Saturday, 28th April, 1860

PROCEEDINGS

OF THE

LEGISLATIVE COUNCIL OF INDIA

Vol. VI

(1860)

mittee be instructed to present their Report after one month.

Agreed to.

JAMSETJEE JEJEEBHOY BARONETCY.

MR. LEGEYT moved that Sir Bartle Frere be requested to take the Bill "for settling Promissory Notes of the Government of India, producing an annual income of one lakh of Rupees, and a Mansion House and Hereditaments called Mazagon Castle, in the Island of Bombay, late the property of Sir Jamsetjee Jejeebhoy, Baronet, deceased, so as to accompany and support the title and dignity of a Baronet, lately conferred on him and the heirs male of his body, by Her present Majesty Queen Victoria, and for other purposes connected therewith" to the President in Council, in order that it might be transmitted to the Governor-General for his assent.

Agreed to.

PORT-DUES.

MR. FORBES moved that Sir Bartle Frere be requested to take the Bill "to amend Act XXII of 1855 (for the regulation of Ports and Port-dues)" to the President in Council, in order that it might be transmitted to the Governor-General for his assent.

Agreed to.

INDEMNITY.

MR. HARINGTON gave notice that he would, on Saturday next, move the second reading of the Bill "to indemnify Officers of Government and other persons in respect of fines and contributions levied, and acts done by them during the late disturbances."

PAPER CURRENCY.

MR. WILSON gave notice that he would, on the same day, move the second reading of the Bill "for the introduction of a system of Paper Currency."

The Council adjourned.

Saturday, April 28, 1860.

PRESENT:

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

Hon. Sir H. B. E. Frere,	H. B. Harington, Esq.,
Right Hon. J. Wilson,	H. Forbes, Esq.,
P. W. LeGeyt, Esq.,	and
	A. Sconce, Esq.

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

THE CLERK presented to the Council a Petition of the Madras Native Association against the Bill "for imposing Duties on Profits arising from Property, Professions, Trades, and Offices," and the Bill "for the licensing of Arts, Trades, and Professions."

MR. WILSON moved that the above Petition be printed.

Agreed to.

PUBLIC CONVEYANCES (PRESIDENCY TOWNS AND STRAITS SETTLEMENT).

MR. LEGEYT postponed the presentation of the Report of the Select Committee on the Bill "for regulating Public Conveyances in the Towns of Calcutta, Madras, and Bombay, and the several stations of the Settlement of Prince of Wales' Island, Singapore, and Malacca."

RELIGIOUS ENDOWMENTS.

SIR BARTLE FRERE moved the second reading of the Bill "to repeal Regulation XIX. 1810 of the Bengal Code, and Regulation VII. 1817 of the Madras Code."

MR. FORBES said, he was very sorry to be obliged to rise to oppose the second reading of this Bill. He was sorry, because he thought it was most desirable that the question to which the Bill related should be finally and definitively settled, and sorry because he feared that in opposing the measure he should lay himself open to much misunderstanding and misrepresentation, and should be accused of wishing to perpetuate a system which he really desired to see at an end, and

which he conscientiously believed would be brought to a full and final end more easily and more speedily by the adoption of other measures than those which, by this Bill, it was proposed to enact.

It was undoubtedly most desirable, and he said it most emphatically, that all connection between the British Government and the religious institutions of the Natives of India should be for ever severed, and that the management of all the concerns of their religious edifices, and of all the endowments by which they were supported, should be given over to the people, to be managed and controlled solely and entirely by themselves. He desired to be particularly understood as going quite as far as the Honorable Member who introduced this Bill on this question of a severance of Government from all connection whatever with the institutions now in question. He agreed with the Honorable Gentleman in the desirableness of the end to be attained, but he differed with him as to the means by which that end should be brought about.

He thought that the question of religion was ordinarily very improperly mixed up with the question of endowments of religious institutions, and that those who would endeavor to ensure due protection to endowment property were too often unjustly accused of supporting a false religion. The endowments of the religious buildings and institutions of the people formed a very valuable public and corporate property, for the due protection of which, quite irrespective of any question of religion, the community had a right to expect that there should be suitable laws. The property was generally of unknown antiquity, was, during the ancient Hindoo and later Mahomedan Governments, under the control and management of the Government of the day, and this control and management passed into our hands as one of the State responsibilities when we assumed the Government of India.

Our Government now, by law, stood towards this property in the same position as our predecessors in the Government stood, and the Officers of Government were guardians of the endowments under the laws which the present Bill was brought into repeal.

He offered no objection to this proposed repeal, on the contrary, he entirely approved of the measure, but he considered that, in repealing the existing law, it was an essential and simple act of justice that a new law should be passed, defining how and by whom the property was to be managed in future, and enabling the community who were interested to take measures for its protection.

But what did this Bill propose to do? It proposed simply to repeal the present law, and it left property to the value of some millions to the care of nobody knew who. It provided no rule of succession to the care of property, it provided no check whatever, and it would enable the person in charge, whoever he might be, to expend thousands of Rupees without the obligation of keeping a single account, and without responsibility to any one whatever.

He wished to make one remark regarding the value of the endowments to which this Bill referred. In the Madras Presidency the landed endowments of the institutions, now in question, in the Tanjore District were under charge of the Government Officers up to 1842 or 1843, and notwithstanding that the expenses of the institutions were fully met, and various public works were undertaken for the comfort and convenience of the people, when charge was given over to the people, there was a surplus in the Treasury of not less than fourteen lakhs of Rupees.

He had said that by this Bill it was proposed summarily to throw up the property now in question, and he would ask if this was a proper way, if it was a fair and just way of ridding ourselves of a responsibility which we voluntarily incurred when we undertook the Government of India. It might be, it would have been better never to have incurred the responsibility, or to have disconnected ourselves from it from the first, but

that we did not do, we had accepted it for more than half a century, and now proposed suddenly to throw it up with regard to ourselves alone and without a moment's thought or care about any thing or any one else besides—would this be a course of conduct that would be approved in private life? Supposing, for example, the Honorable Member who had introduced this Bill had received charge of certain property in trust for another, of which, from any cause whatever, he subsequently wished to be relieved—would he consider it right to re-deliver the property to the person from whom he had received it, or would he consider it a justifiable means of ridding himself of an inconvenient trust to throw the property into the street to be scrambled for by all comers?

He had said that it was proposed by this Bill to throw up property to the value of millions to nobody knew who, and this was no exaggeration. Let the Council see the present law. In Regulation VII. 1817, which was the Madras law which it was now proposed to repeal, it was provided that there should be Trustees for every endowment, these Trustees to be hereditary, or nominated by the founder or his representatives, or elected, as might be the ancient custom in each particular institution, but Section XII enacted that—

"In those cases in which the nomination has usually rested with the Government, or with a public officer, or in which no private person may be competent and entitled to make sufficient provision for the succession to the trust and management, it will be the further duty of the local agents to propose for the approval and confirmation of the Board of Revenue, a person or persons for the charge of trustee, manager, or superintendent, strictly attending to the qualifications of the person or persons selected, and to any special provisions of the original endowments and foundation, and to the general rules or the known usages of the country applicable to such cases."

Now, in repealing this law, it might be said that hereditary or nomination or elective trusteeships would continue to be filled as heretofore, but what was to become of those to which, under the Section of the law which he had just read, the Government Officer had hitherto appointed? The Bill made no provision for these, and certainly in Southern India they were by far the most numerous. The Bill, he said, made no provision for these trusteeships being filled by the act of the people themselves, and the result would be that, as the Bill made no provision for responsibility, the plunder of the endowment would be so valuable a privilege that there would be a scramble to obtain the office, and it would fall into the hands of the least scrupulous of the community.

But let the Council look at the Bill in another light. When the present laws are repealed, the Trustees of these endowments would have no superiors, no one to whom they would owe the least allegiance or obedience; and if, without committing any actual fraud, they were negligent and careless, and gave dissatisfaction to the whole community, who was to remove them from office? This Bill gave power to no one, and the Trustees would, in fact, be irresponsible.

The Honorable Member might say that he had brought in his Bill in its present very nude form for the purpose of eliciting suggestions from the several Governments, and in despair of being able to draw a Bill that should suit all the varying circumstances of all the Native Institutions. He would admit that there might be some of these institutions that required special and exceptional law, although he was not himself aware of any; but granting that there were such, their existence did not, in his opinion, form any ground for treating the great bulk of the endowments in the very unceremonious manner in which this Bill proposed to treat them.

He thought they should do their best to draw such a Bill as in their opinion would be generally suitable, and then leave it to be amended, if good suggestions of amendment were made, but he could not think it well to put forth to the world such a Bill as this, which—however little it might be intended by the Government—would lead every Native in India

to believe that the endowments of every religious institution in the country were to be given over to general pillage. He would suggest to the Honorable Mover of the Bill to refer it to a Select Committee for a preliminary report, and for the suggestions of any alteration that might be considered expedient before its publication in the *Gazette* under the 70th of the Standing Orders. If it were understood that this course would be followed, he would vote for the second reading; but if not, when the question was put, he would answer "no."

MR. SCONCE said, he entertained objections to this Bill of much the same nature as those which had been urged by the Honorable Member for Madras. He should have been glad, in the first instance, if the Honorable Mover of the Bill had stated more fully the grounds of the proposed measure. His Honorable friend had stated generally that the Bill was brought in at the request of the Right Honorable the Secretary of State for India. But he (Mr. Sconce) thought that it would have been more satisfactory if the Honorable Gentleman had himself stated his own grounds for the introduction of this summary enactment. He (Mr. Sconce) very much doubted, however, if the proposition which the proposed law imported corresponded with the suggestion of the Secretary of State. In the letter from the Secretary of State, of which an extract had been communicated to the Council, it was thus stated:—

> "It appears, then, to Her Majesty's Government that the repeal of the Regulations in question, or such parts of them as relate to the management of religious endowments, should no longer be delayed; provision being made at the same time for an appeal to the established Courts of Justice in all disputes relating to the appointment and succession to the management of Hindoo and Mahomedan religious institutions, and to the control and application of their funds."

He (Mr. Sconce) did not profess to say that the meaning of the expressions which he had just read was clear and beyond doubt. The words were, that an appeal should be reserved to the established Courts of Justice. But he apprehended that the idea had not occurred, as indeed it could hardly have occurred, to the Right Honorable the Secretary of State, that a special provision, to open the Courts of Justice to protect the interests involved in these endowments, should now be made as if it had not already been made. He rather thought that it might have been the intention of the Secretary of State, in proposing to transfer the cognizance of these trusts from the Boards of Revenue to the Courts of Justice, to establish tribunals exercising powers more in the nature of an equitable jurisdiction than otherwise. He (Mr. Sconce) had said that he should have been glad to have heard the grounds for the introduction of this measure. It could not be simply to set aside the summary provision now made to meet the case of a vacancy occurring in the management of a trust, or when a complaint of malversation was preferred. It could not be, because justice was too easily rendered, or because the justice rendered to the parties interested cost too little. What would be the change in the present system which this Bill would effect? If a dispute should arise relative to the vacated management of a trust, or in case of malversation, nothing short of a regular suit would be requisite; but he apprehended that no Honorable Member would consider that to be an adequate provision for cheap and speedy redress furnished by the present law. He did not wish to magnify the matter. It was true that the trusts actually brought under the cognizance of the Board of Revenue were few. The endowments throughout Bengal were abundant, and it might be that only one or two cases were, in the course of a year, brought before the Revenue Authorities. In fact, ordinarily speaking, endowments were administered by a system well recognised by the people without any public interference. But it seemed to him that, while the power vested in the Boards of Revenue had been rarely exercised, there was so much less reason now for proposing abso-

lutely to abolish the check provided by the existing law. Such cases of interference, as he had already said, had been very rare. He believed that they seldom occurred more than once or twice a year. A case occurred in 1858 relating to an endowment managed by a Hindoo Mahunt. The sum realised from the endowment was about 2,000 Rs. a year. On the death of the Mahunt, his successor was a minor, and under such circumstances it devolved, he might say necessarily, on the local agents to appoint a fitting representative for the minor. A case, comparatively recent, occurred in the Jessore District, in which local agents, certain native gentlemen, had also been empowered by the Government to control the disbursement of considerable funds appropriated to the support of a Hindoo Temple, and the immediate effect of this Bill would be to annul the appointment that the Government had made under Regulation XIX. 1810. A more important case was that of the Emambarah founded by Mahomed Mohsin in Hooghly. That endowment was supported by landed property yielding a lakh and a half of Rupees a year. That property was now in the hands of the Collector of Jessore. Of the net proceeds, one portion was devoted to purposes of a purely religious character, another portion was applied to educational, another to charitable purposes, and so on. The result of this Bill would be absolutely and summarily to withdraw the power which the Collector had to manage these estates, to discontinue the control now exercised by the local agents, and, in short, to cast adrift, without the control of any legitimate authority, the receipt of rents amounting, as he had said, to a lakh and a half of Rupees. Farther, it so happened, that the present Mahomedan manager of that endowment was appointed by Government. If, therefore, you destroyed the executive control now exercised by Government, and provided no means for the nomination of a successor in the event of the present manager dying, he (Mr. Sconce) could not help thinking that the Bill would prove extremely imperfect. He might also allude to money endowments that did not fall within the law which the Bill, now before the Council, proposed to repeal. In such cases the money was paid by Collectors, and he thought there could be no doubt as to the necessity of some enquiry, on the part of the Collector, on the demise of any of the present incumbents, before the allowance could be paid to the party succeeding him. But as money grants were not endowments within the meaning of Regulation XIX. 1810, the Bill of the Honorable Gentleman would furnish no relief in such matters. It so happened indeed that it was the desire of the Government of India, if possible, to change these money payments for grants of land. A recent case of that kind occurred in the Province of Cuttack, and the Government had thought it necessary to issue extremely stringent orders, with a view to secure the appropriation of the fund to the purpose for which it was originally granted. In a letter of August 1858, for example, it was stated that on preparing the deed of commutation care should be taken to show that the grant was not transferable or personal, and should be so made as to operate in good faith in respect to the legal rights of the pilgrims now and hereafter.

It seemed to him, therefore, that the proper course to take in dealing with this question was not summarily to ignore the necessity of some sort of legislation as this Bill invited us to do, but so to legislate that the affairs of endowments might be equitably and judiciously managed. It seemed to him important to notice one ground asserted, not, as he thought, without misapprehension, for the rescission of Regulation XIX. 1810. Some objection had been taken, in a religious point of view, as to Boards of Revenue, or other revenue officers as Christians exercising control over the affairs of Heathen Institutions. But he must say for himself that, with respect to the authority to administer such trusts, he (Mr. Sconce) saw no difference between a Christian

Collector and a Christian Judge. If the duty was to be performed at all, it should be performed by the officer most competent for the duty. The only substantial matter of grievance was that the superintendence of these endowments, under the Bengal law, was made a matter of duty. By the law, an officer's management of endowments was volunteered. He confessed that the existence of such a provision was an unbecoming and unnecessary interference in matters of religion, and he agreed that it was expedient to get rid of so objectionable a feature in the present law; but at the same time he was satisfied that the course proper to be taken was not that suggested by the Bill now under discussion.

MR. HARINGTON said, with his Honorable friend the Member for Madras, he entirely approved of this Bill so far as it went. He thought there could be no doubt that, in proposing altogether to sever the connection which still existed between the Government and the superintendence and management of the religious endowments of their Hindoo and Mahomedan subjects, the Bill proceeded upon a perfectly right and sound principle, and he should be sorry therefore to see the Bill thrown out at the present stage. He must, however, say that he agreed in all that had fallen from the Honorable Member for Madras, and in much that had fallen from the Honorable Member for Bengal, as to the defects of the Bill, and it appeared to him that they should make an attempt to cure those defects before the Bill was published to the world.

It was of course quite right and proper that the fullest toleration should be allowed to the Natives of India for the exercise of their religion, and that the Government and its Officers should scrupulously abstain from any interference therewith; but this toleration, this principle of non-interference with the religions of the people, never required that they should concern themselves, as they had done, with the care, superintendence, and management of their mosques and temples and other places of worship, or with the property belonging thereto, or that they should do more than give to property of this description the same protection which was so important a part of the duty of the ruling power as regarded the property and persons of all its subjects, whatever might be their religious views, or to whatever class they belonged, and the disseverance of the Government connection, which this Bill proposed, should, therefore, be considered, be carried out as soon as possible with a due regard to the duty which he had just mentioned.

At the same time they must bear carefully in mind that, when in assuming the Government of this country, they determined, in the execution of a wise and just policy, to continue to all religious institutions generally the endowments which they had received from former rulers of the country, so far from leaving those endowments entirely to themselves, or to the operation of the general laws, they enacted special regulations for their superintendence and management and to protect the funds arising therefrom from being wasted or misappropriated, and, furthermore, they took upon themselves the duty and responsibility of nominating competent persons for the superintendence and management of those institutions in all cases in which the nomination rested with the former rulers of the country, or lapsed to, or devolved upon, the Government for any reason. As had been mentioned by the Honorable Member for Madras, it was now upwards of sixty or seventy years since this was done in the two Presidencies to which the present Bill related, and having executed the trust during this long interval, he (Mr. Harington) did not see how they could now suddenly turn round and, because they might have done wrong at first, cast the whole of these endowments absolutely adrift, and say, that for the future they might take care of themselves, and that whatever might happen to them, it was no business of the Government. He apprehended that no Government could thus divest itself of an obligation voluntarily imposed and

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continued to be exercised for a long series of years. It appeared to him (Mr. Harington) that at the same time that they severed the Government connection with the institutions in question, they were both morally and legally bound to make provision for the surrender of the trust, hitherto exercised by the Government, into the hands of competent persons, who should stand in the same relation to all such institutions and the property belonging to them as the Government had hitherto done, and should fill the places heretofore occupied by the officers of Government in respect thereto. He submitted that it was not sufficient to say the Courts were open, and that those who had claims might implead one another therein. Before a man could appear as a plaintiff in a Civil action, he must show that he had some *locus standi* in Court, and as no one could of right claim to succeed, on a vacancy occurring, to the office of superintendent and manager of an endowment, the nomination to which, to quote the words of the Bengal and Madras Regulations, was vested in, or had devolved upon the Government of the time being, the effect of passing this Bill in its present form would be to leave every such appointment, as it fell vacant, to be scrambled for or seized upon by all those who supposed they had, or chose to assert a claim to the same, though in reality no one could have any claim. The consequence would be great confusion, endless and bitter disputes, and immense waste of property. It appeared to him, therefore, that, in repealing Regulation XIX. 1810 of the Bengal Code, and Regulation VII. 1817 of the Madras Code, they were bound to make suitable provision for the discharge of the duties or obligations which now devolved, under those Codes, on the local Governments and their officers, and he hoped that the Honorable Member of Council, by whom this Bill had been brought in, would adopt the suggestion of the Honorable Member for Madras, and allow the Bill to be referred to a Select Committee before it was published, with a view to their considering and reporting what provision should be introduced into the Bill for the purpose of supplying what was now regarded as defective in it.

He thought it proper to add, that the great difficulty of making suitable provision on the point which he had mentioned, was the only reason why his Honorable friend, the late Member for Bengal, did not bring in a Bill to repeal the laws to which the present Bill related before he left the Council. Mr. Currie was most anxious for the repeal of those laws, but he fully admitted the necessity of providing some substitute for them.

MR. LEGEYT said, he hoped that, after what had dropped from the Honorable Members who had already spoken, his Honorable friend, the Mover of the Bill, would consent to follow the course which had been suggested by the Honorable Member for Madras. He was not quite aware how we stood in the Western Presidency in respect to these endowments, but his impression was that the Government, on failure of persons having a prescriptive right over such property, stepped in as Lords paramount over all strays and waifs, and the course usually adopted was to call upon the town or community to name trustees who were approved by Government, and to whom the property was made over. In case of malversation he apprehended, on the motion of any one interested, the ordinary Courts of Justice could be appealed to, but there certainly was an uncertainty about these matters which had existed and been felt ever since the professed severance of Government from all religious institutions belonging to Hindoos and Mahomedans, and some definite law was, he thought, advisable. At any rate, he advocated an enquiry, such as a Select Committee would make, to determine whether legislation was advisable or not. But as the course proposed by the Honorable Member for Madras was very much the same as that suggested by the Honorable Member for the North-Western Provinces, he thought it very desirable that it should be followed

instead of allowing the Bill to be published in the usual course.

THE VICE-PRESIDENT said, he quite agreed with the Honorable Members who preceded him in the debate. It appeared to him that, in repealing these Regulations without providing some remedy, we should be guilty of great injustice. No one felt more strongly than he did, the necessity of dissevering the connection which now existed between the officers of Government and native religious institutions. The Regulations proposed to be repealed provided for two things—*First*, for the superintendence by the Revenue Authorities of native religious endowments; and, *secondly*, for the appointment of persons to the management thereof. Now, he quite agreed that it was most unnecessary and improper that the officers of Government should be called upon to see whether the funds of such institutions were properly administered or not, but if we repealed these Regulations which provided for that object without affording some suitable remedy for the protection of those trusts, great injustice would be done. He (the Vice-President) would read two Clauses from the Bengal Regulation which was now to be repealed. Section XIII enacted:—

"That in those cases in which the nomination has usually rested with the present or former Government, or with the public officer, or of right appertains to Government in consequence of no private person being competent and entitled to make sufficient provision for the succession to the trust and management (that was a case of a trusteeship becoming vacant), it will be the further duty of the local agents to propose, for the approval and confirmation of the superior Board, a fit person or persons for the charge of trustee or manager and superintendent, duly attending to the qualifications of the persons selected, and to any special provisions of the original endowment and foundation, and to the general rules of the known usages of the country applicable to such cases"

Section XIV proceeded to enact that:—

"On the receipt of the report and information required by the preceding Clause, the Board of Revenue or Board of Commissioners will either appoint the person or persons nominated for their approval, or will make such other provision for the trust, superintendence, and management as may be right and fit with reference to the nature and conditions of the endowment, having previously called for any requisite further information from the local agents."

If this Regulation were repealed, and the Government were to refuse to appoint trustees in cases in which the nomination rested with them, how would the local Courts act in the matter? The donor might, upon the faith of this very law, have vested this right in Government, and if the Government had once accepted the trust, it was hardly right now for the Government to throw it up without providing by law for such new appointments.

He (the Vice-President) did not agree with the Honorable Member for Bengal, that there was no difference between a Christian Collector and a Christian Judge so far as these endowments were concerned. In his (the Vice-President) opinion it was the duty of the Collector, under the present Regulations, to see that the funds of endowments were properly administered, whereas the Courts of Justice could only interfere for the purpose of carrying out the intentions of a donor, if a case were brought before them, in which it was alleged that his intentions had been violated. Another difficulty which presented itself to him was, who were the persons to bring such matters before the Civil Courts? If we relieved Collectors from the duty of superintendence, and the present trustees were to commit a breach of trust, who was to bring the case under the cognizance of the Civil Courts? In some cases the parties interested were mere pilgrims, and it could not be expected that such persons would have the means of bringing suits in respect of such property. This was a matter which he thought was deserving of the serious consideration of the Select Committee to whom the Bill was to be referred before publication. He quite agreed with the Honorable Member for Madras, to allow this Bill to be read a second time, and then

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to refer it to a Select Committee, with instruction to submit a preliminary report, suggesting any alterations which it might deem expedient to make in the Bill previously to its publication in the Gazette.

SIR BARTLE FRERE said, he felt obliged to the Honorable Member for Madras for giving him an opportunity of explaining some circumstances connected with the history of the Bill which he had supposed to be better known than they appeared to be, and he would, first of all, beg to remind the Honorable Gentleman that the Bill was not brought in, in consequence of any private or individual views of his own, but in compliance with instructions of the Secretary of State. It was true that these instructions were immediately consequent on a memorial from certain Missionaries in Bengal, but they went no farther than to direct immediate action with a view to carry out orders issued long previously by the Court of Directors. As far back as 1833, on the passing of the Charter Act in that year, the most positive instructions were given by the Honorable Court, that their revenue officers should be absolved from all official connection with the management of such religious and charitable endowments as formed the subject of this Bill, and the question had been much discussed between the Honorable Court and the local Governments in India for many years previously. He need not remind the Honorable Gentleman how very cautious the Court of Directors was in sanctioning any proceeding which could possibly be considered as interfering with the prescriptive rights of such property or institutions as those to which the Bill related, and that nothing could have been farther from the intention of the Court than abruptly to throw up trusts which had either devolved on them from former Governments or been voluntarily undertaken.

There was a very considerable difference between the objections taken by the Honorable Member for Bengal, and those of the Honorable Member for Madras; and as the former affected the principle of the Bill, he would notice them first. He (Sir Bartle Frere) quite agreed with all that had fallen from the Honorable the Vice-President relative to the remark of the Honorable Member for Bengal, who had stated that, in dealing with these endowments, there was no difference between the duty of the Christian Collector and the Christian Judge. He (Sir Bartle Frere) could not better illustrate the wide difference which, in his opinion, existed, than by stating an instance within his own (Sir Bartle Frere's) experience. In the early part of his service, as Assistant Collector in the Deccan, he had found himself in the position of an ex-officio trustee for the due application of the offerings made to the idol in a temple in his district. It might then have become a part of his duty, as Assistant Collector, to see that the pice and cowries and other offerings placed before the idol were duly accounted for, and that the proper shares were paid in clothing for the idol and in salaries to the officiating priests, and that the balance was duly credited in the Government Treasury. Now, had the question been between two private parties, had two Brahmins been arguing before him as a Judge on the bench, he would have had no difficulty, after hearing the arguments on both sides, in deciding judicially the rights of both parties, and he did not see that he would have any right to object to having, as a Judge, to decide such cases. But he must say that, setting all personal and religious feeling aside, he could conceive nothing more anomalous or inappropriate than requiring a young Englishman to take a pecuniary official interest in the matter as Assistant Collector, and to decide what portion of the offerings should be given for the service of the temple, and how much he should lay hold of to put into the Government Treasury. Shortly after the time to which he referred, the matter was taken up by the Government of Bombay, and arrangements were made, by which all control over such endowments was taken away from their fiscal officers, and the endowments themselves left to be managed entirely by the parties interested in them, so

that their management never came before the officers of Government, except in the shape of judicial questions, to be decided between man and man. This change in the system of management had been carried out throughout the whole of the Western Presidency. He would remind Honorable Members that, up to this moment throughout Bombay and the Punjab, forming altogether a large portion of India, it was not necessary for Government officers to interfere with such endowments, except when a case was judicially brought before them in a Court of law. The object of this Bill was simply to carry the same policy out in Bengal and Madras. It was quite true that, when the change was first proposed in Bombay, some objection was made on the part of those interested in the endowments, but it was speedily removed by explanation of the real object of Government, and he believed he might say that all persons interested in these endowments were now entirely satisfied with the way in which they were administered, as far as the officers of Government were concerned in the Bombay Presidency, and he believed also in the Punjab.

This brought him to another point to which the Honorable Member for Madras had made reference, and which he (Sir Bartle Frere) thought would be best answered by reminding him how the management of these endowments had originally fallen into the hands of the officers of Government. The Honorable Member for Madras had correctly remarked that many of these were very ancient endowments, and that our connection with them had descended to us from the Hindoo and the Mahomedan dynasties which had preceded us in the Government of the country. But he (Sir Bartle Frere) would ask, what was the nature of the interest which preceding Governments took in these endowments? It was clearly not a religious interest, for the Hindoo Governments interfered in the management of Mahomedan endowments, and Mahomedan Governments in the management of Hindoo endowments. What then was the Government interest? It was simply a fiscal interest. Wherever there was any valuable endowment yielding a surplus income, the Government which preceded us invariably put in their hands and took a large portion of the surplus belonging to these endowments into their own Treasury, and for many years after we succeeded them we did the same. The Government interest in respect to such endowments was precisely the same as the Government interest in respect to escheats, for which, as he need not remind the Council, provision was also made in the Regulations which it was now proposed to repeal. The right to escheats was a right which naturally belonged to the sovereign, and after making due provision for all possible demands on such property the surplus went to the State. So it had been with these endowments. It was felt, very early in the history of our connection with these endowments, that this was not a position which our Government, as a Christian Government, ought to occupy, and that we could not consistently take any portion of these funds into our Treasury as part of our revenue. A considerable correspondence passed between the Supreme and local Governments, and action would have been taken in the matter long ago but for the difficulty of discriminating between the fiscal residuary interests of Government and the duties which they had in consequence taken on themselves as trustees of such property. There were some expressions in what had fallen from the Honorable Member for Madras, which might lead to the belief that action in this matter had been rather precipitate. But he was obliged to the Honorable Member for the North-Western Provinces for having brought to his notice that in 1845 and 1846 the question had been so far matured that a draft Act was prepared and brought forward by Mr. C. H. Cameron, which, after approval by Sir Herbert Maddock and Mr. Millet, was forwarded to the local Governments for their opinion. That draft Act contained provisions on many of the points referred to by his Honorable

friends. But what was the reply of the local Governments? Simply in effect that the local officers whom they had consulted were greatly divided in opinion. One portion declared that the draft Act proposed to do too much, while the other as strongly maintained that it proposed to do too little. When he (Sir Bartle Frere) first undertook to prepare a Bill to give effect to the instructions of the Right Honorable the Secretary of State, it appeared to him that a few simple provisions might be introduced into the Bill for the purpose of making general provision for trusts that might be otherwise uncared for. But he very soon found that it was impossible to do so, for there was nothing in the records of Government to show what amount of provision was required beyond what was already afforded by the ordinary Courts of law. As remarked by the Honorable Member for Bengal, it was very rarely indeed that the action of the Revenue Boards was called for in these matters, and when called for it was not easy to say in respect to what trusts their action was really required, and what might have been safely left to the ordinary action of the Civil Courts. He (Sir Bartle Frere) thought further that the objection of the Honorable Member for Madras, that in the proposed Bill all such trusts were left uncared for, would be sufficiently met if he (Sir Bartle Frere) stated, as he proposed presently to do, the course which he wished to pursue with respect to the Bill. The Council would observe that the Bill was intended to provide for the only general question which was involved in all, namely the Government connection with these endowments. It was for them to consider whether the fiscal officers of Government should cease to have that control and concern in these endowments which they now possessed. If you went one step beyond that, with a view to provide for details in a general measure like the present, he (Sir Bartle Frere) believed you would involve yourselves in a maze of difficulty. He would take the cases described by the Honorable Member for Bengal. His Honorable friend had cited the case of a Mahunt whose successor was a minor, in reference to which he (Sir Bartle Frere) would ask to what extent his Honorable friend would go in making special provision regarding minors and their rights in a general enactment of this kind? Such questions must clearly be left to be settled according to the general laws of the country. Then, again, there was the case of the Jessore charity to which his Honorable friend alluded. The description he had given reminded him (Sir Bartle Frere) very strongly of a very valuable charity at Bombay. The endowment was by a Parsee gentleman, Sir Jamsetjee Jejeebhoy, who wished Government to undertake the trust. But as there were many questions connected with the charity involving points of Parsee usage and religious practice, it was decided that it was better not to make Government trustees, though Government gave the founder every aid to make arrangements for the proper management of the charity, and he believed the result was perfectly satisfactory. The case at Jessore would appear to have been of a very similar character. Then, again, the Honorable Member referred to the case of the Hooghly Emambarah which was a very extensive and valuable endowment, which, on its own merits, well deserved to be provided for either by a separate charter or a separate enactment, or some equally distinct provision, just as was the case of the Martiniere in this City. He (Sir Bartle Frere) could not believe that his Honorable friend thought that the management of the Martiniere would be improved if it were left in the hands of the fiscal officers of Government. So again with the Cuttack grant, which he (Sir Bartle Frere), judging from what his Honorable friend had said, should rather have quoted as an instance of what should be done with the object of preventing malversation without any special provision in a general Bill like that before them. He would not occupy the time of the Council further, but would proceed at once to explain the course which he proposed to pursue with regard to the

Bill. If the Bill were read a second time, he proposed to refer it to a Committee and then to forward it to the local Governments for more precise information as to the charities which were now administered by the Boards of Revenue, and would be affected by the Bill. It was found in Bombay to be sufficient to transfer the management of such trusts by a simple deed or order of Government without any legislative enactment, but there might be special cases in which there was good ground for granting either a special charter, as it were, or for passing a special enactment. If the necessity for any such special enactment could be shown, let it be brought in separately and considered on its own merits, but he could not see any possible good in burdening a general measure of this kind with a multitude of separate provisions for the better administration of trusts which were so varied in character and requirements.

He would leave it to the Council to determine whether that would be a satisfactory way of proceeding. But if the course he proposed were adopted, he hoped that, before the Bill was reported on, they would see more clearly than at present whether any special enactment was really necessary, or whether it was not competent to the Executive Government, in the exercise of their ordinary power, to pass such orders as would afford efficient protection to all the trusts and property affected by the Bill. He need not assure his Honorable friends that nothing was farther from the intention of the Government to throw off these trusts and to allow the property to be played ducks and drakes with. He fully agreed with Honorable Gentlemen that it was the duty of Government to make proper provision for the protection of such property, and he hoped that the Honorable Member for Madras would be satisfied with the course which he proposed to take.

MR. FORBES said, if the course proposed by the Honorable Member involved the publication of the Bill before it was reported on by the Select Committee, he would certainly object to its second reading. But he had no objection to withdraw his opposition to the second reading of the Bill if the Honorable Mover consented to refer the Bill, under the 70th Standing Order, to a Select Committee with instructions to submit a preliminary Report on the Bill, and to propose such amendments as they might consider necessary before its publication.

SIR BARTLE FRERE said, he was quite willing to adopt that course if the sense of the Council was in favor of it. But he must say that he did not participate in the apprehension felt by his Honorable friend as to the consequence of the publication of the Bill as it now stood. He (Sir Bartle Frere) had seen a similar measure carried out in another Presidency without any alarm. With the permission of the Council, however, he would at the proper time move the necessary instruction to the Select Committee as suggested by his Honorable friend.

MR. WILSON said, if that course were to be adopted, he supposed that it would not interfere with the course proposed by the Honorable Mover of referring the Bill to the local Governments for information on the points indicated by him.

MR. FORBES said, the course proposed by him would certainly not have that effect.

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

INDEMNITY.

MR. HARINGTON moved the second reading of the Bill "to indemnify Officers of Government and other persons in respect of fines and contributions levied, and acts done by them during the late disturbances."

MR. SCONCE said, he had only one or two remarks to make with regard to this Bill. He confessed it appeared to him that it was not very clear whether the Bill might not be taken to cover acts done at the present time or at any future time. It was an Act intended to indemnify all public Officers in the North-Western Provinces for some acts done or supposed to have been done in connection with the late mutiny. For himself he could have

no hesitation in affording the largest indemnity—an indemnity drawn in the widest possible terms—for acts done whilst the mutiny and rebellion prevailed, whether on the part of Civil Officers for the restoration of order, or on the part of Military Officers in the course of operations in the field, or in making requisitions for supplies, boats, carts, or whatever assistance might have been needed. For those purposes, he could have no hesitation in giving the utmost guarantee that the Officers concerned should not now be called to account. Moreover, as to the cases mentioned by the Honorable Member for the North-Western Province in support of his motion for the first reading of the Bill, he quite agreed that they formed sufficient ground for legislative indemnity. But it appeared to him that the words of the Bill, as it now stood, had a much more general import. The Preamble recited that "whereas fines and penalties have been imposed and levied by Officers of Government in respect of acts committed during the late disturbances, and whereas assessments and contributions have been made and collected for the reconstruction or repairs of public buildings destroyed or injured during the same period, *and for other purposes.*" For what other purposes, he would ask, was indemnity required?

Again, it was said that it was expedient to indemnify Officers "in respect of the said fines, penalties, assessments, and contributions, and of *any other acts* which may have been done by them." It did not say that the indemnity was to be in respect of *any other acts* done in 1857, or in 1858, but, as it might also be taken to mean, in respect of acts done to the close of 1859 and even to the time at which he now spoke.

The words of the 1st Section of the Bill were:—"All fines, penalties, assessments, and contributions imposed since the 10th day of May 1857 in respect of the destruction or injury of Government or other property, *or on any other account.*" And thus, by the adoption of such words, for whatever purposes any public Officer might have imposed a penalty or levied a contribution, he would be indemnified under this Bill.

Again, in Section II, it was stated that "all acts done since the 10th day of May 1857 *in connection with the late disturbances*" were confirmed and made valid; and here again he must say that, both as to the matter of time as of facts, the words used were indefinite and objectionable. Allusion was made by the Honorable Member for the North-Western Provinces, when he introduced this Bill, to the Ordinance passed in Ceylon during Lord Torrington's administration as a sort of precedent for the present measure. But he (Mr. Sconce) apprehended that this Bill went much beyond the Ceylon Ordinance. That Ordinance comprised a period from 28th July to the 10th October of the same year, that was only a few months during which martial law prevailed in that Colony; and it was also important to notice that the operation of the Ordinance was not only restricted to the time of the prevalence of the rebellion, but was also confined to acts done during that period to maintain the public safety, that is, acts for the suppression of insurrection, for the protection and safety of life and property, for the trial of offences, for the arrest and detention of persons suspected to be engaged in insurrection, and for the seizure and sale of the property of such persons. Thus it would appear that the words of the Ordinance were expressly confined to acts connected with or immediately arising from the rebellion. His objection now was that the present Bill was not confined to acts of public Officers done during the mutiny, but extended, in the widest language, to acts done throughout 1859 and down to the present moment.

We all knew that eighteen months had elapsed since the Queen's Proclamation was promulgated. That Proclamation condoned all offences committed during the mutiny; and he wished to have some security that, since the months of November or December 1858, Government Officers in the North-Western Provinces had not, in spite of that amnesty, done any acts for which indemnity should not now be given. He

felt it necessary to express his own impression of the objectionable form in which the Bill was drawn. He had no desire, however, to oppose the second reading. Possibly some information would afterwards be given to the Council as to the nature of the acts done by public Officers since the restoration of peace, which would enable them without any hesitation to accept a measure offering a general indemnity: or it might be found possible to limit the measure to a date beyond which special protection to official acts would not be required.

MR. LEGEYT said, he had no intention of opposing the second reading of this Bill. He thought it a very necessary and proper measure. At the same time he thought that, unless absolute necessity for extension existed, it would be better to limit the indemnity to the 1st November 1858, as suggested by the Honorable Member for Bengal. And, before giving his assent to the second reading of the Bill, he should certainly be glad to hear what the Honorable Mover of the Bill had to say in answer to the objections taken by the Honorable Member for Bengal. As he now viewed the cases, he should prefer the indemnity to stop at the date of the Queen's Proclamation, that is, the 1st November 1858. After that date, it appeared to him that there should be no excuse for any acts done without the special authority of law. He should be glad, however, of further explanation on this head.

MR. FORBES said, if such a Bill as that now before the Council had been introduced in connection with ordinary times and under ordinary circumstances it would certainly have been thrown out. But when it was remembered how very peculiar the times of the mutiny were, and that men were daily and hourly fighting in defence of their lives, and of the great public interests committed to their care, it would not do to look with too keen an eye or with too close a scrutiny at acts done under such circumstances. Referring to the suggestion of the Honorable Member for Bombay, for limiting the indemnity to the date of the promulgation of the Queen's Proclamation, Mr. Forbes said it must not be forgotten that in reality the disturbances were not at an end in the North-Western Provinces at that time, and he thought therefore that we could not refuse to ratify acts done by Officers of Government in connection with those disturbances, although the acts might have been performed after the promulgation of the Queen's Proclamation. It should be borne in mind that this Bill did not propose to give entire indemnity to every officer for every act done by him, but only to officers acting "in pursuance of an order of Government" in respect of acts "which shall have been or shall be ratified by the Executive Government," and which were done "in connection with the late disturbances." Considering, therefore, the great fact of the mutiny, and the very extraordinary and exceptional circumstances under which public officers were called upon to act, he really thought it very inexpedient to bring their acts under public discussion, and to leave them liable to judicial investigation, when those acts were done at a time when no man felt any security that he would not be murdered before the next hour struck.

MR. HARINGTON said, he did not know that he could say more in support of this Bill than what was stated by him in the remarks with which he prefaced the introduction of the Bill at the last meeting of the Council, nor was he aware that he could, with advantage, add any thing to the information which was contained in those remarks. He had been for some time in correspondence with the Honorable the Lieutenant-Governor of the North-Western Provinces on the subject of this Bill, but the correspondence being private, he did not consider himself at liberty to lay it before the Council. The Bill had been introduced at the request of the Honorable the Lieutenant-Governor, and a draft of the Bill having been forwarded to His Honor before the Bill was read a first time, he (Mr. Harington) had just received a telegram from him, in which he expressed his entire approval of the provisions

of the Bill. Assuming the necessity, after all that had occurred, of a Bill of Indemnity of some kind, which he understood was not disputed by the Honorable Member for Bengal, he begged to assure that Honorable Member that the Honorable the Lieutenant-Governor of the North-Western Provinces would have been very glad if, as suggested by the Honorable Member for Bengal and the Honorable Member for Bombay, a more restrictive character could have been given to the Bill, but it had been found that this could not be done without running the risk of rendering the Bill much less effectual than was really necessary or desirable, and of its failing, in consequence, to accomplish the object aimed at in its introduction. This was one of the reasons why the particular dates proposed by the Honorable Members for Bombay and Bengal could not be taken for limiting the operation of the Bill. Many orders had been passed subsequently to the period mentioned by those Honorable Members which, there could be no doubt, ought to be covered by the present Bill. He was quite sure that the Honorable Member for Bengal would agree with him that, if a Bill of indemnity was to be passed, there would be a great advantage in its being so framed as to meet every case in respect of which it might be proper to give indemnification in order, if possible, to avoid the necessity of further legislation in the same direction which would, for obvious reasons, be very inconvenient. It was this consideration which induced him to draw the Bill in the large terms in which it was expressed. At the same time he begged to say that he should be quite prepared, if the Council would allow the Bill to be read a second time, to consider any alterations in the details of the Bill which the Honorable Member for Bengal, whom it was his intention to ask to serve on the Select Committee, or any other Honorable Member, might think proper to propose when the Bill got into Committee. The Honorable Member for Bengal seemed to admit that there might be valid reasons for extending the operation of the Bill to cases such as those which he (Mr. Harington) had mentioned in his introductory remarks, but he was afraid that the Bill might cover many other cases in respect of which no indemnity should be given. But although in the remarks just alluded to, he had mentioned only three classes of cases, because he did not wish to occupy the time of the Council by going into lengthened details, and because he considered that he had stated enough to satisfy the Council that sufficient ground existed for their passing a large and comprehensive Bill, such as that introduced by him, the Honorable Member for Bengal must not imagine that many other descriptions of cases could not be mentioned, in respect of which it would be equally proper to indemnify the Government and its officers. New and novel cases, in which, as he said before, the officers of Government were obliged to act according to the best of their judgment, either without the authority of any law, or as sometimes happened, in direct violation of a positive law, were, he was informed by the Honorable the Lieutenant-Governor, constantly being brought to His Honor's notice, and required to be dealt with in reference to their peculiar circumstances. It was impossible to say how long this might go on, but it was necessary to make the terms of the Bill large in order to meet all such cases. The Honorable Member for Bengal was, he believed, in Calcutta during the whole of the eventful period to which the Bill related, and he (Mr. Harington) could easily understand the difficulty experienced by the Honorable Member in realizing the actual state of the districts which were the scenes of the recent disturbances. No one, indeed, who was not on the spot at the time of those disturbances, or did not visit the districts in which they occurred very shortly afterwards, could feel in their full force the very great difficulties with which our officers had to contend, or thoroughly appreciate the noble manner in which they had performed their task. The utmost promptitude of action was often called for without caring much whether there was any law or not to support what was done. The officers of Government would

have grievously failed in their duty to the State and to themselves had they shrunk from the responsibility of acting as circumstances rendered necessary, or troubled themselves about Regulations, Acts, and Circular Orders, which, however suitable and proper in seasons of tranquillity, would, in the then circumstances of the country, have only impeded action and proved a clog upon the Executive. He could not believe that the Council had any wish to sit in judgment upon the local Government and its officers, in respect to acts done, proceedings held, or orders passed by them, in connection with the events of the period to which the Bill related, for, after all, though the Bill was largely worded, its application, as had been clearly pointed out by his Honorable friend, the Member for Madras, was limited to the acts of that period, or to any acts or orders which, though subsequently performed or passed, were connected with the disturbances out of which the Bill had arisen. For instance, the public buildings at Agra having been destroyed during those disturbances, a fine to provide funds for their reconstruction was imposed upon the City of Agra, and the towns and villages in the immediate neighbourhood thereof. But though the destruction of the buildings took place in the month of July 1857, it was not until some time in 1859 that the fine for their reconstruction was ordered to be levied. He thought that they might fairly assume that all acts, proceedings, and orders of the local Government and its officers, which the Bill was required to cover, emanated from a high sense of duty, were *bonâ fide* in their character, and were considered necessary at the time for the restoration or preservation of order and tranquillity, or for the future security of our possessions in India. Such being the case, he trusted that the Council would agree with him that they were bound to indemnify and discharge the Government of the North-Western Provinces, its officers and others acting under their authority, from liability in respect of all such acts, orders, and proceedings in the same manner as was done in Ceylon after the rebellion in that Island, and that they ought not to allow those acts, &c., to be brought under the revision and criticism of the ordinary Civil and Criminal Courts or to be subject to their decision. It might be very true, as noticed by the Honorable Member for Bengal, that the present Bill went beyond the Ceylon Ordinance. But the recent revolt in this country was of a much more formidable character than the rebellion in Ceylon, and much more severe and violent measures were consequently necessary or unavoidable in contending with those who were engaged in it.

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

LITERARY, SCIENTIFIC, AND CHARITABLE SOCIETIES.

MR. FORBES moved that the Bill "for the registration of Literary, Scientific, and Charitable Societies" be read a third time and passed.

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

CHITTAGONG DISTRICT.

MR. SCONCE moved that the Bill "to remove certain tracts on the Eastern Border of the Chittagong District from the jurisdiction of the tribunals established under the General Regulations and Acts" be read a third time and passed.

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

STAMP DUTIES.

The Order of the Day being read for the adjourned Committee of the whole Council on the Bill "to consolidate and amend the law relating to Stamp Duties," the Council resolved itself into a Committee for the further consideration of the Bill.

THE CHAIRMAN moved the omission of the word "and" before the word "Regulation" in the 41st line of Section I, with a view to his subsequently moving the insertion of the words "Section XXXVII of Act X of 1859 (to amend the law

relating to the recovery of Rent in the Presidency of Fort William in Bengal)" before the word "are" in the 49th line of the Section.

MR. HARINGTON said, he had carefully considered the amendments proposed by the Honorable and learned Chairman under this head of the Bill. He was bound to admit that from the first the Honorable and learned Chairman had been quite consistent in his objections to the Section in Act X of 1859, which it was now proposed to repeal; and on referring to the debates which took place at the time, he found that when the motion was made that the Section in question should form part of the Bill, the Honorable and learned Chairman divided the Committee against it, though the result was that he stood alone in his opposition, the ayes being 7 and the noes 1. Of the 7 members who composed the majority in favor of the Section, 3 only were present in the Council to-day, namely the Honorable Member for Bombay, the Honorable Member for Madras, and himself. He (Mr. Harington) certainly saw no reason to regret the vote which he gave in favor of the Section, much less to recall that vote, and he trusted that his Honorable friends the Members for Bombay and Madras continued of the same mind in which they were at the time when they also voted for the Section. The Right Honorable Gentleman opposite (Mr. Wilson), the Honorable Member of Council on his left (Sir Bartle Frere), and the Honourable Member for Bengal having joined the Council since Mr. Currie's Act was passed, were of course unfettered by any previous votes given in respect either of that Act generally or of the particular Section under consideration, but he trusted they would excuse him for saying that, in coming to a decision to-day on the question before the Committee, the fact that the Section was carried by, what he must call, an overwhelming majority, and ordered to stand part of the Bill, should have considerable weight with them, the more especially as in that majority were included the present very able and practical Lieutenant-Governor of Bengal, Messrs. Ricketts and Currie, two of the oldest and ablest Revenue Authorities in India, and the Honorable and learned Judge (Sir Charles Jackson) whom he did not see in his place to-day.

If the Bill before the Committee proposed a general or partial increase in the amount of stamp duty chargeable upon petitions of plaint or appeal in the Civil Courts of the Bengal Presidency, there might be some reason for proportionately enhancing the amount of the stamp duty chargeable on the statement of claims cognizable by the Revenue Courts under Mr. Currie's Act. But the Bill proposed no such increase. The finances of the State were not in a worse state now than they were at the time Mr. Currie's Act was passed, and they knew that several measures were under consideration which, if successful, as he sincerely hoped they would be, would no doubt at an early date, have the effect of restoring that equilibrium between income and expenditure which was so essential to the well-being of a country. They were not told, upon any reliable authority, that Mr. Currie's Act had not worked well, or that it had disappointed the expectations of its framer and supporters. Nor were they informed that the Section under consideration had been abused, or that it had led to abuse, and they had no statements before them to show even that any loss of public revenue had resulted from the operation of the Section. Surely then it behoved them to pause and to consider whether any sufficient grounds existed for altering or mutilating an Act which was passed by the Council, after very full discussion, little more than a year ago, and in respect of which, as he stated at the last meeting of the Committee, the Right Honorable the Governor-General, in giving his assent, declared his belief that it would confer a great practical benefit upon the agricultural population in Bengal.

He did not overlook the fact that the amendment proposed by the Honorable and learned Chairman was favorable to the ryot, as respected all claims in which he was

interested, not exceeding the sum of sixteen Rupees in amount or value, with exception to suits for the recovery of arrears of rent, in which, although the landlord appeared as plaintiff, the extra duty now proposed to be levied would fall on the tenant in the event of his being cast and ordered to pay the costs, as would generally be the case. The amendment might, therefore, be considered as less objectionable in some respects than if the concluding part of it were of general application. But he must say that, whatever cause the ryot might have for congratulation as regarded himself, arising out of the exceptional character of the amendment, the classes who would fall within the provision mentioned at the end of the amendment would have some ground to complain of the one-sidedness of that provision.

Looking, however, at the amendment merely in its bearing upon the zemindars and Government farmers, he would ask—were they quite sure that in their endeavors to squeeze a little more stamp revenue out of those classes in the first instance, they should be really consulting the interests of Government? He need not tell the Council that from very early times the tendency of the legislation in this country had been to give greater facilities to the holders of land, to enable them to realize their rents by means of legal process, than were enjoyed by any other classes of creditors against their debtors; and why was this? The answer was obvious. If the zemindar could not realize his rent promptly, he could not pay his revenue promptly. He (Mr. Harington) knew no other reason for the distinction. It was explicable and justifiable on this ground. It was inexplicable and could not be justified on any other ground. Here, he thought, they discovered the origin of summary suits for arrears of rent, and as suits strictly of a summary nature were done away with by Mr. Currie's Act, for the simple reason that, under the system of adjudication introduced by that Act, they were no longer required, it seemed to him that, if they adopted the amendment of the Honorable and learned Chairman, they would be doing very serious injury to the zemindars in a manner not contemplated, and that the injury might extend not only below but also above them.

He was not ignorant that complaints had been made by some of the Bengal zemindars against Act X of 1859. But it was not the Section under consideration of which they complained. What they objected to was that the Act had weakened their influence as landed proprietors, and that they could no longer exercise the same authority over their tenantry which they previously exercised. This, however, was only to confess that the Act had accomplished one of the objects aimed at in its introduction, and he should be very much mistaken if the Honorable and learned Chairman regarded this as any defect in the Act. He had yet to learn that any Bengal zemindar considered himself aggrieved by that part of Section XXXVII of Act X of 1859 which it was proposed now to repeal.

The adoption of the Honorable and learned Chairman's amendment might lead to some little addition to the stamp revenue. The amount, however, would be a good deal reduced by the lower duty of four instead of eight annas proposed to be taken on all claims preferred by ryots for a sum not exceeding sixteen Rupees, and he could not help thinking that any gain under the head of judicial Stamp Revenue, derived from the operation of the amendment, supposing it to be carried, would be more than counterbalanced by the loss of land revenue which might be expected to ensue, if, by increasing the law charges or the amount of the institution fee, they placed additional difficulties in the landlord's way of realising his rents through the agency of the Courts. He hoped that the Right Honorable Gentleman opposite would not consider that he was presuming upon his supposed ignorance in these matters, or that he was making use of an *ad captandum* argument to gain his vote, but he really thought that what he had just said was deserving of the Right Honorable Gentleman's consideration.

For the present he (Mr. Harington) would leave Mr. Currie's Act entirely

Mr. Harington

alone, and confine the Bill before the Committee to the objects contemplated in its introduction. As he said on a former occasion, the repeal or alteration of any part of Mr. Currie's Act certainly did not originally form one of those objects. At the same time it might be advisable to call upon the Lieutenant-Governors of Bengal and the North-Western Provinces, and from the members of the two Boards of Revenue, for a report upon the working of Mr. Currie's Act, and especially of the Section under consideration; and in order to satisfy themselves as to whether that Section had been productive of any and what loss of public revenue, returns might be required showing this amongst other particulars. These reports and returns might be called for by the Executive Government or by this Council through the President in Council. It was immaterial in what way the information was obtained, but he did not think that they should take any steps towards altering Mr. Currie's Act without having this information before them. For these reasons he could not give his assent to the motion of the Honorable and learned Chairman at the present time.

THE CHAIRMAN said, whatever might be the objection of the Honorable Member for the North-Western Provinces to the insertion of the Clause, of which he (the Chairman) had given notice, in substitution for Section XXXVII of Mr. Currie's Act, there could be no objection to the amendment now before the Committee. The Council were about to pass an Act to consolidate the Stamp Laws, and the Act ought to be as perfect in itself as possible. If any Section of Mr. Currie's Act related to Stamp Duties, that Clause ought now to be repealed by this Bill. He would, at present, offer no opinion on the question as to whether that Section of Mr. Currie's Act should be modified or re-enacted by this Bill. But he would confine himself simply to the question before the Committee as to the omission of the word "and."

MR. HARINGTON said, he could have no objection to the omission of the word "and," nor to the proposed repeal of Section XXXVII of Mr. Currie's Act, on the understanding that that Section, as it now stood, was to be re-enacted and introduced in Schedule B of the Bill before the Committee. But he might mention that there were other Acts which contained similar provisions relating to Stamp Duties, as, for instance, Act VIII of 1859; and to be consistent, the Council must repeal all such provisions in existing enactments.

THE CHAIRMAN said, he had now proposed the repeal of Section XXXVII Act X of 1859. If the Honorable Member for the North-Western Provinces would, in like manner, propose the repeal of any provisions in the existing Acts which related to Stamp Duties, he (the Chairman) would be glad to support his amendment.

MR. WILSON said, two questions presented themselves to his mind, arising out of the present motion, first, whether this was to be a complete Stamp Law in itself—and, secondly, whether we should interfere with the policy of the Bill passed last year. There could be no doubt as to the first, and he therefore thought that, when we were consolidating the Stamp Laws, we should condense into one law a variety of Clauses now existing in other laws. With that view he would support the motion for the omission of the word "and," and the following amendment "providing for the repeal of Section XXXVII Act X of 1859." But in doing so, he desired it to be understood that he would not be bound by that decision to vote for the other measure. If there were other Acts containing stamp provisions, not merely descriptive, but actually imposing Stamp Duties, which would come under the Schedules of this Bill, or providing for special stamps, he (Mr. Wilson) thought that all those provisions should now be imported into this Bill.

The amendments proposed by Sir Barnes Peacock for the omission of the

word "and," and the insertion of words "providing for the repeal of Section XXXVII Act X of 1859," were then severally put and carried.

MR. WILSON said, he had made enquiries at the Stamp Office, and consulted the Superintendent of Stamps as to a revision of the Scale of Stamps for Bonds prescribed by Article 8, Schedule A, and of the Scale for Conveyances prescribed by Article 19. The result was that he had brought with him two new Scales, which he begged to propose in lieu of the existing Scales. They approximated, as nearly as possible, to the *ad valorem* principle. The rates of Stamp Duty were somewhat lower in smaller values, and higher in higher values. The following were the Scales referred to:—

Scale for Bonds..

			Rs.	As.	P.
"If for any sum not exceeding		50 Rs...	0	4	0
Above	50 Rs. & not exceedg.	100 ,, ..	0	8	0
,,	100 ,, ,,	200 ,, ..	1	0	0
,,	200 ,, ,,	300 ,, ..	2	0	0
,,	300 ,, ,,	500 ,, ..	4	0	0
,,	500 ,, ,,	700 ,, ..	5	0	0
,,	700 ,, ,,	1,000 ,, ..	6	0	0
,,	1,000 ,, ,,	2,000 ,, ..	10	0	0
,,	2,000 ,, ,,	3,000 ,, ..	15	0	0
,,	3,000 ,, ,,	5,000 ,, ..	25	0	0
,,	5,000 ,, ,,	10,000 ,, ..	35	0	0
,,	10,000 ,, ,,	20,000 ,, ..	60	0	0
,,	20,000 ,, ,,	40,000 ,, ..	100	0	0
,,	40,000 ,, ,,	60,000 ,, ..	125	0	0
,,	60,000 ,, ,,	80,000 ,, ..	150	0	0
,,	80,000 ,, ,,	1,00,000 ,, ..	200	0	0
And for every further part of a lakh		..	100	0	0
And for every further full lakh		..	200	0	0

Scale for Conveyances.

			Rs.	As.	P.
"Above		100 Rs ..	1	0	0
Above	100 Rs. not exceedg.	200 ,, ..	2	0	0
,,	200 ,, ,,	400 ,, ..	4	0	0
,,	400 ,, ,,	800 ,, ..	8	0	0
,,	800 ,, ,,	1,200 ,, ..	12	0	0
,,	1,200 ,, ,,	2,000 ,, ..	20	0	0
,,	2,000 ,, ,,	3,000 ,, ..	30	0	0
,,	3,000 ,, ,,	4,000 ,, ..	40	0	0
,,	4,000 ,, ,,	5,000 ,, ..	50	0	0
,,	5,000 ,, ,,	7,500 ,, ..	75	0	0
,,	7,500 ,, ,,	10,000 ,, ..	100	0	0
,,	10,000 ,, ,,	20,000 ,, ..	150	0	0
,,	20,000 ,, ,,	40,000 ,, ..	200	0	0
,,	40,000 ,, ,,	60,000 ,, ..	300	0	0
,,	60,000 ,, ,,	80,000 ,, ..	400	0	0
,,	80,000 ,, ,,	1,00,000 ,, ..	500	0	0
And for every further ,, or part thereof 100 Rs."		50,000 ,, ..	200	0	0

The Scales were severally carried.

THE CHAIRMAN moved the introduction of the following Section in substitution for the Section of Mr. Currie's Act which had just been repealed:—

"All suits instituted under Act X of 1859 for the delivery of pottahs or for the determination of the rates of rent at which such pottahs are to be delivered; all suits for damages on account of the illegal exaction of rent, or of any unauthorized cess or impost, or on account of the refusal of receipts for rent paid, or on account of the extortion of rent by confinement or other duress; all complaints of excessive demand of rent, and all claims to abatement of rent; and all suits arising out of the exercise of the power of distraint conferred on zemindars and others by Sections CXII and CXIV of the said Act X of 1859, or out of any acts done under color of the exercise of the said power as provided under the said Act, shall be instituted on stamped paper of the value of eight annas if the amount claimed exceeds sixteen Rupees, or upon stamped paper of the value of four annas if the amount claimed be under sixteen Rupees; and all other suits or complaints under the said Act shall be subject to the same rules in regard to stamps as those provided by this Act for suits in the Courts of Civil Judicature."

He said that, previously to the passing of Mr. Currie's Act, summary claims for the recovery of arrears of rent preferred to Collectors were allowed to be written on paper bearing a stamp of one-fourth the value of that required for the institution of civil suits. But, previously to the passing of Mr. Currie's Act, a suit might have been instituted in a Civil Court from which Mr. Currie's Bill took away this power and transferred it to the Collector. It appeared to him therefore that the same exemption should not be continued, now that the power of instituting a regular suit had been removed.

MR. HARINGTON referred the Honorable and learned Chairman to Section VIII Regulation VIII. 1831, which he had apparently overlooked. It was upon the strength of the provision contained in that Section, that Mr. Currie introduced into his Bill the Section now under discussion. The Section ran as follows:—

"With a view to give additional encouragement to parties having claims to arrears of rent to prefer regular suits on account of the same, it is hereby declared that the plaint in all such regular suits, if under the existing Regulations they would have been cognizable as summary suits, may be written on paper bearing a stamp of one-fourth the prescribed value, provided, however, that this rule shall not be considered applicable to a suit

instituted with a view to set aside a previous summary decision, which suit shall be subject to the ordinary provisions for the payment of Stamp Duty."

THE CHAIRMAN continued. The object of that Clause was to induce parties to go into the Civil Court. But Mr. Currie's Act had prevented parties from going to the Civil Court, and, inasmuch as the object did not now exist, the inducement should not be allowed to be continued. If a party instituted a suit before the Collector, that was not now a summary suit. Section XXXVII Act X of 1859 enacted that—

"In suits for the recovery of arrears of rent or of money in the hands of an agent, the statement of claim shall be written on paper bearing a stamp of one-fourth the value prescribed for suits instituted in the Civil Courts. In all other suits the statement shall be written on paper bearing a stamp of the value of eight annas."

The smaller value was assumed to be four annas, because, under the late law, the smallest stamp that could be levied on the institution of a suit was one Rupee, if the amount or value of the suit was under 16 Rupees, and one-fourth of that was 4 annas. But Mr. Currie's Act imposed a stamp of 8 annas in all other suits than suits for the recovery of arrears of rent, or of money in the hands of an agent, which was very hard in cases of small amount. It was an increase of duty on the poor, and a diminution of duty on the rich.

MR. HARINGTON begged to say that the rule in Mr. Currie's Act involved no diminution of duty in respect of the rich. The duty was still one-fourth as before.

THE CHAIRMAN said, however that might be, at any rate it was an increase on the poor. It was unjust to that body of persons who were least able to pay: It was said that the Governor-General, in giving his assent to Mr. Currie's Bill, had declared his belief that it would confer a great practical benefit upon the agricultural population in Bengal. He (the Chairman) had no doubt that the Right Honorable the Governor-General did make that remark, but that remark had reference to the Act generally, and not to this Clause of the Act relating to stamps. Even if the remark did apply to this Clause, he (the Chairman) might just as well say that great benefit would result if there were no Stamp Duties whatever in any Civil proceedings. But the question was, whether it was just and proper to allow a man to institute a suit before a Collector at a smaller rate of Stamp Duty than was prescribed for the institution of a suit in a Civil Court. It was said that Government always protected land-owners in order to get its revenue. The same argument might be applied to all persons, for it might be said, "if you do not allow creditors to sue for their debts upon payment of a small amount of Stamp Duty, how will they be able to pay their Income Tax." Was any contract made with the zemindars that they should be able to sue for the recovery of their rents on more favorable terms than other persons? So far from any such contract having been made, it was long after the perpetual settlement that the exemption was granted. After enumerating the several descriptions of suits to which he proposed to extend the exemption, the Chairman said that he preferred the Section proposed by him as it now stood, but if Honorable Members objected to its including suits arising out of the exercise of the power of distraint conferred on zemindars and others by Mr. Currie's Act, he (the Chairman) had no objection to omit them. With these remarks, he begged to move the insertion of the Section which he had already read.

MR. HARINGTON said, he quite agreed with the Honorable and learned Chairman as to the desirableness of abolishing judicial stamps, and if any Honorable Member would bring in a Bill for their abolition whenever the state of the public Finances rendered the measure practicable, he (Mr. Harington) would promise him his support. But, unfortunately, as was too well known, the financial condition of

the country precluded the possibility of such a measure being adopted at present, and it would probably be many years before the proposition could be entertained. But to revert to the question before the Committee. What he wished to urge upon Honorable Members was that they were not now dealing with a new matter, nor with a matter only a year old. As he had before shown, Mr. Currie's Act merely continued what had for a long time been the law. Why the exception was originally made in favor of the zemindar, he (Mr. Harington) was unable to say beyond what he had already stated. He could only repeat that zemindars had as long as he could remember been allowed to realize their rents by a less expensive process than other creditors. It might have been thirty years ago, or it might have been fifty years ago, that the exception in their favor had been introduced, and it had been continued up to the present time. The question now was whether any new and sufficient ground had been shown for a change. As far as he could see, no new ground had been urged. The zemindar, when he sued for rent, could scarcely be considered in the light of an ordinary creditor. He was obliged to pay his revenue on a certain date, and he must take steps to recover the amount due from the ryots before his own revenue became due. It was rarely that the zemindar had any capital to fall back upon, and if he did not pay his revenue, which he could only do in most cases after realizing his rent for the same period, he ran the risk of losing his estate. He could not therefore afford to wait like an ordinary creditor, but was compelled promptly to have recourse to legal means to enforce payment. After all, however, on whom would the extra duty now proposed to be taken generally fall? Undoubtedly, upon the tenant, for the returns would probably show that the number of cases which terminated in the landlord's favor was in the proportion of about 9 to 1. So that, as he had already said, although the extra duty would be paid in the first instance by the zemindar, ultimately they would be throwing it upon the tenant. This they could not prevent. He might be told that, if the tenant did not pay his rent when it became due, and his landlord was compelled in consequence to bring a suit against him to enforce payment, it would serve the tenant quite right if he had to pay the costs of the suit on being cast; but he believed he was right in saying that this was not what the Honorable and learned Chairman aimed at or intended. For these reasons he (Mr. Harington) begged to move, by way of amendment, that the following Section be substituted for that proposed by the Honorable and learned Chairman:—

"In suits for the recovery of arrears of rent or of money in the hands of an agent, the statement of claim shall be written on paper bearing a stamp of one-fourth the value prescribed for suits instituted in the Civil Court. In all other suits the statement shall be written on paper bearing a stamp of the value of eight annas."

MR. FORBES said, there was one point on which he wished to say a few words with reference to what had fallen from the Honorable Member for the North-Western Provinces. His Honorable friend had said that the zemindar was driven into Court for the purpose of recovering his rent, because he was obliged to pay his revenue at a fixed time. He (Mr. Forbes) would merely remind Honorable Members that not only was the zemindar thus forced into Court, but he was obliged also to bring all his suits against his tenants at one and the same time: an ordinary creditor could always bring his suits when it suited him, and with reference to his means of meeting the expenses of the Courts, but the zemindar had no such advantage, the revenue must be paid by a certain day, and by that day therefore his rents must be collected, and however numerous might be his debtors, and however great the sum necessary to carry on his suits, he had no choice but to expend that money in order to save his estate. The zemindar therefore could not be regarded as an ordinary creditor,

and it appeared to him to be not unreasonable to continue to him the advantages which he had under the law now under discussion.

MR. SCONCE said, there was an important distinction to be drawn with regard to Mr. Currie's Bill It should be remembered that two classes of suits were made liable by Collectors, which before could only be tried by the Civil Courts on payment of the usual institution fees : one case was that of a claim for arrears of rent other than arrears of the current year, and the other was that for the delivery of a pottah and fixing or enhancing the rent of a tenant. Undoubtedly in both of these instances claims might be preferred under Act X of 1859 at a large sacrifice of the stamp fees formerly leviable. He should wish to add another exception to those proposed by the Honorable and learned Chairman. He alluded to Clause 6, Section XXIII of Act X of 1859, which embraced complaints made by tenants and others of having been illegally ejected from the lands held by them. Such complaints, he thought, should be heard on the terms of the present Act. Further, he considered it was desirable to provide for the continuance of the older rule relative to suits for arrears of rent, so that arrears of one year's standing should be sued for on stamps of quarter value, but if the period exceeded one year, then on paper of the full value.

MR. WILSON said, he had listened with great attention to the observations which had fallen from the Honorable and learned Chairman and other Members. The subject of discussion was not one upon which he could lay claim to much information or, in point of fact, to any information beyond what he had acquired in the course of this debate. There were three questions which presented themselves for consideration :—*First*, whether we should consolidate in this Bill all the stamps chargeable under different Acts ; of this he could have no doubt. *Secondly*, whether we should disturb a law passed last year, having reference to a particular body of men. *Thirdly*, whether we were in a position to sacrifice the revenue that might be derived from stamps in certain suits, in respect of which lower rates of Stamp Duty were allowed. It did not appear what the law was before. But as he understood the case, it was this. A law was passed last year relating to transactions between landlord and tenant, which recognised no distinction between landlord and tenant, whether as regards the amount of Stamp Duty payable or otherwise. The amendment before the Committee proposed to make a distinction in favor of the tenant. But it appeared to him (Mr. Wilson) that this difficulty would arise, namely, who was a tenant and who was a landlord ? There were so many intermediate parties in some cases that it would be no easy matter to decide this question, and in many cases, he had no doubt, it was found that the same men were both landlords and tenants at the same time. The cases in question, that is, all suits for the recovery of rent, were cognizable by a species of Courts known by the name of Collectors' Courts. He (Mr. Wilson) saw no reason why suits instituted in such Courts should be charged a smaller Stamp Duty than suits instituted in other Courts ; and if we now had to deal anew with the question, he should have no hesitation in adopting the general principle which the Honorable and learned Chairman had laid down. He (Mr. Wilson) thought that it was one thing to get rid of a bad system now existing, and another to extend that system. With the lack of information which he now felt, if he had the present case to consider for the first time, he should have no hesitation in supporting the Honorable and learned Chairman's view of the case. But he (Mr. Wilson) thought that, considering that Mr. Currie's Act had been in operation for the space barely of a year, it would be safer not to disturb that law without receiving reports from the local Executive Governments, and if it appeared that it was desirable to do so, these stamps might be assimilated. As the matter now stood, however, he could not run the risk of voting in favor of the

amendment proposed by the Honorable and learned Chairman. He (Mr. Wilson) hoped that the Honorable and learned Chairman would not press his motion.

After some further discussion, the Chairman's motion and Mr. Haring ton's amendment were severally withdrawn, on the understanding that the matter was to stand over until information was called for and received as to the practical working of Section XXXVII Act X of 1859; and it was also arranged that the Clerk of the Council should prepare a list, showing the several provisions in the existing enactments which affected the Stamp Laws, with a view to their being incorporated in the present Bill.

MR. SCONCE said, a representation had been received from the Bank of Bengal as to whether Bank Notes came under the designation of Promissory Notes.

MR. WILSON said, the object of the representation was that Bank Notes, which were not now required to be stamped, should continue to be so exempted. He did not think that they need be stamped pending the passing of the Paper Currency measure. The present Bill relating to the Stamp Duties would come into operation on the 1st September next, and it appeared to him that the exemption of Bank Notes had better be included in the Bill.

MR. SCONCE then moved that the words "except Bank Notes payable to bearer on demand," be inserted after the word "made," in the 7th line of Article 4 in Schedule A.

Agreed to.

The consideration of the Bill was then postponed for a fortnight.

ABKAREE REVENUE (BENGAL).

The Order of the Day being read for the adjourned Committee of the whole Council on the Bill "to amend Act XXI of 1856 (to consolidate and amend the Law relating to the Abkaree Revenue in the Presidency of Fort William in Bengal)," the Council resolved itself into a Committee for the further consideration of the Bill.

Mr. Wilson

Section I provided as follows:—

"So much of Section VII Act XXI of 1856 as prescribes that the Duty leviable on spirits manufactured at distilleries worked according to the English method, for the imperial gallon of the strength of London Proof, shall be one Rupee—is hereby repealed. On and after the 21st January 1860, it shall be lawful for the Government to levy the Duty as aforesaid at the rate of 3 Rupees, and the Duty shall be rateably increased as the strength exceeds London Proof.

MR. SCONCE proposed amendments which were carried, and which made the Section run as follows:—

"Section IX Act XXI of 1856, so much of Section VII of the said Act as prescribes that the Duty leviable on spirits manufactured at distilleries worked according to the English method, for the imperial gallon of the strength of London Proof, shall be 1 Rupee, and so much of Section XV of the said Act as prohibits spirits under bond from being exported or shipped to any Port in India without payment of Duty, are hereby repealed. On and after the 21st January 1860, it shall be lawful for the Government to levy the Duty as aforesaid at the rate of 3 Rupees, and the Duty shall be rateably increased as the strength exceeds London Proof."

MR. SCONCE then moved the introduction of the following Section after the above:—

"Spirits may be removed from any licensed distillery for exportation without payment of Duty, under such rules and restrictions as may be from time to time prescribed by the Board of Revenue, on the person removing them executing a bond, with one or more sureties, to the Government in the form hereunto annexed, for the payment of the prescribed Duty upon such portion of the said spirits as may not be exported within four months from the date of the bond, or for such portion as may be exported to any other Port within British India. Provided, however, that it shall be lawful for the Collector, with the sanction of the Commissioner, on sufficient cause shown, to extend the period allowed for the exportation of the spirits for a further term of four months. Provided also that spirits exported as aforesaid shall, if imported at any Port in the Territories subject to the Government of India, be charged with the Duty payable on account of spirits imported by sea under any Act for the time being in force."

Agreed to.

The remainder of the Bill was passed as it stood, and the Council having resumed its sitting the Bill was reported.

RELIGIOUS ENDOWMENTS.

SIR BARTLE FRERE moved that the Bill "to repeal Regulation XIX. 1810 of the Bengal Code, and Regulation VII. 1817 of the Madras Code" be referred to a Select Committee, consisting of Mr. Harington, Mr. Forbes, Mr. Sconce, and the Mover, with instructions to consider and report, under the 70th Standing Order, whether any special provision was required in the Act for the performance of duties which by the law now devolved on the officers of Government.

Agreed to.

INDIAN FINANCES.

MR. WILSON said, he was desirous, at this stage of our proceedings, to make a few observations in reference to a question put to him last week by the Honorable Member for Bombay, in order that there might be no possible mistake in the matter. His Honorable friend had asked him whether the Government had it in contemplation to impose any other description of taxes than those referred to in his (Mr. Wilson's) Statement of the 18th February last; and his Honorable friend specified a considerable number of taxes, with respect to which he enquired if it was the intention of Government hereafter to impose them. To that question, he (Mr. Wilson) gave a most unqualified answer, and the effect of his reply was that the whole of the taxes to be imposed by the Government were contained in that Statement of the 18th of February. But that there might be no possible misconception of the measures of Government, he now begged to state that the Government might be under the necessity at no distant period of re-arranging and assimilating to some extent the different and conflicting rates of Duty now levied on Opium in the Eastern and Western parts of India, the effect of which would probably be an increase to the Government revenue. He did not consider that his Honorable friend's question bore reference to this matter. He (Mr. Wilson), therefore, when stating in reply to that question that it was not the intention of Government to impose any new taxes beyond those referred to in his Statement of the 18th of February, omitted to allude to this matter of the Opium Duty which, strictly speaking, was not a tax. The reason which he gave of the unwillingness of Government to impose any of the taxes specified by the Honorable Member for Bombay, was that the burden of taxation would have fallen almost exclusively on the Natives of India; and he was only desirous to guard the Government against any misunderstanding by explaining that any alteration of the Opium Duty would simply be an approximation of the Duty in one part of India to that in another.

He would take this opportunity of mentioning that a source of finance, which had been open to the Government for the last two years, of taking money on Treasury Bills, a sort of unfunded debt, had to-day been closed by a notification of Government published in the usual way.

MR. LEGEYT said he was very much obliged to the Right Honorable Gentlemen for the further information which he had been kind enough to communicate to the Council. In asking his question, he (Mr LeGeyt) had not the Opium Revenue at all in his mind. The taxes which formed the subject matter of his question, and respecting which he had received several communications, were sources of revenue proposed by different persons in Bombay itself, and apprehensions were entertained that it might be the intention of Government to impose some of them in addition to those specially mentioned by him. The only doubt which rested on his mind after hearing the Right Honorable Gentleman's answer on Saturday last, was as to whether, by some misapprehension, the Tobacco Tax might not also have been included among the taxes which the Right Honorable Gentleman stated had been abandoned by the Government. But that could not be, as, on referring to the Financial statement, he found that it was expressly stated that it was the intention of the Government to increase the duty on Tobacco.

MR. WILSON said, what he stated very distinctly was that all the taxes

which the Government had in contemplation to impose were comprised in his Financial statement.

LITERARY, SCIENTIFIC, AND CHARITABLE SOCIETIES.

MR. FORBES moved that Sir Bartle Frere be requested to take the Bill "for the registration of Literary, Scientific, and Charitable Societies" to the President in Council, in order that it might be submitted to the Governor-General for his assent.

Agreed to.

CHITTAGONG DISTRICT.

MR. SCONCE moved that Sir Bartle Frere be requested to take the Bill "to remove certain tracts on the Eastern border of the Chittagong District from the jurisdiction of the tribunals established under the general Regulations and Acts" to the President in Council, in order that it might be submitted to the Governor-General for his assent.

Agreed to.

INDEMNITY.

MR. HARINTON moved that the Bill "to indemnify officers of Government and other persons in respect of fines and contributions levied, and acts done by them during the late disturbances" be referred to a Select Committee, consisting of the Vice-President, Mr. Sconce, and the Mover.

Agreed to.

The Council adjourned.

Saturday, May 5th, 1860.

PRESENT:

The Honorable the Chief Justice, *Vice-President*, in the Chair.

Honorable Sir H. B. E. Frere,
Right Honorable J. Wilson,
P. W. LeGeyt, Esq.,
H. B. Harington, Esq.,
H. Forbes, Esq.,
and
A. Sconce, Esq.

MESSAGES FROM THE GOVERNOR GENERAL.

THE VICE-PRESIDENT read Messages, informing the Legislative Council that the Governor General had assented to the Bill "relating to the emigration of Native Laborers to the British Colony of St. Vincent," the Bill "to repeal certain laws relating to the jurisdiction of the Zillah Court of Furruckabad," the Bill "to provide for the execution of process within the premises occupied by His Majesty the King of Oude," the Bill "to amend and extend Act XXII of 1836 (relating to the levy of a Toll on Boats, Rafts, and Floats passing through the Circular and Eastern Canals)," the Bill "to amend Act XIV of 1856," the Bill "to repeal Act V of 1858 (for the punishment of certain offenders who have escaped from Jail, and of persons who shall knowingly harbor such offenders), and to make certain provisions in lieu thereof," and the Bill "to continue in force for a further period of three months Act XXI of 1859, for providing for the exercise of certain powers by the Governor-General during his absence from his Council."

INCOME TAX.

THE CLERK presented a petition from landholders of Dacca, against the Bill for imposing Duties on profits arising from Property, Professions, Trades, and Offices.

MARRIAGES (CHURCH OF SCOTLAND).

MR. SCONCE presented the Report of the Select Committee on the Bill "relating to the solemnization of marriages in India by ordained Ministers of the Church of Scotland."

INCOME TAX.

MR. WILSON, in postponing the presentation of the Report of the Select Committee on the Bill "for imposing Duties on Profits arising from Property, Professions, Trades, and Offices," said that the Select Committee had found it necessary to make much larger and more extensive alterations in the frame-work of the Bill than was expected, in order to give effect to the altered machinery of the Bill, which he had explained on the second reading, and the general effect of which would be