 per cent. plus cesses, or by ordering a general relief to landholders of such tracts, and, where the margin for culturable waste does not exist, by ordering a fifty per cent. settlement as in the North-Western Provinces?"

The Hon'ble MR. RIVAZ replied :—

"*Question I.*—The answer to the first part of this question is that 50 per cent. of the net assets is the ordinary standard of assessment in the North-Western Provinces and Oudh. The answer to the second part is that the Local Government may allow the assessing officer, as a matter of grace, to make a reduction in estimating the rental value of sir lands, when the number of proprietors is great and their circumstances poor. In such cases 25 per cent. reduction on tenants' rates is usually prescribed as the maximum.

"*Question II.*—The share of the rental or malguzari assets which is taken by the State as revenue in the Central Provinces has been determined by a number of considerations, chief among which has been the standard of assessment found to have prevailed in the past and the observed ability of the malguzars to pay the assessments thus imposed. The standard of assessment has not been influenced by any theory, but by the ascertained facts of past experience.

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If vicissitudes of seasons occur in the Central Provinces as elsewhere, there are appropriate and sufficient remedies other than that of revising the standard of assessment; and these remedies, as the reply to a later question by the Hon'ble Member will show, are commonly applied.

"Question III.—The Hon'ble Member's description of the position of the patel in the Central Provinces before the advent of British rule is probably accurate. There is no doubt that the patels levied imposts from the cultivators which would be illegal under British rule. The Hon'ble Member need not be reminded that the patel's position under the Mahratta Government in the Central Provinces was not in all respects an enviable one.

"Question IV.—Abatements of land-revenue aggregating Rs. 3,197 in 1897-98, Rs. 3,197 in 1898-99, Rs. 2,771 in 1899-1900, and Rs. 54 in 1900-1901 have been granted in the Wardha District on account of temporary decline in the occupied and cropped areas. The Government of India have no reason to think that the relief thus given is insufficient.

"Question V.—The 'above circumstance' is presumed to be the alleged hardships and losses suffered by landowners in the Wardha District since the new settlement. The Wardha District was one of the least affected parts of the Central Provinces during the recent famine, and no circumstances have come to the notice of the Government of India which lead them to think that the relief asked for by the Hon'ble Member is required. In districts where the losses of landowners have been undoubtedly heavy, relief, through suspensions and remissions and temporary reductions of land-revenue, has been given on a large scale, and the Local Administration is fully competent to deal with the Wardha District if the relief already given is found by it to be insufficient."

COURT-FEES ACT (1870) AMENDMENT BILL.

The Hon'ble MR. RIVAZ moved that the Report of the Select Committee on the Bill to further amend the Court-fees Act, 1870, be taken into consideration. He said:—"When this Bill was introduced it was explained that its object was, first, to provide a check on the under-valuation of estates by persons applying for probate of a will or for letters of administration: and, secondly, to place on a more satisfactory footing the existing law relating to the realization of the duties payable on probates and letters of administration.

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The Select Committee have kept to these two points, and have abstained from considering various suggestions which have been made for altering the general law on the subject of succession-duty, either in the direction of obliging Hindus, Muhammadans and Buddhists to take out probate or letters of administration, or to exempt Native Christians from that obligation, as being quite outside the scope of the present measure. The alterations which the Committee have proposed in the Bill as introduced are confined to what they consider will be improvements in the procedure for giving effect to the object in view. These alterations are fully explained in paragraphs 3 and 4 of the Committee's report, and I need not take up the time of the Council by repeating what is there said."

The Hon'ble MR. REES said:—"My Lord, the Hon'ble Member has referred to the case of 'the Native Christians'. Under the existing law every Indian Christian's estate valued at over Rs. 1,000 pays succession-duty on the whole estate at 2 per cent., as it is compulsory upon their heirs and executors to take out probate or administration under the Succession Act, from the operation of which Hindus, Muhammadans and Buddhists are exempt. Similarly, under the Administrator General's Act, where no person has taken out probate or administration of a deceased Christian's estate within a month after his death, the Administrator General may take proceedings, and it is the duty of the District Judge to report in such cases to the Administrator General and to take possession of the property pending probate or administration.

"The exempted classes, or rather all Indians other than Native Christians, Hindus affected by the provisions of the Hindu Wills Act, and Parsis,—who have their own succession law,—only pay the 2 per cent. on such debts due to the estate as they cannot recover without the aid of a succession certificate, and they take out a certificate for the collection of such specific debts, and pay 2 per cent. on that amount and no more. Nor, in their case, can the Administrator General intervene except in the Presidency-towns, and only for the protection of the estate.

"The reason for this inequality of treatment is that the Succession and Administrator General's Acts are based on English law, and were intended to apply primarily to the English in India and to races having a foreign domicile but residing in this country, to persons other than Muhammadans and Hindus, the latter expression so clearly referring to a race and not a religious distinction that it includes Sikhs and Jains in this behalf. Sir Henry Maine on introducing the Bill had said that after exempting Hindus and

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Muhammadans the Legislature had been brought successively to except nearly every native race in India, and in accepting an amendment empowering the Governor General in Council to exempt any race, tribe or sect and also every part of such race, tribe or sect, he said :—

‘ If necessary, therefore, it would be possible to exempt Native Christians from the operation of the Act.’

“ Similarly, in introducing the Bill for the exemption of Parsis from the Administrator General’s Act, or certain parts thereof, the Legal Member of the Government said :—

‘ There is no doubt that the Act was originally intended to apply chiefly, if not solely, to Europeans and other persons with a foreign domicile residing in India.’

“ The Indian Christians in Mysore and Coorg were accordingly exempted when the State of Mysore was under British administration.

“ It is clear that what was intended was a race and not religious exemption. True, Buddhist and Muhammadan are religious designations, but Hindu also signifies inhabitant of Hindustan. The object was to exempt the inhabitants of Hindustan, who were subsequently given the permissive Probate and Administration Act.

“ The object of the present amendment of the Court-fees Act is simply to prevent evasions of the existing law, but important changes are made, and I gratefully acknowledge, on behalf of the Christians of the South, the amendment now made in Select Committee in section 20, Act VII of 1889, whereby the Chief Controlling Revenue-authority’s power to remit penalties is considerably extended.

“ But the provision requiring valuation and prepayment of court-fees before issue of order entitling to probate and administration will work hardly as regards the Christians of the Malabar Coast. It may be said that they are in the same position as other Indian Christians; but in fact they are, as is shown above, not in the same position as their immediate neighbours in Coorg and Mysore, and it must be observed that they occupy, as a community, at many points along the coast, a higher position in the Hindu world than many other classes of Native Christians, and very generally have small estates which are dutiable. Their position is well known to those who have lived among them, and are familiar with the famous controversy of the Malabar rites arising out of the reluctance of Christians in this part of India to break entirely with the Hindu social system, the property law of

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which they were, till the Succession Act was passed, enabled to retain after becoming Christians.

"Though unlike most bodies of Indian Christians they have property, they are none the less far from rich, and prepayment of fees will hit them harder than Hindus, in regard to whom payment of court-fees on probate and administration is optional, and harder than Indian Christians elsewhere, who as a rule are few, and possess no sufficient property to bring them under the operation of the Act. Upwards of three-quarters of the Christian community in India are found in Madras and the States of Travancore, Mysore and Cochin, and on the Malabar Coast they form, in some districts, no less than 25 per cent. of the population. They, and the not inconsiderable number of Christians in other parts of India, are therefore entitled to a hearing.

"It is not, I know, convenient to make proposals of a general character on the amendment of a fiscal Act, but the Succession, the Probate and the Court-fees Acts have before now been amended by one and the same enactment, the subjects with which they deal being intimately connected, and it is a particular class which feels an amendment such as that now before the Council, the more particularly as the Madras authorities, acting, as it seems to me, on a right interpretation of Chapter IIIA of the Court-fees Act, enforce the existing law with the help of the local Revenue-officers.

"Had there been a fair prospect of support, I would have suggested, as an alleviation, that a clause be added to section 19I permitting the Court to require the applicant to furnish security, with one or more sureties, for the prepayment of the court-fee, which now becomes imperative. In the papers relating to the Bill the opinion is expressed over and over again that it is hard on the poor to raise the money for prepayment, and that under section 19I prevention in future, of what certainly was no doubt an irregular procedure, will increase that difficulty, as they will not now have the order on which they used to borrow the money for paying the fees. They cannot do without borrowing, and can no more get their estates administered than the planters can get their estates cultivated without advances. There are manifest objections to the acceptance of security for the payment of court-fees, but the incidence of this tax is as unequal as the circumstances are exceptional, and that the principle is not unknown to fiscal legislation is evident from the provisions of sections 41, 64, 106, 107, 128, 138, 144 and 161 of the Sea-customs Act (VIII of 1878), section 7 (5) of the Inland Bonded Warehouses Act (VIII of 1896), from section 5 of the Opium Act, 1878, and from the provisions for taking

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security from persons holding licenses or leases for manufacture or sale of exciseable articles in the Madras, Bombay, Bengal and Indian Excise Acts. In none of these cases, however, is security taken by a Court for money due on account of court-fees.

"The succession-tax is none the less a duty though paid in the form of court-fees, and any increased stringency as regards collection affects chiefly Indian Christians. I hope their case will be considered upon its merits whenever an amendment or consolidation of the existing law on this subject, which I think cannot be long delayed, is under consideration."

The Hon'ble MR. SMEATON said:—"As a member of the Select Committee and as a minor contributory cause of the inception of this Bill, I desire, with Your Excellency's permission, to make a few observations on the remarks which have just fallen from the Hon'ble Mr. Rees. The Hon'ble Member has referred in forcible terms to the hardship likely to be inflicted on the Native Christians of Southern Madras and to the complaints which they have made. But there are other large Native Christian communities in India besides those of Madras, and not a word of complaint has come from them. They are content to discharge the obligations which the law has imposed on them. Why should the Madras community be an exception? My Lord, I have personal experience of a large population of Native Christians in Burma—the Karens—who are, equally with the Madras people, affected by the Probate and Administration Law. These people are Christians of a robust type and are always content to pay their way as other loyal subjects of Her Majesty pay their way. In the time of the disturbances in Burma these Karens not only showed their loyalty by paying their taxes cheerfully, but embodied themselves into a battalion and shed their blood for the Government of Her Majesty; and I have never known of any claim made by a relation for exemption from probate or administration duties on the estate of a Karen killed in action. With regard to Native Christians, I recollect that on a recent occasion, while the Contract Amendment Bill was being debated, the Hon'ble Mr. Rees alluded to the prosperous condition of the peasantry of Madras; and the Native Christians, I presume from his remarks, form a large proportion of that prosperous community. I think I recollect the Hon'ble Member saying that the Contract Amendment Act was not required by them. They were too rich for that; they were too well off; there was no usury; raiyat lent money to raiyat on friendly terms and at nominal rates; there was no stringency in the money market; everybody was prosperous: we heard of hoards of money waiting for investment. Now, however, when the Court-fees Bill—a Bill designed simply to enforce payment of lawful dues—is proposed, we are told that

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the Native Christians can't afford to pay these dues. In short, my Hon'ble friend's argument comes to this: that the Native Christians are too rich for the Contract Act and too poor for the Court-fees Act. This, to say the least, is somewhat of an equivocal position and one hardly to be recognised by the Legislature. As regards the mixed Hindu-Christians, to whom allusion has also been made, it appears to me as if the intention of the advocacy of these bodies might popularly be described as 'running with the hare and hunting with the hounds'. As Christians, they are glad to have the benefits of probate and letters of administration: as Hindus, they wish to claim exemption from the lawful fees for these benefits. This, too, is a position which can hardly be recognised by the Legislature. In regard to the valuation and the stricter provisions made for collection of the revenue by the Bill now before the Council, I would remark that in two important points the Bill adopts the actual procedure which has been followed in Bombay for the last twenty-five years without difficulty, as has been vouched to us by the High Court of Bombay through its Registrar. The present Bill insists that for purposes of collection of legitimate dues the applicant for probate or letters of administration shall submit a schedule and a valuation, and that until this has been done no order entitling the applicant to probate or letters of administration shall be passed. This, my Lord, from the papers which are before the Council, has been the actual practice in Bombay, and I think we may consider ourselves in very good company indeed in following that practice, and adopting it in the present Bill. As regards security to which my Hon'ble friend Mr. Rees has referred,—the security instead of actual payment of fees,—it has also been found in Bombay that justifying sureties in certain cases of administration have, as a rule, a tendency to over-estimate the estates in order to secure higher fees, and therefore I should imagine the result of substituting security for payment of fees would not be so much to the advantage of the applicant as my Hon'ble friend seems to think. In regard, lastly, to the suggestion which my Hon'ble friend Mr. Rees made about the two per cent. fee on a valuation of estates: in the papers submitted by the representative of the Christians in Southern Madras an attempt was made to show that it would be more just if applications for probate or letters of administration were valued as suits are, and if the formulæ of valuation as given in Part III of the Act were to be adopted for the valuation of estates for purposes of probate and letters of administration. But, my Lord, a glance at the *ad valorem* schedule of that Act will show that, whereas the fee for probate or letters is two per cent. on the market-value of the estate, the fee for a suit averages between seven and eight per cent. on the value of the subject-matter calculated according to the formulæ of Part III of the Act. If, then, the formulæ of Part III were to be adopted

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for valuing estates for probate purposes, the advocate of the Southern India Christians could not object if the Government raised the fee from two per cent. to seven or eight per cent., in which case, I take it, these shrewd Christians would not thank their advocate.

"These, my Lord, are the only remarks which I have to make. My Hon'ble friend was on the Select Committee and has had somewhat the advantage of us, inasmuch as we did not know the line he would take in the debate. I hope, however, that the Bill may be found to have emerged from my Hon'ble friend's criticism without a blemish."

The Hon'ble PANDIT SURAJ KAUL said:—"My Lord, in supporting the motion now before Your Excellency's Council, I desire to offer the following observations. The Bill as introduced was carefully considered at the meetings held by the Select Committee and amended after thorough discussion. The Bill not only protects the interests of Government, but is also calculated to have a beneficial effect upon the private rights of those who may be affected by it. The Select Committee, I venture to think, has very wisely entrusted to the Revenue-officer of the district the work of preliminary inquiry into the true value of an estate in regard to which probate or letters of administration may be applied for.

"Some persons are of opinion that the Civil Court is a better agency than the Revenue-officers for determining the value of property in such cases. It is true that the Court has got the Subordinate Judge, Munsif or a Commission to do what is necessary, but on the other hand the Revenue-officers can resort to more valuable sources of information, *viz.*, the revenue, settlement, and village records, (2) the personal and local knowledge of such Revenue-officers as the Tahsildar and the Deputy Collector, and (3) of the Collector himself. It is impossible to suppose that these officers will make an unduly high estimate of the value of property for the benefit of the Government. Whatever assessment of value may be made by the principal Revenue-officer of the district after proper investigation and consideration will certainly be a correct one, and under all the circumstances must be more reliable than any that could be made through the agency of a Civil Court. The estimate made will generally be such that it will neither cause any loss to Government nor make the party concerned pay more than the amount which is strictly due.

"No one will, I think, deny that in India, of all the officers in a district, the Collector is the one in whom people naturally place entire confidence, and upon whom they look as their sympathiser and just arbitrator between the Govern-

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ment and its subjects ; and, this being the case, there can be no doubt that the action of these officers in such cases must and will always produce satisfactory results. The relations of Collectors with the people in their districts are as a rule all that they should be, and I may here say that it is to be regretted that frequent transfers of such officers are unfortunately calculated to affect those relations in an undesirable manner.

" My Lord, notwithstanding these considerations, the Select Committee has provided in the Bill that, in the event of an objector not being satisfied with the assessment of value by the Collector, the Court shall make a further investigation and thereupon come to a decision which shall be final and conclusive, and every possible contingency has thus, I think, been amply provided for.

" The Bill, as amended, is, in my opinion, a suitable measure and one that may, without any hesitation, be passed by Your Excellency's Council."

The Hon'ble SIR GRIFFITH EVANS said :—" The Bill is one to amend the Court-fees Act so as to give the Revenue-authorities greater facilities for recovering the full amount of the tax they are entitled to by the present law on probates and letters of administration. But if the present tax is in some respects anomalous and unjust in its incidence, and if the method of realizing it is unsatisfactory, it may well be the duty of those Members of the Council who so think to call these matters to the attention of Your Excellency's Government, and to point out that, if they agree to the proposed measure, it is only as a temporary makeshift, and that the only reason why they do not press for the necessary changes at present is that the limited scope of the Bill renders it impossible.

" In fact, the question reduces itself to the practical issue whether we should refrain from giving increased facilities for the collection of the tax until the tax itself is placed on a juster and more equitable basis. This renders it necessary briefly to consider the objections to the tax and to its method of collection, and to explain why, though regarding it as unsatisfactory, I do not vote against the Bill.

" This tax is in the nature of a succession-tax or death-duty. But there is no general succession-duty in India. It is only collected in cases in which probate or letters of administration are taken out of the Courts, or when a certificate is required from the Court to sue for the debts of a deceased person, but the tax is collected not as a direct tax, but in the veiled form of a court-fee on the document issued by the Court. The result, however, is that a tax of two per cent. on the whole estate of a deceased person, including land, is payable by

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that class of Her Majesty's subjects in India which is compelled by law to take out letters of administration in case of intestacy.

"That class has to pay the tax equally, whether they make a will or not. This is a comparatively small class, consisting mainly of Europeans, Eurasians, Native Christians and Jews. The bulk of the inhabitants of India—Hindus, Sikhs, Jains, Buddhists and Muhammadans—are exempt from this compulsion. They pay practically under the Succession Certificate Act only on such debts of the deceased as they wish to recover through our Courts. If they should desire to take out probate or letters of administration, they are enabled to do so under the Probate and Administration Act, and then they must pay on the whole estate; but it is optional to do so or not.

"There is the further anomaly that if a Hindu makes a will in Bengal or the Presidency-towns his representative is compelled to pay the full tax—if he makes one elsewhere it is optional. There is a further anomaly that if the Hindu is governed by the Mitakshara school of Hindu law his representatives escape even the tax on debts if the property is joint, because the other members of the family succeed by survivorship and not by inheritance.

"The history of the various Acts which have led to these results was discussed in 1889 on the debate on the Bill to amend the Probate and Administration Act and on the Succession Certificate Bill, and attention was then drawn to the unequal incidence of the tax. Again, in the debate of the 27th March on the Budget of 1894 I drew attention to the fact that this tax operated practically, though unintentionally, as a tax on Christianity in India.

"I will not weary the Council with going into complicated details which will have to be considered some other time. The position broadly is this: it is possible that some day there may be a direct succession-duty in India as there is an income-tax, apart from court-fees. But in spite of severe financial pressure the Government has decided for the present against such a tax.

"They also decided that they could not fairly make it compulsory on the native inhabitants generally to take out letters of administration because it was a foreign procedure unknown to them and alien to their habits—a hardship and a thing difficult to enforce — and unnecessary for the protection of their estates.

"The Acts which render the taking out of letters of administration compulsory are the Succession Act of 1865 and the Administrator General's Act.

"The Succession Act consists of two parts—one a general law of succession, the other a procedure for taking out probates and letters of administration.

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"The effect of the Act and the Administrator General's Act is to render the taking out of probate or letters of administration compulsory on all those who are governed by the first part, that is, by the general law of succession there laid down for all but the Hindus and Muhammadans, etc., who have their own personal laws of succession.

"Now this compulsion was introduced in the first instance not for fiscal purposes but for the protection of the estates of Englishmen and other migratory foreigners in India, and I admit that for them it is necessary.

"The general law of succession prescribed by the Succession Act was made applicable to all who had no personal law of succession of their own, and it was because on conversion Native Christians became relieved from the Hindu and Muhammadan law of succession that they came under the Succession Act. This, was right and necessary to furnish them with a settled law of inheritance.

"But the compulsory procedure which compels them to take out letters of administration on intestacy is as alien to their habits and as unnecessary for the protection of their estates as if they had remained unconverted.

"It seems unjust that conversion because it changes the rule of inheritance should subject them not only to a tax but drive them into a legal proceeding which they do not want and is no benefit to them.

"The remedy is to place Native Christians in the same position as to letters of administration in cases of intestacy as their unconverted brethren.

"If they can afford the luxury of making wills, I think they may be content to be in the same position as a Hindu in Bengal or the Presidency-towns.

"The relief can easily be given not by exempting them from the Succession Act, but by enacting that the provisions of the Succession Act and the Administrator General's Act as to letters of administration in cases of intestacy shall not apply to them but they shall be in the same position as Hindus and Muhammadans and be subject to the Probate and Administration and Succession Certificate Acts.

"The other inequalities which concern the Europeans and others can wait until there is a full reconsideration of the whole question, for they must take out letters of administration and pay some court-fee upon them. But the injustice of the position of the Native Christian is so great that one may well press for its immediate redress.

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"What the effect on the spread of Christianity may be I do not know any more than I can say what effect it would have in England if the profession of Buddhism rendered its professors exempt from succession-duties. Possibly many persons might see points in Buddhism as the Way of Deliverance which they do not at present.

"I press for this because these Native Christians are a feeble folk. It has been said by the Hon'ble Mr. Smeaton these Christians continue loyal. They are a very long-suffering people. How long-suffering is seen by the fact that the Catholic Christians can get no redress as to the hardship of the marriage laws. Their converts are branded as bigamists, their children bastardized and the priests turned into criminals. They have been told to get redress under the Native Converts Act, which does not apply to them. Yet there has been no public outcry, no public reviling of the Secretary of State. So far as is known, they have not gone further than to pray for his enlightenment—prayers which, I trust, may be heard.

"I mention this to show that the absence of disloyalty among these Christians is no argument to show they are not suffering a great injustice. It only shows they are like the early Christians—ready to turn the other cheek when smitten.

'Then there is the further point that this Bill as originally introduced throws on the Courts the duty of investigating the value of estates for revenue purposes. This is very objectionable in principle. The Courts ought to have nothing more to do with the valuing of estates than with the valuing of incomes.

"However, the evil has been somewhat abated by the Select Committee, and further by one of my amendments.

"The necessity for the Bill arises mainly from the Hindus and Muhamadans, who have an option of applying for letters of administration, trying to evade the duty. It is mainly because I recognise that this is very extensively done, particularly in the mufassal, that I appeal to these further facilities being given for the collection of this most unsatisfactory tax."

The Hon'ble RAI BAHADUR P. ANANDA CHARLU said :—"I share the opinion of the Hon'ble Mr. Rees with reference to the hardship that at present the Native Christian in Southern India suffers. It occurred to me that this was not the proper occasion to go fully into that question. If my Hon'ble friend had not touched upon it, and if he having touched upon it there was none to oppose

[*Rai Bahadur P. Ananda Charlu; Sir James* [10TH MARCH,
Westland.]

it, I should probably not trouble the Council with any observations ; but fortunately for me it so happens that there is one who has practically exhausted the whole subject. Most of what I had to say to indicate the difficulty has already been said, and in that way it may be a relief to the Council ; but I must point out that it is not a question of loyalty at all as the Hon'ble Mr. Smeaton has stated. It is rather a question of equality of taxation. If in the administration of a law a hardship is felt by a certain class, it would be a very curious interpretation of loyalty to say that those people are not to put forward their objections against the hardships that they are suffering. Nor does it follow that, because the Burman Christians are so submissive as to shed their blood therefore they are to go on shedding their rupees where they are not bound to do it is, I think, a method of defining loyalty which does not commend itself to me. That they have for a long time submitted to it—and unconsciously submitted to it—is no argument whatever. In every law that we change we find that that law has been submitted to for a number of years, and we change the law with the fact before us that the law has been submitted to for a number of years. Therefore, the question whether the law has been submitted to ungrudgingly for a number of years or not is utterly irrelevant. The question rather is whether the law is just or whether the law is productive of hardship. If the legislature finds that there is a hardship produced by a particular law, I would say it is their duty to remove the evil, although not a single person who suffers from the hardship has come forward to complain of that hardship."

The Hon'ble SIR JAMES WESTLAND said:—"There is one part of the speeches of my Hon'ble friends Sir Griffith Evans and Rai Bahadur Ananda Charlu with which I entirely agree, and that is the statement that the present occasion is not one in which the very wide subject on which they have spoken can be considered by the Council. The question before us is that of making more certain than it is at present the collection of certain duties which are prescribed by law. I hold that this is a mere question of procedure, and this is not the time to raise the question whether the duties themselves are such as ought to be imposed by Government. They already exist in the law as it at present stands. I am quite aware that there is a certain amount of inequality in the administration of the succession-duties. It is a subject which is, however, surrounded with many difficulties, and these difficulties have have been amply laid before the Council by my Hon'ble friend Sir Griffith Evans himself in March, 1889, but I rather think he took a different view then from what he takes now ; for to quote from sentences he spoke then it would appear that his

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doctrine at that time was that the duties he now urges that the Native Christians should be exempted from should rather be extended to the Hindus and Muhammadans. He points out perfectly correctly that there is an inequality in the duties :—

“ It has long been seen that it would be fair in principle to render the payment of such duties compulsory on all alike. But principle is one thing ; practice is another.”

“ And then, talking of the possibility of making the whole of the inhabitants of India pay duties of the kind, he says :—

“ What can be got out of them in the way of succession-duties without friction or injustice, it is, I take it, the duty of the Government to itself and to the class which pays these duties to get.”

“ And he finishes up by saying :—

“ It is not unlikely that means will some day be devised for bringing property held under the Mitakshara law within the reach of a succession-duty. I do not think the difficulties will be insuperable.”

“ I am perfectly prepared to agree that there is an inequality between certain classes in India in respect to the succession-duties, but I am much more inclined to seek to remove them, not in the way which is at present indicated, namely, by exempting the Christians, but in the way in which Sir Griffith Evans himself indicated in 1889, namely, by extending the succession-duties to those classes who are at present, without intention, exempt from them. However, I will finish up by saying, as Sir Griffith Evans and Rai Bahadur Ananda Charlu have said before, that I agree that the present is not the occasion on which this rather difficult subject can be discussed by the Council. That may have to be done at some future time, but there is one remark which I would like to make, and that is that I think far too much prominence has been given in the discussion to one particular point.

“ To hear the Hon'ble Mr. Rees speak of Madras, one would think that no persons but the Native Christians in that Presidency contributed to this tax. Now I have the figures before me here of the last three years, and I find that the whole presidency of Madras during that time contributed about Rs. 60,000 or Rs. 70,000 a year ; Bombay and Sind, which contains about half the number of the population of the Presidency of Madras, contributed four times as much ; Bengal, which contains half as many inhabitants again as the Madras Presidency, contributed from six to ten times as much as the Madras Presidency. It is obvious, therefore, that these probate-duties are not confined in any way to Native Christians generally, and still less to Native Christians in Madras : the principal contributors are at present the Hindus and Muhammadans of Bengal and Bombay.

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"Another suggestion has been made in this matter by Sir Griffith Evans, and that is, that the whole subject is foreign to the duty of the Civil Courts. I can only say, looking at it from a purely financial point of view, that I would be perfectly willing to adopt on the whole question a procedure like that at home, that is, that the Civil Courts are only put in action after a certificate has been given by the revenue-authorities that the valuation of the estate is so much. We do not put upon the Civil Courts any duty in the way of collection; we simply say that they must do the same in respect to applications for probate and administration as they do in respect of all other proceedings before them and see that the applications to them are made on a properly stamped document. If we were to lay upon the Revenue-officers the necessity of certifying the duties in every case, the result would be that every person who wished to take out probate or administration would have first of all to go to the revenue-authorities and then have the investigation pursued as to the value of his property. Now the whole Bill as passed by the Select Committee is a Bill intended to allow the proceedings for probate and administration to proceed as far as possible without any intervention of the part of the Revenue-officer. If the Revenue-officer finds occasion for intervention he has the power to intervene, but I fancy that in by far the majority of cases the Revenue-officer having the power to intervene will not make use of it unless an obvious intention to defraud the revenue was apparent. That is a procedure which from the point of view of the applicant for probate or administration is far more simple and far more easy than laying upon him the necessity of first making an application to the revenue-authorities and satisfying the revenue-authority regarding the sufficiency of his valuation.

"This leads me to another observation which the Hon'ble Mr. Rees made, that is to say, in regard to taking security. I do not think that the Civil Courts should have power to take security. It is not their business to collect the revenue for Government, and they will not, like the Revenue-officers, take the responsibility of seeing that the security is sufficient for purposes of revenue. If the whole matter is handed over to the Revenue-officers, then I have no objection whatever to giving the Revenue-officers within certain limits the power of taking security rather than insisting upon the money being paid down beforehand; but if the matter is to be left to the Civil Courts then I can only quote what the High Court of Calcutta and what the Hon'ble Sir Griffith Evans have said in the matter, that it is not the business of the Court to see that revenue is properly collected."

The motion was put and agreed to.

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The Hon'ble SIR GRIFFITH EVANS moved that in the new section 19 H (6) of the Court-fees Act, 1870, proposed by clause 2 of the Bill, as amended, for the words "officer authorized" the words "person authorized by the Court" be substituted, and that to the same the following be added, namely :—

"The person authorized as aforesaid to hold the inquiry shall return to the Court the evidence taken by him and report the result of the inquiry, and such report and the evidence so taken shall be evidence in the proceeding, and the Court may record a finding in accordance with the report unless it is satisfied that it is erroneous."

He said :—"The object of this amendment is two-fold. One is to relieve the Court of the District Judge from having to hold the inquiry itself and enable him to depute somebody else to do so. The other object is to provide some machinery for the making of a report and provide a procedure."

The Hon'ble MR. RIVAZ :—"I am quite willing to accept this amendment. I understand it is practically applying to these cases a somewhat similar procedure to that laid down in the Civil Procedure Code for local investigation by a Commissioner, and it is, I think, a desirable provision."

The motion was put and agreed to.

The Hon'ble SIR GRIFFITH EVANS moved that to the new section 19I of the Court-fees Act, 1870, proposed by clause 2 of the Bill, as amended, the words "on such valuation" be added, and that after the same the following sub-section be added, namely :—

"(2) The grant of probate or letters of administration shall not be delayed by reason of any motion made by the Collector under section 19H, sub-section (4)."

He said :—"The object of this amendment is, in the first place, to make it clear that the fee is to be paid on the valuation of the assets by the affidavit of the applicant in the first instance. The second part is intended to make it compulsory upon the Court to grant probate at once upon a proper affidavit of valuation being before it, reserving the question of the investigation that may be made by the revenue-authorities afterwards and not to delay the grant of probate because probates or letters of administration, where they are compulsory, are absolutely necessary for the administration of the estate, and if they are not granted quickly the delay may cause loss to the estate and therefore it is necessary to have these grants made at once. In order to make the position of my Hon'ble friend the Financial Member more easy, I have in a later portion introduced an amendment which enables him directly to collect any excess which

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may be found on the inquiry at the instance of the Revenue-officers as an arrear of land-revenue; so that they will have the fullest opportunity of collecting it afterwards without delaying the probate."

The Hon'ble MR. RIVAZ:—"I am quite willing to accept this amendment also. The Select Committee in dealing with the Bill recognized that no delay ought to take place in granting probate while an enquiry was going on whether an estate was under-valued, and it is desirable to make the matter quite clear especially having in view my Hon'ble friend Sir Griffith Evans' next proposed amendment."

The Hon'ble SIR JAMES WESTLAND:—"I quite agree with my Hon'ble friend Mr. Rivaz. From my point of view I think we are amply protected by the power which is given to the Collector to intervene, and that power being given, I do not think there is any occasion to lay upon the Civil Court the necessity of postponing the actual grant of probate or letters of administration. The interests of the revenue are sufficiently protected in the power of the Collector to intervene, and I do not think it is necessary to protect them further by ordering or sanctioning any delay in the issue of probate or letters of administration."

The motion was put and agreed to.

The Hon'ble SIR GRIFFITH EVANS moved that in the new section 19J of the Court-fees Act, 1870, proposed by clause 2 of the Bill, as amended, between the words "Any" and "penalty" the words "excess fee found to be payable on an enquiry held under section 19H, sub-section (6), and any" be inserted. He said:—"The object of this amendment is closely connected with the next one, and I have to say a few words to explain it. When this duty was first introduced it was considered desirable, if I may say so, to veil the character of it as a succession-duty, and to treat it merely as an ordinary court-fee, and to depend upon the ordinary penalties attaching to people who pay in insufficient court-fees. The consequence was that many expedients were resorted to. First of all, the Revenue-officers had to depend on indirect pressure, as an improperly stamped document was not receivable in evidence, under one section, and under another section an improperly stamped document was invalid. Then they introduced various amendments which were unnecessary except for fiscal purposes into the Probate and Administration Act, and which will have to come out some day, and they trusted to this policy of side pressure in order to get the full court-fees." Now that that has failed they have asked

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for a direct power of enforcing the revenue through the intervention of the Revenue-authorities, and it has of course become unnecessary to keep up the other side checks and the side pressure which existed before. I have therefore by these words given to my Hon'ble friend the Finance Member what he had not got by the Bill as amended by the Select Committee. The Bill as amended by the Select Committee rendered it at least an open question in point of law as to whether the word 'penalty' would have covered the excess fee which was found upon an enquiry under this Act to be leviable. I have therefore put in a provision for the benefit of the revenue that if an excess is found to be due by an inquiry under this Act, it shall be leviable in the same way as a penalty under the Act and as if it were an arrear of land-revenue. That puts my Hon'ble friend the Financial Member in a sufficiently strong position not to need the other side pressures, and therefore when I come to the next amendment I will explain how I propose to take some of them away."

The Hon'ble MR. RIVAZ :—"When this point was considered by the Select Committee we were somewhat divided in opinion as to whether the Court or the Collector was the better agency to collect these excess fees. Personally I prefer the agency of the Collector, and now that I am fortified with my Hon'ble friend Sir Griffith Evans' opinion I am quite prepared to accept his amendment."

The Hon'ble SIR JAMES WESTLAND :—"I agree with my friend the Hon'ble Mr. Rivaz."

The motion was put and agreed to.

The Hon'ble SIR GRIFFITH EVANS moved that in clause 2 of the Bill, as amended, after the new section 19J of the Court-fees Act, 1870, proposed thereby, the following be added, namely :—

Sections 6 and 28 not to apply to probates or letters of administration.

"19K. Nothing in section 6 or section 28 shall apply to probates or letters of administration."

He said :—"Owing to this duty being levied as a court-fee on a grant of probate or letters of administration, the result was produced that although the probate had been stamped by the Court on payment of a duty, yet if the duty were insufficient the documents would be improperly stamped and an objection could be raised to its admissibility in evidence or even its validity. Now, inasmuch as probates and letters of administration are letters of authority to administer property, it was, of course, exceedingly inconvenient that

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they should be subjected to any invalidity of this kind. They stand on an entirely different footing from that of ordinary documents not properly stamped, and now that there is a power on the part of the Revenue-authorities to apply for the excess revenue and to collect it themselves, it is unnecessary to continue these side pressures at all. There are one or two others which ought to have been removed—notably the provisions for revoking probates because of untrue statements in inventories ; but these matters were not before the Select Committee and, inasmuch as they are sections in the Probate and Administration Act, I doubted if I should be justified in proposing their removal now."

The Hon'ble MR. RIVAZ :—" I have no objection to this amendment either, but it is a matter that more concerns the Hon'ble Finance Member than myself. "

The Hon'ble SIR JAMES WESTLAND :—" There is a provision in the Stamp Act that, when the amount of a stamp-duty has been adjudicated by the Revenue-officer, it shall not be called in question afterwards. I think this proposal of my Hon'ble friend Sir Griffith Evans follows exactly those lines, namely, that when the Revenue-officer has had his opportunity of intervening and has not intervened or through his intervention the proper duty has been adjudicated, no question may thereafter be raised from the point of view of the revenue as regards a sufficiency of the duty. I am perfectly prepared, therefore, to accept the amendment proposed."

The motion was put and agreed to.

The Hon'ble MR. RIVAZ moved that the Bill, as now amended, be passed. He said :—" In doing so I hope my Hon'ble friend Sir Griffith Evans will allow me to express my acknowledgments to him for his careful study of the Bill and for the improvements which have been effected by his amendments."

The Hon'ble SIR GRIFFITH EVANS :—" I do not desire to say anything on this motion except to remark that no real answer has been attempted to the grievance of the Native Christians. That they do not pay the bulk of the tax renders it easier and cheaper to relieve them. That I, when discussing the inequality of the tax in 1889, did not point out the special hardship to Native Christians, is not strange seeing that I am not a Native Christian myself, and had not had my attention at that time directed to their position. But that is no reason why I should not come to their aid when I see how they are fallen among tax-gatherers and are sore smitten. To me the time of the Council appears

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Mr. Chalmers.*]

to have been properly spent, and I should not have felt justified in allowing this Bill to be passed without protest, as it increases the injustice under which the Native Christians are suffering."

The motion was put and agreed to.

CURRENCY-NOTES FORGERY BILL.

The Hon'ble SIR JAMES WESTLAND moved that the Report of the Select Committee on the Bill to amend the law relating to the forgery of currency-notes and bank-notes be taken into consideration. He said:—"I mentioned, when I presented the Report of the Select Committee, that the objections which had been taken on several sides to the Bill as originally framed were, so far as I understood, removed by the alterations which the Select Committee had made in the form of the Bill. I trust I may take the fact that no amendments have been proposed by any of the Hon'ble Members of Council as an indication that they have been sufficiently satisfied on this point."

The Hon'ble MR. CHALMERS said:—"Perhaps I may say one word as to the amendments made in Select Committee. For the most part, as Hon'ble Members are aware, those amendments were formal with the exception of two amendments in substance, and two only. The first is one to which, I think, everyone will agree. We have made it a substantive offence to counterfeit a currency-note or bank-note. The second amendment is to some extent a weakening of the law, but it is an amendment which was suggested to us from several sides and which we have seen our way to adopt. We have divided the original first section of the Bill into two parts. The first part punishes the offence of trafficking in forged and counterfeit notes. In that case it will be sufficient for the prosecution to prove that the person who traffics in the note or attempts to deal with it as a genuine thing, knew or had reason to believe the note to be forged. It is quite clear that a man commits an offence if he has a forged note in his possession which he has reason to believe to be forged and tries to pass it. Then comes the question of the next section; and here we have modified the original proposal of the Bill. We have gone back from the rule of English law, a law which has been in force for forty years, and we have put in, in deference to the representations received, an extra burden of proof on the prosecution. We have provided that wherever a person is found in possession of

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forged or counterfeit notes which he knows or has reason to believe are forged or counterfeit, that the prosecution must, in addition, prove that he intended them to be used as genuine. In English law it is sufficient if the notes are found in his possession and if he cannot prove that his intentions were lawful. We have reversed the proof and laid the burden on the prosecution of proving not only that the accused was in possession of the forged notes, but also that he intended these forged notes to be used for some fraudulent or wrongful purpose. I thought it right to make this explanation, because I see in many quarters that there were apprehensions as to what might be the effect in India of introducing the English law."

The Hon'ble MR. SMEATON said :—" I am glad, my Lord, that the Draconian severity of section 489A of the original Bill in respect of *possession* of forged notes has been softened by section 489C of the amended Bill. May I make a suggestion that, as the burden of proof of dishonest knowledge and intention has now been laid on the prosecution and as the punishment has been reduced from transportation for life to imprisonment for seven years, and as the offence has also been made bailable, arrest by a police-officer without a warrant may be disallowed. My reason for making this suggestion is this. I speak chiefly with reference to the province which I represent, in which I may mention for the information of the Council that the whole of the great export staple—rice—of the province is annually purchased with hard silver rupees. Last year the sum paid for the rice which was brought to the ports of Burma was eleven and one-third crores of rupees paid in hard silver. The Burmans have an aversion to the use of currency-notes. Efforts have been made for the last twelve years, as the Hon'ble Financial Member probably knows, to induce them to use currency-notes, but the efforts have been attended with very small success indeed, and any added terror—any addition to the distrust and suspicion with which Burmans look upon currency-notes—in the shape of arrest by a police-officer without a warrant would, I take it, very likely postpone still further the realization of our object."

His Excellency THE PRESIDENT :—"I am sorry to interrupt the Hon'ble Member, but he seems to me to be proposing an amendment in the Bill without giving notice of any such amendment."

The Hon'ble MR. SMEATON :—"I am aware of this, Your Excellency, and must apologise for it, but I thought I might make a suggestion in case the Hon'ble Member in charge might have thought fit to make a slight alteration in the schedule and change the words 'arrest without warrant' to 'arrest with warrant of a Magistrate'."

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The Hon'ble SIR JAMES WESTLAND:—"I think I can give the Council a very good reason why the Hon'ble Mr. Smeaton's proposal should not find acceptance. In the first place, I think he is not quite right in speaking of the aversion which the Burmans have to using currency-notes. What the Burmans do with these currency-notes is this—they have at the end of the rice season a very large amount of silver in their possession. This silver they desire to retain until the next rice season comes round. They accordingly present their silver to the Currency Department and take out those very currency-notes of which, according to the Hon'ble Mr. Smeaton, they have such an abhorrence. They keep these notes in their possession until the next rice season comes round, and then they take them to the Currency Office, change them for silver, and use that silver for their rice transactions up-country. I am not afraid of ruin dropping upon the Currency Department by reason of the Burmans ceasing to use currency-notes. There are a very large number of people in India who are not Burmans, and I am perfectly satisfied with the amount and the security of our circulation. What I wish to point out with reference to the particular point raised by the Hon'ble Mr. Smeaton would be that his amendment would go to weaken the whole procedure of—"

His Excellency THE PRESIDENT:—"There is no amendment before the Council. The Hon'ble Mr. Smeaton has not moved any amendment and cannot at this stage move one."

The Hon'ble SIR JAMES WESTLAND:—"I shall say then that the proposal of the Hon'ble Mr. Smeaton would destroy the whole efficiency of the Bill. What would actually happen is what has happened in most cases, namely, that these counterfeit notes would be brought to the Currency Office, they would be there presented for payment, they would be found to have been forged, and the person who presented them would be handed over to the police for inquiry. If it was made part of the law that the police should not have this authority to arrest without warrant, then the man would simply go away, and the possibility of investigating the case would cease."

The motion was put and agreed to.

His Excellency THE PRESIDENT here explained that this was the stage in the Bill at which it was in the power of the Hon'ble Member to move an amendment if he wished to do so. Rules 28 and 29 of the Rules for the Conduct of Business provided that, on a Bill being taken into consideration by the Council, an Hon'ble Member might move an amendment without the usual notice if no Member of Council objected to his doing so. HIS EXCELLENCY gathered, however, that Mr. Smeaton did not wish to proceed further in the matter.

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The Hon'ble MR. SMEATON said that he did not desire to proceed further.

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

The motion was put and agreed to.

GLANDERS AND FARCY BILL.

The Hon'ble MR. RIVAZ presented the Report of the Select Committee on the Bill to consolidate and amend the law relating to Glanders and Farcy. He hoped, he said, at the next meeting of the Council to move that the Bill be passed.

INDIAN TARIFF ACT (1894) AMENDMENT BILL.

The Hon'ble SIR JAMES WESTLAND moved for leave to introduce a Bill to further amend the Indian Tariff Act, 1894. He said:—"I see that it is stated in the List of Business that my object is stated in the title of the Bill. With all deference to the Hon'ble Member who has charge of the Legislative Department, I think it would require a large amount of perspicacity for anyone to see my object stated in the title of the Bill. As a matter of fact, I am proposing to open an entirely new chapter in our fiscal history, and which I have already endeavoured to make plain, in language which is not legal and not legislative, but which, I fancy, has been understood, by statements made in the newspapers.

"I propose to ask the leave of the Council to introduce a Bill which will have the effect of conferring upon the Government a power to impose countervailing duties in the case of bounty-fed sugar imported from European countries. I shall not take up the Council's time by explaining the economic effect of bounties and of countervailing duties. I take it for granted that Hon'ble Members know these matters as well as I do myself, and, if I refer to them for a short time, it is only with the object of introducing to the Council the facts with regard to which I shall have to satisfy them in asking leave to introduce this Bill.

"It is well known that the effect of bounties is two-fold. It affects in two entirely opposite directions the interests of the consumer and the producer. So far as regards the consumer, it brings the article of consumption to the market at a cheaper price than would otherwise be available to him. In that respect he receives benefit. But the producer looks at it from a different

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point of view. It supplants in the market the produce which he would otherwise bring to it by a competitive produce which has attached to it an artificial advantage. England, of course, is, as regards sugar, a nation of consumers. No project for the imposition of countervailing duties has there been made ; but India, on the other hand, is, to a very large extent, a nation of producers, and the productive interests of the country in respect of sugar are, as I hope to satisfy the Council, extremely important, and ought to be safeguarded by any measures that we can take. As regards the interests of the producer, I shall quote some official documents which have reference to them, and will show that sugar is a particularly important product in this country. Hon'ble Members will no doubt excuse my beginning my quotations by a reference to an old Financial Statement—that of 1877-78. Sir John Strachey in talking of sugar in that statement says :—

‘ It is one of the most important agricultural staples of those provinces, and it is important not only to the agriculturists and manufacturers and consumers, but directly to the Government, which looks greatly to sugar cultivation for its irrigation revenue.’

“ Then again, when the Chamber of Commerce, Calcutta, made a representation about a year ago on the subject of sugar, they also drew attention to the extreme importance of the productive interests connected therewith. They enclosed a memorandum from the firms interested in the sugar industry in Calcutta, in which it was said :—

‘ The importance of cane cultivation in the agricultural scheme of almost every Province in India is perhaps hardly appreciated, except by those officials whose duties have brought them into association with the settlement of land-revenue. The remark may be found in many a settlement report that in such and such tracts the entire rent, and therefore the entire revenue, is paid from the cane-field. “ The peasants say,” writes the Settlement-officer of Bareilly, “ that sugarcane is to other tillage as the elephant to other beasts.” In almost every settlement report and district gazetteer of the Punjab, of the North-Western Provinces and of Oudh, the extremely important position held by sugarcane in maintaining agricultural prosperity is prominently noticed, as the extracts quoted below sufficiently indicate ;’

and then they proceed to make the extracts justifying the statement. Again, in a report from the Lieutenant-Governor of the North-Western Provinces received the other day, talking of the possibility of the reduction of cultivation of sugar in the North-West, he says :—

‘ The closing of refineries must lead to a contraction in the acreage under sugar. This reduction might, if the refining industry were destroyed, reach a maximum of 250,000 to 300,000 acres. Such a reduction in the acreage under a valuable and paying crop would

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cause far-reaching injury to landlords, tenants and the labouring population, and might affect the well-being of the rural classes to an extent that would produce serious discontent in the sugarcane-growing regions. The stability of the Government revenue would be affected, not indeed directly, because the land-revenue assessments are not ordinarily made on the special or crop rents that are in some places paid for land let out for a cane crop, but because the reduction of the profits of a valuable crop would impair the rent-paying capacity of the tenants, and thus cripple the resources of the landlords.'

"Perhaps these extracts will show the importance which is attached from the agricultural and economic point of view to the maintenance of sugar cultivation. With reference to the interests of the consumer, which I mentioned are entirely in the opposite direction, there is one very considerable discount to be reckoned in India, and that is, that the bounty-fed sugar is a refined sugar, and the sugar which is affected by it in this country is mostly the refined article. The common people of this country, that is, the poorer classes, do not, for the most part, consume refined sugar, although they are taking to it lately in larger quantities. The principal staple, however, of their consumption is unrefined sugar, and, so far as we can trace it at present, although the unrefined sugar has to a certain extent been affected by the large importation, to which I will presently allude, of bounty-fed sugar, still it is mostly in the direction of the cheapening of refined sugar that the effect of this bounty-fed import has been seen. Accordingly, although the consumer has benefited by the cheapness of the bounty-fed importations, yet the consumer who is so benefited is not the poorer classes but the classes who are comparatively well able to bear the burden of the removal of the cause cheapening their sugar. I find that the report made by the West Indian Commission expresses this view even with regard to England. They state:—

'It has, we believe, been argued that the reduction in the price of sugar which has resulted from the bounty system is such a source of gain to the British Empire as a whole that it would not be right for Your Majesty's Government to initiate any measures to bring about the abolition of that system. In that argument we do not concur. * * The benefit which the British Empire as a whole derives from any lowering of the price of sugar due to the operation of the bounty system is too dearly purchased by the injury which that system imposes on a limited class, namely, Your Majesty's West Indian and other subjects dependent on the sugar industry. * * We have, therefore, no hesitation in saying that the abolition of the bounty system is an object at which Your Majesty's Government should aim, if they should see their way to securing that result, and that the accomplishment of such an end is worth some sacrifice, provided always that such sacrifice would be really effective and would not involve evils out of all proportion to those which it is desired to remove.'

"Of course we are not, so far as this Legislative Council is concerned, considering the interests of the West Indian subjects of Her Majesty; but the very

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expressions here used might be adapted to India with a small variation, and we might say that the benefit which India as a whole derives from any lowering of the price of sugar due to the operation of the bounty system is too dearly purchased by the injury which that system imposes on one class, namely, the agricultural population which is dependent on the sugar industry of the country.

"I wish to bring before the Council the actual facts of importations into this country so as to show to what an extent in recent years the importation of bounty-fed sugar has increased. I have before me the statistics of importation for the last twenty years stated in thousands of hundredweights. The facts are that for the first ten years the importation of sugar was about one million hundredweight; towards the end of that period it had risen to one million and a half hundredweight. By far the largest portion of this, almost the whole of it, was Mauritius sugar. European sugar hardly entered into the figures at all. In none of the first five years was there any European importation at all, and during the last five years there was an importation of 15,000, 10,000 and 11,000 hundredweight in three of the years concerned. After 1890, although the importation from Mauritius continued and rather increased, that is to say, moved up from about one million three hundred thousand to one million six or seven hundred, yet the importation from Austria and Germany vastly and suddenly increased. The year 1890-91 was almost the first year in which German sugar was imported, and in that one year 709,000 hundredweight were imported. The figures then fell off for a short time, but during the last three years, 1896-97-98, the amount which has been imported from Austria and Germany combined has been 874,000 hundredweight; then the year after that more than two million hundredweight, and in the ten months of this year more than a million hundredweight has been received. This is a very large and a very sudden increase, and I will mention the facts to which it is due. In 1897 the Government of the United States passed an Act, upon which the Bill now before the Council is framed, by which they imposed countervailing duties upon sugar. The effect of that Act was to cut out the bounty-fed sugar of Europe from the markets of the United States. The consequence was that that bounty-fed sugar was driven to find its market in India, and it found its market very suddenly and very abundantly. Hon'ble Members are no doubt aware that a couple of years ago the attention of Her Majesty's Government was drawn to the critical condition of the sugar industry in the West India Islands. They sent out to inquire into the subject a Commission of which two members were my own distinguished predecessor Sir David Barbour, and the Hon'ble Sir Edwin Collen's

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distinguished predecessor Sir Henry Norman. They made a report in which they showed that the sugar industry of the West India Islands, upon which the commercial prosperity and even the administrative possibilities of the West Indian Colonies depended, was in an extremely critical state, and they attributed it all to the existence of the bounty system. Thereupon Her Majesty's Government took what they considered the only means of having the bounty system revised, namely, they proposed to call a Conference of the various European Powers in order to consider the whole question of bounties. At that time the Government of Belgium had had its attention drawn to the subject, and they met the invitation to Conference issued by Her Majesty's Government by stating that they had already taken measures to have a Conference of the Powers. This Conference took place in Brussels in the summer of 1898. It was a Conference which came to no practical conclusion. The proposals regarding the dropping of the bounty system were opposed for various reasons, mainly by France and Russia, but no practical conclusion was come to. The Conference separated on the understanding that the Government of the King of the Belgians would continue by diplomatic action to pursue its object. At the instance of the Calcutta Chamber of Commerce we had taken measures to have India represented by a member at that Conference, and Mr. Ozanne, who was a recently retired Civil Servant of the Presidency of Bombay, was the Indian representative. After the Conference separated we received a letter from the Chamber of Commerce of Madras, and also from the Chamber of Commerce of Upper India, in which they recommended that now, as the proposals of the Brussels Conference proved ineffective, we should at once take measures to impose a countervailing duty. Madras is to some extent an exporting Province, and it grows a fair quantity of sugar; but Cawnpore, the seat of the Chamber of Upper India, is the centre of a most important sugar industry and is much more in touch with the subject and much more closely affected by it than any of the other Chambers. The Chamber of Commerce of Calcutta has also taken up the subject, and I find from their last annual report that they recommend the imposition of countervailing duties as the only alternative in the event of further negotiations regarding the abolition of bounties proving futile, and that a continuance of unrestricted importation will probably result in the closing of the remaining sugar refineries in the district of Jessore, a large number of which have already ceased to work.

“ But I am a little in advance of the subject when I refer to the closing of the sugar refineries. I wish to show that it is not merely a matter of theory, but an ascertained fact that the sugar industry of this country has been very adversely affected.

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"In India altogether about 3,000,000 acres are under sugarcane cultivation. Of this, 1,300,000 are in the North-Western Provinces and Oudh, 1,000,000 are in Bengal, and the remaining 700,000 are scattered over the other Provinces of India. It is obvious, therefore, that by far the most important Province from the sugar-producing point of view is that of the North-Western Provinces and Oudh. Now, we have obtained very full particulars of the recent condition of the sugar cultivation and of the sugar-refining industry in the North-Western Provinces, and I may at once say that the immediate effect upon cultivation has not been very great. Apparently the production has diminished, taking the whole of India, from about 3,000,000 to about 2,600,000, that is to say, a drop of about 13 per cent.; but there are many reasons why cultivation should not be immediately affected. In the first place, the natives of this country are extremely conservative in their habits and customs. It is very difficult to move them from the existing cultivation, and they will for a long time sustain loss in that cultivation before absolutely giving it up. Moreover, agriculture is largely carried on under advances for delivery of actual produce, and these obligations are obviously obligations which can only be carried out by continuing cultivation, so that the mere depression in the price of sugar does not make itself immediately seen in the reduction of cultivation. It will do so ultimately beyond a doubt. As regards refineries, however, we have strong evidence that the importation of bounty-fed sugar is causing very serious disaster. In a letter from His Honour the Lieutenant-Governor of the North-Western Provinces he tells us:—

"There has been a substantial decrease in the acreage under cane in those parts of the Province where the margin of profit on the cultivation is least, this decrease being probably due to the competition of bounty-fed sugar. Further experience is, however, required to arrive at certain conclusions in this respect.

'Foreign sugar does not as yet compete with *gur*, but it is now competing with refined sugar for home consumption, of which article it has seriously reduced the exports. It has also already caused the closure of numerous refineries, while it has seriously endangered the stability of others. The Director gives statistics showing that 120 refineries have stopped working, but his figures on this point are incomplete. He has since informed the Lieutenant-Governor that no less than sixty have been closed in a part of the district of Azamgarh alone, of which no account is taken in his memorandum.

'The price of refined sugar has been reduced about 12 per cent. in five years, and this decline has had a general lowering effect on all sugar prices.'

"He goes on to report also that—

'The information available points to the probability of the further cheapening of the production of bounty-fed sugar in the future, to its importation in increasing quantities, and to the further under-selling of the native refiners.

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'It is of much more importance to these Provinces to preserve their sugar industry on the basis of present arrangements than to have a cheap foreign sugar supplied to the consumers of the refined article.

'There is no prospect of native processes being so improved that refineries could hold their own against the foreign competition assisted by bounties.'

'I may mention that in the description of the condition of things in the North-Western Provinces we are not dependent upon the reports of the North-Western Provinces alone. For example, in reply to our enquiries, which we issued last September, we have a report from the Resident of Hyderabad regarding the sugar consumption in Berar. He says :—

'In 1893-94 the imports of refined sugar from the North-West Provinces were 27,702 maunds ; in each subsequent year there has been a steady decline till in 1897-98 the quantity imported amounted to only 11,638 maunds, or considerably less than half the former quantity. A more than corresponding rise is to be observed in the imports of refined sugar from Bombay port ; commencing at 50,158 maunds in 1893-94, the figure has now risen to 1,27,625 maunds, or more than 2½ times the former import.'

'So that, whether this sugar which had been imported in Bombay and Berar is bounty-fed or not, it is obvious that the conditions of the trade are at present such that a Province, which had formerly a large supply from the North-Western Provinces, has ceased to derive its sugar from there. The same is the case as regards the Punjab. The Government of the Punjab have not as yet sent us their report but they have sent us in anticipation of the report a telegram which I shall read. They say :—

'Imported sugar almost entirely superseding Indian refined sugar in towns. Consequently great falling off in imports of refined sugar from North-Western Provinces, previously the chief source of supply. Native sugar refineries are also gradually being closed. In the Punjab, cultivation, though not extending, has not fallen off, as the demand of the agricultural population, which is chiefly for unrefined sugar, is still sufficient to maintain prices at a level which renders cultivation profitable.'

"It will be seen, therefore, that the information which we have received as to the condition of the North-Western Provinces in respect of their sugar industry, whether we look at what has been said by the Government of the North-Western Provinces itself, or by the effect as observed from the outside by the Government of the Punjab and the Resident of Hyderabad who represents the Berars, is the same, namely, that the prospects of the industry in the North-Western Provinces are very much like the prospects which have been described by the Commissioners who were sent to investigate the matter in the

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West India Islands. As regards Calcutta it may be sufficient for me to refer to the statement of the Chamber of Commerce in their last annual report—a statement which I have already quoted—

‘In any case a continuance of the unrestricted importation of bounty-fed sugar would probably result in the closing of the remaining sugar refineries in the district of Jessore, a large number of which had already ceased to work.’

“I have some further information which I might lay before the Council regarding the falling off in the price of sugar which, of course, is the direct effect of the importation of the bounty-fed sugar and through which those deleterious effects I have been describing have been operating. The general falling off in prices during the last three years has been (at Cawnpore) a falling off of about one and a half rupees out of a price of about 11, 12 and 13 rupees per maund—a sufficiently serious falling off to necessitate the closing of the refineries, and, when the refineries are closed, there must, no doubt, follow a falling off in the cultivation. I think therefore the Council may take it as proved that we are in the presence of a real danger to an important industry; and I trust they are sufficiently convinced that the time has come when, if we are to protect our sugar industry in this country, which is extremely important, it is necessary for us to take measures against bounty-fed importations. Of course we might wait a little longer; we might wait till our refineries are still further closed, and till the raiyats are so impoverished as to give up cultivation altogether; but it is better in these matters, I think, to take protective measures beforehand, because it is far more easy to revive and encourage an existing industry than to restore one which has been by adverse circumstances extinguished.

“It is hardly necessary for me to touch upon the extent of bounties, or on their effect upon the trade of foreign countries. We are legislating only as regards India. But I would like to point out that the measure we are taking, or which I am asking the Council to take, is not necessarily a measure that condemns the action of foreign countries in putting bounties upon their sugar. We have only regard to our own internal concerns, and it may be perfectly possible for us even to approve the action of foreign Governments in putting a bounty upon their sugar and at the same time to take measures to prevent their having an injurious effect upon our own cultivation. I observe that the argument which the representative of France laid before the Brussels Conference as justifying the granting of sugar bounties in France was this. He said it is all very well for England to denounce sugar bounties. England is the mistress of the seas; she can look forward with confidence even to a state

of isolation arising out of war ; foreign ports will still be open to her and her ports will be open to importation from foreign countries ; but in the case of France it is exactly the opposite. If France is isolated and an enemy of France has command of the seas, then the result might be a very serious national disaster. It is the duty of the Government of France, as a mere question of national preservation, to take care that France shall be independent of foreign countries in the matter of her provisionment. If a certain quantity of sugar is absolutely necessary for the inhabitants of France, then the Government of France must take care that that amount of sugar shall be forthcoming within an area that is under her own command, and, if the cultivation under normal circumstances is not sufficient to produce it, it is legitimate for the Government, by the operation of bounties, to give sufficient encouragement to the internal cultivation of sugar. It is therefore a matter of internal administration. What I point out with regard to this is that we may quite agree with them. We are not bound in any way to denounce the system of bounties as a matter of internal administration of any foreign country. We only wish to protect our own industry, and we claim the same right to preserve our industry in this country as foreign nations no doubt claim to preserve and encourage the sugar industry and sugar cultivation in their own territories."

The motion was put and agreed to.

The Hon'ble SIR JAMES WESTLAND introduced the Bill.

The Hon'ble SIR JAMES WESTLAND moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India and in the local official Gazettes in English. He said :—"The Bill, I may state, is in form a sufficiently simple one. It is copied in its wording from the Bill which is actually operative in the United States of America. We take power to impose, in addition to the ordinary tariff which is levied under the Tariff Act, a further duty equal to the amount of bounty which is granted by any foreign nation. The wording of the Act is in short the same as the wording of section 5 of the United States Act of the 24th July, 1897. In the United States they have a slightly different form of legislation from ours ; that is to say, the Act itself imposes the duty, but lays down directions that the Executive shall prescribe rules for its assessment and regulations for the carrying out of the purposes of the Act. In this case we have slightly modified the procedure, and we give the Government power to impose the necessary duties as well as to lay down these rules and regulations. I hope that the Act will be considered sufficiently simple to pass without being referred to a Select Committee, and it is the intention of the Government to pass it if

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possible without its being examined by a Select Committee during the currency of the present session."

The Hon'ble MR. ALLAN ARTHUR said :—" I should like to say that I support this Bill. As the Hon'ble Sir James Westland has said, the Bengal Chamber of Commerce urged that legislation in this direction might be undertaken. It might be urged that if foreign Governments are generous enough to give us sugar under cost-price it would be rather foolish of us not to take the sugar on those low terms and grow something else on our sugar land. I think, as the Hon'ble Sir James Westland has pointed out, the interests of the producer in India are greater than the interests of the consumer, and as the unrestricted importation of beet sugar is likely to kill the sugar industry in India altogether, I think that legislation will be of great benefit to a great many people in India. With reference to the Hon'ble Sir James Westland's remarks with regard to the passing of the Bill this session, I should like to call his attention to one point, namely, that in putting the Bill into operation there may be cases of great individual hardship. I understood him to say that the probability was that the duty which would be imposed would be equivalent to the bounty that the foreign Governments give. I think it is highly improbable that the price of sugar will rise in India to the extent of the duty that will be imposed. I may say that there has been a very large quantity of beet sugar sold 'to arrive,' as it is called, in Calcutta, that is, shipment for months ahead, and if the price of sugar does not rise to the same extent as the amount of the duty, then I think the buyers of that sugar will probably be very heavy losers by this legislation, unless provision is made to avoid this; and I hope the Hon'ble Sir James Westland, in making arrangements to bring the Bill into operation, will consult the mercantile community in the matter. "

The Hon'ble SIR JAMES WESTLAND said : "The Hon'ble Mr. Arthur was good enough to mention this matter to me before the commencement of the proceedings in Council. There is a provision in the Tariff Act as it stands which alters the terms of contracts in which the conditions as regards the payment of customs-duty have been altered by new legislation. I do not know if that would go far enough in giving relief in the cases to which the Hon'ble Mr. Arthur refers; but in legislation like that which I have just been announcing it is always difficult to enter into the matters of detail to which the Hon'ble Mr. Arthur has referred before taking up the general question, because it is necessary to keep our intentions secret pending preliminary consideration, and it is impossible therefore to consult people in regard to details. However, I hope to be able to

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settle this matter in consultation with the Hon'ble Mr. Arthur, and possibly in consultation with the sugar merchants who represent the industry in Calcutta."

The Hon'ble RAI BAHADUR P. ANANDA CHARLU said:—"I very gladly welcome this Bill. I consider it to mark a very important epoch by way of a departure in the fiscal legislation of this country. The reasons for my considering so I shall reserve for a future occasion, as the Hon'ble Financial Member has stated that very probably this measure will be brought up for discussion and determination during this session. I will at present only make this observation that even from the point of view of the consumer it is quite easy to shew that this measure will be a welcome one."

The motion was put and agreed to.

The Council adjourned to Monday, the 20th March, 1899.

CALCUTTA;
The 16th March, 1899. }

H. W. C. CARNDUFF,
Offg. Secy. to the Govt. of India,
Legislative Department.