

3

PROCEEDINGS

OF THE

COUNCIL OF THE GOVERNOR OF BOMBAY

ASSEMBLED FOR THE PURPOSE OF

MAKING LAWS AND REGULATIONS.

1880.

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 ASSEMBLED FOR THE PURPOSE OF MAKING
 LAWS AND REGULATIONS.

Volume XIX.

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PROCEEDINGS
OF THE
COUNCIL OF THE GOVERNOR OF BOMBAY
FOR THE
PURPOSE OF MAKING LAWS AND
REGULATIONS

Abstract of the Proceedings of the Council of the Governor of Bombay, assembled for the purpose of making Laws and Regulations, under the provisions of "THE INDIAN COUNCILS ACT, 1861."

The Council met at Bombay on Tuesday the 6th January 1880, at noon.

P R E S E N T :

His Excellency the Honourable Sir RICHARD TEMPLE, Bart., G.C.S.I., C.I.E.,
Governor of Bombay, *Presiding*.
His Excellency the Honourable Lieutenant-General HENRY JAMES WARRE, C.B.
The Honourable L. R. ASHBURNER, C.S.I.
The Honourable E. W. RAVENSCROFT, C.S.I.
The Honourable the Acting ADVOCATE-GENERAL.
The Honourable SYUD HUSSAN EL EDROOS, C.S.I.
The Honourable M. BALFOUR.
The Honourable Colonel C. J. MERRIMAN, C.S.I., R.E.
The Honourable MORARJEE GOULDASS, C.I.E.
The Honourable M. MOWAT.
The Honourable Sir JAMSETJEE JEEJEEBHOY, Bart.

Papers presented to the Council. The following papers were presented to the Council :—

1. Letter from the Secretary to the Government of India, Legislative Department, No. 987, dated 22nd September 1879; returning, with the assent of His Excellency the Viceroy and Governor-General signified thereon, the authentic copy of the Bill to provide for Irrigation in the Bombay Presidency.
2. Report of the Select Committee appointed to consider Bill No. 3 of 1879 (a Bill to amend the Law relating to the Settlement of Villages held by Khots).
3. Petition from Ramchandra Mahadeo Gondhalekar and Bal Gangadhar Tilak, Khots of Dábhola, Táluka Dápoli, in the District of Ratnágiri, dated the 15th October 1879, regarding the Khoti Settlement Bill.

4. Petition from Ganesh Kashinath Joshi, Khot of Karajgaon, and 18 other Khots, in the District of Ratnágiri, dated the 13th October and 27th November 1879, relating to ditto.
5. Petition from Nizam Ali Khan Najib Khan and other Khots of Mahád in the Kolába District, dated the 24th October 1879, regarding ditto.
6. Petition from Raghunath Venayek Pandit and others, Khots of Táluka Dápoli, in the District of Ratnágiri, dated the 14th November 1879, regarding ditto.
7. Letter from Ráo Sáheb Vishvanath Narayan Mandlik, C.S.I., dated the 1st January 1880, submitting his observations on the Khoti Settlement Bill.

The Honourable Mr. ASHBURNER moved that Bill No. 8 of 1879, a Bill to amend the law relating to the settlement of villages held by Khots,

Mr. Ashburner moves the second reading of the Khots' Settlement Bill.

should be read a second time. The Honourable Member said :—Your Excellency, I have studied the petitions which have been presented to the Council very carefully.

Most of them suggest the idea that they have been paid for at so much a line to the agents employed to draw them up; and they practically neutralise each other. One branch of petitioners complain that full proprietary rights have been given to the Khots; the Khots, on the other hand, complain that their rights have been entirely ignored. The most intelligent of the petitions that have been presented is that by Mr. Vishvanath Narayan Mandlik, who complains that sufficient weight has not been given to the proprietary rights of the Khots. On the other hand, I turn to a petition from the Chiplún taluk, and I find it there objected that the principle of the Bill is based on an "almost unqualified recognition of the rights of the Khots," to which the memorialists object very strongly. So that the petitions neutralise each other; and this proves what we have said all along, that our present Bill is a compromise, and it is a compromise which is regarded as satisfactory by the great body of the ryots as well as the Khots. I may quote some statistics which have just been presented by Mr. Arthur Crawford, Commissioner of the Division, who says :—

"I have now the satisfaction to report that the Khots and tenants of all but two villages in the old Bánkot Peta have separately petitioned for the cancelment of the guarantee, and that out of 12,565 Khoti tenants 12,295 have this year filed separate petitions. One hundred and sixty-nine in four villages in Khed petitioned for the cancelment in 1877, and there remain only 161 absentees who are being diligently sought out; they have either left their villages permanently or temporarily, and have no responsible representatives whose petitions could be received by proxy. Even these 161 will be traced out in time. They are scattered over 33 villages or about three to a village. In the other 151 villages every Khoti tenant has registered his petition. More complete unanimity cannot be conceived. There now only remain two of the guaranteed villages, and I believe there are some old feuds and other peculiarities therein, which for a time only prevent these villages abandoning their guarantee."

That is sufficient evidence, I think, of the unanimity with which this Bill has been accepted. I will now make some observations on Mr. Vishwanath Narayan Mandlik's

objections. Mr. Mandlik objects that "section 4 suggests a wrong theory"—of the proprietary rights of the Khots, I presume. To that I reply that we have to deal, not with theories, but with facts. All the trouble, and confusion, and heart-burning of the last half century has been due to our listening to the "irresponsible chatter," I may call it, of theorists. But I deny that there is any error of principle in the section to which this gentleman refers. Government, throughout the whole of this controversy on the Khoti question, have denied the proprietary title of the Khots, and we are not going to stultify ourselves at the last moment. We have always consistently held that the Khots are mere farmers of the revenue; and I have, on a former occasion, shown that, under the Peishwa's Government, Khots had no proprietary rights, and were very frequently ejected on the most frivolous pretexts. It is quite possible that certain opinions may have been expressed in opposition to this view, but with great respect for some of the officers who have expressed them, I would observe that they are, after all, mere opinions, and have never been accepted by Government. The fact is that we have now arrived at a contrary conclusion, and it has been generally accepted by both ryots and Khots. The history of the Khoti controversy may be described as a struggle on the part of the Khots to secure full proprietary rights, and a persistent rejection of such claim by Government. It is a relinquishment of this claim on the part of the Khots which has enabled us to introduce the present Bill with the approval of all parties. The next objection taken by

Mr. Mandlik is to section 7. He objects to the words quoted in the margin* being omitted, but he suppresses the fact that many of the inferior holders whom he seeks to deprive of the right of transferring their holdings, derive their rights from a period long prior to the arrival of the Khots from the Court of the Peishwa to manage and farm the revenue of the village. Many of them are the descendants of the original settlers in the village. If any class has a proprietary right it is the actual cultivator of the soil, and it is these humble tenants whose rights have been gradually encroached upon by the Khots. The very language of the definition, which Mr. Mandlik objects to, shows that he seeks to deprive the occupancy tenant of a right which he has always enjoyed. The words are that the *further* transfer of such lands shall cease. Why should we deprive them of the few rights which remain to them from the encroachments of the more powerful Khots? The next objection is to section 8. He objects to the limitation of the power of the Khots to take a maximum rent from privileged occupants. In other words, he seeks to deprive the privileged occupants of their privileges. Why should this be? The best answer to this is that the Khots as a body have willingly accepted this limitation, and that to relinquish the right to fix a maximum rent now would be virtually admitting the proprietary rights of the Khots to their villages, which Government have so persistently rejected. With regard to section 11, Mr. Mandlik seeks to deprive Government of its claims against the privileged occupants on a lapse by failure of heirs; that is to say, that if a tenant dies without having paid his rent for the season, Government is to submit to the loss, and the land is to revert to the Khot free of the debt. That is most unreasonable, and will hardly meet with the approval of this Council. With regard to section 12, Mr. Mandlik demands unlimited power to destroy the forests of the Konkan. Really, to look at the almost irreparable injury that has been done to the forests, one would almost suppose that the Khots had actually enjoyed this right; for, owing to the neglect of our officials, they have been allowed to cut almost indiscriminately, but it is

*But the right of further transfer of such land otherwise than by inheritance shall absolutely cease.

time to put a stop to this mischief. The High Court long ago had ruled that even an Inámdár has no proprietary rights to the forest unless they are expressly conveyed to him in his *sanad*, and if an Inámdár has no forests; *à fortiori* a mere farmer of the revenue has none. However, we have, as a compromise, and on certain conditions granted the Khots one-third of the revenue derived from forests, but not a proprietary right in them. The rest of the objections are unimportant, and do not appear to me to call for any comment. They all presuppose the right of the Khot as the proprietor of these villages, and that is a point we have resisted to the utmost. The whole principle of the Bill is that the Khot is not a proprietor; the object is to give him certain limited proprietary rights, and nothing more, and we define the rights of the ryots and the sub-tenants. If we once concede the proprietary principle, then we may listen to Mr. Mandlik; but as we intend to stick to our own principle, I think we may reject all further consideration of his objections. I beg to move that the Bill be read a second time.

The Honourable MORARJEE GOCULDASS :—Your Excellency: It is not my wish to unnecessarily interrupt the Council in the consideration of this Bill; but for consistency's sake I may state that when the Select Committee closed its last meeting it was understood that the report then framed was a preliminary one, and that the Committee would meet again to consider any memorials that might be received, and then make their final report. I am sorry to say that this has not been done, but I hope that in proceeding with the second reading of the Bill all the objections urged in the different memorials will be patiently considered. The Bill now before the Council is an attempt on the part of Government to settle a question which has sorely tried the patience of both the Government and the Khots for the last 15 years, or perhaps for the last 60 years, as remarked by the Honourable Mr. Ashburner. It is now a well-known fact that the application of the Survey Act of 1865 to a district where a tenure different from the Ryotwari tenure prevailed, created the evils which this Bill now seeks to remedy, and I congratulate your Excellency's Government on being able to effect a compromise between the Government on the one hand and the Khots and the tenants on the other. Before stating my opinions on the Bill, I will crave your Excellency's permission to remove some of the erroneous impressions which the Honourable Mr. Ashburner's speech on the first introduction of the Bill into the Council was calculated to create. Unfortunately certain unavoidable circumstances prevented me from being present at that meeting. The Honourable Member spoke at the time as if the Khots were no more than intruders, and had no business to contend for their rights. The history of this Khoti question itself does not bear out this statement. For Government have not only made many searching enquiries into the rights of the Khots, and found those rights to be valid, but the *sanads* granted to the Khots, not only by the earlier rulers, but by the East India Company through the Government of Bombay themselves, are conclusive proofs that the Khots are not intruders. It was also stated by the Honourable Mover that the Khots were at first generally Brahmins, who being the favourites of the Peishwa's court were thrust upon the cultivators of the Konkan. The fact, however, is that the Khots existed previous to the times of the Peishwas and some of them hold *sanads* granted by the Bijápur kings, and were never all Brahmins—as even at this day we find Gujars, Purbhars, Mahomedans, Kolis, Bhandaris, and even, as I am informed, one or two Mahárs amongst the number. Then, again, if the Khots were merely the favourites of the Peishwas, how

is it that the Khoti estates in the Konkan were in their time so heavily assessed, that even the present Government has found it, in many cases, difficult to raise those assessments? And how is it that we find very few alienations in those estates? If they were given to their favourites by the Peshwas as the caprice of favouritism induced them, surely the estates could not have remained in the same families for a long time, but would have been granted and re-taken at pleasure. All this is, I think, enough to show that the Khots obtained their rights legitimately. To come to the Bill, I am of opinion that the Khots are entitled to be treated as owners of their villages subject to the just and equitable rights of the tenants or actual cultivators of the soil under them. I understand it is the recognition of this ownership of the Khots which the present Bill has for its object. Considering the matter from the above point of view, I feel bound to say that the Bill in some of its features appears to me objectionable. I think that as between the Government and the Khot, the latter is entitled to the full enjoyment of his ownership, subject to the right of the Government to levy such assessment as the custom of the country and the just requirements of the State sanction. I am sorry to observe that some of the provisions of the Bill, if passed into law, will have the effect of depriving the Khots of some of the most material privileges of ownership. The first point to which I beg to call attention is that contained in section 4, which lays a Khot's estate open to so many risks and uncertainties that it would be difficult to say that the Bill, if passed into law, would finally put an end to the differences between the Khots and Government which have so long prevailed and have led to so much litigation. The restrictions with which the said section fetters a Khot's estate are so numerous that it is difficult to conceive whether the Government is at all disposed to recognize any rights of property in favour of the Khots. Nor can I find any justification for section 15, which compels a Khot to keep accounts and produce them when required. Sections 16 and 17, to which I do not object, provide for all reasonable safeguards. I submit, therefore, that section 15 is not only inconsistent with what has been hitherto the practice, and with the Khots' rights of ownership, but will expose them to unnecessary vexation and annoyance on the part of subordinate revenue officers. Then, again, section 39 of the Bill indicates that most of the sections of the Revenue Code which apply to the Government lands, are sought to be made applicable to the estates of the Khots—the result of which will be to reduce them to the position of an ordinary tenant under Government. Another noteworthy feature of the Bill is the introduction of provisions for the appointment of a managing Khot, as in sections 26 to 31. There is no occasion for appointing a managing Khot, as, unlike the village patel, he has not any other responsibilities except that of paying the assessment, and he is the owner of his *watan* and not a mere officer of Government. If the Khot sharers cannot agree to a nomination from among their own body, the village should, as at present, be placed under attachment. The holding of a certificate for a managing Khot derogates from his superior rights as a proprietor, and it will be enough if a *tabid* is given to the village by the *mámlatdár*, mentioning the name of the Khot to whom Government looks for the payment of the *jama*. Besides this, no inconvenience has been proved to have been hitherto caused from the absence of any such system of nomination, and the only result of introducing such a novel practice will be to disturb the harmony which exists among the different members of a Khot's family, and lead to litigation. In regard to forests, I think, the Khot should be considered as owner of all the forest growing in his village; otherwise the Government would, in the eyes of the people, be guilty of a breach of faith. It will be recollected that in the year 1824 the Government were pleased to issue

a Proclamation renouncing all their rights, if they had any, over private forests in the Konkan; and I think it would not be fair and just to sanction any departure from the promise held out in the said Proclamation. And by a despatch of 5th August 1869, the Duke of Argyll, then Secretary of State, directed that the promise or engagement contained in the Proclamation should be adhered to. Now, I submit, whether it would not be improper if the Government were to violate its own engagement after having pledged itself to it and after the assurance given by the Secretary of State that it should be adhered to? If uncultivated lands are really required for the growth of forests, then the best course, I think, would be to call upon the owners of those lands to grow forests on them, or to take the lands under the Land Acquisition Act and fairly compensate the owners. When such courses are available I think it unjust to embody a provision in this Bill which allows Government to take the uncultivated land of a Khot and reserve it for forests. I draw the attention of the Council to this, not from any partiality to the Khots, for I am not a Khot myself, but from a sincere anxiety to see that the British Government adheres to its time-honoured policy of treating vested rights with due regard. Of course, as a taxpayer I should be only too glad to see Government getting more money from indirect sources without increasing the burdens of direct taxation, but this Council, I submit, is bound to see that justice is done and the honour of the Government is upheld. I have another point to urge on the attention of your Excellency and the Council. The Bill appears to me to contain certain provisions which are calculated to work to the detriment of the Khots. In the first place, the rights of the Khots to take rent from tenants are restricted, while the rights of the Government to increase the *jama* or assessment payable by the Khots are not restricted. This, I venture to think, places the Khots in an uncertain position, and it would be doing a bare act of justice to them to add some provision in the Bill which will place the rights of Government to increase the amount of the *jama* payable by the Khot within certain limits. I do not see any reason why the general principle which Government has always followed should not be expressly laid down in this Bill, as that will minimise the uncertainty of the Khots' liabilities and set some reasonable bounds to the exercise of discretion which it is found expedient to give to the revenue officers. The right of Government to assess lands is not without limits. Bombay Act I. of 1865, section 25, recognized this. The power to assess was by that section made subject to general and local rules. This principle has been recognized by the High Court in the case of Parshotam Keshavdas against Kalyan; reported at page 348, Indian Law Reports, Bombay Series, Volume 3.

The Honourable Mr. Mowat:—Your Excellency and gentlemen, about a fortnight ago I received a petition which has been addressed to you by the ryots of Ratnágiri with reference to this Bill. It puts forth a statement on behalf of something like 2,000 of their number; and as I find that this document is not on the list of official papers, might I ask that before the Bill is finally disposed of, it should be taken into consideration? I have listened with a great deal of attention to the remarks of the Honourable Mr. Morarjee Goculdass, and I must say that the statements put forward by him can be fairly discussed, while they are at the same time subject to modification. I think we can fairly meet a part of what he has asked for; but I am prepared generally to support the Bill as brought forward by the Honourable Mr. Ashburner, because I believe that it will be the means of settling a great and important question which has been discussed for many years, and subject to modifications the Bill is prepared in a form which will give satisfaction both to

the Khot and to the ryot. I think Government have done well in bringing forward such a liberal measure as I believe this Bill to be. I trust that all the memorials will be duly considered, and that full effect will be given to them before the Bill is finally disposed of. With these remarks I shall support the Bill, giving attention to whatever modifications may be suggested during the discussion.

The Honourable Sir JAMSETJI JESJEEDHOY:—Your Excellency. The petitions contain no new matter, and I see nothing to prevent our finally discussing the Bill to-day. The Khots claim to be proprietors of the soil, the ryots say they are not; the Khots claim to have all land registered in their name, the ryots want it all in theirs; the Khots want a grain rental, the ryots want a cash rental. All these points have been discussed for years, and were formerly referred to a commission, which reported on every point. Government came to a final decision on all points and made a compromise, which has actually been introduced everywhere and has caused no friction. With these few observations I beg to support the motion of the Honourable Mr. Ashburner.

The Honourable Mr. HAVENSCROFT:—I entirely concur in the principle of this Bill, and from having had a long revenue experience I trust that my opinion will be entitled to some little weight. I have no hesitation in saying that since I have been connected with the Council, there never has been a Bill introduced which, in my opinion, will settle a complicated and vexatious question in a more satisfactory manner than the Bill now before us. My friend Mr. Morarjee is apparently under the erroneous impression that some of the sections of this Bill will infringe a promise which has been, at some time or other, made, either by the local Government or the Secretary of State for India; but I am quite sure this is an erroneous impression. The Bill sacrifices no promise that has ever been made by the local Government or by the Secretary of State; and I have no hesitation in saying that not only the Khots but their tenants will, when this Bill is passed, be in a position of comfort and security which they never have enjoyed, and which they have no idea that they could enjoy. This is shown by the report which Mr. Crawford, the energetic Commissioner of the Southern Division, has placed before us. The fact that the Khots and tenants of so many villages have voluntarily petitioned that the guarantee, which is supposed to be a great advantage to them, should be cancelled, and that they should be allowed to enjoy the privileges which will be conferred by this Bill, is, I think, one of the strongest proofs we can have that the Bill is a good one. I shall, therefore, entirely support it in every way, but I shall be quite prepared to consider the propriety of modifying as far as necessary any particular sections which the Honourable Mr. Morarjee or any other Honourable Member who may oppose the Bill, may point out for modification. That I am sure is the view of the Council generally. With these few remarks I beg to support the second reading.

His Excellency the PRESIDENT:—I believe that the general sense of the Council is that the Bill should be read a second time. According to the rules when a Bill is read a second time, its principle is to be considered as affirmed, after which the Council will proceed to consider the Bill in detail. I believe that such remarks as have fallen from some of our honourable colleagues against the Bill referred to particular parts of the Bill. If so, their remarks will be considered when the Bill is gone through in detail. I will now put the Honourable Mr. Ashburner's motion that the Bill be read a second time.

The Bill read a second time, and considered in detail. The Bill was then read a second time, and the Council proceeded to consider it in detail.

With regard to section 1, the Honourable the Acting ADVOCATE-GENERAL said he observed that power was given to the Governor in Council to extend the working of the Act to the Kolába District only, the Select Committee believing that there were no Khot villages in other districts. From matters that had come before him in a private capacity, he had reason to believe there might be such villages in the Thána District.

The Honourable Mr. ASHBURNEE explained that the Select Committee had thoroughly investigated this point and finally decided that the Bill, as it stood, was sufficient. It was only in the Kolába District that the particular class of Khots to whom the Act was intended to apply, were to be found.

His Excellency the PRESIDENT:—I understand there are Khots in the Thána District but they are Khots of a different character. Is that it?

The Honourable Mr. ASHBURNEE:—That is the case.

The Honourable MORAJEE GOULDASS:—Khots in the other districts are quite of a different character. We cannot include them now without giving them an opportunity of petition.

The Honourable Mr. ASHBURNEE:—The Salsette Khots objected to the Act being extended to them, because they stood on a different footing. It was on that account the power to extend the Act was limited.

The Honourable the Acting ADVOCATE-GENERAL said no doubt that was an extremely good reason. Of course he had not had an opportunity of becoming acquainted with the earlier proceedings of the Select Committee.

The section was then passed as drafted.

With regard to section 3, para. 5, the Honourable Mr. MOWAT said the ryots asked in their memorial that instead of the words "occupancy tenants" the words "permanent occupants" should be used.

The Honourable Mr. ASHBURNEE explained that the term "occupancy tenant" was advisedly used in the Bill after due consideration. The word was found in the Revenue Code, and had a peculiar meaning of its own, which was there defined, and could not be altered without creating the greatest confusion. The Marátha version of the term was Watandári Kúl, which was thoroughly understood. To change that now would create great confusion, and, as far as he could learn, the petitioners had not given any good reason why the change should be made. The term used in the Bill was accepted throughout the whole revenue legislation of the country.

The Honourable Mr. MOWAT:—After hearing the Honourable Member's explanation I am quite willing that the words should stand as they are.

The Honourable MORAJEE GOULDASS moved that for section 4, as drafted, the following should be substituted:—"All Khoti holdings are liable to the payment of land revenue, assessed under such general and local rules as may be in force, and due on account of the *jama* of the same, according to the provisions of this Act and of the Bombay Land Revenue Code, 1879, and of any rule for the time being in force made under this Act or under the said Code."

His Excellency the PRESIDENT remarked that the proposal really amounted to the omission of the last part of the section as drafted—"and subject to the fulfilment of any

other term or liability lawfully annexed or appertaining to their tenure"—which he thought was a very proper provision.

The Honourable MORARJEE GOCULDASS said "lawfully" was a very broad term, and might mean anything:

The Honourable the Acting ADVOCATE-GENERAL said it meant according to the law as it existed at present, or as it might be modified hereafter by the Legislature.

His Excellency the PRESIDENT said the amendment proposed a restriction. It might turn out that there would be some liability which would be lawful but for this restriction, and which would be a perfectly proper liability. He thought the wording of the section adopted by the Select Committee was eminently safe. It was safe as affecting the rights of all parties, because the word "lawfully" was used, which he thought was about the safest term that could be adopted.

The amendment was lost.

The Honourable MORARJEE GOCULDASS moved that for section 15 the following be substituted:—"The Khot shall give a written receipt for every payment of rent or land revenue made to him, whether by a privileged occupant or tenant, or by a co-sharer in his Khoti. For any infraction of the provision of this section the Khot shall, on conviction before the Collector or the Assistant or Deputy Collector in charge of the Taluk in which such Khoti village is situated, be liable to a fine not exceeding double the sum for which the receipt was refused."

His Excellency the PRESIDENT said the meaning of this amendment was to absolve the Khot from the duty of keeping and producing accounts.

The Honourable Mr. ASHBURNE:—"To that I reply that these provisions have been very carefully considered by the Select Committee, and they follow logically from the position which we assign to the Khot throughout this Bill. He is in fact a Government officer, collecting the Government revenue, and he must not only give receipts but keep accounts and produce them when called upon. One of the greatest difficulties in settling disputes between landlord and tenant is the power which the landlord sometimes enjoys of withholding accounts and declaring that there is no written record of the transaction between them. It is with the view of obviating the difficulty that we have carefully introduced the provision as to accounts. It is, moreover, in accordance with the arrangements already in vogue amongst the Khots of the Konkan, and it is quite hypercritical to object to it now.

His Excellency General WARRE:—"Can they keep accounts?"

The Honourable Mr. ASHBURNE:—"They do, Sir, now. This is nothing new; it is already in force in the Konkan.

His Excellency the PRESIDENT:—"I may explain that the keeping of village accounts all over India is regarded as the palladium of the natives. It is the great distinguishing characteristic of the Land Revenue system of India. It is very ancient, has existed many centuries, and has been maintained by every well-regulated Native Government, especially the Mogul. The village accountant is about the most ancient office, and his duty is to keep public accounts between landlord and tenant, or between tenant and Government. Therefore, to all persons acquainted with the Land Revenue system of India, the provision of section 15 seems to be a most natural provision.

The Honourable Mr. RAVENSCROFT:—I must oppose the amendment. One of the great safeguards of a village and great protection of the villages is the keeping of accounts. It is necessary that a third person who has a right to enquire should be able to be satisfied at any time how the accounts stand between a landlord and his tenant. And there is really no hardship whatever, so long as honest accounts are kept, in producing them.

His Excellency General WARRE remarked that it would be throwing serious responsibility on an ignorant man to require him to keep accounts that he did not understand.

His Excellency the PRESIDENT:—The Khots are men who can keep accounts. Many of them are highly educated men, native gentlemen of position.

The Honourable MORARJEE GOULDASS:—There are Mahars among them, and I doubt whether they can keep accounts. I say let them pass receipts and produce the receipts; but why should they keep accounts for Government? They are not servants of Government.

His Excellency the PRESIDENT said the village accountant is like a notary public in every village.

The Honourable Mr. RAVENSCROFT:—There is no question whatever about these men keeping accounts. They keep accounts undoubtedly, whether compelled to or not.

His Excellency the PRESIDENT:—There is this difference between private accounts and public accounts. If accounts are of a public character, there is no question about them; they are made out season by season, year by year, and they are signed, and copies are lodged in the Collector's or Sub-Collector's office. Whenever dispute arises, Government can get at them, so there is no possible question about them. In a case of private accounts each party produces his private accounts, and there is a difficulty.

The Honourable the Acting ADVOCATE-GENERAL:—Section 15 is not introduced so much for the benefit of Government as for the benefit of the inferior holders.

His Excellency the PRESIDENT:—Certainly.

The Honourable Mr. MOWAT:—I think, looking at the number of disputes that have already taken place, it is highly desirable that a system of accounts should be kept.

The amendment was then put to the vote and lost.

In the marginal note and in line 13 of section 18, the word "respective" was substituted for the word "mutual."

When section 21 was reached the Honourable the Acting ADVOCATE-GENERAL remarked that he had some difficulty in understanding it in relation to section 17. It did not seem quite clear whether the Court would be able to interfere or not, but was open to argument; and he thought it might be as well that the conclusion arrived at by the Select Committee should be clearly defined.

The Honourable Mr. ASHBURNER said he should be glad to accept any amendment the Honourable Acting Advocate-General could suggest with that view.

On the motion of the Honourable the Acting ADVOCATE-GENERAL it was accordingly resolved that section 17 should be amended by the introduction of the words "and final," so that the latter portion of the section will read—"and any entry in any record duly made under this section shall be conclusive and final evidence of the liability thereby established."

The Honourable Mr. MOWAT asked if it was not necessary to define what was a "competent court."

The Honourable Mr. ASHBURNER said that was a legal phrase meant to indicate the ordinary courts of the district.

The Honourable MORARJEE GOULDASS moved that sections 26 to 31 should be omitted. He said the appointment of a co-sharer to act as manager of an estate would create ill-feeling and confusion. A better plan, he considered, would be for Government to place estates requiring the appointment of a manager under attachment.

The Honourable Mr. ASHBURNER :—These sections appear to be indispensably necessary for the administration of the village. Take section 26. If the sharers refuse or fail to appoint a manager, surely it is the part of Government to do so. It is absolutely necessary that there should be managers; and how they are to be nominated, is prescribed in section 27. This mode of selecting a manager is nothing new, but is the present custom of the villages throughout the Konkan. I do not understand why the honourable gentleman should wish to dispense with what seems to me this very indispensable provision. If we had taken power to attach villages on every trifling dispute between the co-sharers, we should have deservedly laid ourselves open to the charge of harshness.

The Honourable MORARJEE GOULDASS :—I understand the custom has been to place estates under attachment. Why should you say you will appoint so and so?

The Honourable Mr. ASHBURNER :—We cannot leave a village without a head; you must have a manager, and this is the way the managers are appointed at present. I hardly think these sections require any elaborate defence; their advantage appears so very obvious that they hardly call for any remark.

The Honourable Mr. RAVENSCROFT :—I object to the amendment. There must be one man appointed who shall be responsible. These sections are really in the interests both of the Khots and their tenants. Instead of allowing villages to slide into confusion, which would be the result of adopting the Honourable Mr. Morarjee's amendment, we have definite men to keep the villages and the sub-tenants holding under the Khots in order, and to prevent what it is the main object of this Bill to prevent confusion and uncertainty.

His Excellency the PRESIDENT said that, for the Collector to have to attach an estate and enter into the management of it, might be necessary perhaps sometimes, but it was rather a harsh and perhaps a violent measure. He considered that the form of appointment contemplated by the Bill was a much milder and more merciful procedure.

The amendment was lost.

Section 26 was altered by striking out the word "himself" in the 16th line and the words "if he thinks fit, may," in the 17th and 18th lines.

The Honourable MORARJEE GOULDASS moved that section 41 should be amended by the substitution of the word "take" for "constitute" in the 8th line, the insertion of "under the Land Acquisition Act" after the word "extends" in the 9th line, and the omission of the last words of the section as drafted, "or may hereafter be extended, a reserved forest;" and also that, in event of this amendment being carried, clauses 1 and 2 of section 42 should be omitted.

The Honourable Mr. ASHBURNER said the adoption of this amendment would be a concession of the principle that the forests were the property of the Khots instead of Government. It proposed that Government should take up and pay for land which

belonged to them already, and we entirely objected to such an arrangement. Government had always held that the forests were the property of the State, and that view of the case had been supported by innumerable decisions in the Courts of Law.

His Excellency the PRESIDENT :—I believe the contention of the Honourable Mover is this, that grants made by former Native Governments to these Khots included only the cultivated land—either land then under cultivation or which had been tilled within some reasonable time and was therefore likely to be taken up for cultivation again—and that the said grants did not extend to forest land. This question has been brought repeatedly before the Civil Courts and afterwards in appeal before the High Court, and has been decided in favour of Government. Therefore, it is contended that this section is founded on a principle which has been thoroughly discussed, and has been decided finally.

The Honourable MORARJEE GOULDASS called attention to the Dunlop Proclamation of 1824.

His Excellency the PRESIDENT :—I should like to explain, before the Dunlop Proclamation it was held that all trees on even the cultivated land of the ryot belonged to Government; no man could touch a tree on his field, or on the waste ground adjoining the fields, without permission, which was given only under certain circumstances. Mr. Dunlop, either with or without the permission of Government, issued a proclamation, whereby the ryots were to have the right of cutting trees on their own land, that is to say on their own cultivated or recently cultivated land. And that proclamation has been steadily recognized; it has never been reversed. But that proclamation applied only to land held by the ryot; never applied to waste lands. I don't suppose that this section is of any extreme importance, because the right over forests pertains to Government under the new Forest Act. This section is in accordance with the Indian Forest Act, and it is as well to have it in the present Bill; it is perfectly unobjectionable. Even if it is not inserted here, Government will constitute a reserved forest under the Forest Act. A Khot might bring a suit to defend his supposed rights, which would be disputed by the Collector, and the decision, no doubt, would be in accordance with the decisions already passed. The Counsel for the Crown would immediately refer the Court to previous decisions.

The amendment was lost.

The Honourable the Acting ADVOCATE-GENERAL asked how section 41 would affect the holders of sanads.

The Honourable Mr. ASHBURNER :—Claims made under a sanad would have to be decided according to the language of the sanad.

The Honourable the Acting ADVOCATE-GENERAL :—I apprehend it is not intended in this section to override sanads.

The Honourable Mr. ASHBURNER :—No, we cannot interfere with the wording of the sanads.

The Honourable the Acting ADVOCATE-GENERAL proposed that the following words should be added to the section :—“ But nothing in this section contained shall derogate from any rights conferred by any sanad, or other grant, made by any lawful authority.”

The amendment was accepted.

With regard to the “ explanation ” appended to section 41, the Honourable the Acting ADVOCATE-GENERAL said that at present, and for years to come, the definition as

drafted was all that would be required; but supposing the Act remained in force till, say, the year 1900, many changes would have occurred, some land would have come into cultivation and some gone out of it. He suggested that it would be well to fix the period at "20 years next before the order constituting such reserved forest," instead of "before the 1st June 1879."

The Honourable Mr. ASHBURNER said the intention was to settle now, and once for all, what were to be forests and what were not to be forests. One object of the present wording of the Explanation Clause was to prevent the provision of this section being frustrated by the ryots at once cultivating the *warkas* land.

The Honourable the Acting ADVOCATE-GENERAL suggested that the following words might be added to the clause: "or the date of the order constituting such reserved forest."

The addition was made accordingly.

The Schedule was amended, on the motion of the Honourable Mover, by the insertion, after the words "for every rupee," of the words "and proportionately for every fraction of a rupee."

On the motion of the Honourable Mover it was resolved to amend section 40 by the insertion, after the word "village" in the 18th line, of the words "or such rights to privileges in respect of any *warkas* land, or both a portion of the entire *warkas* land and such rights or privileges in respect of any other such lands."

The Bill read a third time and The Honourable Mr. ASHBURNER next moved that the Bill be read a third time and passed.

The Bill was accordingly read a third time and passed.

The Council then adjourned *sine die*.

By order of His Excellency the Honourable the Governor in Council,

C. G. W. MACPHERSON,

Acting Under Secretary to Government.

Bombay, 6th January 1880.

Abstract of the Proceedings of the Council of the Governor of Bombay, assembled for the purpose of making Laws and Regulations, under the provisions of "THE INDIAN COUNCILS ACT, 1861."

The Council met at Bombay on Friday the 23rd January 1880, at noon.

P R E S E N T :

HIS Excellency the Honourable Sir RICHARD TEMPLE, BART., G.C.S.I., C.I.E.,
Governor of Bombay, *Presiding*.

HIS Excellency the Honourable Lieutenant-General HENRY JAMES WARRE, C.B.

The Honourable L. R. ASHBURNER, C.S.I.

The Honourable E. W. RAVENSCROFT, C.S.I.

The Honourable the Acting ADVOCATE-GENERAL.

The Honourable Colonel W. C. ANDERSON.

The Honourable SYUD HUSSAN EL EDROOS, C.S.I.

The Honourable M. BALFOUR.

The Honourable Colonel C. J. MERRIMAN, C.S.I., R.E.

The Honourable MORARJEE GOULDASS, C.I.E.

The Honourable M. MOWAT.

The Honourable Sir JAMSETJEE JESSEERHOY, Bart.

The Honourable Mr. ASHBURNER moved the first reading of Bill No. 1 of 1880,—a Bill

Mr. Ashburner moves the first reading of the Bombay Municipality's Consolidated Loan Bill.

to secure the payment to Government of certain sums of money by the Municipal Corporation of the City of Bombay. Mr. Ashburner said: Your Excellency—The transactions between the Government of India and the Bombay Municipality, referred to in this Bill, date from the year 1872, when the Government

of India lent to the Municipality two sums, one of 15 lakhs and one of 4 lakhs of rupees, at 5 per cent. per annum. These loans were partially liquidated, and on the 2nd November 1876 there remained a balance of twelve lakhs and seventy thousand rupees on account of the fifteen lakhs' loan, and of three lakhs and seventy thousand rupees on account of the four lakhs loan. It is now proposed to consolidate these two balances, aggregating sixteen lakhs and forty thousand rupees, with the new loans of thirty-six lakhs for the Tulsi Water Works, and six lakhs for Surface Drainage; and to provide for the payment of the aggregate amount of fifty-eight lakhs and forty thousand rupees at 4½ per cent. within thirty years. It may be asked why the balance was struck on the 2nd November 1876. The reply is that on the day previous, 1st November 1876, the last instalment of the old debt was paid, and from that date the new loan runs at 4½ instead of 5 per cent. The Accountant General has calculated the half-yearly instalment which will be necessary to liquidate the debt in thirty years. It amounts to Rs. 1,78,326-2-5. The payments will commence on the 1st of July 1881, and continue for thirty years, as provided for in Section 5 of the Bill.

The Bill read a first time.

HIS Excellency the PRESIDENT having put the motion to the vote, it was carried, and the Bill was read a first time.

The Honourable Mr. ASHBURNER :—I have now to ask Your Excellency to suspend the standing rules, in order that the Bill may be read a second time.

The rules were accordingly suspended.

The Honourable Mr. ASHBURNER :—I now move that the Bill be read a second time.

The Bill was then read a second time, and on the motion of the Honourable Mr. Ashburner, the Council proceeded to consider it in detail.

The Honourable the Acting ADVOCATE-GENERAL, when Clause 2 Section III. was reached, remarked that he thought the definition of the term "Municipal Fund" might be improved. The clause, as drafted, contained a special definition of the term. It seemed to him that it was always a misfortune to have various definitions of the same term in different Acts; and in section 65 of the principal Bombay Municipal Act—Act III of 1872—the term "Municipal Fund" was already defined. He proposed that the clause as drafted be omitted, and the following substituted :—"Municipal Fund" means the Municipal Fund as defined by section 65 of Bombay Act III of 1872, or by any other law for the time being in force."

The Honourable Mr. ASHBURNER said he had no objection to the amendment, which was adopted.

The Honourable Mr. ASHBURNER said he had a verbal amendment to move to Clause 3 Section III. He wished to add to sub-clauses (a) and (b) the words, "or such portion thereof as may be taken up by the Corporation." The object was to make it clear that the interest would run only on the portion of the loans taken up by the Municipality. They would take up the loans as they required them.

The amendment was carried.

With regard to Section IV., the Honourable Mr. ASHBURNER moved that it should be amended by striking out the words "from the 2nd November 1876" from the first line of the section. He explained that the words were redundant in view of the subsequent wording of the section. His Excellency the President asked if there was any chance of a back demand being made for interest beyond the $4\frac{1}{2}$ per cent.

The Honourable Mr. BALFOUR said there was no such chance. The $4\frac{1}{2}$ per cent. rate had been recognized by the Government of India.

The amendment was carried.

On the motion of the Honourable the Acting ADVOCATE-GENERAL, section 5 was amended by the addition at the end of para. 1 of the section of the words—"the first of such payments to be made on the 1st of July 1881."

This section [5] was also further amended on the motion of the Honourable Mr. ASHBURNER. The Honourable Mover said there had been much discussion as to the mode in which the interest was to be calculated on the consolidated loan, and he wished to insert a sentence which would make it quite clear how the interest was to be calculated. It was not to include compound interest. He moved that the following words should be added to the section, viz. : "Every payment made by the Corporation under this section, and all moneys recovered from the Corporation in any of the manners hereinafter prescribed, shall be appropriated, first to the payment of the interest due at the time of such payment or recovery, and, secondly, to the reduction of the principal."

The Honourable the Acting ADVOCATE-GENERAL asked if the section would not be made still clearer by the insertion of the word "simple" before "interest" in the third line.

The Honourable Mr. ASHBURNER :—That is objected to by the Accountant General under instructions from the Government of India. But the amendment I now propose makes it quite clear, and avoids any controversial questions. It meets the wishes of the Municipality, and is not objected to by the Accountant General.

The amendment was adopted.

The Honourable Mr. ASHBURNER said he had an amendment to move to section 6, to bring it in accordance with a new contract which had been entered into between Government and the Bank of Bombay. He proposed that after the words "Her Majesty's Treasury," the following words should be inserted, viz. : "at Bombay, or to the credit of the Secretary of State in Council in any Bank which may now or hereafter be appointed to act as bankers and receive money in Bombay on behalf of the Government."

The Honourable Mr. BALFOUR said there was now no such place as Her Majesty's Treasury in Bombay. It used to be a department of the Bank of Bombay, but by order of the Government of India that name had been completely erased from the new agreement, and the department no longer existed. There was only an account with the Bank.

The Honourable the Acting ADVOCATE-GENERAL :—Then the words "Her Majesty's Treasury" have at present no operation, but are merely preserved in case of the Treasury being re-established?

The Honourable Mr. ASHBURNER :—Yes.

The amendment was adopted.

Section 7 was amended, on the motion of the Honourable Mr. ASHBURNER, by the substitution of the word "seven" instead of the word "two," in the sixth line.

With regard to section 8, the Honourable the Acting ADVOCATE-GENERAL said that, looking at Act III. of 1872, it occurred to him that an awkward question might arise as to what should be done with the moneys paid in. To meet this, he proposed that the whole latter part of the section after the words "in Council," in the 19th line, should be omitted, and the following words substituted :—"and the moneys so paid shall be applied in payment of the consolidated loan and of all other sums payable under this Act, in preference to and with priority over all incumbrances on and claims to such moneys other than those created under Bombay Act III. of 1870."

The amendment was adopted.

Section 9 was amended by the substitution of the word "or" for the word "and" in the sixth line, and by the insertion of the words "amount in" between the words "the" and "arrear" in the 18th line.

The Council then adjourned.

By order of His Excellency the Honourable the Governor in Council,

C. G. W. MACPHERSON,
Acting Under Secretary to Government.

Bombay, 23rd January 1880.

Abstract of the Proceedings of the Council of the Governor of Bombay, assembled for the purpose of making Laws and Regulations, under the provisions of "THE INDIAN COUNCILS ACT, 1861."

The Council met at Bombay on Tuesday the 27th January 1880.

P R E S E N T :

His Excellency the Honourable Sir RICHARD TEMPLE, Bart., G.C.S.I., C.I.E.,
Governor of Bombay, *Presiding.*

His Excellency the Honourable Lieutenant-General HENRY JAMES WARRE, C.B.

The Honourable L. R. ASHBURNER, C.S.I.

The Honourable E. W. RAVENSCROFT, C.S.I.

The Honourable the Acting ADVOCATE-GENERAL.

The Honourable Colonel W. C. ANDERSON,

The Honourable M. BALFOUR.

The Honourable Colonel C. J. MERRIMAN, C.S.I., R.E.

The Honourable MORARJEE GOOULDASS, C.I.E.

The Honourable M. MOWAT.

The Honourable Sir JAMSETJEE JEEJEEBHOY, Bart.

On the motion of the Honourable Mr. ASHBURNER, the consideration in detail of Bill No. I. of 1880, a Bill to secure the payment to Government of certain sums of money by the Municipal Corporation of the City of Bombay, was resumed.

Further consideration of the Bombay Municipality's Consolidated Loan Bill.

The Honourable Mr. ASHBURNER moved, *seriatim*, the following amendments, which were adopted *nem con* :—

That for the word "of" in lines 4 and 7 of the Preamble the words "not exceeding" be substituted, and that in line 15 of the same the following words be added :—
"And whereas in accordance with the terms of the said agreement the said Municipal Corporation has, since the 2nd November 1876, ceased to pay the monthly instalments accruing due under Bombay Act II. of 1872, but has since the said date paid interest at the rate of four and a half per cent. per annum upon the said balances and upon the portions of the said new loans of thirty-six and four lakhs of rupees from time to time taken up by the said Municipal Corporation."

That at the end of Clause 2 of Section 3 the following words be added :—"relating to the Municipal affairs of the City of Bombay."

That for the words "the Tulsi" in line 20 of Section 3 (Clause 3, a) the word "new" be substituted.

That the words "interest shall be payable by" be omitted from lines 2 and 3 of Section 4, and that after the word "Corporation" in line 5 of the same section the words "shall continue to pay interest" be inserted.

That the words "the first of such payments to be made on the 1st of July 1881," which occur in lines 5 and 6 of Section 5 be omitted, and that the same words be inserted in line 18 of the same section after the word "pies."

That in line 20 of Section 8 for the word "payment," the following words be substituted:—"or towards satisfaction of the amount for the time being due in respect."

In line 6 of Section 4, at the suggestion of the Honourable the Acting ADVOCATE-GENERAL, the words "for the time being" were substituted for the words "from time to time."

The Honourable Mr. ASHBURNE:—I may mention that inquiry has been made whether, in the case of any instalment becoming in arrear, interest will be charged upon that instalment, a portion of which will consist of interest, I may reply that the intention of Government is to charge compound interest on any instalments of the debt that may not be paid on the date on which it is due, but with this exception simple interest only will be payable. It was suggested that provision should be made for this in the Act, but with such ample powers as we have under the Act, it is considered unnecessary. I make this explanation in order that it may be thoroughly understood what is the intention of Government. I now move that the Bill be read a third time and passed.

The Bill read a third time and passed. The motion was put by His Excellency the PRESIDENT and carried, and the Bill was accordingly read a third time and passed.

His Excellency the PRESIDENT adjourned the Council *sine die*.

By order of His Excellency the Honourable the Governor in Council,

C. G. W. MACPHERSON,

Acting Under Secretary to Government.

Bombay, 27th January 1880.

Abstract of the Proceedings of the Council of the Governor of Bombay, assembled for the purpose of making Laws and Regulations, under the provisions of "THE INDIAN COUNCILS ACT, 1861."

The Council met at Bombay on Monday the 8th March 1880, at noon.

P R E S E N T .

His Excellency the Honourable Sir RICHARD TEMPLE, BART., G.C.S.I., C.I.E.,
Governor of Bombay, *Presiding.*

His Excellency the Honourable Lieutenant-General HENRY JAMES WARRE, C.B.

The Honourable L. R. ASHBURNER, C.S.I.

The Honourable E. W. RAVENSCROFT, C.S.I.

The Honourable the Acting ADVOCATE-GENERAL.

The Honourable Colonel W. C. ANDERSON.

The Honourable SYUD HUSSAN EL EDROOS, C.S.I.

The Honourable M. BALFOUR.

The Honourable Colonel C. J. MERRIMAN, C.S.I., R.E.

The Honourable MOBARJEE GOCULDASS, C.I.E.

The Honourable M. MOWAT.

The Honourable SIR JAMSENER JEEJEEHOY, Bart.

The Honourable Colonel MERRIMAN moved the first reading of Bill No. II. of 1880—

Colonel Merriman moves the A Bill to amend the Bombay Irrigation Act, No. VII. of first reading of the Irrigation Act 1879. Colonel MERRIMAN said—Your Excellency, I will Amendment Bill.

very briefly state to the Council the necessity that has arisen for the introduction of the Bill now upon the table, the first reading of which it will then be my duty to move. The Irrigation Act, No. VII. of 1879, which passed this Council in July and received your Excellency's assent in August, and the assent of His Excellency the Viceroy and Governor General in September last, contains certain sections, Nos. 49 to 56, under the head "Protection Rate." These sections provide that the people holding lands under command of a canal, but not taking water therefrom, shall, subject to certain conditions as to finance, pay something by way of insurance for the protection the water affords them during seasons of precarious rainfall and drought. The clauses were most carefully framed, considered and discussed, and the principle involved was accepted and admitted by this Council, with one dissentient voice only, to be sound and equitable. Her Majesty's Secretary of State for India has recently expressed his very decided opinion that any deficit due to the construction of works of irrigation necessary as a protection against famine should be met from the general revenues of the Presidency, that is, if necessary, by general taxation, and not by a special charge upon a particular class which would not be reimbursed upon the works becoming remunerative. Now this means, of course, that the community at large, who unquestionably benefit more or less by works constructed for the mitigation or prevention of famine, must contribute towards their cost so long as the works remain unremunerative: and the responsibility of devising measures to induce the people to take the water, and so render the works remunerative,

will then really fall upon the general community. The Protection Rate sections in the Act really aimed at this and very little else. The Secretary of State has, however, signified his disapproval of the Protection Rate clauses and has directed their removal from the Act. The short Bill now before the Council has been prepared by the Remembrancer of Legal Affairs, to give effect to the orders of the Secretary of State in this respect, and accordingly it only remains for me to move that the Bill be read a first time.

Bill read a first time. The motion was carried.

The Honourable Colonel MERRIMAN :—As the Bill before the Council is one of a purely formal nature, I would ask Your Excellency to suspend the standing rules, in order that I may move that the Bill be read a second time.

His Excellency the PRESIDENT :—I believe it is the pleasure of the Council that this Bill should be settled at once and passed. There can be no reason for the Council meeting again on this subject. I will therefore suspend the rules, and call on the Honourable Member to speak to the next motion regarding the second reading.

The Honourable Colonel MERRIMAN :—The standing orders having been suspended, I beg now to move that the Bill be read a second time.

Bill read a second time, and considered in detail. The Bill was accordingly read a second time; and subsequently, on the motion of the Honourable Colonel Merriman, was considered in detail.

The Honourable the Acting ADVOCATE-GENERAL :—Nothing has been done under these sections, I suppose.

The Honourable Colonel MERRIMAN :—No, nothing whatever. Section 49 would prohibit any action being taken up to the present time.

Bill read a third time, and passed. On the motion of the Honourable Colonel MERRIMAN the Bill was then read a third time and passed.

His Excellency the PRESIDENT then adjourned the Council.

By order of His Excellency the Honourable the Governor in Council,

C. G. W. MACPHERSON,

Acting Under Secretary to Government.

Bombay, 8th March 1880.

Abstract of the Proceedings of the Council of the Governor of Bombay, assembled for the purpose of making Laws and Regulations, under the provisions of "THE INDIAN COUNCILS ACT, 1861."

The Council met at Poona on Tuesday the 31st August 1880, at noon.

P R E S E N T :

His Excellency the Right Honourable Sir JAMES FERGUSSON, Bart., K.C.M.G.,
Governor of Bombay, *Presiding.*

The Honourable L. R. ASHBURNE, C.S.I.
The Honourable E. W. RAVENSCROFT, C.S.I.
The Honourable the Acting ADVOCATE-GENERAL.
The Honourable Colonel W. C. ANDERSON.
The Honourable Colonel C. J. MERRIMAN, C.S.I., R.E.
The Honourable MORARJEE GOULDASS, C.I.E.
The Honourable Sir JAMSETJEE JEEJEEBHAY, Bart.
The Honourable JAMES N. GRAHAM.
The Honourable SOLOMON DAVID SASSOON.
The Honourable AGHA ALI SHAH.
The Honourable RAO Bahádúr GOPALRAO HARI DESHMUKH.

His Excellency THE PRESIDENT announced that His Excellency the Honourable Lieut.-General Warre was unable to attend the Council in consequence of the press of military business.

His Excellency THE PRESIDENT, before proceeding with the business on the notice paper, addressed the Council as follows :—I have great satisfaction in meeting the Honourable Council for making Laws and Regulations, as well those members who have previous experience as those who are appointed now for the first time. I regard this Council as affording a valuable opportunity for the unofficial members to represent the feelings of the people out of doors, and they have been selected as far as possible with a view to their representative character. The business which the Government will submit to the Council in this Session is not considerable, but they will be happy to consider any measures introduced by the unofficial members. I know that I can rely upon your assistance, as well in conducting the business of the Council as in considering such measures as may be necessary for the general welfare.

Papers presented to the Council. The following papers were presented to the Council :—

1. Letter from the Secretary to the Government of India, Legislative Department, No. 474, dated the 30th April 1880, returning, with the assent of His Excellency the Viceroy and Governor General signified thereon, the authentic copy of the " Bill to amend the Bombay Irrigation Act No. VII. of 1879."
2. Letter from ditto ditto No. 476, dated the 30th April 1880, returning, with the assent of His Excellency the Viceroy and Governor General signified thereon, the authentic copy of the " Bill to amend the law relating to the settlement of villages held by Khots."

3. Letter from ditto ditto No. 477, dated 30th April 1880, returning, with the assent of His Excellency the Viceroy and Governor General signified thereon, the authentic copy of the "Bill to secure the payment to Government of certain sums of money by the Municipal Corporation of the City of Bombay."

The Honourable Mr. ASHBURNER moved the first reading of Bill No. 4. of 1880

Mr. Ashburner moves the first reading of the Game Preservation Bill.

("A Bill to enable Government to provide for the Preservation of Game Birds and Wild Animals.") Mr. Ashburner said:—Your Excellency is aware that for many years past

there has been a very indiscriminate destruction of game in this Presidency—game of all kinds, animals, birds, and fish. So long as the districts of the interior were difficult of access this evil was not very serious, but as the railways opened up the districts of the interior to the enterprising traders of Bombay and Poona, game in large quantities, of all kinds, has been sent down from the most distant parts of Khándesh, Gujarát, and the Deccan. This has become such an evil, that unless we now interfere there is reason to fear that the game will be exterminated, and we shall be deprived of an important source of food. This is not, unfortunately, the only evil. It is well known that game, birds especially, perform a very important function in the economy of nature. They consume large quantities of larvæ of insects which are very destructive to the grain crops, and there is reason to fear that if we allow the birds and game generally to be exterminated, we shall suffer from a plague of insects, perhaps white ants, which will be almost as difficult to deal with as the famine. This has been the result of similar extermination of birds in several countries of Europe—France and Germany—and in America: and the Governments of these countries are now endeavouring to repair the evil which has occurred by importing birds from England. We had only last year an illustration of the mischief that may be done by vermin. We were blessed last year with one of the finest crops of grain and cotton that has been known in the Deccan during the memory of man, but it was nearly entirely destroyed by a plague of rats. The mischief that they did has been estimated in millions sterling; and though we destroyed some sixteen millions of rats, still it seemed to make very little impression upon their numbers. It is believed that this plague of rats was caused by long continuous drought having driven away or exterminated some of the animals in the habit of preying upon the rats, showing how very nicely Nature is balanced in this respect. Another point of view from which to look at this important question is, what is to become of the District Officers if the game is exterminated. Their duties take them for months together into the most distant parts of the country, where there are no markets and no supplies, and they are dependent on the game of the country, not only for relaxation from the arduous duties of office, but for their daily food. I believe that a *shikar* test is one of the most important qualifications of District Officers. It teaches them to ride, without which it is impossible for them to carry on their duties efficiently; and above all it affords a neutral ground on which they can meet the natives of the country on terms of equality and intimacy, and without that it is impossible to arrive at any real knowledge of the manners and customs of the people and their habits of thought. The rigid rules of caste prohibit what is called social intercourse, as we understand it among Europeans, but in the jungle, sharing the dangers and labours of the pursuit of big game, all men are equal, and we have an opportunity there of making friends with the natives and becoming aware of their many estimable qualities, one of the most important of which is personal courage. I myself

have made many intimate friends in this way. A Civilian whose intercourse with the natives is confined to merely formal calls never makes friends with the people; they will never open their hearts to a man when they know that servants are listening round the corner to what they are saying. I cannot help thinking that the want of sympathy and cordiality between natives and Europeans, which we all so much deplore, is very much due to the decline of the taste for field sports among our junior Civilians. The present Bill has been drawn on the lines of the Madras Bill, the Madrasses having anticipated us in this respect. I hope when it goes into Committee to introduce several amendments, one of which will extend its provision to fish, which form an important item of the food of the people, and another will declare certain jungles and certain parts of rivers to be sanctuaries throughout the year for game animals, birds and fish. They will thus be enabled to breed unmolested and will stock the remaining country and rivers from those sanctuaries. With these remarks, I beg to move that the Bill, which is on the table, be read a first time.

The Honourable MORARJEE GOULDASS :—Your Excellency, I would have heartily given my support to this Bill but for certain difficulties owing to which I do not see my way to an approval of its principle, as it seems doubtful whether this is a proper subject for legislation. In the first place, if I do not misunderstand it, laws are made when they are necessary and when the necessity for them has been made obvious, and when the not-making of them would lead to serious harm. In the present case I should say the necessity for the proposed law has not been made out. Every law is necessarily so much restriction placed upon the liberties of the subject, and therefore we should be careful how we increase the interference of Government with the freedom of the people without any grave and undoubted reasons, and the certainty, so far as we can fairly calculate, of a proportionate good resulting from our legislation. Your Excellency will, I hope, permit me to observe that this time, when your Excellency's Government is so fully occupied with matters of State vastly more important than the preservation of game, when half the population of the Presidency is steeped in anxiety on account of the prospects of the season and the financial prospects of the country, is, to my humble thinking, least opportune when we may enact a law sanctioning an unprovoked interference to whatever extent with the rights and liberties of the people. For I hope presently to show that this Bill, if passed into law, would interfere with the rights and liberties of the people. So far as I am aware, no Government in this country has ever assumed the right to regulate the killing of game, except that in private parks belonging to the Court of a Prince. Game in India has never been considered, in practice at least, the property of the State, or such property that a Government may make laws for the purpose of regulating its preservation or use. Your Excellency, in a country like India, where the laws are foreign in their spirit, and made principally by foreigners, and where the existing laws are rather too many than too few, it is essential that the necessity of making any law should be most carefully considered before permission is given to introduce a Bill that aims at putting any restrictions upon the free exercise of rights enjoyed for ages untold. For though myself a man that would be happy to see a complete prohibition ordered of the killing at any time of any game, I feel it my duty to bring to the notice of this Honourable Council that there are several races among the poorer classes of people who live chiefly on the produce of the chase and the net. I may mention the Phasé Paradhis or Advi Chinchers of the Deccan; the Lamans, the Veddars, the Kolis, and others who chiefly live on game. Then, again, in many parts

of the Presidency it is a time-honoured and dearly-cherished custom that on certain festive days of the year, such as the Dasara holiday, the Holi holiday, and the New Year's day the inhabitants of the towns and villages turn out and go in excursions for the purpose of killing game. The passing of the proposed law would interfere with the enjoyment by these people of their hitherto undoubted and unquestioned right to go shikarring whenever and wherever they choose. For I feel sure, and am bound to state, that if you go and question a thousand people in any place, not one would ever say that the Government had a right to own or to regulate the life and death of the game of the country. When, therefore, the people have always had the right to kill freely the game in their neighbourhood, and the idea that Government may make laws in regard to it is altogether new, I cannot advise your Excellency in Council to assume, or at any rate assert, the right under circumstances which do not at all call for the interference. I would, with your Excellency's permission, ask the question—for whose benefit is this game law proposed? It can only be (1) for the benefit of the game itself, (2) for the benefit of the shikarees or those who kill the game for pleasure, or (3) for the sake of those who have hitherto enjoyed the right to kill it and live upon it free from any restriction. If the law were really intended to preserve game, *i. e.*, preserve it from being killed at all, I would, as a vegetarian, having almost a superstitious regard for the life of animals, yield to none in my joy. I would in that case urge the superior claim of the innocent cow to be preserved from slaughter. Such prohibition will not only be welcomed with lively feelings of deep gratitude to the Government, but will conduce very much to the benefit of the agriculture of the country, as also of the whole masses of India, whose present physical degeneracy is partly caused by their inability to procure the cow's milk for their sustenance. It is, I believe, from considerations such as these that the Hindu Shastras prohibit cow slaughter. Milk at one time used to be sold at half an anna per seer, but now it sells at five times the original price, which it is beyond the reach of the poor to pay, and children are thus deprived of their most valuable article of sustenance, so that it has become to them a dear article of luxury. In a country subject to famines, which alone cause a considerable decrease in the number of cattle, any measure that will not aggravate the evil ought to engage the attention of the Government before the protection of birds and animals which are not so useful as the cow. But the preservation intended to be enjoined by the proposed law is not such as the animals would much appreciate if they could tell us what they feel. For the Bill only contemplates that the animals be preserved at certain seasons, that they may breed more and be themselves fat and plump so as to benefit their killers most when they shall be killed at last. As regards the second supposition, *viz.*, that the Bill is intended to benefit the seekers of the pleasures of shikar—which is most likely to be the correct one, I presume—it may be observed that such legislation would suffer from the fault of partiality. For, how can you benefit the shikarees without encroaching upon the rights of the people? And what have these shikarees done to deserve the favour, to confer which upon them it is proposed to pass this game law? To pass this Bill into law would have the appearance of conferring upon shikarees and the holders of privileged as well as licensed arms a right to enter upon private fields and private lands without the consent of their owners. For I see that there is no provision in the Bill requiring shikarees to obtain the permission of the owners of private lands before entering into them for the purpose of killing the game which the law would permit them to kill during the season of killing it. As regards the third supposition, that the law might benefit the

people themselves, I beg to remark that I have nowhere heard complaints from any one that such a law is required and has not yet been passed. The people have, in no case, so far as I know, felt that there is less game in the country now than the circumstances would justify them to expect. For the bringing under cultivation large tracts of waste lands and the residence in and the visits to the country by many people who take pleasure in pursuing and killing game must necessarily diminish the number of game animals. Nor have I heard that the native killers of game have of late become less sportsmanlike than before in taking to the inhumane practice of killing game during the season of breeding. If the game is inopportunately destroyed, it is certainly not so destroyed by the people themselves. That, if true, can only be said of foreign shikarees. And if that be the case, is it advisable, I venture to ask, to pass a law intended to restrain privileged holders of arms who, as sportsmen ought to, and let me assume for the credit of sportsmanship, do know that they should not destroy game during the breeding season—that is to say a law which, suggested by the faults of sportsmen, who are privileged bearers of arms, will unnecessarily interfere with and lay restrictions on the people of the country? The gravity of the provisions which it is proposed to enact may be easily imagined when I say that a man might, under the proposed law, be fined (or sent to jail in default of the fine) for shooting, ensnaring or otherwise killing a hare on his very own private land for which he pays not even a single pie of tax or assessment to the Sirkar? And why are we to pass this law? Why, in order that a hare might be preserved, that it might be shot or killed by a shikaree at some other time. There is another point to which I would invite the special attention of your Excellency. And it is this: I am aware that this is not the place where I should criticise the policy of Government in disarming the people of the country. The people of the country, however, have recently been legally and thoroughly disarmed, and the possession of arms is placed beyond the reach of most people. This game law proposes to follow closely upon the footsteps of the Disarmament Law. Now Europeans, be it said to their very great credit, are known to be manly in their fondness for sport and shikar, and I know some Europeans complain that a few natives here and there destroy game out of season. Such being the case, could we blame the people if they misconstrued the objects of the Bill, and in their helplessness and ignorance believed that the game law was intended for the benefit of their European fellow-subjects who bear arms as a matter of course, and who know that they themselves have no arms, will be enabled by the law, that shall be passed for their sake, to own the game of the country exclusively? It is most important that the Legislature of a country should, in passing a measure, take with it the people thereof, and that the laws it makes should not be such as are beyond—far beyond the education and the intelligence of those whom they are intended to affect. Now I know some of my Honourable colleagues will say that the ordinary people in the Presidency do not mind what law we pass, and might perhaps also say my objections are merely of my own creation. If so, I beg very respectfully to urge upon your Excellency's attention the consideration that in this country the people's time to object is not when we discuss a measure at this table, but when a case has happened like that which I have taken above, in which a Kunbi might be punished for killing a hare in his own field or even his own compound, when he shall come to know for the first time that the Sirkar has passed a law prohibiting him from exercising his time-honoured right, when his neighbours will wonder what could have led Government to interfere with them in this way, and when the case shall have created great discontent and murmuring, and when it might be too late

and too inexpedient for Government to discuss the propriety of the law. For these and similar reasons I regret I cannot advise the Council to permit the introduction of the Bill and therefore cannot vote for the motion to read it for the first time.

The Honourable Colonel ANDERSON said :—Every one conversant with the habits of the gentry of this country is aware that all the Mahratta gentry, especially the minor Chiefs, &c., are exceedingly fond of sport of every kind. It has been frequently brought to my notice by Mahratta Chiefs at Kollápur that through the operations of the professional game-snarers most sorts of game are becoming exceedingly scarce, in fact almost extinct, and strongly urged some measures to put a check on these people's proceedings, saying, *shikar* is our only amusement; if that is done away with, what are we to do? These professional snarers kill every thing without regard to age or season; and it is full time that some check be put on their proceedings, in the interest of all. The chief destroyers of game are the Phansi Pardhees, who snare and net game in various ways, and to such an extent that the antelope and partridge and jungle-fowl are almost extinct in the Southern Marátha Country. The customs of the upper classes provide a protection for game in Guzerat, and all that is required is to provide everywhere that protection for game which the customs of this country provide in Guzerat.

The Honourable Ráo Bahádur GOPALRAO HARI DESHMUKH said :—Your Excellency,—I concur in the remarks made by the Honourable Sett Morarjee Goculdass, and think that there is no necessity for making a Game Law. In Guzerat, the Jains use their influence in preventing destruction of animal life at all seasons. The Arms Act has reduced the number of native hunters. There are some classes such as Vaidoos, Wadors, Kaikadees, &c., live on hunting all round the year, but they are very few. Most Princes and gentlemen pay regard to breeding season, as I know his late Highness Khunderao Maharaj of Baroda always did, and prohibited killing of female deer. I think there should be no law passed until the necessity for it is fully established, because every law is an encroachment on the liberty of the people. There was a rat plague last year and a flight of locusts, but I do not know what animal, if allowed to breed, would have destroyed them. I have always heard complaints by the cultivators of the soil that animals and birds were great pests. I have always heard people complain of the destruction of cattle, and it would be well to prevent the destruction of the latter as all agricultural and commercial business depends upon bullocks and cows. I therefore object to the principle of the Bill.

His Excellency THE PRESIDENT :—I would offer a few remarks, because I have had some acquaintance with this question all my life. I do not want to see the English Game Laws brought in here. It does not follow, however, that if there are no such game laws, there may not be some restrictions placed on the destruction of game. At the same time I think it is in the highest degree important that this measure should be freely discussed, and that it should be treated with such intelligent criticism as in the remarks which have fallen from the Honourable Morarjee Goculdass and the Honourable Ráo Bahádur Gopalrao Hari Deshmukh. I will now deal with some of the objections urged by the former gentleman, and I think to some extent the Honourable Member has answered himself. I think he will see, while his objections are extremely pertinent, that when they are examined they will not seem to be of so much weight as at first sight they appeared to be. He maintained that restrictions were undesirable, because they would interfere with the rights of the people. Well, you know there ought to be the greatest possible

freedom allowed to all, consistent with the interests of others; but where personal liberty is likely to operate unfairly towards the general interests, I think, it is conceded on all lands that there must be some restraint put upon it. Therefore, what requires to be shown when individual liberty is interfered with, is that that liberty has hitherto been unduly exercised. I do not think it can seriously be said that we shall not be able to do our duty to the question of famine or war, or any other tremendous affair, because we deal with such a question as this. But the foundation of this Bill is this, that the liberty of killing game unrestrained has been so exercised as to threaten the extinction of certain animal species. The lesson taught by the facts is this, that the practice of professional snarers and game destroyers has been to lead to the extinction of certain wild animals which are very useful as articles of food; and if it be true that the great increase which has taken place of late in the price of milk is owing to the greatly increased consumption of meat in this country, it will be very advantageous that the supply of meat procured from game should not be lessened. Nobody wants, I am sure, to prevent anybody from killing game. All we want to do is to prevent the unnecessary destruction of game. It is well known that if you kill the goose which lays the golden eggs, it will lay no more; and in the same manner, if you will kill birds and animals in such a manner as to preclude the propagation of their species, that species must diminish. As snarers become more skilful in killing birds, so the birds diminish. As the European population increases there will be a still greater increase in the demand for articles of game of these snarers and at the same time prices will rise. Therefore, the object of this Bill is not at all to interfere with the right of the general population to kill game, so as to preserve it for European and Native gentlemen, but to see that the thing which they desire to have for the sake of sport shall not be extirpated, and shall be open for anybody who may wish to go and kill it, but not at such times as to destroy it utterly. The question raised by the Honourable Morarjee Goculdass as to cattle is a rather far-fetched illustration; but it tells rather the other way, because if the quantity of cattle has diminished, it is clear that we should keep up wild birds and beasts, which will provide our food and supply deficiencies in other quarters. There is no provision in this Bill, it is true, to prevent people entering upon land, not their own, for purposes of sport; but there is the law of trespass to prevent this; and if the Honourable gentleman who has made the objection thinks that the law of trespass is not stringent enough, we shall be very glad to strengthen the Act, so that no European or any one else shall trespass. Now as to the object of the Bill, and as to the objection that people will be prevented from killing game necessary to them for food. This Bill will not affect that at all. I do not think all the shooting in the world would do so much harm to game. It is clear that netting in a stream does a great deal more harm than catching fish in other ways; and similarly the snaring and netting of birds and animals, especially in the breeding season, is very hurtful to the continuance of the species. As to the extreme case of a person being prosecuted for a breach of this Act without his being aware of its existence, and being sent to prison for such breach, this course of procedure would be quite contrary to the practice adopted in this country, and the penalties under the Act would never be resorted to without the fullest notice having been given. I do not think there can be any serious fear in that respect. It appears to me that the subject must be approached in a commonsense way, and if this is done, I think it will be seen that there is no desire on the part of the Government to interfere with the liberties of the people, but rather to protect what is valuable for their benefit.

The Honourable Mr. ASHBURNE, in reply, said:—Your Excellency has anticipated one or two of the arguments I had intended to adduce, but I may notice some misconceptions on the part of the Honourable Mr. Morarjee Goculdass. He said this is the first occasion on which legislation has been resorted to on this subject. In that he is mistaken. Both the Government of Madras and the Government of India have their game laws. The Government of Madras very stringently prohibited the destruction of elephants, and in the North-West Provinces there is an Act prohibiting the destruction of those beautiful pheasants which are so much in demand for ladies' dresses. Mr. Morarjee is not, perhaps, aware of that. With regard to the Wagris being deprived of their means of livelihood, so far from that being the case they will be benefited, the increase of game under the restrictions of this Bill will be enormous. During the close season they may have to resort to some other means of livelihood, or kill other than game animals, but on the whole, they will be largely benefited. And as to the misconception that may arise in the minds of ignorant people, that this is a more stringent disarming Act, are we to be restrained from carrying out a necessary measure, because ignorant people will misunderstand it? Ignorant people may at the outset have all sorts of absurd notions on the subject, but in the course of a few years, when they see how it works, they will find that so far from being detrimental, it will be a benefit to them. As to what Mr. Gopalrao Hari says regarding the existence of a game law in Guzerat at present, that may be so in the villages, in regard to the operations of the Wagris, but it does not reach Europeans, as I myself can testify they kill game whenever and wherever they find it. There is not a month in the year in which I have not myself shot game in all parts of Guzerat. Mr. Gopalrao says public opinion does not permit the Wagris to kill game in certain districts of Guzerat, but public opinion does not affect the Europeans in the same way. This Bill will put Europeans and Wagris on the same footing. I do not think the Honourable Member will object to the Bill in this respect. As to fish, unfortunately the operations of the Irrigation Department by constructing bunds across the rivers, make it impossible for the fish to find their way up to spawn, and as the fishermen destroy the spawn and young fish long before they are fit for human food, they are threatened with extermination. I propose to introduce a clause in Select Committee providing that certain parts shall be preserves for fish throughout the year like the temple preserves on some rivers. Had it not been for them it is probable that fish would have entirely disappeared.

The Honourable Mover further said he had been requested by the Honourable AGHA ALI SHAH to read a memorandum which he had drawn up on the subject of the Bill before the Council. The memorandum was as follows:—The Act having for its object the preservation of game where they abound, or elsewhere in the different outlying tracts in this country, and measures taken to prevent their destruction, particularly during their breeding season, would, in my opinion, prove a very beneficial one, not only to the people at large but to sportsmen in particular. For I speak from experience when I say, that in many places where game abounds the destruction of the parent birds during their breeding season or the indiscriminate killing of such other animals which come under the head of game, has caused—as I had ample opportunities of observing—a total disappearance of the breed for months to come, nay sometimes for years. And yet the practice prevails. We have no preserves in this country, where a person detected secretly trespassing in pursuit of game, might be brought up for poaching, and punished likewise. The Ameers of Sind had their *shikargas* where their exclusive privileges entitled them to every right

of vert and venison. But in alluding to the different places where game now abounds, such as at Guzerat and at Káthiáwár, where any one is at liberty to go abroad in search of gamé regardless of the proper time or season for the pursuit, the promulgation and enforcement of the Act in question would, in my opinion, prove a blessing. I have, however, one remark to make with regard to deer-stalking, that as these animals have no particular season for breeding, but breed throughout the year, the best plan I would suggest would be the prohibition of the shooting of does; and that an annual fee be levied upon every shikaree who shoots a buck. This would, in a measure, I believe, prove a wholesome check upon professional shikarees at large, and greatly tend to the increase of game.

The Honourable Mr. GRAHAM said that while he would not support any opposition to the first reading of the Bill, he thought, in so far as it was a departure from the ordinary course of legislation, its clauses should be very carefully considered in Committee.

In districts where thick jungle abounds, such, for instance, as Thána, great damage might be done to the crops if it were not permissible to kill wild animals at all times. Seeing that the people had to a great extent been deprived of fire arms, the best time to destroy wild animals—horrible as the idea might seem to sportsmen—would be during or immediately after the breeding season. There was no doubt that if wild animals were allowed to increase they would, especially in times of scarcity, do very serious damage to the crops, and to the extent of their powers of destruction curtail the food supply of the people. He did not object to the Bill so far as birds were concerned, because they did not do harm—his objections applied to the provisions of the Act as regards the protection it afforded to wild animals.

His Excellency THE PRESIDENT thought Mr. Graham's objection was met by Section 6, which provided that "nothing in the last preceding section shall be deemed to render liable to punishment any landholder, or any person employed by a landholder, who adopts measures necessary for protecting the crops or produce growing on the land of such landholder from injury or destruction by game." That section, His Excellency remarked, would allow a man to kill game at any season to prevent the destruction of his crops. It might be made more clear perhaps.

The Honourable Mr. GRAHAM said it was a question more or less of detail. He did not object to the principle of the Bill, but he thought that in Committee it should be very carefully examined in respect of its application to wild animals.

The Honourable THE ACTING ADVOCATE GENERAL suggested that the procedure in the House of Commons should be followed, and that the regulations to be issued under the Act should be before the Council for a time before being brought into operation, so that any objections to them might be brought to notice.

The Honourable Mr. ASHBURNER said he had no objection, but he thought the object might be better attained by publishing the regulations in the newspapers, and inviting criticism.

The Honourable Mr. MORARJEE thought three or four months should be allowed to elapse before the Bill was proceeded with, to enable the people in the districts to become fully aware of its objects and scope, and to submit any objections they might have. Many people in the interior knew nothing about the Bill, and if it was gone on with at

once, the first notice they would get would probably take the form of a committal to prison for infringing its provisions.

His Excellency THE PRESIDENT said the time when the Act was most wanted was the rains, so it would not really come into operation before the middle of next year. The discussion had elicited explanations which were very useful. It was contemplated that the Bill should be referred to a Select Committee, and that a clause should be drawn up, providing that the regulations made under the Act should be submitted to the Council, so that Honourable Members would have an opportunity of stating any objections they might have to them.

The Bill read a first time, and referred to a Select Committee. The motion was then put and carried, and the Bill was read a first time.

On the motion of the Honourable Mr. ASHBURNER the Bill was referred to a Select Committee, consisting of the Honourable Colonel Anderson, the Honourable Agha Ali Shah, the Honourable Ráo Bahádur Gopalrao Hari Deshmukh, and the Honourable Mover, with instructions to report by Friday the 10th September.

His Excellency THE PRESIDENT adjourned the Council till Monday the 20th September 1880.

By order of His Excellency the Right Honourable the Governor in Council,

C. G. W. MACPHERSON,
Acting Under Secretary to Government.

Poona, 31st August 1880.

Abstract of the Proceedings of the Council of the Governor of Bombay, assembled for the purpose of making Laws and Regulations, under the provisions of "THE INDIAN COUNCILS ACT, 1861."

The Council met at Poona on Monday the 20th September 1880, at noon.

P R E S E N T :

His Excellency the Right Honourable Sir JAMES FERGUSSON, Bart., K.C.M.G.,
Governor of Bombay, *Presiding.*

His Excellency the Honourable Lieutenant-General HENRY JAMES WARRE, C.B.

The Honourable L. R. ASHBURNER, C.S.I.

The Honourable E. W. RAVENSCROFT, C.S.I.

The Honourable the Acting ADVOCATE GENERAL.

The Honourable Colonel W. C. ANDERSON.

The Honourable Colonel C. J. MERRIMAN, C.S.I., R.E.

The Honourable MORARJEE GOULDASS, C.I.E.

The Honourable Sir JAMSETJEE JEEJEEBHOY, Bart.

The Honourable JAMES N. GRAHAM.

The Honourable Ráo Bahádúr GOPALRAO HARI DESHMUKH.

The Report of the Select Committee appointed to consider Bill No. 4 of 1880, a
Papers presented to Council. "Bill to enable Government to provide for the preservation of
Game Birds and Wild Animals," was presented to the Council.

The Honourable Mr. ASHBURNER moved the second reading of Bill No. 4 of 1880,
"a Bill to enable Government to provide for the preservation of
Game and Fish." Mr. ASHBURNER said:—Your Excellency,

Mr. Ashburner moves the
second reading of the Game
Preservation Bill.

since the last meeting, the Bill has been entirely recast,
and its scope has been, to some extent, increased. The
preservation of fish has also been provided for, not only in the breeding season, but in
certain temple reserves, and in reserves which it is intended shall be specially set
apart for this purpose. It is not sufficient to protect the fish and other game during
the breeding season alone; the demand for game and fish is so great, that they would
still be exterminated if some sanctuaries are not reserved into which they can retreat
and breed throughout the year in peace. Temple reserves have hitherto served this
object for fish only; but as there has been no legal prohibition, Europeans have fished
where natives have been deterred by public opinion from doing so: this has led on
several occasions to very serious disturbances, fights, and riots. We have now provided
that reserves attached to temples shall be declared to be reserves throughout
the year. We have also provided that purchasers of fish and game, when their
capture is prohibited, shall be liable to punishment. If there are no purchasers, there will
be no destroyers of game. The only other point to which I need draw attention is
Section 5. This section has been purposely rather loosely worded, because it affords a
means whereby the whole provisions of the Act may be evaded. A landholder may say—

"I have crops and I have a right to destroy by poison, net, or gun, anywhere, and everywhere, in season and out of season." As the section is now drawn, it will enable the district officers to decide what measures are necessary for the *bond fide* protection of the crops. When the Bill comes before the Council for consideration in detail, I shall have to propose a slight amendment of Section 8, which I need not here further allude to. I now move that the Bill be read a second time.

The Honourable MORARJEE GOCULDASS :—May it please Your Excellency, when at the last meeting of the Council I felt it my duty to oppose the Game Preservation Bill, and when I had made my remarks showing why I considered the proposed law unnecessary, and if passed as likely to interfere with the rights of the people and to annoy them to an extent greater than was commensurate with any advantages that were expected to accrue from the law, I had hoped that I had said the worst I had to say against the Bill. I had thought the Bill would at least be deprived of its more objectionable features in the deliberations of the Select Committee. But although I am glad to observe that the amount of fine provided for any violation of provisions of the Bill has been reduced, I am sorry to see that in other respects the Bill has been made in its scope much wider and much more stringent than it was originally. The definition of game has been enlarged, so as to include fish. This alteration requires, in my opinion, to be very carefully considered. It is a notorious fact that a very large portion of the coast population depends throughout the year entirely upon fish for their maintenance as the principal part of their daily food and as the only means of procuring the necessaries of life. The high rate tax on salt has already made their condition as eaters of, and traders in, fish sufficiently miserable; and the prohibition to use even the salt earth of creeks for the purpose of curing fish has already notoriously affected the health of the lower classes of people in the Ratnágiri District, and given a great impetus to the rise and spread of a loathsome disease. To subject the people to the additional restriction of close seasons for fish would be to make them miserable in the extreme. I, therefore, earnestly hope that Your Excellency will deem it fit not to let the scope of the Bill be enlarged more than is absolutely necessary. For the objections that I had to urge at the last meeting of the Council to the introduction of this restrictive law as regards birds and animals, apply to the proposed provisions about fish—only in a very much heightened degree. I should be delighted if this Honourable Council introduced a provision prohibiting the destruction of fish altogether in tanks and rivers adjacent to the sacred places of worship and pilgrimage in this Presidency; so that the fishes thereof may increase and people other parts of the rivers not so situated to which the prohibition might not apply. I have not heard that on any part of the Coast from Honávar to Kurrachee the unfathomable and practically inexhaustible sea has been depleted of any of its good species of fish, and that to prevent further destruction by fishermen of these desirable kinds of fishes, a law is required. If the Government is in possession of any evidence that any good kinds of fish have lately disappeared from the sea coast, may I solicit that Your Excellency may be pleased to order that that evidence be placed before this Council. The next point I have to notice is the extension of the penal clauses to buyers of game. As the Bill stands, if a person at a place within the local area for which a close season has been fixed buys any game brought from a place beyond such area he becomes punishable. I cannot understand upon what grounds this provision is based. But I can say that if it is passed into law, it is certain to give room for a great deal of annoyance and petty tyranny. Lastly, I beg

to remark that no adequate provision is made for the protection of private landholders. Suppose the owner of a field, in order to preserve his crops, kills a deer or pig coming upon his land, will Section 5 protect him? If so, all right. But I think the section is not clear enough. It should be more clearly worded, so that the liberty of a private landholder may not be trespassed upon. One more remark and I shall have done. I cannot but wish that considering that Government now have or are going to have large tracts of land as forest preserves in all parts of the Presidency, and that the Forest Act (Sec. 31) already enables Government to prohibit the destruction of game within the limits of those preserves, this Council will consider whether any stringent law is required to protect game elsewhere. If my honourable Colleagues do not agree with me that no game law is necessary, they will, I hope, at least see the reasonableness of my wish that persons who kill game or fish as shikaris or fishermen in their own private lands, should not come under the operation of this law.

The Honourable Mr. GRAHAM:—Your Excellency, at our last meeting I took exception to this Bill as regards its application to wild animals, and in the hope that its provisions in that respect would either be greatly modified or abandoned altogether, I deprecated any opposition to its first reading. I regret to find that the Bill has been returned to us, in what appears to me, an even more objectionable form than it had at first, and though I have given notice of no amendments, I hope I shall not be out of order in pointing out what appear to me strong arguments against the passing of this Bill, in so far as it will affect wild animals, and I shall, if Your Excellency will permit me, conclude with a motion affecting the principle of the measure. As regards birds, I have no objection whatever to the proposed legislation; on the contrary, I would be quite willing—if it were deemed expedient to do so—to extend the provisions of the Act to all birds. As insect destroyers, as scavengers, and as food suppliers, the birds of this country are most valuable, and each in its own sphere of usefulness has a good claim to protection. It is more especially as regards wild animals that I wish to urge my objections to the Bill, and in so far as I have always been a consistent supporter of field sports I cannot, I hope, be suspected of any prejudice against the encouragement of moderate game preserving or any want of sympathy with the ends which the promoters of this measure have in view. In the first place I suppose I may reasonably assume that the increase of game under the restrictions of this Act will, as the Honourable Mover in his concluding remarks at our last meeting told us, be “enormous,” and in that light any remarks I have to make adverse to the Act must be viewed. For whose benefit is this increase to be encouraged? Have the people as a body, or even has any considerable section of the people, asked for such legislation, or has the necessity for it become so urgent that in order to effect this object we must pass an Act of a kind which involves the most objectionable features of all legislation, viz., interference with the social economy of the people in a matter where no interference has been solicited, and when the good results of such interference must certainly be open to question. Native opinion is, if I am rightly informed, strongly opposed to this Bill, and as there is nothing to show that any considerable section of the people desire it, we may fairly assume that this legislation is for a minority. This is not of itself an objectionable feature, for it might be that legislation would do good and benefit a country without the majority of the people having foreseen that such would be the case—but the only argument of general application that has been put forward in support of the Bill is to the effect that the food supply of the country will be materially increased. I would submit, however, that neither by inclination nor by

custom are the people of this Presidency to any considerable extent game eaters—with perhaps the exception of the Mussalman part of the population and a few wild tribes, such as Wagnis, Pharsi Pardhis, &c., &c. I think I am correct in making this assertion. Well then, if this Bill has not been asked for and can be shown to be for the benefit of a minority only, the question arises can it become law without injury to the majority of the population. To me it seems that it will inflict hardship on this majority—an enormous increase in the fauna means a corresponding increase in the feræ of a country, and I submit that where, as in India, thousands of human beings and cattle are every year destroyed by the latter, any legislation which might tend to increase the evil is much to be deprecated. I need scarcely refer to the havoc often committed by wild animals among food crops which must always be more or less at their mercy, except to point out that in times of famine or scarcity the proportionate damage to the crops will be much greater than at other times and that so far from these animals becoming a source of food supply, they would probably after working all the mischief in their power, move off to other pastures or become an easy prey to wolves and jackals, or even if caught, prove of very little value as food. If wild animals do increase enormously, I suppose we may anticipate an increase in the numbers of those who live by their pursuit, and whether this is desirable when it takes place at the expense of more useful members of society, I must leave Your Excellency to judge. Before concluding I must point out that there is no analogy, such as has been alleged to exist, between this Act and the Game Acts elsewhere. In England, the protection of game is distinctly for the benefit of the proprietors of the land. The game practically belongs to those on whose crops or land it has been reared, and we have only to imagine to ourselves what would happen in England if such a Bill as the one before us became law, and there did not exist, as there does not here, any stringent Trespass Act, to disabuse our minds of any basis of comparison between the two. I may add that in England no animals are protected. Rabbits and hares are looked on as vermin, and even roe-deer can be killed at any time of the year, and in some parts of the country where their numbers increase rapidly, they are regarded as a nuisance and killed without much ceremony, as to whether it is the breeding season or not. Yet, as an article of food, a roe-deer in season is better and more substantial than the flesh of any wild animal in this country. I would, therefore, move as an amendment that for the word 'Game' in the preamble the word 'Birds' or 'Game Birds' be substituted and that the remainder of the Bill be modified accordingly.

His Excellency the PRESIDENT:—Of course, the Honourable Member's amendment should stand over till the Council come to the consideration of the Bill in detail in Committee.

The Honourable SIR JAMSETJEE JEEJEEBHOY:—Your Excellency,—Assuming the correctness of the statement that game birds and other wild animals used for food are being gradually exterminated in various parts of this Presidency, I think it very desirable that an Act to remedy this evil should be provided. I think there is ample justification for this Bill, so far as it provides a close time for game during the breeding season, on one ground alone, and that is, that nothing can justify the cruelty and inhumanity of the destruction of any animals during their breeding season, save that when it is absolutely necessary for the protection of the life or food of man. With proper safeguards as provided under Section 5 for the protection of crops or produce, I am prepared to support this Bill, as a measure of humanity, so far as it provides a close time. It may be said that if this argument be true, the legislature ought to throw its protection over all innocent wild

animals and even domestic animals during their breeding seasons. But my answer to that is this, that in regard to wild animals which are not noxious or offensive, I am prepared to go even so far, following as I should do, the lines of the Acts which provide for a close time for various wild birds not being game birds which are in force in England; and as to domestic animals, I think the legislature may fairly leave it to the interests of the owners of such animals not to injure them during their breeding season. Again, the Bill may be supported, because if the destruction of such animals as the Bill designs to protect during their breeding seasons is not prohibited, various descriptions of insects, which now do so much damage to crops, will largely increase in number, and thereby the agriculturists will suffer; and again, because if a close season for game is not established, there will soon be so great a scarcity of game, that such of the poorer classes as now live chiefly or only by snaring or selling this description of food, will suffer severely. For these reasons I think it very desirable to put certain restrictions on the killing or capture of game birds so that the threatened extinction of the stock may be averted. But I am very much opposed to clause (b) of Section 3, which gives the executive Government power to restrict or prohibit entirely or with exception the destruction of game or fish in any local area the Government think fit. This seems to me to be going far beyond the original measure, and I think it is delegating a power to the executive Government which we would not be justified in conferring on them. I do not mean that it would not be wisely exercised, but if we are to legislate, the power of legislation where important rights are concerned should be kept in our hands. I do not think we are justified in taking away the right of destroying or capturing game or fish over any particular place absolutely from persons who, from immemorial custom or otherwise, have acquired or are entitled to the right. This would be simply confiscation without compensation. I am sure that such a power whenever exercised would cause a great deal of irritation and disaffection, and I doubt, under any circumstances, whether any benefit will be derived from it. At all events, this Council has no evidence before it that any corresponding benefit would be derived by the exercise of a power which might be enforced arbitrarily or invidiously. Again, the power of prescribing exceptions is sure to cause uneasiness and annoyance. The Act should not, I think, be introduced hastily into the various districts, but time should be allowed the people to prepare them for the changes which are contemplated under the Act.

The Honourable RAO BAHÁDUR GOPALBAO HARI DESHMUKH :—The clauses respecting fish do not apply to the sea. I think they are intended only for rivers. A few words might be added to show that the Bill is not intended to apply to sea fish.

His Excellency the PRESIDENT :—That is a matter which can be discussed when the Bill comes to be considered in detail.

The Honourable Mr. ASHBURNER :—I propose, if the second reading is carried, to propose the consideration of the Bill in detail immediately afterwards.

The Honourable the ADVOCATE GENERAL :—I wish to explain the vote I am going to give in favour of the second reading. I have always sympathised with the purport of the Bill as it stood in its original form; and for that reason, though the Bill now contains other matters, yet because its primary object is that with which it was first introduced, I intend to vote for the second reading. But I confess I entertain strong objections to some matters introduced into the Bill in the Select Committee. Some of the alterations I approve of, such as the addition of fish, and the limitation of the fines; but to that part

of the Bill which provides for the introduction of what the Honourable Mover calls sanctuaries, I shall offer strenuous opposition when the Bill comes into Committee. I do not wish to run any chance of sacrificing the Bill because of that objection; I think it is a matter which can be dealt with in Committee. I may mention also that I intend to move the adoption of two additional clauses to the effect that the coming into operation of any notification under the Act should be preceded by its publication and circulation amongst members of the Council a certain time before, to which I apprehend no objection; and providing further that on an address from this Council praying His Excellency the Governor in Council not to allow any part of any such notification to become law, it should not become law.

The Honourable Colonel ANDERSON :—The Honourable Morarjee Goculdass has raised a number of objections on the ground of the application of this Bill to the sea. I do not think there was ever any intention of applying it to the sea, and his objections on that head may be very readily met by the insertion of one or two words in Section 1 limiting the application of the Bill to lands and rivers. The object is to protect river fish, and to increase the quantity of fish, not to interfere with the subsistence of anybody. At present the people fear they may not get their share, and they scramble for it, and whether young or old, whatever they get is gain. It is evident that if they were protected, the gain to the people at the end of the year would be much greater than when they kill them as they do now. This also applies to game animals. As to the sanctuary question, the limited areas referred to would be confined to such fish preserves as are now sanctioned by native custom. Every one knows that certain pools on the rivers are protected by temples, and if anybody goes to fish there, he stands a chance of getting an exceedingly good beating. Whether custom or the prospect of beating deters people, the fish are protected, and it must be an unmitigated good when not carried too far. It is now proposed to sanction that protection by law somewhat more strongly perhaps than by custom, but it is in accordance with the people's desires and feelings. In Gujarát similar protection is afforded by custom to game animals. My acquaintance with Gujarát is very small, but I have always heard that when people go there and destroy antelope, the villagers will sometimes turn out and treat them very badly indeed. In the Southern Marátha Country, however, the antelope has entirely disappeared. I have ridden from Sholápur half way to Dhárwár and have not seen one, whereas thirty years ago I should have seen twenty in every ten miles' ride. They have been killed by the Pharsi Pardhis, and when cover has been scarce and after heavy falls of rain, lasting for two or three days and turning the whole country into a sea of black soil mud, they have taken refuge in the villages, as antelope will in such cases, the people have turned out and wantonly destroyed them. I have known of 200 to 300 being killed in one village in a single day out of pure wanton love of destruction. The ground game—hares and antelope—in that district has been so destroyed as to be almost abolished. In Gujarát only it has been saved by custom and the religious feeling of the people. All that is desired is to secure some small measure of protection for these animals in the Southern Marátha Country. As to antelopes, formerly there might be in parts fifty to the square mile, and they probably did little damage. Now I do not suppose you would find fifty in fifty square miles. I do not think damage would result from any moderate increase. As to hares, there may be one to the square mile in most parts of the country; and if they became ten times as many, the damage would be very small. As to the people who live by suaring

game, I think they are a class who deserve little sympathy. The Pharsi Pardhis do snare game, but that is a lighter adjunct to their professional occupation, which is thieving. Several other classes of the same sort also snare game; the Pharsi Pardhis are very expert at it. The more they are driven away over our border inland the better for our people. The sanctuary proposal appears to me to be a perfectly sound and fair one. In the case of fish, the preserves would, of course, be confined to preserves sanctioned by native custom, and poisoning might be prohibited. As to the land sanctuaries, I presume no private property will come within the scope of that provision, but it will be confined entirely to tracts of land, such as reserved forests, under Government. As to the fear of the ferns increasing, I think it would be easy to keep them under. In the Deccan, only the jackal would be found to harbour in whatever sanctuary there might be for it.

His Excellency the PRESIDENT :—There are the panthers.

The Honourable Colonel ANDERSON :—Not in the open country.

His Excellency the PRESIDENT :—We had all our dogs eaten in Mahábaleshvar this year by panthers.

The Honourable MORARJEE GOCULDASS :—Five hundred sugar canes have been eaten up by jackals only two miles from Sholápur.

The Honourable Colonel ANDERSON :—I may point out that the jackal is not an animal used for food.

His Excellency the Honourable General WARRE :—I have no desire to vote on this Bill, to the introduction of which I object—for as Military Member of Council I do not feel that I have any responsibility regarding Civil matters in the Legislative Department. As a Member of the Government, I presume, however, that I shall be called upon to record my vote, and I cannot but think that my Honourable friend Colonel Anderson has used the very arguments which make it incumbent on me to vote against the Bill. That Colonel Anderson can ride from Sholápur to Dhárwár at the present time, without seeing any wild animals such as in former days were wont to live upon the crops, is to my mind the very reason why the preservation of such animals is unnecessary. The land belongs to the cultivators, who cannot afford to cultivate it for the benefit of those who wish game to be preserved for their own amusement. No law should operate for the benefit of the few at the cost of the many. There are many other arguments to be used against the Bill, which is introduced at a very inopportune time, when the country has lately passed through one period of famine and has just escaped another. No law ought to be brought in that is not carried out with every strictness, and the expense of carrying out this law by instituting additional police, and other executives to look after it, will fall very heavily indeed upon the suffering people. It is for these reasons, shortly, that I shall vote against the Bill.

The Honourable Mr. ASHBURNER, in reply, said :—I may answer some of the arguments that have been brought forward against the Bill. The Honourable Mr. Morarjee Goculdass has objected to the extension of this Act to the sea. As it was never intended that it should apply to the sea, I have no objection to words being inserted in the Bill which will make that quite clear. Mr. Morarjee next objects to the penalties of the Act being applied to purchasers of game. This is absolutely necessary, in order to make the Bill

effective. We are not going to pass a loosely worded Bill which any body can drive a bullock cart through. If there are not buyers, there will be no destroyers, as I previously mentioned. With regard to the law of trespass, its provisions are not interfered with, but remain exactly as they were. The Honourable Mr. Graham's objections are chiefly, that no necessity has been proved for the Bill. The Honourable Member is not perhaps aware that the provision of food for the European troops and European population generally has been a very anxious subject of discussion and consideration for Government, and so far from its having been proved that there is no necessity to preserve the food supply of the people, I may mention that it is very clearly proved that as the European population—the carnivorous population, I may call it—has vastly increased, not only the troops but the civil population, and owing to the indiscriminate slaughter of cows by the butchers, the destruction of cattle by drought, and the reduction of the area of grazing land, it is a very serious matter to provide beef and mutton for that population, we can by no means afford to neglect the enormous quantity of food which is to be found in the jungle in the shape of game. That appears to me to dispose of the Honourable Member's objection to extend the Bill to wild animals as well as birds. The Honourable Sir Jamsetjee Jeejeebhoy chiefly supports the Bill, and I think I need not refer to his objections. The Honourable the Advocate General's objections are chiefly to what I may call the sanctuary clauses. I think they had better be disposed of when they come to be discussed in detail, but I may here say that the Honourable Member's objections to entrust Government with the power of making rules and regulations for working the details of the Act would deprive His Excellency the Governor in Council of a very important prerogative. It is a power which has been given His Excellency the Governor in Council in every other Act, and I see no reason why the Governor in Council should be deprived of that prerogative in this particular instance. His Excellency the Commander-in-Chief objects to the expense of working this Act. I may mention for His Excellency's information that it is not intended in any way to provide a special machinery for this purpose. It will be worked by the ordinary Civil officers of the country—the forest, police, and revenue establishments. I do not think I need remark further on the objections at this stage.

Bill read a second time
and considered in detail.

His Excellency the PRESIDENT then put the motion, that
the Bill be read a second time, which was carried.

On the motion of the Honourable Mr. ASHBURNER, it was decided to proceed at once with the consideration of the Bill in detail.

The Honourable MORAJEE GOCULDASS said he understood it was decided at the last meeting that the Bill should be gone through in detail after an interval of two or three months.

The Honourable Mr. ASHBURNER :—I intend subsequently to propose that the third reading shall be postponed at any rate till the Government and the Council move to Bombay. As the breeding season for this year is past, there is no object in any hurry. I do not intend to bring forward the Bill for the third reading for two or three months.

The Honourable MORAJEE GOCULDASS :—If that is the wish of the Council I have no objection.

His Excellency the PRESIDENT :—I think there will be great advantage in making known now what are our proposals.

The Honourable Colonel ANDERSON moved that section one be amended by the introduction of the words "land and rivers" after the words "whole of the" in line 6.

The Honourable Ráo Bahádúr GOPALRAO HARI DESHMUKH doubted whether that would cover the air, where the birds generally were.

The Honourable the ADVOCATE GENERAL :—I think Mr. Deshmukh may take the legal maxim that the owner of the land is the owner to the highest heaven, as far as terrestrial legislation goes.

His Excellency the PRESIDENT :—The man who does the act must be on the land or water.

His Excellency the Honourable General WARRE suggested that it would be necessary to make some addition, showing that the Act would not apply to tidal rivers, where sea fish would be found.

The Honourable the ADVOCATE GENERAL suggested that the words of the amendment should be altered to "land and fresh water rivers."

The Honourable Mr. ASHBURNER :—That will raise great doubts as to where the fresh water ends and sea water begins.

His Excellency the Honourable General WARRE :—Some difference should be made between fresh water and tidal rivers.

The Honourable Mr. ASHBURNER :—There is a great destruction of small fish in those tidal rivers. We had better stick at the legal definition of the sea, as the Honourable the Advocate General would define it,—I think it is a gunshot from the shore.

The Honourable the ADVOCATE GENERAL :—There you get on one of the most disputed points of law.

His Excellency the PRESIDENT :—The question of preserving sea fish is one which we have not attempted to deal with in this Bill. I would suggest that we should use some such words as "the whole of the land and fresh water rivers," and not attempt to deal with tidal estuaries.

On the question being put to the vote, it was decided that the section should be amended by the insertion of the words "lands and fresh-water rivers of the" before the word "Presidency" in the 6th line.

With regard to section two the Honourable Mr. GRAHAM suggested that the words "and other wild animal" in lines 4 and 5 should be struck out.

His Excellency the PRESIDENT said that if the Honourable Mover of the Bill had proposed to protect hogs, the Council probably would not have supported him, but what he proposed to do was to protect animals commonly supposed to be used for food. As to antelopes being destructive to the crops, the cultivators would be allowed to kill them in season and out of season if destructive, and he submitted there need not be much alarm on that head. If the cultivators in England were allowed to protect their crops at all seasons, there would be no disturbance about hares and rabbits at home.

The Honourable Mr. GRAHAM :—The cultivator can only protect his crops on his own land; there is nothing about his right to follow game.

His Excellency the PRESIDENT :—No, but he may lie in wait for game trespassing on his ground.

His Excellency the Honourable General WARRE :—They will be driven off one piece of ground on to another.

The Honourable Colonel ANDERSON said that in most parts there were large tracts of waste lands, and the deer live in the waste lands on the whole.

His Excellency the Honourable General WARRE :—And go amongst the crops at night.

The Honourable Colonel ANDERSON :—I do not think they are night-grazing animals. The most dangerous animal of all, the hog, is not protected.

The Honourable the ADVOCATE GENERAL :—The Honourable Member cannot say he is not protected. As far as the words of the Bill go, he might be taken to be game.

The Honourable Mr. ASHBURNER suggested that the words might be added to the section “except the hog.” That would put the hog beyond the law, and he had no objection.

The Honourable Mr. GRAHAM :—The four-footed animals of this country, except for shikar, are not practically of any great value.

His Excellency the PRESIDENT :—The deer are excellent food.

His Excellency the Honourable General WARRE :—But the natives won't eat them.

The Honourable Mr. RAVENSCROFT :—Some do; the Mahomedans of Rájkot, for instance.

His Excellency the PRESIDENT :—Unless we look upon the hares as a nuisance, and wish to put them down altogether, I think we should preserve them.

The Honourable the ADVOCATE GENERAL suggested that the animals to which the Bill was intended to apply should be specified in a schedule.

The Honourable Mr. ASHBURNER said he had no objection. The animals would be the antelope, nilghi, black antelope, chinkara, cheetah, and bison, last of which were perfectly harmless, lived in dense jungle, and never approached within miles of any crops.

It was decided that the clause should stand over to be re-drafted in connection with the proposed schedule.

With reference to section three the Honourable Mr. RAVENSCROFT said he would like to know how it was proposed to determine what was the breeding time. During the last 10 or 15 years, there had been a great deal of discussion on the point, and different authorities accepted different seasons.

The Honourable Mr. ASHBURNER said the best authorities, such as Mr. Hume and Major Probyn, were being consulted on the point. This was a matter of future consideration and decision. It was not necessary to decide it at present.

His Excellency the PRESIDENT :—Perhaps the Honourable Member will be prepared to bring forward a proposal at the third reading?

The Honourable Mr. RAVENSCROFT :—Yes, I should like to have an opportunity of discussing the question.

The Honourable the ADVOCATE GENERAL proposed to strike out from section three the words “game or” in lines 12 and 13, leaving sub-section (b) to apply to fish only. The Honourable Gentleman remarked :—My object is to restore the Bill in a great measure to the state it was in when it passed the first reading. My objection is to prescribing what the Honourable Mover has designated “sanctuaries,” with the provision of which, as regards

animals other than fish, I entirely disagree. I had at first thought of moving to omit the whole clause (b), but after what has fallen from Ráo Bahádur Gopalrao Hari Deshmukh, from whom I understand that sanctuaries for fish, such as at present exist near certain temples, will not be disapproved of by the community, I propose to leave out only the words "game or," and so leave it possible to provide sanctuaries for fish. I believe the Honourable Members of Council would not be sorry to see that part of the section stand; but as to sanctuaries for game, I am thoroughly opposed to them. To make such a provision would, it seems to me, be a very retrogressive step indeed. A close season, I think, will be of benefit to the country; but as to a sanctuary for game, I take leave to doubt its being a source of any great benefit. I have not the advantage of being myself familiar with the sports of this country; but I do not know whether that is altogether a disadvantage in discussing a question like this, because it is very hard for those who are shikaries to prevent the prospect of the pleasures of the chase influencing their judgment. However, in conversation in Bombay with many of the keenest shikaries in this district, I have not heard one word said in favour of the proposed game sanctuaries, and I have heard a great many words said against them. Some of the experts in that branch say, such a provision would be very little good indeed as regards the multiplication of animals in any place outside the sanctuary itself, which would be removed from the haunts of men and so would not be of very much advantage. The opinion I have heard is that the sanctuaries would increase the number of mischievous animals, which would be found leaving their shelter and trespassing on the crops for food. I think the provision is one which will be looked upon with great suspicion, and will very likely be a source of ill-feeling. I think the impression derived from the publication of that clause will be that it is class legislation in the interest of shikar. I am sure that would be the last motive that would influence the Honourable Mover and Members of this Council; but I am not sure how the clause would be worked. There has been a jealousy on this subject of shikar between the district officers and the outside European population; and though I do not think that is of nearly so much importance as differences between the officers and the native population, still anything which causes contention between the services proper and the general European population is to be avoided. I think there have been some instances, and this would tend to widen the breach. In legislation, I think you must count the wrong impressions as well as the true ones, especially in this country. I deprecate this clause on this ground, and again I think we are going too fast. This whole Bill is an experiment, and I think we ought to be very cautious not to go too far. Even if this should turn out to be a benevolent measure, I would ask that it should be introduced step by step. First introduce a close season; see the result, and when you see that, consider whether you can extend the measure or not. But do not bring in the whole thing *en bloc* without first seeing how it will work. That I think is a strong ground for not introducing this sanctuary clause. On reading the clause, my impression was that it was intended to take powers not merely to protect forests, but any area whether cultivated land or not; but from what has fallen from the Honourable Colonel Anderson I apprehend the intention in the minds of the Committee was only to apply it to forests.

The Honourable Colonel ANDERSON :—Or portions of forest lands.

The Honourable the ADVOCATE GENERAL :—That is in harmony with the report of the Committee, but not with the Bill as it stands. If it is limited to forests, words to that effect should be expressly introduced. I do not think the clause would be of very

much importance if that were the case. So far as regards reserved forests, you have the power already. There is a clause in the Forest Act which prevents any one pursuing game except with the sanction of the district officers. I presume they are the only people in whose hands you could place the power. The clause in the Forest Act is as stringent as you can wish; and if, as I now understand, you intend to confine clause (b) of section three to reserved forests so far as regards game, what is the object of inviting prejudice by re-enacting it in this form?

The Honourable Mr. ASHBURNER :—It is not the habit of the deer tribe, especially black antelope and chinkara, to breed and live in forests. They live in the open plains, where there is probably not a tree or bush within miles.

The Honourable the ADVOCATE GENERAL :—Then the Honourable Mover does wish to protect other areas than forests. That is rather at variance with the report of the Select Committee, which speaks only of certain forests. Then my objections on the merits become stronger, and for those reasons I move that the words “game or” be omitted.

The Honourable Mr. ASHBURNER :—That would make the whole Act inefficient. The game will be exterminated if there is not some sanctuary of this kind to which it can retreat. If we provide an Act, we must provide an efficient Act. Therefore, it is my duty to oppose the amendment.

His Excellency the PRESIDENT :—I suppose you have no objection to say “in forests or waste lands.” You would not protect absolutely cultivated lands. It would be a serious thing to say with regard to land under occupation, for which you are deriving land-tax from cultivators, that it would not be lawful to destroy animals which damage the crops.

The Honourable Colonel ANDERSON :—We might say Government reserved forests and Government reserved waste lands. There are plenty of such lands, grass lands and such like, specially reserved from cultivation and retained in the hands of Government.

The Honourable Mr. ASHBURNER :—I have no objection to that.

The Honourable MORARJEE GOULDASS :—That meets with my approval.

The Honourable the ADVOCATE GENERAL :—I should prefer my amendment, because forests are provided for at present, and the other lands might be provided for under the law of trespass.

His Excellency the Honourable General WARRE :—The Honourable Member proposes to preserve animals on the waste lands and in the forests in order that they may feed on the crops in the neighbourhood.

His Excellency the PRESIDENT then put the amendment that the words “game or” be omitted, explaining that if they were left in, words would be introduced to qualify them.

Four Members voted for and four against the amendment.

His Excellency the PRESIDENT :—I vote for the words being kept in, which leaves us perfectly free to vote against the clause afterwards if it is thought proper to omit it.

The Honourable Colonel ANDERSON next proposed that the section should be amended by the introduction of the words “Government reserved forests or Government waste lands.”

On being put to the vote a majority of the members declared in favour of this amendment.

The Honourable Mr. RAVENSCROFT moved the omission of the whole sub-section (b). He agreed with the Honourable the Advocate General that a Bill of this sort required to be introduced with very great caution. If they adhered to the close season part only and carried it out in a moderate and sensible way, the stock of game throughout the country might be very much improved; but as His Excellency General Warre had pointed out, the establishment of the preserves proposed would have the effect of ruining the property of the cultivators in their neighbourhood for some indefinite, and, as far as he could ascertain, useless object.

The Honourable Mr. ASHBURNER:—The objection would apply equally to the whole Bill.

His Excellency the Honourable General WARRE:—I think we might preserve the game with a close season only.

The Honourable Mr. ASHBURNER:—But I have explained that is insufficient, and if we are to have a Bill at all, we should have an efficient Bill.

The Honourable Mr. GRAHAM:—Leave out the words "either" and "or entirely or," which would leave the section merely to apply to districts where game was becoming scarce.

The Honourable Mr. MORARJEE GOULDASS:—There will be the temple waters to be protected.

The Honourable Mr. GRAHAM pointed out that as the proposed sanctuaries became harbours for large quantities of game it would be necessary to appoint an executive to look after them, or they would be over-run by poachers. This would probably involve considerable expense.

The Honourable Mr. ASHBURNER said the omission of this clause would destroy the whole principle of the Bill. The native gentlemen would lose their temple reserves if they voted for it.

The Honourable Colonel ANDERSON was of opinion that the protection under the Forest Act was not very clearly defined. This Bill was directed to a more definite point, and as the protection did exist, it was perhaps not unadvisable to have it properly defined. As to the crops of cultivators being damaged, he did not think game birds did very much mischief. In Gujarát, antelope were protected at present, and in the Deccan such protection would be rather to the advantage than otherwise of the cultivator, who would have a right to shoot, an advantage which others further off from the reserves would not possess. He would thus be able to get hold of an antelope now and then, and a buck antelope was worth four or five rupees.

The Honourable the ADVOCATE GENERAL said he should vote in favour of the clause being struck out, for the same reasons for which he had proposed his own amendment to the section, which he regretted had not been carried. As to the Forest Act, he thought the provisions of section twenty-five of that Act were far stronger and more stringent than anything it was proposed to enact in the present Bill.

His Excellency the PRESIDENT thought it would be competent to propose a new clause specially protecting the fish in any pool, river, or tank adjoining a temple.

The Honourable MORARJEE GOULDASS :—Gradually all these rights are being taken away.

The Honourable Mr. ASHBURNER :—It does not follow that there must be a temple near a pool or stream which it is desired to protect ; there may not be a temple within ten miles. I think the powers given in the Forest Act, as regards forests, are so enormous that no more is required, but the temple reserves are not protected from Europeans, and it will not only remove a source of discord and often of riot, but will conciliate the native community if we prohibit the destruction of fish in temple reserves which are formally notified as reserves.

His Excellency the PRESIDENT :—I must say I do not feel much in favour of this law myself. I think it is going a little too far to have these sanctuaries. I voted against the first amendment merely as a matter of form, because it would come up again and the Council would have time to reconsider it.

Five members voted for and five against the amendment. His Excellency the President voted in its favour, and the clause was accordingly struck out.

The Honourable the ADVOCATE GENERAL suggested that the words "or makes any preparation for using" in lines 13 and 14 of section four were too wide. As a friend of his said, a man might be proceeded against for making up his cartridges in Bombay, which would be a "preparation for using." The words were struck out.

The Honourable MORARJEE GOULDASS wished to have the words "or buys" in line 8 of the same section struck out.

His Excellency the PRESIDENT :—The Bill proposes to make the purchaser as guilty as the seller, that the European resident in a cantonment if he buys quail or partridge out of season shall be liable to be fined as well as the seller.

Seven members voted for the words being allowed to remain, and one against.

At the suggestion of the Honourable the ADVOCATE GENERAL, the clause "or has game or fish in his possession intending to sell the same," and the whole of that portion of the section from line 19 to line 45 included, referring to penalties for contravention of clause (b) of section three, were struck out.

His Excellency the PRESIDENT :—Don't you think that we ought to prevent rivers being poisoned?

The Honourable the ADVOCATE GENERAL :—I think that an admirable object, but it might be better dealt with in the new clause which it is proposed to insert with special reference to fish.

With regard to section five, the Honourable MORARJEE GOULDASS considered that the landholders were not sufficiently protected. He wished to move that the section should run as follows :—"This Act shall not apply to any landholder as defined in the Bombay Land Revenue Code, 1879, or to any person employed by any landholder, as regards any game on his own land, whether the game be killed, pursued, snared, &c., for the purpose of protecting the crops or produce of the landholder from injury or destruction by game, or for any other purpose."

His Excellency the PRESIDENT said the effects of this would be that professional game catchers might be employed, who would take game and expose it for sale, and when questioned would say, I killed this in such and such a taluka ; I was employed by a land-

holder to do it for the protection of his crops. You would never know what was lawful game and what was not.

The Honourable the ADVOCATE GENERAL suggested that the words "or expedient" should be added after the word "necessary" in line 8 of the section, which would be a hint to the district officers not to be too strict in drawing the line.

The Honourable MORARJEE GOCULDASS withdrew his proposition, and the Honourable Advocate General's suggestion was adopted.

In section six, on the motion of the Honourable the ADVOCATE GENERAL, the word "shall" in line 9 was altered to "may."

The Honourable Mr. GRAHAM asked to what grade of officers the section would apply.

The Honourable Mr. RAVENSCHOFF:—It must include all the officers down to the lowest. That is necessary because they are the only people on the spot. I agree that the real difficulty of working this Act will be the difficulty of getting suitable game-keepers.

The Honourable Mr. GRAHAM:—It seems to me the section will be open to very great abuse if the Bill is passed.

The Honourable Mr. ASHBURNER said the same arguments would apply to the police and the abkari officers.

His Excellency the PRESIDENT:—It is of no use passing this Bill at all unless the officers of Government are to carry it out.

The Honourable Mr. ASHBURNER:—We hope to take care that it will not be abused.

Section eight was amended by the introduction of the words "for carrying this Act into execution, not inconsistent with the provisions thereof and" after the word "rules" in line 2.

The Honourable the ADVOCATE GENERAL proposed that a section should be added, to be called section nine, to the effect that "any notification under section three of this Act shall be published in the *Bombay Government Gazette*, and a printed copy thereof shall be sent to every member of the Council of His Excellency the Governor for making laws and regulations only, at least three months before the date fixed for the rules coming into operation." He thought that would be a salutary provision. It only applied to notifications under section three and would give time for discovering the popular feeling with regard to them. In the event of this section being adopted, he would propose another (section ten) giving power to the Legislative Council to petition.

His Excellency the PRESIDENT:—To petition whom?

The Honourable the ADVOCATE GENERAL:—Your Excellency.

His Excellency the PRESIDENT:—I should like to know whether there is any similar provision attached to any Act of Government at the present time.

The Honourable the ADVOCATE GENERAL:—I cannot answer as regards Indian Acts; there is, as Your Excellency is aware, in regard to many English Acts. Mr. Latham further explained that the knowledge of the Executive Government could not extend to all the details in every district of the Presidency; and some member of the Legislative Council, particularly some native member, might have special knowledge as to the bearing of particular proposed rules and regulations, which could be brought to the notice of Government by petition of the Council.

The Honourable Mr. ASHBURNER thought that would be an extremely cumbersome mode of disposing of matters of detail, and it was entirely anomalous. In other Acts which equally affected the native community, there was no such provision. Under the Forest Act, the Abkari Act, and every other department with which Government had to deal, the functions of His Excellency the Governor in Council were exercised without question, and he hoped, without injury to any interests. And here, on a comparatively small question, it was proposed to fetter the action of Government, and to tie their hands. He regretted that he could not see in the Honourable Member's arguments anything that would induce him to vote in favour of such an anomalous provision.

The Honourable Mr. RAVENSCROFT said the proposal would completely revolutionise the position of the Legislative Council and of Government, and he had a very strong idea that if carried, it would be illegal. They had not power to create any authority which would regulate every action of the Executive Government in this particular. Therefore, without going into the actual merits of the Bill, if the Honourable Member brought forward that motion, he must oppose it.

His Excellency the PRESIDENT pointed out that it was not competent for the Council to pass such a section under the Act regulating their proceedings.

The Honourable the ADVOCATE GENERAL said, the feeling being strongly against the second section he had suggested, he would confine his motion to the first section, that any notification under section three of the Act should be published in the *Bombay Government Gazette* three months at least before the date fixed for its coming into force.

The Honourable Mr. ASHBURNER had no objection to that.

The Honourable Mr. MORARJEE GOULDBASS wished to add that such notifications should be translated and proclaimed by batakis in every village affected, or else they would not become properly known.

The Honourable Mr. GRAHAM suggested that the Act should not be applied to any district against the universal wish of the inhabitants.

His Excellency the PRESIDENT :—That is impossible; you cannot ascertain that.

After some further conversation it was resolved that the section should read as follows :—“ Any notification under section three of this Act shall be published in the *Bombay Government Gazette* at least three months before the date fixed for such notification coming into operation, and the district officers shall make suitable provision for the notification being made generally known in their districts.”

The following form was suggested for the guidance of the Legal Remembrancer for section two :—“ In this Act the term ‘ game ’ denotes every bird used as food and also the wild animals specified in the schedule hereto annexed, and the term ‘ fish ’ denotes every fish used as food, to which or any of which respectively the Governor in Council in any notification published by him under section three of this Act, declares such notification to be applicable.”

His Excellency the PRESIDENT suggested that the following clause should be inserted in section four, viz. :—“ Or uses or has in his possession, for the purpose of using, any poisonous or stupefying substance or liquid, for the purpose of killing or taking fish in any river, lake, pool, or other fresh water.”

Some discussion took place on the question of the introduction of a clause prohibiting fishing in waters in the vicinity of temples.

The Honourable Mr. ASHBURNER wished the clause to apply to rivers, pools, tanks, &c., generally, so that Government might be empowered to prohibit fishing in waters other than those adjoining temples when considered necessary. He observed that it might be safely left to Government to protect the sacred places. Government wished to protect them and many others. He thought they could not deprive Government of discretionary power in this matter without running into difficulties.

The Honourable MORARJEE GOULDASS considered it very desirable that special mention should be made in the Bill of the temple waters. If they were distinctly specified, there would be ground for petitioning Government in any case when the provision was neglected; but if they were not mentioned, then, though it might be the intention of Government to protect them, some ten years hence, when the present discussion would be forgotten, difficulties would arise, and the people would not know that they had ground for petition. There should be some ground in the Act on which they could base an application to Government. It was stated in the report of the Select Committee that the Bill would provide for the sacred waters being protected.

The Honourable Mr. RAVENSCROFT thought they might as well say what they meant. If they intended to protect temple waters, they might as well say so.

The Honourable Mr. ASHBURNER said it would be better to leave the religious question in the background altogether. Mention had been made in the Select Committee's report of the temple waters in order to make the Bill popular, and it was intended to protect such waters, but if it were stated in the Bill that they were protected out of deference to the religious feeling of certain sections of the population, other sections might ask to have their religious feelings deferred to also. *It was part of the religion of some classes of the community to kill fish and to kill animals.

The Honourable MORARJEE GOULDASS did not object to other places being preserved in addition, but thought that temple waters should be specially protected.

It was decided that the clause should take the following form:—"Or uses any net, line, or other engine for the killing or taking of fish in any river, lake, pool, or part of such, contiguous to any temple or other sacred place, and specified by notification in the *Bombay Government Gazette*."

The Honourable Mr. ASHBURNER:—Then, in order to declare any water protected, it must be contiguous to some temple; otherwise we cannot preserve it.

The proposed additions to sections two and four were agreed to, and His Excellency the PRESIDENT then adjourned the Council.

By order of His Excellency the Right Honourable the Governor in Council,

C. G. W. MACPHERSON,

Acting Under Secretary to Government.

Poona, 20th September 1880

Abstract of the Proceedings of the Council of the Governor of Bombay, assembled for the purpose of making Laws and Regulations, under the provisions of "THE INDIAN COUNCILS ACT, 1861."

The Council met at Bombay on Monday the 13th December 1880, at noon.

PRESENT :

His Excellency the Right Honourable Sir JAMES FERGUSSON, Bart, K.C.M.G., C.I.E.,
Governor of Bombay, *Presiding.*

His Excellency the Honourable Lieutenant-General HENRY JAMES WARRE, C.B.

The Honourable L. R. ASHBURNER, C.S.I.

The Honourable E. W. RAVENSCROFT, C.S.I.

The Honourable the ADVOCATE GENERAL.

The Honourable Colonel W. C. ANDERSON.

The Honourable Colonel C. J. MERRIMAN, C.S.I., R.E.

The Honourable Sir JAMSETJEE JEEJEEBHOY, Bart.

The Honourable JAMES N. GRAHAM.

The Honourable SOLOMON DAVID SASSOON.

The Honourable RAO BAHADUR GOPALEAO HARI DESHMUKH.

The Honourable RAO SAHEB VISHVANATH NARAYAN MANDLIK, C.S.I.

His Excellency the President mentioned the fact that this was the first meeting of the Council since the death of their respected colleague the Honourable Mr. Morarjee Goculdass, for whom he had learned to entertain the highest respect. Mr. Morarjee's death was a great loss both to that Council and to the country. One of the new clauses which they would be asked to pass for addition to the Game Preservation Bill was inserted by the Honourable Mover at Mr. Morarjee's suggestion : he was anxious that there should be provisions to prevent the feelings of the people being annoyed by the fishing of unauthorised persons in waters deemed sacred.

The late Honourable Morarjee Goculdass.

The Honourable Mr. RAVENSCROFT moved the first reading of Bill No. 3 of 1880—"A Bill to amend the law for the prevention of adulteration of cotton and for the suppression of fraudulent practices in the cotton trade." The Honourable Member said this was a very formal measure, rendered necessary by directions which had been received from the Secretary of State. At the commencement of the present year the Secretary of State for India came to the conclusion that it was unnecessary to continue the whole proceedings theretofore adopted for preventing adulteration and fraud in the cotton trade, and directed that those portions of the Act which provided for the levy of fees and the maintenance of a special establishment should be done away with. In accordance with such instructions orders were issued, and from the 1st of June no fees have been collected, and the establishment which up to that date had been maintained was then dispensed with. But when the Secretary of State gave those orders he said that he de-

sired those provisions of the law which were useful for the prevention of fraud and for the maintenance of the purity of cotton should still be maintained. Therefore this Bill No. 3^d of 1880 had been framed, which really re-enacted what had previously existed, with the exception of those portions relative to the collection of fees and the maintenance of a separate establishment.

The Honourable JAMES GRAHAM asked permission to move that this Bill be not read a first time. He objected to the whole principle of the measure.

His Excellency the President reminded the Honourable Member that this was only the introduction of the Bill ; it was not going to be pushed through more than one stage, and there would be time to oppose it or consider it at a future stage.

The Honourable Mr. GRAHAM said this was merely a resuscitation of an old measure, which had been discussed and re-discussed so often that all Honourable Members were thoroughly acquainted with it. If he thought that on amendment by the Select Committee, or at the second reading, it could be made into a useful measure, he would not oppose the first reading.

His Excellency the President suggested that it would be better for all parties that the Bill should be introduced, and the Members of Council and the public be allowed to express their opinions before the next meeting to consider it.

The Honourable Mr. GRAHAM assented, and the Bill was read a first time.

The Honourable Mr. RAVENSCROFT moved that the Bill be referred to a Select Committee consisting of the Honourable Mr. Graham, the Honourable Mr. Marriott, and the Mover.

The Honourable Mr. GRAHAM objected to serve on the Select Committee. He said he dissented from the whole principle of the Bill ; and he apprehended that if a measure were to come back to the Council from a Select Committee it would, to some extent, carry with it the implied approval of the Members composing the Committee.

His Excellency the President :—You mean that no shape of the Bill could possibly meet your views ?

The Honourable Mr. GRAHAM :—I think not.

The Honourable Mr. ASHBURNEE suggested that though Mr. Graham was opposed to the Bill, it might, in the Select Committee, be amended by his advice in some way or other, which, though perhaps not altogether agreeable to him, might be agreeable and acceptable to the general mercantile community. A certain portion of the mercantile community approved of legislation with a view to the preservation of the purity of cotton.

The Honourable Mr. Graham said it would be exceedingly difficult for him to express the views of that party, and he would prefer that somebody who could enunciate their views should join the Committee.

His Excellency the President said it should be borne in mind that the question before the Council did not concern the whole principle of legislation for the prevention of frauds in the cotton trade. The Bill was merely to carry out certain instructions which had been received as to the abolition of certain parts of the law. It was not a question of enacting.

After some further conversation, the Bill was referred to a Select Committee consisting of the Honourable Mr. Sassoon, the Honourable Sir Jamsctjee Jeejeebhoy, the Honourable the Advocate General, and the Mover, with instructions to report by the 1st January.

Translations of the Bill as amended by the Select Committee were considered unnecessary.

The Honourable Mr. ASHBURNER moved the first reading of Bill No. 5 of 1880—"A Bill to amend Bombay Act II. of 1874." Mr. Ashburner said the motion he had to propose was of a very unimportant character. The Council were aware that by the Jails Act II. of 1874 a Jail Fund was established. By order of the Supreme Government all separate funds were to be abolished. It is intended that in future the account of all separate funds shall be incorporated in the General Accounts of the Empire. There are to be no separate funds whatever, and the object of this Bill was to abolish the Civil Jail Fund as a separate account.

The Bill was then read a first time.

The Honourable Mr. ASHBURNER :—As this is a mere formal Bill, I now ask Your Excellency to suspend the rules, so that it can be read a second and third time at this meeting.

The standing orders having been suspended, the Bill, on the motion of the Honourable Mr. Ashburner, was read a second time and considered in detail, and was subsequently read a third time and passed.

The Council resumed consideration in detail of Bill No. 4 of 1880—"A Bill to enable Government to provide for the preservation of Game and Fish." The Honourable Mr. Ashburner moved that the words "of the land and freshwater rivers" in lines 1 and 2 of section 1 be omitted. The honourable gentleman explained that these words were redundant, the words "of the Presidency of Bombay" being sufficient, as including all land and freshwater rivers.

The Honourable Mr. MANDLIK said he had not received a copy of the Bill as it came from the hands of the Select Committee, until he entered the Council Hall, so that he had had no opportunity of considering it. But from the previous discussions of the Bill in Council as reported in the newspapers, it seemed to him that so far as land was concerned, the land whereon game was to be preserved was to be the Government forests and waste lands; and that the Bill was to apply to those lands only and not to occupied lands.

His Excellency the PRESIDENT :—No; there was a proposal that there should be special sanctuaries for game in waste lands and forests, which should be held in more strict preservation, but that was abandoned altogether. The Bill was introduced for the establishment of a close season for game, generally speaking. There was an idea that in order to ensure certain animals not being extinguished, there should be sanctuary places where no killing of them should be lawful at all, namely, reserved forests; but the Council thought that would be going further in the direction of game preservation than was required, and it was struck out, so there is no special provision as to forests and waste lands.

The Honourable Mr. RAVENSCROFT understood that the words "freshwater rivers" were introduced to prevent any question arising as to saltwater fish, and the amendment now proposed would leave the Act to apply to tidal rivers and to the sea.

His Excellency the PRESIDENT said he thought the Honourable the Advocate General would bear him out in saying that the Bill would refer to nothing except what was expressly

enacted—that nothing would be presumed excepting what appeared in the text. Subsequent clauses specified places in which it would not be lawful to do certain things; and as regards fish, it said “river, lake, pool,” and so forth. Therefore, if the Bill was described as extending to the Presidency of Bombay, it would only be applicable to such places as were afterwards provided; and if “the Presidency of Bombay” includes land and freshwater rivers, it would not include any more—it would not include the sea.

The Honourable the ADVOCATE GENERAL :—No.

The Honourable Mr. ASHBURNER said the next section defined the description of fish to which the Act would apply. It said “any bird or freshwater fish,” &c. Sea fish are therefore not protected.

The Honourable the ADVOCATE GENERAL said “the Presidency of Bombay” extended to a line between high and low-water mark all round the coast.

The Honourable Mr. ASHBURNER said, according to the law of nations, he believed that to be the case; but according to the sections of the Bill, its provisions would in fact be applicable only to freshwater fish. Of this there could be no doubt, because freshwater fish and sea fish were entirely distinct, wherever they might be caught. However, it was not a matter of much importance. He thought the amendment would remove a difficulty as to distinguishing where freshwater ended and saltwater began in tidal rivers, but if the sense of the Council was against it, he was quite willing to give way.

The amendment was accordingly withdrawn.

The Honourable Mr. ASHBURNER next moved that the following section be substituted for section 2 :—

“ 2. In this Act the term ‘game’ denotes the animals specified in Schedule A hereto annexed, and any bird or freshwater fish used as food to which the Governor in Council in a notification published by him under section 3 of this Act, declares such notification to be applicable.”

The Honourable Mr. ASHBURNER explained that this amendment was an explanatory one, which was rendered necessary by an oversight on the part of the drafter. The object was to make it clear that the protected birds and fish were only those mentioned in notifications to be issued under the Act. The animals to be protected were specified in a schedule.

The amendment was adopted.

The Honourable Mr. ASHBURNER next moved that the following section be substituted for section 3 :—

“ 3. The Governor in Council may, by notification in the *Bombay Government Gazette*, from time to time :

- (a) fix one or more seasons of the year which shall be close seasons for game in any local area ;
- (b) prohibit the killing or taking of fish in any river, stream, nála, lake, or tank, or in any portion of a river, stream, nála, lake, or tank, which is deemed by any community to be sacred.

“ The Collector shall take means for causing every notification issued under this section to be widely published locally, and every notification under clause (a) of this section shall

be published in the *Bombay Government Gazette* not less than three months before the commencement of any close season therein fixed."

The Honourable Mr. GRAHAM asked if the words "deemed by any community to be sacred" applied to the whole section.

His Excellency the PRESIDENT said that in the first place the Bill contemplated, as regards fish, simply their preservation in breeding time; but it had been thought desirable to extend the preservation to all seasons of the year in places where their destruction is objectionable to any portions of the community. This section now contemplated two things—the protection of freshwater fish generally from being killed at certain times of the year; and secondly, the absolute protection of sacred waters.

The amendment was adopted.

The Honourable Mr. ASHBURNER next moved that the following clauses be substituted for clause 4 of section 4 (lines 15 to 19 inclusive):—

"and any person who, in contravention of any notification published under clause (b) of the said section, uses any net, line, or other engine or instrument, or any poisonous or stupefying substance or liquid for the purpose of killing or taking fish;

"and any person who has in his possession any poisonous or stupefying substance or liquid intending to use the same for any purpose hereby prohibited."

The Honourable Mover explained that there was no alteration of the sense of the section effected by the amendment; it was merely an amplification.

The Honourable Mr. GRAHAM asked if the question of intention was to be left to the discretion of the district officers.

His Excellency the PRESIDENT said that when a man was found with a "jemmy" in his pocket, he was supposed to intend to commit burglary; and if a man was found beside fish streams with dhatura in his pocket, he would be presumed to intend putting it in the water.

His Excellency the Honourable General WARRE said the power of annoyance given under this Bill to ignorant policemen and subordinate officers was one great reason why he objected to the Bill altogether.

The Honourable Mr. MANDLIK said the section appeared to warrant a police patel taking a man into custody and fining him.

The Honourable Mr. ASHBURNER said that the power of arrest was given under the Abkari laws and under many sections of the Penal Code, but under the present Act a man could only be arrested on a refusal to give his name and address, or upon reasonable suspicion that he had given a false name and address. The case must be tried by a Magistrate.

The Honourable the ADVOCATE GENERAL explained that the cases under this Bill would come under section 93 of the Criminal Code, and would have to be taken before the proper Magistrate.

His Excellency the PRESIDENT said a man accused of an offence had merely to give his proper name and address to avoid being taken into custody. Having obtained the name and address, it would be the duty of the officer prosecuting to go to the nearest magistrate having jurisdiction and apply for a summons; and if the case was a frivolous one, it was to be presumed the magistrate would not grant a summons.

The amendment was adopted.

In line 20 of section 4 the following words were inserted after the word "engine":—"or any poisonous or stupefying substance or liquid." In line 33 of the same section the words "or fish" were omitted and in line 34 the word "line" was inserted after the word "net."

On the motion of the Honourable Mr. ASHBURNER it was decided to omit section 9 as unnecessary, its provision having been already secured.

The Honourable Mr. ASHBURNER next moved that the following Schedule A be annexed to the Bill:—

SCHEDULE A.

(Referred to in Section 2.)

Bison.	Chital.
Nilghai.	Chinkara or Kalpuchro.
Antelope.	Bekri.
Sambher.	Hog-deer.

Hares.

The Honourable Mr. MANDLIK did not think the term "chinkara" would be understood.

The Honourable Mr. RAVENSCROFT believed "chinkara" was a name well known in Gujarát, but he was not aware that it was in common use in other parts of the Presidency.

The Honourable Mr. ASHBURNER said "chinkara" was the Maráthi name for a species of deer; the name in Gujarát was "kalpuchro."

His Excellency the Honourable General WARRIS suggested that it would be sufficient to describe the animals to be protected generally as deer and antelope.

The Honourable Mr. ASHBURNER said the term antelope included a great number of animals which it was not desired to preserve. The few names mentioned in the schedule were well known names in this Presidency, and he did not think they need go beyond them.

His Excellency the PRESIDENT suggested that after the word "chinkara" the words "or kalpuchro" should be inserted so as to give the names common both in Gujarát and the Dekkhan. This suggestion was adopted, and the schedule was carried in that form.

His Excellency the PRESIDENT said the Bill would have to be printed with the amendments, and would be brought up for the final reading at the next sitting.

The Council was then adjourned *sine die*.

By order of His Excellency the Right Honourable the Governor in Council,

J. NUGENT,

Under Secretary to Government.

Bombay Castle, 13th December 1880.

*De datta: Navvy
11/7/1876*

PROCEEDINGS

OF THE

COUNCIL OF THE GOVERNOR OF BOMBAY

ASSEMBLED FOR THE PURPOSE OF

MAKING LAWS AND REGULATIONS,

1871.

VOLUME X.

Published by the Authority of His Excellency the Governor.

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ASSEMBLED FOR THE PURPOSE OF MAKING
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PROCEEDINGS
OF THE
COUNCIL OF THE GOVERNOR OF BOMBAY
FOR THE
**PURPOSE OF MAKING LAWS AND
REGULATIONS.**

Abstract of the Proceedings of the Council of the Governor of Bombay, assembled for the purpose of making Laws and Regulations under the Provisions of "the INDIAN Councils' Act, 1861."

The Council met in the Durbar Room, Town Hall, Bombay, on Wednesday, the 5th April 1871, at mid-day.

P R E S E N T :

The Right Honourable SIR W. R. S. V. FITZ GERALD, G C.S.I.,
Governor of Bombay, *presiding*.
The Honourable S. MANSFIELD, C.S.I.
The Honourable H. P. ST. G. TUCKER.
The Honourable the ADVOCATE GENERAL.
The Honourable MUNGULDASS NATHOOBHOY.
The Honourable BYRAMJEE JEJEEBHOY.
The Honourable Colonel M. K. KENNEDY.
The Honourable Sir JAMSETJEE JEJEEBHOY, Bart.
The Honourable G. M. STEWART.
The Honourable E. W. RAVENSCROFT.

Affirmation of office, &c. taken
by Mr. Ravenscroft.

The Honourable Mr. E. W. RAVENSCROFT took the usual affirmation of office and declaration of allegiance to Her Majesty.

Papers presented to the Council.

The following papers were presented to the Council:—

1. Letter from the Secretary to the Government of India, Legislative Department, No. 763, dated 11th November 1870, conveying the assent of His Excellency the Governor General to the "Bill for the repeal of (Bombay) Act No. II. of 1869."

2. Letter from the Secretary to the Government of India, Legislative Department, No. 844, dated 28th November 1870, conveying the assent of His Excellency the Governor General to the "Bill to enable the Government of Bombay to prescribe the official seals of the Magistrates."
3. Letter from the Secretary to the Government of India, No. 876, dated 2nd December 1870, conveying the assent of His Excellency the Governor General to the "Bill to secure the payment to Government of certain sums of money by the Corporation of the Justices of the Peace for the City of Bombay."
4. Letter from the Secretary to the Government of India, No. 1003, dated 29th December 1870, conveying the assent of His Excellency the Governor General to the "Bill to enable Her Majesty's Justices of the Peace for the City of Bombay to assign part of the Municipal Fund to Educational and other public purposes."
5. Letter from the Secretary to the Government of India, No. 185, dated 7th February 1871, conveying the assent of His Excellency the Governor General to the "Bill for the levy of fees for the use of the Government Bunders, Wharves, Landing-places, Piers and Hards, in the City of Bombay." Submits also certain observations on the provisions of the Bill.

Bills and orders of the day.

On the motion of the Honourable Mr. Mansfield, Bill No. 7 of 1870—"A Bill for the regulation of burial-grounds and burning-grounds in the territories subject to the Government of Bombay"—was read a first time and referred to a Select Committee, composed of—

Burial-ground Bill read a first time and referred to a Select Committee.

The Honourable Mr. MUNGULDASS NATHOBBHOY,
The Honourable Sir JAMSETJEE JEJEEBHOY, Bart.
The Honourable Colonel KENNEDY,
And the Mover.

The Committee was instructed to forward their report within seven days, and it was ordered that the report be translated into Marathi, Gujarati, and Canarese.

His Excellency the PRESIDENT said: Gentlemen of the Council,—I have undertaken, at the request of my colleagues, to make to you the first official statement of the Provincial Budget of this Presidency; and I have to bespeak your indulgence in doing so, not only because it is a novel task, but because I fear I shall have to engage your attention for a somewhat longer period than ordinarily and otherwise I should have permitted myself to occupy. It is my desire to place before this Council our exact financial position in the clearest and simplest form, avoiding all unnecessary allusion to, or discussion of, the late financial arrangements which have made this statement necessary. And if, in doing so, I express opinions which appear to conflict with or to differ from those which have influenced the Government of India in proposing the establishment of these new relations between themselves and

His Excellency the President's official statement of the Provincial Budget.

the Local Governments that are subordinate to it, I shall do so, I assure the Council, in no contentious spirit, but solely because, in justice to this Council and in justice to the Government, I am bound in every manner I can to put them in possession of the views which have actuated the Government in adopting the proposals which on their behalf I am now about to submit to them. I am sure the Council will feel that it would ill become me to avail myself of this opportunity to engage in any adverse criticism of the measures which the authority to which I am subordinate has thought it necessary to adopt. On the contrary, I desire to take this the earliest opportunity of acknowledging, emphatically and unhesitatingly, the wisdom and the foresight of the principles upon which these proposals are founded,—proposals which have hitherto been often discussed and have received the support of many eminent men, but which have been treated rather as theories, or as plans which might at some fitting but distant day be carried into execution, and have never before taken a practical and tangible shape. Now, happily, they are practical realities, and I believe that it is owing to the courage, the independence of character and freedom from prejudice, of the Viceroy himself that we are mainly indebted for the adoption of the measures which, I believe, will be found singularly and uniformly beneficial. Yet, while I admit the value and the importance of these proposals, my duty to this Council and to the Government will necessitate my illustrating our financial position at the present moment, both by reference to the past and also as it may affect the future. Nor shall I regret the opportunity which is thus afforded to me of pointing out in what respects these proposals seem to me to be halting and deficient, in the full confidence that this Council will, in a like spirit to that by which I myself am actuated, not be slow to indicate in what manner measures, at present tentative and defective, may hereafter be so supplemented and enlarged as to give to the whole of this Empire the great benefits which, in my opinion, they are calculated to bestow.

The Council are aware that, in general terms, these proposals proceed upon the basis of imposing a liability on this Government in respect of eight particular heads of charge, and assigning to us a certain specific sum to meet those charges. If that sum is found to be insufficient, it will rest with this Government and with the Council, either by vigorous retrenchment to make our means equal to our wants, or to increase our means from other sources. Now, before I proceed, as I shall be bound to do, to state our wants in respect of these eight heads of charge, and the method in which the Government propose that these charges should be met, I think it is only fair, in our own defence, to examine whether there be any truth in the position which has been taken up by some very high authorities, namely, that if there is imposed any increased taxation the responsibility for it would rest, not with the Government of India, but with the Local Government only. I think it is right that we should know whether it be true that the Government of India had reason to expect, and did expect, that we should be able to fulfil our duty and to meet all the wants of the Government without any increase of taxation whatever. If that is the opinion of the Government of India, and if that opinion be well founded, we should justly be arraigned and condemned if we did not, by vigorous reduction and severe retrenchment, make our means thus equal our wants in the manner which is indicated as practicable. But it appears to me that it is obvious on the face of it that this neither could have

been anticipated by the Government of India, nor, if it was anticipated by the Government of India, was it so anticipated reasonably? Now, in the first place, I would ask the Council to consider what this deduction from our grant is called by the highest authority. It is called a contribution by the Local Governments in relief of the Imperial Exchequer. Now, if the Government of India could have thought that this deduction could be made in respect of works that were not necessary, then it is obvious that the Government of India took the unusual, the unintelligible, and circuitous course of giving with one hand what was not wanted in order immediately to take it back with the other; but if the Government of India considered that this retrenchment was to be made in respect of works which were needed by the public, then it is clear that they put upon us the responsibility either of leaving the public needs unprovided for, or having recourse to increased taxation; and I think, as they could not have expected that with due regard to our duties we could have done the one, it is clear that they did anticipate the other, and that, in fact, the position in which we are placed, calling upon us and necessitating upon our part an increase of local taxation, is that which the Government of India did contemplate, and must have contemplated from the beginning. Now, I wish the Council to understand that I am not at present entering upon the question whether it was the object of the Government of India to compel the Local Governments to undertake increased taxation, and whether that object was right. That is a question on which I do not desire to enter. It is a very wide question. Much may be said, both on the one side and on the other. I am now only dealing with this in our own justification, to show that that which has been alleged by high authority—namely, that if there be increased taxation, the responsibility for that increased taxation rests with the Local Governments only, and that the Government of India is not responsible for it—is incorrect. Such a position seems to me to be clear, from the very facts of the case, to be utterly untenable. But there is also another argument, which has been used by high authority, namely, that there cannot be much necessity for an increased taxation because a very large amount of the reduction now made has in this past year been “saved” by the Local Governments. In the first place figures are not given to us to show by what Governments these savings have been made. I am afraid that I cannot claim for this Government the merit of having contributed largely to those savings; but at any rate the phrase and the argument, although specious, is really without any value, and for this reason. The Local Government proposes in its budget to the Supreme Government to spend a certain sum upon work A, and a certain sum upon work B. The Government of India says: “No, that is more than we can afford; you may spend so much upon work A, but we will not sanction your spending anything upon work B”; or perhaps the Local Government, with a knowledge of the total assignment that is placed at its disposal, decides to enter work A only in its budget. In the course of the year, from various reasons—the non-arrival of stores, deficiencies in labour, unfavourable weather or other accidental circumstances of various kinds—it is impossible to spend the sum allotted by the Government of India upon work A. Well, ordinarily of course, what would be done by the Local Government would be to spend what was not spent upon work A upon work B or some other necessary work; but then the Government of India steps in with its budget rules, and says: “No, you shan’t spend what has not been spent for work A upon work B, or any work not in the

budget; it will lapse to the Government of India." And it is in respect of cases like this, where, so far from there being a saving, it has only been from accidental circumstances that the money granted has not been spent upon the particular sanctioned work which remains to be completed in the following year, and is not otherwise expended because the Local Government is absolutely prohibited from spending it upon anything else, however urgent the need for that expenditure may be,—that the Government of India discovers that there is a saving. I leave the Council to judge how far that term is applicable, or how far such an argument can be used, to show that the sums granted by the Government of India have been in excess of the wants of the Local Governments. Clearly they are not that, because, if the Local Governments had had liberty to spend the money, it would have been spent by them in meeting other emergent necessities of their people, which they are prevented from doing by the particular budget arrangements which exist. I am dealing with this because I feel that in the public speeches that have been made, and the comments which have been made by the press thereon, the Local Governments have been placed in a most unfair position by it being represented that they alone would be responsible for increased taxation. I have no doubt this statement has been widely spread by the native newspapers amongst the mass of the public, and by them will be as widely believed; and therefore I feel it is only just that a charge so unfair and groundless should meet with a contradiction as complete and public as the statement originally made. But beyond this we have on record from the Secretary to the Government of India, speaking on behalf by the Government of India, in a letter addressed to the Government of the North-West Provinces, this unhappy admission: "It was never supposed by the Government of India that the services could ordinarily be performed, unless local revenue were raised in addition to that required for the relief of the Imperial revenue." Therefore, upon the admission of the Government of India, as well as for the reasons which I have given, all responsibility, if there is any, for this increased taxation, unless it be shown that we have the power of making reduction and have not exercised that power, rests with the Government of India, and with that Government alone.

I now proceed to state in detail what our exact financial position really is. The Provincial Estimates of the Presidency have been made upon the basis of the assignment made by the Government of India in their financial resolution of the 14th December last. As a special allotment to begin the year, and for unexpected emergencies during the course of the year, and of this year only, a sum of about four lakhs, in addition to the original assignment, is given to this Presidency as a share of £200,000 afterwards added by the Government of India. The method by which the Government of India have arrived at the assignments for the various services has been this. From the sums granted to the Local Governments for the services of the year 1870-71 have been deducted all the receipts in respect of those services, and the balance is taken as the net assignment for the services for the year 1871-2. But from this sum is deducted a proportion of a sum of £350,000, which is taken by the Government of India as a contribution by the Local Governments to the Imperial Exchequer. This deduction is permanent, and the remainder is what is termed the permanent assignment, placed under the control of the Local Governments. The permanent assignment given to this Government is £901,000. There is to be added to this the receipts from the various departments, amounting to somewhere over £67,000, so that this will give us a net sum of £968,477. The sum

required for the services for the year, into the detail of which it will be my duty presently to enter, amounts to £1,063,747, thus leaving a deficit to be provided for of £95,270. The Government of India have, as I have said, given to us for this year, and this year only, a sum of four lakhs of rupees to commence with; and as that is a surplus which every wise Government would think it necessary to keep over and above the foreseen necessities of Government, we propose that that should not be trenced upon, unless the necessity arises, but continued as a balance each year, and consequently the deficit of £95,270 will not be affected by these four lakhs which the Government of India has given to us. The figures, then, that the members of Council will be kind enough to put down as the available sum at the disposal of Government is in round numbers £968,500, and the services of the year require means to the amount of £1,063,000. The Council will of course understand that these are, strictly speaking, the provincial services. Beyond these there are large balances to the credit of our local funds. The Government of India express a wish that the Local Fund Budget and the Provincial Budget should hereafter be amalgamated, and we entirely concur in the opinion that, with a view to a clear and complete exhibition of our financial position, such a combined Statement is not only desirable but absolutely necessary. But for the present year we are of opinion that we are not in a position to do this. The whole question of our local funds expenditure must necessarily come under consideration at an early date. There are at present great defects in its administration. The rules established by Government are systematically set aside. We find that works are undertaken without any sanctioned plan or estimate, and that thus large sums are spent without any reference to Government. I believe it will be found that works of considerable magnitude have even been undertaken without any fixed or definite plan having been made at all. There are of course many legal and equitable points to be taken into consideration that affect the expenditure of the local funds, and it will be the duty as it is the desire of the Government to recognize to the fullest extent all legal and equitable considerations affecting them; but as the whole question of the local funds must necessarily and very shortly come under consideration, I do not propose to enter into any discussion at the present moment of our local funds expenditure. At the same time, the Council will see that there has been prepared for them a paper, which is now on the table, showing the whole available local resources and the proposed provincial expenditure of the Government, giving thus an amalgamated statement. The whole question of our local funds will be one which we shall be bound to deal with at an early period, but at the present moment it would be premature to do so; and I would therefore now content myself by saying for the information of the Council that the balance of local funds in this Presidency is £290,284, and that the income is estimated at £468,955, and the expenditure at £552,919, leaving a balance to be carried forward for the services of next year of over 20 lakhs. The figures that I have now given to the Council will, I am sure, impress them with the importance of the question which I have thus only cursorily alluded to, and I do not doubt it will receive at a fitting time the most careful consideration of the Council.

I now come to that which is really the pith and marrow of our business to-day, and that is the expenditure that will be required in our Provincial Budget; and I think it will be convenient to reserve for subsequent consideration the expenditure proposed

for Public works. I proceed to deal in the first instance only with the Civil Services; that is to say, Jails, Registration, Police, Education, Medical Services, Printing, and Miscellaneous. The amount available for these services as given by the Government of India is £691,096, and the proposed expenditure is £744,697, giving an excess of expenditure over our available grant of £53,601. I beg the Council to bear in mind that this is for the Civil Services only, leaving the Public Works expenditure entirely out of view. Now, the portion of the contribution which the Government of India demands from us in respect of these services, and which will be chargeable against them, is £46,000, and the excess is £53,000; and therefore I think what I have before said as to the responsibility for increased taxation is fairly illustrated by these figures, as it is evident that the excess which I proceed to show is not caused by any extravagant estimates, is almost identical with the reduction which was made "for the relief of the Imperial Revenue, and which this Government is called upon to make good by increased taxation." It will now be my duty to go through these heads as shortly as I can, and to satisfy the Council that the estimates which we have felt it to be our duty to adopt are not extravagant, and that it will be impossible for us to make the grants available for those services meet the expenditure which is absolutely requisite. I first take the charge in respect of Jails. This grant is almost exactly upon the same scale as in the year 1870-71 and its predecessor—years in which, as is well known, retrenchment was carried by the Government of India to its utmost limits. The only notable change is, that the charge in respect of the Central Jail at Dhooliakote, near Ahmedabad, which had before been defrayed by a Jail Labour Fund,—a fund which, I am sorry to say, has for the present entirely failed us,—has been taken into our Provincial Budget, and thus increases the charge in respect of our Jails. In other respects the grants are almost identical with those which have been adopted for two years past. And I would point out here a remarkable illustration of how fallacious in some instances is the principle adopted by the Government of India in basing their grants for this year upon the grants of the preceding year. In the year 1870-71 and in the preceding year, the Government of India, after our budget was made, directed the Accountant General to make an arbitrary reduction from the amount which we stated was required for our Jails. They did not say that such or such a particular charge, for such and such a reason, is too much, but simply from the charge for jails strike out so much. Accordingly, a large sum was struck off in respect of the clothing and maintenance of prisoners. Now it is very easy to strike a sum off as far as the written document is concerned, but it is not altogether so easy to reduce the charge. In the particular instance it could only be done by reducing the number of prisoners, or by reducing the charges for the food and other supplies consumed, and if there was no reduction in the price of food, that could only be done by reducing the quantities allowed, which was of course impossible; and the consequence was that at the end of the year it was found that the arbitrary reduction thus made would not stand, and that as a matter of absolute necessity the Government had to provide an increased amount for the clothing and maintenance of the prisoners. That was ascertained by experience; and yet in the succeeding year the Government of India referred, not to the expenditure which was eventually found to be imperatively necessary and inevitable, but to the expenditure allowed in the budget, but with which it was found impracticable to carry out the service. Unless we adopt a similar unreasoning method, it is our opinion there is no reduction that can now with

propriety be made, though it is possible there may be a slight saving in the end from the cost of maintenance being somewhat reduced. There will be also an addition to our income, which has hitherto not been obtained, by our requiring the Irrigation Department to pay a considerable sum for the labour of the convict gangs employed upon works of irrigation in Sind. In that respect we shall gain, but otherwise in no respect, as far as we can see, will there be any means of securing an increase. As regards the head of registration, it is the only solitary instance where the Government of India have handed over to us a department from which we can expect to obtain money. Upon that we estimate that we shall obtain a surplus of £4,300, and although that is a very small sum, I may say that we accept it with gratitude, as showing that the Government of India have not altogether laid down a rule that under no circumstances will they hand over to us a productive department. The Police services for 1871-72 were taken at £392,641, being a deficit of £16,770. The budget for this year is £392,000. The Imperial grant, together with the estimated receipts, amounts to £375,866. Now, as regards this, the Government have taken the matter into the most serious consideration, and they find that they have no resources left in order to increase their means, but propose that the annual subsidy of one lakh of rupees, which has hitherto been paid to the Municipality of the City of Bombay, shall in future not be paid. We think that this is only just. The Council will see that a measure similar in principle but not in extent will be adopted as regards all the other great Municipalities, and we feel that inasmuch as the town duties, which were granted to the Municipality upon the representation that they would at the utmost produce 2½ lakhs, may be calculated in a favourable year to realize something like three times that amount, the Municipality can very well afford to do without the contribution to the Police, which has hitherto been given to them. We provide forces for the Dockyard Police and the Harbour Police, but I think it may be a fair question for consideration in another year, whether, in respect of the first, that is not a charge which should fall upon the Government of India; and in respect of the second, whether we should not call upon the Port Trust, which it is proposed to establish, to pay it. We provide for a force of 17,400 police to perform the service of the whole Presidency at an expense, including grants of land to village police, of £363,000. As regards these grants, I may say that that is merely a matter of account; no cash payment is made. A corresponding amount is shown in the Imperial receipts for land rent, and it is merely for the purposes of account that that entry of the grant of land to the village police has been made by the Government of India. The next head of charge that I have to call your attention to is the charge for Education, and I think the Council will agree with me that this is of all other heads the one on which the Government and the Council and the public generally would least willingly see a reduction made. I believe there is no part of our expenditure from which there is more advantage to the State received in consideration of what we pay. We have therefore not seen our way to making any important reduction in respect of this grant. In respect of the University, we have thought it right to throw on that Body a part of the expenditure which has hitherto been borne by the State. The University has an income, which is by degrees accumulating, arising from fees paid at examinations, &c., and we think that it is only just that, having this income, the University should from it contribute a considerable sum—a portion at least—for the expenses to which they are liable. We are the less indispos-

ed to impose this burden, because of the sum of £4,469 which the University have estimated for, £3,300 is for fees to examiners, and, looking at the number of young men examined, we cannot help feeling that that charge is larger than it ought to be. Our feeling in regard to the University is that inasmuch as they have this income at their disposal, if we were to leave that untouched in their hands and consent to meet these charges from the public revenues, we should, in fact, be taxing the public in order to enable the University to accumulate a considerable fund. I do not think that in the present state of affairs that would be just, and consequently we propose that the fees at the disposal of the University should be in a larger degree than hitherto be taken to meet charges which otherwise would be borne by the State. The charges for superintendence and inspection are £26,000. For the four Government Colleges—the Poona College, the Deccan College, the Poona Engineering College, and the Elphinstone College—the charge is £15,287 ;—of the charge for the last, viz., 7,378, and for the High School £4,378, the sum of £5,800 is recovered by interest on endowments—£2,650, and fees amounting to £3,200. I do not know that it is necessary for me to go over all the items of expenditure under this head. They are much the same as those which have been allowed in past years. We propose an additional expenditure of £1,000 for the encouragement of literature, and £320 in prosecuting enquiries for old Sanskrit manuscripts. These are the only, what I may call ornamental charges, and on the whole we do not see our way to any reduction upon this item. I think that it is the charge to which the Council would be least inclined to apply the pruning knife, and we have to provide upon this head also for a deficit of £9,651. In reference to this head, before I proceed further, I feel it my duty to make one observation, and that is that I hope the Council will take notice of the altered position of the Government in reference to the aid which we have up to the present time been almost bound to give to private contributions towards the establishment of Educational institutions. Hitherto the responsibility has rested with the Government of India of meeting private contributions by an equal sum given from the Public Exchequer, and to the Government of India with their large income, with the facility that they have for transposing from one head of charge to the other, and also from the casual means that must be continually dropping in to meet any unforeseen charge, such a position was easy and intelligible ; but in the case of our Provincial Budget and the means at the disposal of the Government of Bombay, I am bound to say that that is a liability which we cannot continue to accept. Estimating thus closely our needs, and apportioning our means thus closely to our needs, it is impossible for us in the course of the year to meet unforeseen demands of this kind, which, however laudable in themselves, however much we may desire to give every encouragement to them, would necessarily entail a burden upon the public which I think it would be very unfair for us by legislation to impose. My attention was called to this mainly by seeing a statement made by the Lord Bishop of the Diocese, in which he put before the public a statement that from public bodies of great wealth at home, and from private contributions, he expected in the course of time to raise a large sum, I think amounting to £70,000, and his Lordship then proceeded to say that upon that they would be “entitled” to receive from the Government a similar amount. I confess that when I saw these figures it took my breath away, because I could not conceive by what possibility it could be within the means of this Government by any possible method to compass the

resources which would enable us to make such a payment as that. I desire therefore to call in this manner public attention to this subject, because it is a matter of very serious consequence, and it will be the duty of Government carefully to define their position in order to see that under cover of what is called Lord Canning's letter we are not called upon thus to meet charges which really, speaking frankly, it is utterly impossible for us to discharge. The next head of account is the grant for Medical Services, and for that there is £92,548. On this there is very little for me to say further than as before, that this has been carefully scrutinized by the Accountant General and the members of Government, and that we do not see at present any means of making any reduction in this grant; on the contrary, we find that there will be a deficit of £9,121. The only remark I would make upon that is that we propose to spend £12,681 for vaccination, and that to this grant is added a grant from local funds to the extent of £5,000 and odd, making a total of nearly £18,000, which will be devoted to this most laudable and necessary object. I may only observe this, that the District Committees have almost unanimously voted help to this department. This is an item of charge which it was the duty of the District Committees to meet in the most liberal manner that they could, but at the same time I look forward to the grants which they have given being materially increased. Whether that will result in any diminution of Imperial charges I am unable to say. I am rather inclined to think that it will only lead to increased efficiency and a more general spread of vaccination, and, though it is very desirable that there should be this increased contribution from the District Committees, that we must not look for any diminution of the provincial charge on that score. As regards the other charges under this head it is not requisite for me, although I have them here in detail before me, to lay before the Council each item of expenditure, and to show how we have carefully considered them, and how we have fixed the sum which we propose to spend. I can only assure the Council that they have been most carefully considered, and that we do not see, upon a general consideration of the whole charge, any item whatever in which we could make any material change. Upon that, therefore, we have also a deficit of £9,121. Now, the next item to which I have to call the attention of the Council is the printing, and this, I must confess, is the least satisfactory charge of all. At the present moment I am not in a position to say to the Council that we can propose any diminution of this charge this year, but I think that there are circumstances connected with it which point to this, that by careful management hereafter a very considerable saving can be made. The budget for this year for printing amounts to no less than £34,579. Every department of Government almost has its own Printing Establishment, with separate superintendence and a large staff for the printing and correcting, and I cannot help thinking that it is very possible to amalgamate these, and thus to introduce more efficient organization and secure a very large economy. A Committee has been already appointed to take this matter into consideration, and I hope that in the Budget next year, instead of a deficit in this department, we may see a very large saving indeed. The last item is Miscellaneous, which is only a sum of £1,000, which is taken for the expenditure caused by an increase in the Accountant General's Office to keep our Provincial accounts. That £1,000 is a small sum, and may not all be necessary, and if not all necessary it will be a saving. Therefore, as far as we go, the Council will understand that upon the first six heads of charge, as I have said, we can recommend no saving whatever, and that the deficiency, the pro-

posed expenditure being £744,000, and the grant £691,000, there is an excess of expenditure of £53,601, which will have to be provided for in respect of the Civil Service alone.

I now come to that which is the department in which, according to general public opinion, it is conceived that the largest saving can be made, that is the Department of Public Works. The grant for the Public Works expenditure is a sum of no less than 31 lakhs. To that I must first say that there will have to be added a sum of £5,000, half a lakh, which I am not yet without hopes we may not be called upon to provide, but our liability for which it is my duty now to explain to the Council. At the time when the Elphinstone College was built the work was first undertaken, not by the Public Works Department, but by the Educational Department, and for the site a portion of an estate that had been sold to the Municipality, known by the name of the Freelands estate, was taken. You will observe that purchase was thus made by the Educational Department, and was not a matter for which the Public Works Department was responsible. The portion of the Freelands estate which was taken was valued at the sum of two and a half lakhs, and the member of Council, who was then in charge of the Education and Public Works Departments, considered that it would be a proper and equitable arrangement that this sum of two and a half lakhs should be set against an equivalent amount of the Municipal debt in respect of the Vehar Water Works. At the same time, it was stipulated the contributions of the Municipality should continue year by year to be paid, so that in fact the arrangement then made was that the two and a half lakhs for the Municipality's land should be set against the last instalment due by the Municipality for the Vehar Water Works. That instalment would fall due about 1890, and thus the arrangement made was that the value of the Freelands estate should be paid in 1890, and then be paid by being set against the last instalment of the Vehar Water Works debt. Well, inasmuch as this was money in which, at however distant a date, the Government of India were interested, I will not say that there was not, possibly, some slight irregularity in this arrangement, but still it is difficult to see how the Government of India could be materially damaged, for they got for this money a valuable site for an educational work for which they were responsible, and the payment for which is not to be made till the year 1890. But that was not the view taken by the Government of India then, and I grieve to say that is not the view taken by the Government of India now. They called upon this Government peremptorily then and there, without delay, to pay to them the sum of two and a half lakhs, which, as I have pointed out, under no possible arrangement could they have received till the year 1890. Without any allowance, without any consideration of the circumstances, they called upon this Government to pay peremptorily and summarily this two and a half lakhs. We in vain remonstrated; we in vain said that it was an arrangement which ought to be permitted to stand, or at any rate if for the purpose of account it should appear as a debit against this Government, it was only a mere matter of book account, which would properly be met by a corresponding credit entry. But the Government of India have not allowed that, and have insisted on the payment of that sum. They have listened to our remonstrances so far as this—that the two and a half lakhs, which they could not otherwise have received till 1890, is now to be paid by instalments of half a lakh year by year, and that sum of half a lakh I have now to ask the Council to give as the means of raising by increased taxation. I am not, as I say, without hopes, for it seems to me the want of equity in this proceeding is so transparent that by more forcible representations

the Government of India may be induced to reconsider their determination. I am not without hopes that that may be so; but in the meantime here it is, a charge which must be paid, and therefore I am obliged to ask the Council to give us increased means by increased taxation to pay that half a lakh which will be a recurring charge for five succeeding years. Now of the 31 lakhs which it is proposed should be placed at the disposal of the Public Works Department, £125,000 is for original works, civil buildings, £75,000 for communications, and £1,500 for miscellaneous public works. Repairs are estimated to cost £55,000; and let me say here with reference to repairs, that for some years our grants for repairs, in consideration of the attenuated means which have been placed at our disposal, have been stinted and starved, and that it is absolutely impossible for us any longer to defer carrying out all those necessary repairs to our public communications and buildings which have been hitherto necessarily deferred. What I wish now to show the Council is that, large as this sum is, we do not see how we can make any reduction. I shall be very glad if any member of Council, or member of the Committee which will hereafter have to take the Bills into consideration which my honourable friend Mr. Ravenscroft is going to propose, could point out any reductions; but I am bound to point out to the Council that with the £125,000 to which we ask the Council to give us means to contribute, there are no new works to be undertaken which I think, in the opinion of this Council, or in the opinion of the public, can by possibility be delayed. Mostly they are small works which are absolutely necessary for revenue or police purposes. We have at Julgaum a sum of Rs. 16,000 entered for a Mamlutdar's Kutcherry and Police Lines, and one or two similar charges of trifling importance. They are absolutely necessary. Then in Surat a small sum is required for piping for the Sudler Distillery. The only work which we have undertaken of any magnitude is the new Lunatic Asylum. That is the sole new work upon which we have entered, for all the others are works in progress. I apprehend the Council will see the necessity of completing as quickly as possible works that have been already commenced. The new Lunatic Asylum we consider to be absolutely necessary. We have proposed for this year to undertake a Lunatic Asylum at the Presidency town only, and I do not think there is any gentleman, be he member of this Council or not, who has visited that Asylum, who has failed to be impressed with, I might almost say, the disgraceful condition of the institution. Public attention has been called, painfully called, to the fact that there is no means of proper supervision of the inmates during the night—that there is no possible means of separating properly the violent patients from those who are not violent; and, in fact, the whole accommodation is such that I think the Council will say that we should be wanting in our duty,—that we should fail to recognize a great public want if we were not to propose to the Council to give us means to enable us at once to undertake the construction of a new Lunatic Asylum in the Presidency town. The want, I am sorry to say, is not less felt elsewhere, and if means were forthcoming I should be glad to see a new Asylum constructed at Poona. I have myself been over them both. The one at Poona is a simple scandal to a civilized nation. The patients are kept in the filthiest hovels—I will not say filthy, because the authorities do their best to keep them in decent and cleanly condition—but in hovels in which no gentleman, I am sure, would think of lodging brute cattle; and the want of all means of separating the patients—the want of anything like decent accommodation—is such that I should have been glad if it had been possible to have taken the building of a new Asylum there as well as in

the Presidency town into our immediate consideration. If by any chance some unexpected means fall into our hands by which we could meet such an expenditure as this from our annual resources, I should be very glad to do it; or if the Council think that Government has been too sparing and too economical, and think that this is a case in which they should themselves volunteer to give us increased means, I should be very glad to be able to carry out at Poona also what I believe to be necessary to meet a want there not less imperatively felt than it is here at the present moment. The other works, one and all, are in continuance of works already in progress. There are no expensive, magnificent constructions, though I have seen it anticipated as probable that each Government would immediately launch out into extravagant expenditure, that every Governor would try to signalize his day by multiplying public works to the very utmost of his power. There is nothing of that kind. A new Lunatic Asylum is the only one contemplated, and I think the Council will see that that is one of which the construction cannot be delayed. In the estimates for communications again, every item has been most carefully scrutinized. There are one or two works which are new. There is the metalling of the road from Hemmode to the Goa frontier. That I think has appeared in every budget almost since I have been here, and I observe that it was sanctioned as a necessary work as far back as the 14th of October 1864. I don't think, therefore, we can be said to be precipitate in attempting to meet the want that has been felt there. There are some other new works, but these are of a very small kind. In Dharwar there are some bridges which require to be built, the estimate for the largest of which is only £1,300, and there are others costing respectively £900 and £600; and these are works which are imperatively necessary. What I want to point out to the Council is, that although there seems to be a large demand on the Presidency by the Public Works Department, we are doing no more than meeting present actual emergent demands—that there is nothing fanciful, nothing extravagant,—that we are doing our best to keep down the expenditure, and that if this estimate is adopted by the Council, there will require to be met as a deficit on this grant to the Public Works Department the sum of £41,600. I am obliged to the Honourable Secretary of the Public Works Department for pointing out here that there is one other work which is new, but which I have inadvertently omitted to bring to the notice of the Council, and that is the Jail at Carwar. The Jail at Carwar has been, I think, in every budget since I came to India. I went and saw it early after my arrival in this Presidency, and a more disgraceful thing I never visited in any part of the world. The building is utterly insufficient as regards the accommodation required, and in the case of prisoners who are under severe sentences, they are required positively to be fettered, chained to a ring that runs up and down a bar in their sleeping room, so as to make it impossible for any unfortunate man put in this position to turn round and lie on his side without the infliction of considerable pain. Now I do not think the Council will think that this is a state of things that ought to be continued. I may say with regard to those prisoners who are not under severe sentences that, seeing the place in which they were, and that the walls were nothing but wattle and dammer, I said to the person in charge, "I cannot understand how it is you keep your prisoners;" and he said—"Well, the only way, sir, we manage to keep them in is by making them so comfortable that they do not care to go out." (A laugh.) I think, looking to the abuse on both sides—the severity on the one hand, and the total absence of discipline or punitive

treatment on the other,—the Council will consider that this Jail also is a work which we ought to undertake without delay. Now there is one work which probably the members of Council may have observed within the past few days has, I will not say been taken on hand, for that would be an improper description of it, but members may have observed that there have been some men employed in staking out the foundation of a new building on the Esplanade. This was intended for a new High Court, and I am bound to say that it is a building that has been long emergently required. There is none perhaps as to the necessity, for which there is such a unanimity of opinion. The loss and inconvenience to suitors, witnesses, and professional men, from having the Courts scattered over distant quarters of the city, is incalculable, and the accommodation provided for the highest tribunal is utterly unbecoming its dignity. I am induced to bring this subject more prominently to the notice of the Council, because within these few days the Chief Justice has expressed to us the unanimous opinion of his colleagues and himself, that the provision of a new building, which is urgently called for in the interest of all concerned in the administration of Justice, should be no longer delayed. We had when the Budget was first prepared included in it a sum for a building to accommodate all the Courts of Law, including the Small Cause Courts, but on more mature consideration we have struck it out—it is not there now. Before the monsoon we may desire to prepare the foundation, but we have agreed to strike the building out of the budget for two reasons—first, because we think that, though emergently necessary, it is a work with which we should not be justified in proceeding at this time, if it be necessary to call on the Council to give us funds for that purpose over the amount which we have now asked. In a future year, when our budget is relieved of some of the heavy charges that now appear in it by the completion of works now in progress, we shall be in a better position to undertake important works of this nature; but I feel bound to add that we decided to omit this item for the more important reason that we think the Government of India are bound equitably to find us the means, if not for the construction of the whole, at least to meet a large portion of the expenditure, and we are not prepared to take on the shoulders of this Government an expenditure that would necessarily be large until we have expended every argument with the Government of India to induce them to meet what we consider to be their just responsibility. I must explain shortly to the Council how it is we stand in reference to the Government of India with regard to this matter. There has been for many years in this Presidency a fund called the Ameens' Fund—a fund arising from the service of judicial processes,—and this in the course of years has accumulated to a very considerable sum. At the close of last year it amounted to a sum of over ten lakhs. There is also a very large sum that has accrued from fees in the Small Cause Courts. Now, our first proposition ~~was~~ that funds thus obtained from judicial sources cannot be legitimately applied to any purpose whatever except to the improvement of the administration of justice and the improvement of the buildings in which that justice is administered. That ~~was~~ our first position, and I believe it is one which will command the assent of every member of Council. In the year 1865 the Government of India proposed that the revenue derived from the fees, theretofore paid into the Ameens' Fund, should for the future be a local fund at the disposal of the Local Government, provided that the accumulated revenue up to that time was handed over to the Government of India. Well, I shall not pause to discuss whether that was an equitable proposal or

not. I cannot exactly see how by any means they had any claim to the accumulated fund up to that day; but without discussing that question it is clear that the Government of India then acknowledged that these fees ought to be a local fund at the disposal of the Local Government, to be employed, to use their own terms, in the improvement of the administration of justice. Well, we did not assent to paying over the accumulated balance at that time, because we represented that there were certain temporary arrangements in the way of increased establishments which had been made a charge against that fund, and because to transfer that fund at that time might produce some embarrassment as regards these temporary charges. Subsequently, from time to time, these accumulated fees have been carried to the credit of the fund, which, as I said, at the end of last year amounted to the sum of no less than ten lakhs. Well, we represented the matter to the Government of India. I have directed a copy of our letter to the Government of India, under date the 14th of December of last year, and of their reply, to be placed upon the table for the information of members of Council, and from them I think they will see that, in asking that this fund should be placed at our disposal for the purpose of improving the accommodation of our judicial establishment, we were only asking for a fund that could be legitimately so applied for the purpose of supplying a want long previously felt, and to remedy defects and deficiencies which were a scandal and disgrace to the Presidency. If they have not read these papers already, I hope members of Council will be kind enough to take them home with them, and they will see in what position the Government were when they asked the Government of India to transfer this sum. In the reply of the Government of India it is stated—"That the balance of the Ameens' Fund has been already appropriated for the improvement of the salaries of ministerial officers, and is not available for the buildings for subordinate Courts." Now, I may say that, after the most careful consideration of that sentence, we are utterly unable to conjecture even to what improvement of salaries the Government of India here refers. There have been certain increases of the salaries of judicial officers. Well, that may be a fair charge against the surplus of the fund as it accumulates, and I can understand the Government of India saying—"We can no longer allow this fund to go on accumulating; we can no longer allow these fees to be added to the Ameens' Fund, because by the improvement of salaries and other things this surplus is year by year exhausted;" but I am at a loss to understand how possibly it could apply to the accumulated fund which had been gathering for ten or twelve years. And with regard to the proposals that have been made by the High Court for further increase of establishment, they are accompanied by the further proposal that the judicial fees should be raised in amount sufficient to meet the increase of expenditure; and therefore with reference to the large scheme now originated by the High Court, which we are about to send to the Government of India for sanction, and which would entail large additional expenditure, that expenditure the High Court proposes to meet by increasing the fees, and cannot afford the slightest justification for sweeping away into the deep abyss of the general Treasury this general fund, leaving us to provide for the absolutely necessary accommodation of our judicial officers. The work of the Government of India has not been confined to this. I do not know whether a Bill for the purpose has been already passed, but one has certainly been introduced by which the accumulated fund of the Small Cause Court will be swept into the general Treasury; that is to say, the wants of the general

Government will be met from fees taken from suitors, generally of the poorer class in the Small Cause Court of Bombay. I cannot conceive a proposal so utterly inequitable and illegitimate, and I hope the Government of India will be disposed to reconsider their decision and to place these funds at our disposal, so as to enable us to meet the demand for a new High Court and also for new Small Cause Courts in Bombay, as well as to provide decent accommodation for our judicial officers in other parts of the Presidency. Under any circumstances a very considerable expenditure for these objects must be incurred from our provincial revenues, and I do not think we are expecting too much when we ask for a return of funds, which should properly be applied to that purpose, to supplement the local grants, which the very magnitude of the want to be supplied will render imperative. I do not know that it is necessary for me to say a word further as regards our expenditure. I hope I have satisfied the Council that the expenditure has been carefully scrutinized, and that, even with the most rigorous application of the pruning knife, no possible retrenchment or reduction, however severe, would enable us to meet the public wants without having recourse to increased taxation. And now I come to the question which probably will interest the Council most, and that is the proposals of Government with regard to new taxes.

The Council will see that with the deficit which I have pointed out the sum required to be raised by new taxation is about ten lakhs, and I need not say that the anxious attention of the Government has been given to the consideration of how this sum, which I think I have shown it is absolutely and inevitably our duty to raise, can be detained with the least pressure on the people. Of course the first and most ready suggestion was that this sum should be raised partly by a licence-tax which should affect the city population, and by a house-tax which would fall only on the inhabitants of the districts. It was the view of Government that any tax now imposed should be a general tax raised from all, but so small, comparatively of so insignificant an amount, that it would not fall with any pressure upon any part of the population, and we had it in contemplation to raise what we required by means of a small licence-tax which would not be more than Rs. 100 upon the wealthiest merchant in the place, and probably less than eight annas from the bulk of the people. We were in hopes that we should have been able to raise by means of that licence-tax a sum of about five lakhs; we also considered that we should by a house-tax of a very small amount indeed, probably descending as low as four annas, raise a very considerable sum to supplement the five lakhs. But on further consideration we came to the conclusion that inasmuch as the Government of India had thought it necessary, to our great regret I may say, to continue the incidence of the income-tax to incomes as low as Rs. 750, it was not desirable at the present moment to impose a licence-tax, and that it was better to keep that tax in reserve in case it should hereafter be required by the further modification or abolition of the income-tax; and therefore, although there were great advantages in the proposals which we first entertained, and although we considered that by this very simple means we should obtain ample funds, and could do so in a manner and shape that would not be oppressive on any, yet, in view of the continuance of the income-tax, we thought it would not be desirable at the present time to propose a licence-tax; and further, with reference to the house-tax, we considered we had not at the present time sufficient information before us to satisfy us as

to the amount that would be raised by a house-tax, even fixed at a rate so small as that which I have at this moment indicated. Looking, therefore, to the possibility that a house-tax might perhaps show a larger sum than we should require, and at the same time press probably upon no less than a million of contributors, we thought, on further reflection, that it was not desirable at the present moment to adopt this proposal; and, as the Council will see by the Bills of which my honourable friend Mr. Ravenscroft has given notice, we now propose to raise the required amount by asking the Council to give us power under three Bills. One Bill is for enabling us to fix a contribution upon the large and wealthy cities of the Presidency towards the general expenditure of the police. I have said we are about to withdraw from the Municipality of Bombay the contribution which we have heretofore given them of a lakh of rupees, and I cannot but think that every one present will recognize the strict equity of our request in asking for power to take from the wealthy Municipalities, such as Surat, Ahmedabad, Poona, Broach, and others, such a contribution as would enable us to raise from all combined a sum of probably not more than one and a-half lakh of rupees. It may probably be necessary for us to give them increased powers in order to enable them to contribute this sum. On that point I am not completely informed, but this at least is obvious, that the amount which any one of those Municipalities will contribute is really very small in proportion to the population, and I think it is a source from which we may justly expect the relief we ask in respect of our general taxation. This will leave us eight and a-half lakhs which will have to be raised by additional taxation. Now four and a-half lakhs we propose to levy by the imposition of a tax upon the rural non-agricultural population of the Presidency. We do not by this tax affect the agricultural population who already contribute to the local funds—we do not affect those who are resident in Municipalities and large cities. The taxation which is levied ^{already} is felt to be of almost crushing severity, and nothing would justify increased taxation except an absolute and inevitable necessity which we could not by any possibility meet by any other mode. We therefore do not propose to affect further the Presidency town or the larger cities, nor do we propose to affect the agricultural population, but the rural non-agricultural is a section which up to the present moment have practically entirely escaped taxes. They do not contribute to Municipal nor to Local Funds, and there are among them many wealthy individuals who are really able to bear their portion of taxation, and, besides, even as regards those who are not wealthy, that can be no reason why the ryot should pay to the local funds, and other classes living beside them should pay no taxes of this nature. Therefore we propose that the rural non-agricultural population, which at present escapes all direct taxes, should be brought under taxation in this form. They will be divided into three classes, without reference absolutely to the amount of their income, but by the decision of an authority with reference to their general means and standing, and the amount will be fixed at so small a sum that even the poorest will be able to pay it. The calculations that have been made are much as follows. Of course I can only present this to the Council as an approximate or probable estimate, because practically we have not got the materials which will enable us to give precise information to the Council, but by the most reliable information (though I have personally no doubt the population is considerably larger) the rural population of the Presidency as distinguished from urban population may be taken at 8,00,000. We think we are justified

in considering that 20 per cent. of this number are not engaged in the cultivation of the soil, and this gives a population of 1,760,000, which may be considered as the non-agricultural rural population. We would deduct 460,000, or say, in round numbers, half a million as representing those who have no fixed profession and no fixed means of livelihood, and this would give a total of population of 1,300,000 liable to be taxed. If we assume five as the ordinary number of a family, this would give 260,000 families liable to the tax, and taking one-tenth only of that number as the most opulent class, and one-fifth only as coming within the second class, and striking off from the other seven-tenths 25 per cent. as likely to be excused for inability to pay or from any special circumstances whatever, the whole produce of the tax at the rates mentioned in the Bill which is now on the table, and which the members of Council have already read, will be Rs. 4,64,000. This is an amount which we think we may fairly obtain from a class which at the present moment may be truly said to escape taxes. We make the most ample allowance for those whose wandering habits would not bring them under the Act—from the lowest class of all, which would include servants on low rates of pay, small artisans and the like, we deduct 25 per cent., because it may be expedient for Government to exempt large classes as well as individuals; and, making all these allowances, it appears we may safely calculate up on this tax producing about four and a-half lakhs. That is only an approximate estimate. It is possible our estimate will fail, but still, at the same time, we think we have proceeded on safe grounds, and I think the Council will agree that we take the wiser course in bringing under taxation a class not hitherto taxed, even with the uncertainty of what such an impost will produce, rather than add to the taxation of those who already pay heavily for the wants of the State. Having thus provided the four and a-half lakhs in addition to the one and a-half lakhs by the previous Bill, it only remains to provide the sum of four lakhs, and this we propose to do by a tax which is more open to controversy, and as to which it would be desirable to have the fullest discussion on behalf of the public. It was proposed to us at first to raise a tax on marriages. Well, we have preferred a proposal which was made to us by one who had the very fullest means of judging as to the population and as to its tax-producing capabilities, and we propose to raise this sum of four lakhs by a tax upon feasts. The members of the Council have already perhaps read the provisions of the Bill proposed for this purpose, and we have reason to believe the tax will raise the sum which remains, namely, four lakhs. We are not wedded to the proposal which may be open to objections, which have not been brought to our notice, arising from the manner in which it may affect particular classes or castes. We therefore invite the fullest criticism. But, in support of our views of this tax, I would point out that it is like those taxes imposed at home, which may to a certain extent be avoided by those who do not wish to pay. At any rate I think no one will deny that the expenditure, the profuse, I would almost say profligate, expenditure, which by custom is now incurred in the giving of large feasts, may, if such be the wish of the individual, be considerably diminished, if not altogether avoided, and it will rest with each man to decide whether he will come under this tax or not. We think, as I have said, with this lavish expenditure of which we are all cognizant, we are now only fulfilling our duty to the public, and are doing injustice to none if we attempt to divert into the public coffers some portion of these expenses which are voluntarily incurred. The rates at which it is proposed to levy this licence or tax ~~is~~ stated in the Bill, but at the same time it is of

course open to modification when it is considered by the Select Committee, and it is for them to say whether it is advisable that the tax should go lower so as to bring in to a larger extent Europeans who might be called upon to pay the tax. Those would in very few instances invite to a feast the larger number of guests which the hospitality or ostentation of natives very often induces them to bring together. As to European festivals, where there are a large number assembled, it was suggested to me the other day that I should probably be the principal person, if not the only one, who should be called upon to pay this tax, and therefore I can conceive it possible that native gentlemen might think it only just to put the number at which the tax should commence somewhat lower. This is a matter for the Select Committee, and I can only say that Government will be very glad to adopt any suggestion of that kind which they may think fairest to all classes. I have now, gentlemen of the Council, completed my exposition, and I hope that it will be considered on the whole satisfactory. I think I may fairly claim that it should be considered satisfactory, on four grounds. I think that I have shown that the necessity for new taxation has been forced upon us. I think I may hope to obtain this verdict from the Council, that we have shown no disposition to impose upon the community any taxation that is not necessary, and that we should have been willing, and anxious, to make every possible reduction with this object. I can say on behalf of the Government that there are no individuals who recognize more fully their duty if it were possible by vigorous and severe retrenchment to make our means and requirements meet. I believe there are none who would more fully acknowledge that every rupee of unnecessary taxation represents very inadequately in its mere amount and nominal value the positive loss that is caused by such taxation to the national wealth. Therefore I hope to obtain this judgment from the Council,—that we have carefully investigated every item affecting every department with the view of seeing what reduction was possible, and that we have, after the fullest investigation, found such a course impossible. I think I may claim that our exposition is satisfactory in this—that we have reduced the demands of Government to a minimum, that we have admitted of no unnecessary expenditure, that we have not launched out into any extravagant estimates, that we have done no more than to provide for the continuance of works in progress, and one or two necessary works which it will be admitted by the Council we could not defer longer. I think, too, we may claim a verdict from the Council that the proposals of the Government to meet the expenditure are satisfactory in this—that we have done our best to avoid any increase of taxation on the mass of the people. We have attempted to raise the larger part of our demand by bringing under taxation the classes that have hitherto escaped all taxation. We have attempted to supplement that taxation by a kind of license which those may avoid who do not wish to spend, and we have made only a fair demand upon the wealthier Municipalities of this country, which cannot be entitled to have from the State without payment the protection to their property and the repression of those crimes which the aggregation of a large population necessarily causes. It appears but just that the general public should not be taxed for their benefit, and that we are at least entitled to expect from them some contribution towards the expenses of their police. I cannot of course suppose that where there is a proposal to increase taxation such can be made without hostile criticism, without animadversion, and without opposition; but I hope I may look with confidence to the support of the Council in

enabling us to meet as we best may the emergency in which we are placed. I hope beyond this that the Council will recognize that though it is to be regretted that the public burdens are thus increased, yet at the same time they will enable us to carry out the proposals which, though there may be blots and defects in their details, are in the main in my opinion sound and valuable, and are sure to conduce to the general public good. I would impress upon all who hear me that the benefits to be obtained by the establishment of these new relations between ourselves and the Government of India cannot be measured merely by their direct and immediate results. Of course it is of great advantage that the Local Governments should be relieved from an interference, the work, often if not always, of meddlesome and self-sufficient subordinates, descending to minutiae so petty and so trifling, that the Council, with a just sense of the ridiculous leavened with some feeling of incredulity, would smile if I were to give them instances of such interference that have occurred at no distant date. I do not doubt it is of great benefit that the Local Governments should feel that they in future have the responsibility of proposing works of improvement which they will also have the responsibility of carrying out—because from experience I know that it is impossible to take much interest in the promotion of schemes of public improvement which, after being carefully matured, may be on insufficient or mistaken grounds, set aside by a distant authority. Such interference paralyses the action of the Local Government from the summit to its base. It is impossible to place on the Local Government the responsibility of providing for the increased wants of their people—to devise schemes for their improvement—when they know that after all their labour the probability is that they will be denied the means of carrying the works out; and therefore even with regard to this I consider it to be of the utmost importance that these proposals of the Government of India have been adopted. I do not doubt they will contribute to increased economy,—I believe, nay, I am certain, from the rigorous scrutiny which we have been compelled to give to every item in the budget, that it must lead to a more careful expenditure, and I believe it will also lead to greater harmony between the Local Governments and the Government of India. All these are considerations which show that these are valuable and important proposals, and yet their value and their importance must in my mind be gauged by a wider estimate of their ultimate results. The ultimate results are indeed important. Henceforth the Local Government is no longer a delusion and a sham, but it is a reality—a reality not only because the Government is invested with increased control, increased authority, and increased usefulness, but a reality in this,—that it is brought face to face with the people with the care of whose interests it is charged, and is made responsible that that people receive the utmost benefit for every additional rupee that is confided to it. The authority and position of this Council is increased, and the force and weight of public opinion is augmented; another result, which I neither grudge nor distrust, is that the influence of the press, or that portion of the press which guides to a certain extent while it expresses that public opinion, is also fortified and extended. All these I believe are results which sooner or later must flow from the proposals which have now been made, and from the principle involved in which, there is and can be no retreat. I believe that year by year we shall see the scope and bearing of these proposals widened and enlarged. We are now only on the threshold of great changes. I believe these changes will be productive of unmixed good to the population of this Empire. I invite the Council to approach

the subject with no narrow considerations, but to assist the Government if they think that we have not been wanting to the duties imposed upon us, and to give us the means which will enable us to secure for the country the benefit these proposals are calculated to bestow.

The Honourable Mr. TUCKER said—After the able and instructive speech which your Excellency has just delivered in explanation of our present financial position, and of the course of action which the Executive Council of this Presidency has thought it right to pursue in consequence of the important change in the relations between the local and Supreme Governments which has been effected by the recent orders of the Government of India, it is not necessary at the present stage of our proceedings that I should make any lengthy observations, but I deem it a duty to take the earliest opportunity of stating publicly that the policy announced in the lucid and elaborate exposition which we have had the pleasure to listen to has received my full assent, and both with reference to the exigencies of the situation and to the general character of the measures requisite to meet those exigencies there is no difference of opinion between your Excellency and myself and the other members of the Government. You, Sir, are aware that when the first suggestion reached us from the Government of India of the project which has since been developed into the scheme promulgated in the now widely known Decentralization Despatch, I was averse to accept the measure, both on account of its extremely limited scope and the many patent defects which were apparent in it, and it was only after a very full and careful consideration of the great value of the step that would be gained and of the ultimate advantages that were likely to result both to the Government and to the people of this Presidency from the concession, that I was led to the conclusion that it would be unwise to reject the offer made to us. The mischief occasioned by the vexatious interference and minute, or, if I may so call it, microscopic scrutiny to which the details of all our administrative measures were subjected under the system which is about to pass away, were so plain and so universally recognized, and the reform so earnestly desired had been so long delayed, that it did not seem right to refuse only a small instalment of what was greatly needed, because the gift was accompanied by certain drawbacks and involved conditions which rendered it not nearly so great a boon as it would otherwise have been. One of these conditions was the necessity for the additional taxation of the people of this Presidency which the change imposed—a necessity which, in my humble opinion, might have been avoided if those charged with the administration of the finances of the Empire had been willing to have had recourse to retrenchment in various directions where, I believe, a reduction of expenditure to have been and to be feasible, and if the Imperial funds had been more liberally distributed among those branches of the public service which have been resigned to the control of the Provincial Governments. It has never yet been explained why to these departments alone the supplies hitherto found insufficient should have been arbitrarily reduced. On this part of the subject I may say that I entirely concur with your Excellency in considering that the Government of India must have been aware that the natural consequence of their proceedings would be to compel the Local Governments to increase the burdens of the people, and that they must have looked for this result when they apportioned to us a particular set of services which had never been adequately provided for and deli-

berately excised a portion of the admittedly insufficient grants. The discontent and dissatisfaction which was occasioned by the sudden and heavy increase to the income-tax last year renders this a very inopportune time for the introduction of new imposts, notwithstanding the substantial reduction which has been made in the amount of that tax, and I should have been unable to reconcile myself to any measures which made an extension of taxation inevitable, had I not entertained a very strong conviction that the benefits likely to be reaped by the populations of Western India, in consequence of the emancipation of the Local Governments from the too rigid bonds in which they have hitherto been confined, and the delegation to this Council of enlarged functions and responsibilities, will more than counterbalance the evil and annoyance which must to some extent be occasioned to some sections of the community by an increase, however slight it may be, in the amount of our fiscal demands. The increase of our revenues being a necessity from which there was no way of escape, the next subject for consideration was how our resources could be augmented in a manner that would be least harassing to the community, and in selecting new taxes we have tried to equalize as much as possible the distribution of the public burdens by drawing within the circle of direct taxation those classes of the community who have hitherto managed to escape from contributing. This is the case with the non-agricultural portion of the rural population, who though not altogether exempt from taxation, as I understood your Excellency to say, inasmuch as they are within the reach of the Salt-tax and contribute their "quota" to Judicial stamps and Court fees, yet are but slightly touched by indirect taxation, and are free from the cesses which fall upon the owners and occupants of land, and the dwellers in towns where Municipalities have been formed. It is proposed to divide these persons into three classes, and to levy a small fixed sum annually from the heads of households or families among these classes. There would appear to be no serious objection to this tax if a limit be placed on its extension downwards, so as to exempt domestic servants, artizans, and persons who subsist upon wages whose monthly or yearly income is not more than sufficient to supply them with the bare necessities of life. The feast or festival tax is a fiscal measure of a somewhat novel description. It is a proposal to tax expenditure of a lavish kind, which is made in obedience to the tyrannical sway of ancient custom, or in accordance with habits generated by ostentation, vanity, or superstition. It is proposed to divert a small portion of the capital unprofitably consumed at marriages and other ceremonial and festive occasions into the public treasury, and if the effect of the tax be to reduce individual expenditure on such occasions it will be decidedly a public benefit. It is proposed to give power to the Executive Government to exempt such entertainments as may be held to be of a character which would make it proper to exclude them from the operation of this tax. The Bills which have been drafted to carry out these measures have been hurriedly prepared and were only put in my hands last night. They will require very careful consideration and revision in Select Committee. The measures themselves are tentative experiments, and are likely to give rise to considerable discussion both in and outside this Council. Your Excellency and all the members of Government are desirous that every part of these projects of law should be most carefully examined and considered before they become incorporated in our fiscal code, and both in Select Committee and in the Council we shall be glad if the native members of the Council will favour us with

the free expression of their views on measures so important to a large body of their countrymen. It must be remembered that objections of one kind or another can be offered to all proposals for taxation, and that, in determining how far the imposition of one tax or another may be just or expedient, it is necessary to consider the incidents of existing taxation, and to judge what is the best mode of rectifying present inequalities. I do not propose to say more now on the subject of the Bills which my honourable friend Mr. Ravenscroft is about to lay before the Council, or to follow your Excellency in the wide extent of ground which you have travelled over. I would, however, express my concurrence in the remarks which your Excellency has made on the subject of the appropriation by the Government of India of the funds accumulated from the fees paid by litigants in the Civil Courts of the Mofussil and the Small Cause Court at the Presidency.

The Honourable Mr. MUNGULDASS NATHOBBHOY said he regretted exceedingly to find from the most able and exhaustive address delivered by His Excellency that the Government of India had, by curtailing the grant for the provincial services, compelled His Excellency's Government to resort to additional taxation. He thought it was the duty of the Government of India to make adequate provision for the provincial services of this Presidency. There would have been no necessity for this curtailment if the supreme Authorities had resorted to the excellent expedient pointed out last year, and again this year, by the Honourable Mr. Chapman, who so worthily represents this Presidency in the Supreme Legislature, and if proper retrenchments had been made in the excessive public expenditure which has been kept up and enhanced from year to year, until the increase now amounted to the vast sum of 19 millions sterling over and above what it was thirteen years ago. He was sorry that such measures were not adopted, and that the Supreme Government should have withheld the proper supplies from our Presidency, which has annually yielded an increasing crop of revenues to the Imperial Exchequer. In common with the generality of his countrymen, it would have given him much pleasure if the Government of this Presidency could have avoided the necessity of imposing fresh taxation by making retrenchments in the departments made over to them, but as His Excellency had assured the Council that it was not possible to make any saving, the disagreeable alternative had at length been adopted, which, he was afraid, would be productive of much dissatisfaction throughout this Presidency. He had had no time carefully to consider the projects of fresh taxation that had been devised by the Honourable Mr. Ravenscroft, with the concurrence of the Government, for raising funds that were required for the services of our Presidency. He did not receive the first two Bills just introduced till the afternoon of the previous day, and the last one (the sumptuary fiscal measure), certainly a novel tax, till late that morning. He must, therefore, reserve his opinion as to the propriety of the proposed taxes till he had pondered over their scope and tendency. With His Excellency's permission he might be allowed to correct one misapprehension by saying that all feasts were not given by those who wished for display or ostentation. The feasts consequent on the deaths of relatives were given as a religious duty by the greater portion of the Gujerati community, who were obliged to feed their caste, and if they did not possess the means they were under the necessity of providing the cost by borrowing or begging.

The Honourable Mr. STEWART said that His Excellency at the commencement of his Speech had invited an expression of opinion from the Council with regard to recent important changes in the financial administration of the country, which had led to the consideration of a Budget Statement in this Council and rendered it necessary to impose new taxes; he would, therefore, take the opportunity of alluding to that subject without entering upon any discussion with regard to the details of the budget. It seemed to him that there could be but one opinion as to the great advantages which must result from a policy of decentralization, if fully and fairly carried out. The full and interesting statement of the financial position of the Presidency which the Council had that day heard from His Excellency was a good result which they had already experienced. He thought there could be no doubt as to the advantages which should result from the additional power conferred upon Local Governments, which would leave the consideration of special circumstances affecting particular districts to those who had local experience to guide them, while additional responsibility must lead to a more judicious and economical administration of funds; but, apart from these considerations, he was of opinion that the removal of vexatious supervision in matters of detail must be found of great advantage in the conduct of business in every department, while at the same time the Government of India must also derive material advantage from being relieved from work of control; work which must of necessity increase as civilization progressed, and which could not fail at times to create obstruction. But while applauding the principles of decentralization, he did not wish it to be inferred that he was entirely satisfied with the measure which had lately been put in force. For any such scheme, he thought it essential that every fresh demand in the form of local taxation should be accompanied by a corresponding reduction in Imperial taxation. But it seemed to him that the measure with which they had now to deal, or rather under which they had now to act, went just far enough to make it necessary to impose new taxes without relieving the Presidency of Imperial burdens to an extent beyond which the public had a right to look for relief without the imposition of any new taxes. The very heavy rate of income-tax levied in the year 1870-71 had been avowedly temporary and to meet extraordinary circumstances; it could not, therefore, be taken as the standard from which to estimate the relief afforded by this year's proceedings. As to what would have been a more satisfactory measure, he did not go so far as those who asked for a complete system of financial administration for each dependency with a fixed contribution towards the Imperial expenses. He could readily see that serious practical difficulties must stand in the way of any such complete measure as a first step, but he thought it would have been more satisfactory for all parties if the authors of this scheme had been able to do away with the income-tax altogether, even supposing that the whole amount it is estimated to yield were deducted from the sums set apart for provincial services. As for the argument that it is necessary to continue the income-tax in order to maintain the machinery necessary for collecting it, in case of any extraordinary emergency necessitating a call upon the country, he submitted that in the event of any such emergency it would be preferable to draw further from the funds set apart for the provincial services, leaving the Local Governments to make up the deficiency in the manner most suited to the population within their jurisdiction. Such a course would be far better than to continue a tax which had given

rise to so much irritation, and from which the return was so trifling compared with the amount of discontent it created. The total amount granted for provincial services amounted to more than would be raised by an income-tax of 10 or 12 per cent., and it would always be open to the Local Government to resort to an income-tax in some form or other to meet any special emergency were it necessary or expedient to do so. He ventured to say that if no direct Imperial taxes were imposed, the Local Governments would be able to act in a more comprehensive and effective manner than when their proceedings were hampered by having to treat separately that portion of the community who were subject to Imperial taxes. Then it appeared to him that the Decentralization Scheme was defective in another point—it provided only for expenditure from current revenue. Amongst the heads of expenditure over which the Local Governments are now invested with control, there appear “roads,” “public improvements,” and “civil buildings.” These are the items with regard to which there is the greatest danger of extravagance, and under these heads there must always be works of a permanent nature, such as the Lunatic Asylum to which His Excellency had referred the cost of which might be more fairly met by money borrowed on the security of the annual revenue. He presumed that, with the sanction of the Government of India, it was possible to borrow money for works of a permanent nature, the cost of which was not clearly chargeable to current revenue, and he hoped that with respect to some of the large works now in progress, which had already received the sanction of the Government of India, such a course would be adopted in order to lighten the necessity for increased taxation. Amongst the arguments in favour of decentralization, it had been urged that the resources and requirements of different localities were not always identical, and that, therefore, it was desirable that they should be separately dealt with. This was no doubt the case, but still there must remain matters of a local nature the control of which rested with the Supreme Government. He would take this opportunity of alluding to an important item of Imperial taxation, with regard to which it seemed to him that the interests of this Presidency had been made subservient to other interests in carrying out a policy which, in his humble opinion, was a mistaken one. He alluded to opium: Malwa opium, which is exported from Bombay, had for the last nine or ten years been subject to a fixed duty of Rs. 600 a chest, whereas the revenue from opium of other descriptions was derived from public sales on account of Government. The receipts from opium in 1870-71 had certainly far exceeded the estimates made a year before, but this was owing to exaggerated views with regard to the falling off likely to occur—and as a matter of fact there had been an actual decline in the value, which was likely to continue and increase. Sir Richard Temple’s statement showed that the price of Bengal opium averaged in 1868-69, Rs. 1,379; in 1869-70, Rs. 1,199; in 1870-71, Rs. 1,120-8; and for 1871-72, the estimate was Rs. 1,075. Now, this gradual falling off was fully accounted for by the competition arising from increased production in Persia and China, and such competition was certain to increase so long as opium can be produced at a lower cost in other quarters. The production of opium in other countries is yearly increasing to the injury of the Indian trade, and he wished to draw attention to what appeared to him the mistaken policy of attempting to maintain the price of opium, thus giving an incentive to competition, instead of endeavouring to increase the production at a smaller cost, in order to give the least possible encouragement to production elsewhere. But especially with regard to

this Presidency, it was manifestly unjust that Malwa opium should continue to bear a fixed and excessive tax in the face of a state of affairs which necessitated a lower estimate for Bengal opium. With regard to the measures proposed for raising funds, he would reserve his remarks for the present.

The Honourable Mr. SCOBLE (Acting Advocate General) said he could not but congratulate the Council and the Presidency that his Excellency had undertaken the task of being his own finance minister on this occasion, and had presented to the Council the first Provincial Budget which, under the Decentralization Scheme, it had become the duty of the Local Government to bring forward. His Excellency had presented to the Council such an exceedingly clear and lucid exposition of the position in which this Government had been placed by the passing of the Decentralization Scheme, of the necessity which had been cast upon it of raising further taxation, and of the means by which this Government proposed to raise the funds which would be required to fill up the deficit weighted with which this Government had started upon its independent administrative career, that he felt that it would be perfectly unnecessary for him to add a single word. His honourable friend Mr. Stewart had referred to the income-tax, and had spoken of that tax as being a tax exceedingly distasteful to those persons who had to pay it, whether Europeans or natives. He agreed with his honourable friend in thinking that all taxes were exceedingly disagreeable to pay, but did not agree with him in condemning the income-tax so fully as he did. It was, in his opinion, a tax fair in principle, though it might be inquisitorial in the method of its being carried into effect; but he thought it was peculiarly fair in this country, as it was the only tax by which persons like his honourable friend and himself, who came to this country to seek if not to make their fortunes, could be made to contribute to a fair extent to the taxes of the country. He therefore thought that it would have been just and satisfactory, and would have been a course which would probably have commended itself to the whole population of this country, if the Government of India, when introducing the Decentralization Scheme, had maintained the income-tax at 2 per cent., instead of weighting all the Presidencies with a deficiency when they started upon their career of provincial administration. He did not propose on this occasion to say anything as to the details of the budget, which details he presumed would be before the Council before its next meeting; but in regard to one matter in which he took a personal interest, namely, the provision for a High Court, he would wish to make one or two observations. His Excellency had described the condition of the Lunatic Asylum at Colaba and the Jail at Carwar as disgraceful, and he would venture to say that the accommodation of the High Court of this Presidency was disgraceful also. The accommodation provided for the subordinate Courts throughout the country was unfortunately liable to the same observation. In one Court, as they would see from a report of the honourable Mr. Gibbs, which was before the Council, the Moonsiff sits in an old godown in which it was impossible for the Judge who went on tour to stand upright; and in another Court the only accommodation for the judge, suitors, witnesses, and public, was to perch themselves as best they might upon certain bales of piece goods which had been attached in execution of a decree. Now, it was in circumstances like these that the accumulations of the Ameens' Fund, amounting to ten lakhs of Rupees, and the accumulations of the Small Cause Court Fee Fund, amounting also to a considerable sum, had been swallowed up by

the general Treasury, and he trusted that his Excellency's Government would not relax in the slightest degree their efforts to secure those funds for this Presidency, in order that they might be applied *pro tanto* for the Court-houses which were so eminently needed, and for the removal of a state of things which was simply a scandal. As to the projects for taxes which were before the Council he would reserve any detailed criticism upon them till they came again before the Council, but he might say that, as far as he had been able to consider them, they appeared to him to be fair and just, and they would fall on classes of persons who were rightly subject to the incidence of fresh taxes. When he first read of the Decentralization Scheme he feared much that people in this Presidency might have to complain that they not only paid Imperial and Municipal, but also Provincial taxes; but he congratulated the Government on having prepared projects which appeared to reach classes hitherto unreached by direct taxation, or who could afford to contribute to the necessities of the State. The Municipalities which his Excellency had said would be called upon to contribute to a greater extent than at present towards the police were comparatively wealthy communities; and the non-agricultural rural population, which would be reached by the second Bill, comprised amongst its ranks large numbers of wealthy persons,—shopkeepers, soucars, and others,—who at this time practically escape taxation. No doubt the extension of the Act to all classes of the rural non-agricultural population might press heavily upon certain classes,—sepoys, servants, and others,—and it probably might appear to the Council that it would be more advisable to increase the maximum of taxation under that Bill rather than to extend its operation to the poorer classes, many of whom are not in receipt of an income of more than Rs. 50 or Rs. 60 a year, and to whom the payment of a rupee and a-half in any single month might be a hardship. But the principle of the Bill was one that commended itself to him, and he thought it was a Bill which would commend itself to the public at large. With regard to the tax upon feasts, no doubt, as his honourable friend Mr. Munguldass had said, many of these feasts are matters of religious exigency. It was customary, upon the death of an individual, especially he believed amongst the Gujerati community, to feast eighty-four castes of Brahmins. Now it would be a great relief to poor people if they felt that the pressure of taxation warranted them in giving up that foolish and evil practise, and that might be one of the indirect methods in which probably this Bill would work favourably, though it would not be a result eminently satisfactory in a fiscal point of view. But with regard to other feasts, which were provided from ostentation or a desire of entertaining one's friends upon festive occasions, they formed a fair subject of taxation, as upon these occasions demands were constantly made upon police officers in excess of their general duties, and an amount of inconvenience was often created to the public by the occurrence of these feasts in open thoroughfares, which he thought persons who indulged in them might be called upon to pay for. For his own part he did not think the European community would object much to the payment of a fee when more than 100 people assembled on festive occasions.

The Honourable Mr. MUNGULDASS—I fancy there are no such occasions except at Government house.

The Honourable Mr. TUCKER—It would include balls like those given by Mr. Sassoon, the Byculla Club, and other European gentlemen or associations.

The ADVOCATE GENERAL said he had no further remarks to make at present, but would again congratulate the Council upon the clear statement of the financial position which His Excellency had laid before it, and express his general concurrence in the plans which Government proposed for filling up the deficit.

The Honourable Mr. RAVENSCROFT submitted for the consideration of His Excellency the President that the standing orders should be suspended and that the following Bills be read a first time:—

Mr. Ravenscroft submits for consideration that the standing orders be suspended; and

1. Bill to provide for the cost of Police employed in Towns and Suburbs;

2. Bill for imposing duties on the rural non-agricultural classes;

3. Bill to impose a duty on Feasts, —be read a first time.

1. Bill No. 1 of 1871.—A Bill to provide for the cost of Police employed in Towns and Suburbs where Act XXVI. of 1850 is in force.

2. Bill No. 2 of 1871.—A Bill for imposing duties on the rural non-agriculture classes in the territories subordinate to the Presidency of Bombay.

3. Bill No. 3 of 1871.—A Bill to impose a duty on feasts in the territories subordinate to the Presidency of Bombay.

The standing orders having been suspended, the Honourable Mr. RAVENSCROFT then asked leave to introduce the above three Bills. He felt that by this request he was to a certain extent asking the Council to support, by application at least, the recent great changes in the financial system, caused by what was known as the Decentralization Scheme. After the able exposition of their accounts which they had just heard from His Excellency, it would not be necessary for him to go, as he otherwise would have done, to any great extent into those facts and figures which had been so clearly placed before them, still he could not help endorsing His Excellency's remarks, and taking this opportunity of stating his opinion that the recent changes inaugurated in their financial system would result in great advantage both to the Imperial and Local Governments. It would of course have been much more agreeable for them had they started on their new financial career with a large balance in their favour instead of a deficit, but they must not look a gift horse in the mouth, and he was not sure that on the whole the Supreme Government had not done wisely in starting them on their new career with straitened means, so as to make them feel the full value of money, and impress upon them the virtue of prudence in the expenditure of the sums placed at their disposal from the Imperial Treasury, and the sum which, with the consent of the Council, it was proposed by these three Bills to raise. The budget of which they had just heard such an exhaustive analysis, had been drawn up with the greatest care and scrutinized by the Government with the minutest attention. Every item which had appeared unnecessary, had been, as His Excellency said, at once mercilessly lopped off; but he thought the Council would agree with him when he said that there was a point beyond which reductions could not be carried without inflicting very great mischief on the parties concerned, and financiers in India, as well as elsewhere, who sacrificed efficiency to economy, and inflicted a great and sometimes lasting injury on their country. After considering carefully the whole matter, and weighing with impartiality everything that could be urged, both in favour of reductions from

and additions to the proposed estimate, the Government had so framed their budget, that, with the funds at present at their disposal, there would be a deficit at the end of the year of about 5½ lakhs of rupees. That sum, therefore, they must raise by local taxation, if they intended to pay their way: but merely paying one's way would not suffice, and it would be indispensably necessary to raise a further sum for any unforeseen contingency, and in order to be on the safe side, therefore, ten lakhs must be raised; and it is for the purpose of raising this money that the three Bills had been proposed and were to be submitted to the Council. Notwithstanding what had been said by his honourable friend Mr. Stewart about the income-tax, he thought, considering that this year they would be relieved in this Presidency, as compared with the year just passed, of local taxation to the extent of about £300,000 by the reduction of the tax from 3½ per cent. to 1 per cent., and considering the benefits to be derived from this scheme, that they had on the whole cause for congratulation.

Mr. Ravenscroft moves the first reading of the Bill to provide for the cost of Police employed in towns and suburbs where Act XXVI. of 1850 is in force.

The Honourable Mr. RAVENSCROFT then moved the first reading of Bill No. 1 of 1871—"A Bill to provide for the cost of Police employed in towns and suburbs where Act XXVI. of 1850 is in force."

Bill read a first time and referred to a Select Committee.

On the motion being carried the Bill was read a first time, and referred to a Select Committee composed of—

The Honourable Mr. TUCKER,
The Honourable the ADVOCATE GENERAL,
The Honourable Mr. MUNGULDASS NATHOOBHOY,
The Honourable Sir JAMSETJEE JEJEEBHOY, Bart.,
The Honourable Mr. STEWART,
And the MOVER,

with instructions to present their report within seven days. It was ordered that the report should be translated into Marathi, Gujarathi, and Canarese.

Mr. Ravenscroft moves the first reading of a Bill for imposing duties on the rural non-agricultural classes in the territories subordinate to the Presidency of Bombay.

The Honourable Mr. RAVENSCROFT then moved the first reading of Bill No. 2 of 1871—"A Bill for imposing duties on the rural non-agricultural classes in the territories subordinate to the Presidency of Bombay."

Bill read a first time and referred to a Select Committee.

The Bill was read a first time, and referred to a Select Committee composed of—

The Honourable Mr. TUCKER,
The Honourable the ADVOCATE GENERAL,
The Honourable Mr. MUNGULDASS NATHOOBHOY,
The Honourable Sir JAMSETJEE JEJEEBHOY, Bart.,
The Honourable Mr. STEWARD,
And the MOVER,

with instructions to report within a fortnight. It was ordered that the report should be translated into Marathi, Gujarathi, and Canarese.

Mr. Ravenscroft moves the first reading of a Bill to impose a duty on feasts in the territories subordinate to the Presidency of Bombay.

The Honourable Mr. RAVENSCROFT then moved the first reading of Bill No. 3 of 1871— "A Bill to impose a duty on feasts in the territories subordinate to the Presidency of Bombay."

His Excellency the PRESIDENT pointed out that the object of the Government was that ample time should be given, not only for consideration of the Bills by the Council, but also for discussion out of doors. In the case of this last Bill this was more especially desirable.

Bill read a first time, and referred to a Select Committee.

The Bill was read a first time, and referred to a Select Committee, composed of—

The Honourable Mr. TUCKER,
 The Honourable the ADVOCATE GENERAL,
 The Honourable Mr. MUNGULDASS NATHOOBHOY,
 The Honourable Mr. BYRAMJEE JEJEEBHOY,
 The Honourable Mr. STEWART,
 And the MOVER.

The Committee was instructed to report within fourteen days; and it was ordered that the report should be translated into Marathi, Gujarathi, and Canarese.

His Excellency the PRESIDENT then adjourned the Council till Friday, 21st April.

JOHN JARDINE,

Acting Under-Secretary to Government.

Bombay Castle, 5th April 1871.

APPENDIX.

No. 1328.

FINANCIAL DEPARTMENT.

To THE SECRETARY TO THE GOVERNMENT OF BOMBAY.

SIR,—With reference to para. 3 of the Resolution passed by the Government of Bombay, No. 826, dated 12th May 1865, directing that Mr. Gordon, in reviewing the Judicial Establishment in Bombay, should consider the Ameens' Fund, I am directed to inform you that the surplus of the Fund should be credited to the Imperial Revenues; and that on the revision of Salaries and Establishments, a new Fund may be established on the footing of the "Peons' Fee Fund" in Bengal, which was created under Act V. of 1863, passed by that Government, and under which all fees realized for the service and execution of processes issued out of the Civil and Revenue Courts are credited to the Fund, while the money is held at the disposal of the Local Government, and is applied towards the improvement of the Courts of Justice.

If peons on Revenue establishments are now employed in serving processes, of course it will be necessary to transfer the charge for them from the General Revenues to the Fee Fund.

I have, &c.

(Signed) E. H. LUSHINGTON,
Secretary to the Government of India.

Simla, the 13th July 1865.

No. 3 of 1868.

To HIS EXCELLENCY THE RIGHT HONOURABLE THE
GOVERNOR IN COUNCIL

RIGHT HONOURABLE SIR,—One of the points which attracted my attention during my late tour of Inspection in the District of Khandeish was the miserable condition of some of the Court-houses, and the absence, even in the best, of the necessary accommodation required by law. I have therefore the honour to bring the subject to your Excellency's notice, in hopes that some steps may be taken to commence the construction of proper Court-houses, as soon as the redistribution of the Districts is agreed upon.

2. I will give a few examples of the present hovels in which some of the Moonsiffs sit to dispense justice to Her Majesty's subjects—

At Julgaum the Moonsiff sits in an old godown or warehouse, in which I could not stand upright; there is no ventilation whatever, and in the hot weather it is scarcely bearable.

At Nundoorbar the Moonsiff sits in a similar place; his predecessor, who was there for some years, being only 5 feet high, managed apparently pretty well; but the present incumbent, who may be 5 feet 6 inches, informed me that he had had to have the ceiling removed to enable him to stand upright in the Court-room.

The Moonsiff of Wurrungaum, Mr. Moore, sits in an old village Chowry, open to the road; the roof in its highest part is 6 feet 6 inches; the witnesses and parties in waiting sit out on the road. There is here not even the scanty accommodation for storing attached property which exists in other places, and in consequence, a few days before I visited the Court, an attachment having been made of some bales of piece goods, the only method of storage was to arrange them round the room, and for the Moonsiff and his establishment to sit upon them.

3. I need not, I am sure, comment on such arrangements. I am aware that the redistribution of Districts has prevented Court-houses being built in some places, but this should not prevent a larger sum than 6 or 10 rupees a month being allowed for renting a proper place. Fifty rupees or more should, I venture to think, be allowed, rather than that the Civil Courts should be so degraded in the eyes of the people; while the Revenue Officers almost invariably possess old forts or old public buildings of a far superior kind.

4. But even at such places as Yawul, Amulnair, and Dhoolia, where very good Court-houses have been built, there is not sufficient accommodation for attached property, especially for bullocks and other animals, which form a very usual item in the property seized under executions, and the want of such has obliged the Moonsiffs to adopt the custom, not warranted by law, of making the attached property over to plaintiff under security.

5. The observations in this last paragraph apply almost equally to the districts of Ahmednuggur and Tanna; and I most earnestly beg your Excellency in Council may be pleased to take steps for removing these objections, and for enabling each Native Judge to hold his Court in a suitable place—a measure which will do much to raise the Civil Courts in the estimation of the people, as well as to engender habits of greater self-respect in the Native Judges.

I have the honour, &c.,

(Signed)

J. GIBBS,

Judge, Her Majesty's High Court.

Mahabuleshwar, 21st May 1868.

No. 4836 OF 1870.

JUDICIAL DEPARTMENT.

FROM THE ACTING UNDER SECRETARY TO THE
GOVERNMENT OF BOMBAY,

TO THE SECRETARY TO THE GOVERNMENT OF INDIA,

HOME DEPARTMENT.

Dated Bombay Castle, 14th December 1870.

SIR,—Adverting to the letter from the Government of India, No. 1228, dated 20th July 1868 (Home Department, Judicial), and to Government of India's Resolution No. 3513, dated 13th September 1870 (Financial Department), directing that the balance of the Ameens' Fund of this Presidency (exclusive of Sind), which on the 30th September 1870 amounted to

Rs. 10,13,423, should on the 31st December next be credited to the General Revenues and the Fund abolished, I am directed by the Right Honourable the Governor in Council to submit the following observations.

2. Owing to the passing of the Court Fees Act this year, the revision of the Subordinate Establishments of the Courts has been delayed. The rules for fixing the number of peons to be employed in service of process have to be made by the High Court under Section 22 of that Act, and although that authority has expedited the required information by telegram, the Honourable the Chief Justice and Judge have not yet been able to report to Government regarding the rules to be made and the strength of the various establishments to be entertained. His Excellency the Governor in Council has not therefore been in possession of the facts absolutely required for the preparation of a general scheme of revision, and, considering the importance of carefulness in a matter of such moment to the judiciary of this Presidency, His Excellency entertains doubts as to whether the scheme can be sufficiently matured before the 31st December for its submission to the Government of India.

3. I am directed, in connection with the proposed appropriation of the Ameens' Fund, to request that you will again bring to the notice of His Excellency the Governor General in Council a subject of still more importance to the due administration of justice, viz., the provision of suitable buildings as Court-houses.

4. The scandalous state of the buildings at present used as Courts has been repeatedly brought to the notice of this Government, but up to the present time little has been done to remedy it.

5. In 1863, Sir Mathew Sausse, then Chief Justice of Bombay, addressed Government in the following letter:—

“ Having recently had an opportunity of visiting a very few of the inferior Courts of Justice in the comparative vicinity of Bombay, I was painfully surprised to find a total absence of suitable decency in the appearance of those tribunals.

“ A common table and chair for the Judge at one end of a room, or enclosed shed, and upon the same level with suitors, Vakeels, and witnesses, are circumstances not calculated to impress upon the Judge any consciousness of self-dignity, or upon the public any feeling of respect towards the Queen's Administrator of her laws.

“ Upon making inquiries at the Appellate Side of the Court, I find that this subject had some few years ago occupied the attention of the Government and of the Judges of the late Sudder Court. Political disturbances and financial pressure probably suspended further action; but I would beg to press the matter most earnestly upon the attention of your Excellency in Council, and venture to point out as a most favourable opportunity to effect so desirable a change a period like the present when the Queen has undertaken the direct government of India, and the laws themselves, as well as their administration, have assumed a new phase under the operation of recent legislation.

“ Some delay may be necessary before fixing the sites of and building new Court-houses, but many interior arrangements for decency might be commenced at once, and be so planned that they could be utilized in the future buildings, which I trust your Excellency in Council will see good reason to sanction with as little delay as possible.”

6. In 1864 the following extract of a Report by Mr. Spens, who visited the Sudder Ameen's Court at Bagulcote, in the Kulladghee District, was forwarded to Government by the High Court :—

“ I found the Court on the whole clean and in order, but observed that the room constituting it is low,—the height of the walls being only nine feet,—and that the Sudder Ameen not only holds his Court in this room, but that the records are kept in one corner of it; the Carkoons occupying another corner; a third corner being the Office of the Carkoon performing the Nazir's duties; and the visitors of the Court, together with the witnesses attending to give evidence in the cases named for the day, filling the fourth corner. The Sudder Ameen's chair and table occupies the centre of the room, and before him are two chairs for the Vakeels employed in the case under consideration, and behind them again sit the Vakeels unemployed, but who are in attendance to be ready when their cases may be called for; add to this a congregation of peons, &c., standing near the doors, and who choke up the entrance. The room is lighted by a large opening in what should have been over the ceiling, above the door: this opening not only admits the light but the sun during fine, and rain during wet weather. On my entering the Court, I heard the Vakeels declaring loudly on the merits of their clients' cases. The Vakeels behind them were holding converse with their clients. The visitors and witnesses were not altogether silent; Carkoons questioned each other in a loud tone as to points regarding their duties; and peons were continually passing in and out of the Court, having received or come to receive orders from the Nazir regarding summons, processes, &c. The Vakeels have no separate room or place for the conduct of their business, and are obliged to sit among the crowd.

“ I observed this during the hearing of some cases before the Sudder Ameen, and I would remark that a stranger unaccustomed to such scenes would hardly be able to understand what a witness might be deposing to, the noise and confusion being so great. No place exists for witnesses to sit in pending their being called into Court to give evidence. In fine weather they sit under a tree outside the Court, but I presume in wet weather they require some shelter and come into Court.

“ I by no means wish to reflect on the management of the Sudder Ameen, who appears to conduct the duties of his Court with due decorum and to make the best of matters; but it must appear evident to all that the dignity and character of a Court cannot be properly upheld when so many persons, performing different duties, are congregated in one room.”

7. Mr. Justice Warden makes the following remarks on the Court-houses of Guzerat in his Report of his tour in that province in 1867 :—

“ 174. I will now remark on the wretched houses in which almost all our Judicial Functionaries hold their Courts. The Moonsiff's Court-house at Mhownda is nothing more or less than a cattle shed: cattle were actually kept in it before the Moonsiff took it for a Court-house, and he did so because he had no choice in the matter—it was the “best” place that could be had for the purpose. It is extremely ludicrous to see our Native Judges dressed in robes and administering justice in mere hovels. It is a slur on our judicial administration that no steps have ever been taken for providing suitable Court-houses in the districts. None but those who have been in the districts can form

any idea of the disgraceful places in which many of our Native Judges administer justice. The Mamledars have been provided and are being provided with suitable buildings for their Cutcherries, costing from Rs. 20,000 to Rs. 40,000 each, and yet no attempt is made to provide the Native Judges with Court-houses."

8. Mr. Justice Gibbs in 1868 directed the attention of Government to the scandalously deficient character of the Court-houses of the large province of Khandeish in the following letter:—

"One of the points which attracted my attention during my late tour of inspection in the district of Khandeish was the miserable condition of some of the Court-houses, and the absence, even in the best, of the necessary accommodation required by law. I have therefore the honour to bring the subject to your Excellency's notice, in hopes that some steps may be taken to commence the construction of proper Court-houses as soon as the re-distribution of the districts is agreed upon.

"2. I will give a few examples of the present hovels in which some of the Moonsiffs sit to dispense justice to Her Majesty's subjects.

"3. At Julgaum the Moonsiff sits in an old godown or warehouse in which I could not stand upright. There is no ventilation whatever, and in the hot weather is scarcely bearable.

"4. At Nundoorbar the Moonsiff sits in a similar place; his predecessor, who was there for some years, being only five feet high, managed apparently pretty well; but the present incumbent, who may be 5 feet 6 inches, informed me that he had had to have the ceiling removed to enable him to stand upright in the Court-room.

"5. The Moonsiff of Wurrungaum, Mr. Thomas Moore, sits in an old village Chowry, open to the road; the roof in its highest part is 6 feet 6 inches; the witnesses and parties in waiting sit on the road. There is here not even the scanty accommodation for storing attached property which exists in other places, and in consequence, a few days before I visited the Court, an attachment having been made of some bales of piece-goods, the only method of storage was to arrange them round the room, and for the Moonsiff and his establishment to sit upon them.

"6. I need not, I am sure, comment on such arrangements. I am aware that the re-distribution of districts has prevented Court-houses being built in some places, but this should not prevent a larger sum than 6 or 10 rupees a month being allowed for renting a proper place. Fifty rupees or more should, I venture to think, be allowed, rather than that the Civil Courts should be so degraded in the eyes of the people; while the Revenue Officers almost invariably possess old forts or old public buildings of a far superior kind.

"7. But even at such places as Yawul, Amulnair, and Dhoolia, where very good Court-houses have been built, there is not sufficient accommodation for attached property, especially for bullocks and other animals, which form a very usual item in the property seized under executions, and the want of such has obliged the Moonsiffs to adopt the custom, not warranted by law, of making the attached property over to plaintiff under security.

8. The observations in the last paragraph apply almost equally to the districts of Ahmednuggur and Tanna; and I most earnestly beg your Excellency in Council may be pleased to take steps for removing these objections, and for enabling each Native Judge to hold his Court in a suitable place—a measure which will do much to raise the Civil Courts in the estimation of the people, as well as to engender greater habits of self-respect in the Native Judges.

9. The above letter was forwarded to the Government of India with this Government letter No. 1653, dated 5th June 1868, which requested that the Ameen's Fund might be placed at the disposal of this Government for the purpose of erecting suitable Court-houses.

10. On receipt of the reply of the Government of India, No. 1228, dated 20th July 1868 (Home Department), intimating the willingness of the Government of India to sanction out of Imperial Funds such amount as might be necessary for the purpose, a model plan was prepared in the Public Works Department, and submitted for the opinions of the District Judges as to whether the accommodation proposed was sufficient and convenient.

11. In the interval the crisis in the Imperial Finances occurred, and under the stringent instructions of the Government of India, curtailing expenditure on public works, the project of erecting new Court-houses was held in abeyance.

12. In 1869-70, Mr. Justice Lloyd, who visited the Canarese Districts, animadverted on the want of Court-houses as follows:—

“Out of the ten Subordinate Judges in the Southern Maratha Country only three have really respectable Court-houses, viz., at Chikodee, Belgaum, and Dhawar. Any thing more wretched than the places, elsewhere described in detail, in which the other Judges sit to dispense justice, can hardly be conceived, though almost every where I found that the Mamledars had excellent Cutcherries, several of them being airy, spacious buildings, erected within the last few years at great cost. Many representations have, I am aware, at different times, been made to Government on the subject of Court-houses, but the want, I believe, remains still unsupplied in most parts of the Presidency.

“It is not alone the Subordinate Judges who are badly off in the matter of accommodation, for the Bungalow occupied as a Court by the Senior Assistant Judge at Kulladghee is both cramped and inconvenient, and was, moreover, in an absolutely dangerous state when I was there, and the present quarters of the Judge at Belgaum are devoid of all the requisites of a District Court-house.”

13. Under date the 18th June 1869, the Executive Engineer of Ahmedabad wrote to the Judge of that place regarding the Court-house of Dolka as follows:—

“I consider the present Court-house, Record-rooms, &c., at Dolka very unsuitable.

“The Court-room is far too small, and must be exceedingly inconvenient, cramped and hot, while the Record-room does not provide safe accommodation for the records.

“I am very decidedly of opinion that a new Court-house should be erected.”

14. The Judge of Tanna also in a letter to the Collector there, dated 18th June 1869, observed, as regards the Court-house at Mhar, as follows:—

“The travellers' bungalow at Mhar, though unsuitable for its present purpose, is very suitable for a Subordinate Judge's Court-house, and is, in fact, quite a place in comparison to the present hired building used as a Court-house at Mhar, which is a disgrace to our administration.”

15. The following are extracts from the letters from the Judge of Belgaum, written last year:—

“ I beg also to submit a plan of the Court-house at Beejapoor, which I consider quite unsuited for the Subordinate Judge, and shall be glad if Government will sanction a new Civil Court-house at this station. The Collector, moreover, is anxious the Subordinate Judge should vacate the portion of the Cutcherry which he occupies, as the Mamledar is much pressed for room by the presence of the Subordinate Judge.”

* * * * *

“ I would mention the cost of the sheds is taken from the Engineer's estimate for similar buildings in the estimate of the Uthnee Court, and I have named two sheds from the great inconvenience felt at Dharwar for want of godowns for storing grain, the verandahs of the Court constantly being blocked with large baskets (Kunghas) of grain, bales of cotton, &c.”

16. The following are extracts from a statement from the Judge of Sattara regarding Court-houses in that District:—

“ *Kurrar*.—Present Court part of a Government building (Mamledar's Cutcherry)—insufficient room for Court accommodation, and most inconvenient. As to out-buildings not nearly enough room for attached cattle or property, and the place is in the centre of the town.

“ *Duhiwarra*.—Present building hired at Rs. 7 monthly. Court accommodation quite insufficient; out-buildings still worse; no other or better place to be procured for hire, nor is there a fit building in the Government Warra where Mamledar's Cutcherry now is.”

17. The result of the inquiries recently made by Government shows that Courts are required for the Subordinate Judges in the following places:—

Uthnee	}	In the Belgaum Collectorate.
Modebehal		
Bagulkote.	}	Do. Kulladghee Collectorate.
Beejapoor.		
Seerpoor.	}	Do. Khandeish Collectorate.
Errondole.		
Nundoorbar.		
Wagra.	}	Do. Surat Collectorate.
Unclesur.		
Bulsar.		
Rutnagherry.	}	Do. Rutnagherry Collectorate.
Gohagur.		
Chiploon.		
Rajapoor.		
Malwan.		
Kharepatun.		

Pait.	}	In the Sattara Collectorate.
Kurrar.		
Duhiwarra.		
Tasgaum.		
Ruhimutpoor.		
Vitley.	}	Do. Dharwar Collectorate.
Wae.		
Gudduck.		
Havaree.		
Callian.....		
Dholka.	}	Do. Ahmedabad Collectorate.
Oomrut.		
Borshud.		
Dundooka.		
Gogo.		
Neriad.		
Kuppurwunj.	}	Do. Canara Collectorate.
Carwar.		
Coompta.		
Hullial.		

18. But besides the above Courts required to be built for the Subordinate Judges, the accommodation of District Courts is by no means complete. There is at present no Court for the District and Sessions Judge of Canara, who for several years has carried on his duties in a room in the Collector's Cutcherry. In other districts it has also been represented to Government that additions or improvements to the District Courts are urgently required.

* 13. I am desired to point out that, owing to the Local Authorities in Sind having had this disposal of the Fund, the Province has been supplied with Court-houses, the want of which is a disgrace to this Regulation Districts, and the possession of the Fund for a year or two more is stated by the Acting Judicial Commissioner in Sind to be all that is required to supply the few remaining wants of Sind in this respect. In Sind, Court-houses have been erected at Jacobabad, Sukkur, and Larkhana, and the Judge's Court at Shikarpoor is being much improved. In Hyderabad, Court-houses at Hyderabad, Halla, and Mahomed Khan's Tanda have been completed; and in Kurrachee, Court-houses at Sehwan, Kotree, and Meerpoor Battora are being constructed.

19. With regard to the Non-Regulation Province of Sind, I am desired to draw attention to the letter of the Judicial Department, No. 2361, dated 13th August 1867, explaining what had been done by means of the Court fees received in that Province exceeding a lakh of rupees in annual amount. I am particularly to notice paragraph 13* of that letter.

20. His Excellency the Right Honourable the Governor in Council considers that from the facts above recited regarding the state of the Court buildings of the Regulation Districts of the Mofussil, there can be but one deduction, viz., that early and systematic efforts should be made to provide buildings suitable to the dignity of the Judicial Office and the requirements of the officers of the Courts, and the public who have to attend them as suitors and witnesses. The revision of territorial limits has now been completed, and His Excellency is of opinion that the present is a fitting time for carrying into effect the projects which have until now been delayed by reason of the crisis in the Imperial Finances.

21. I am therefore directed to suggest that the balance of the Ameens' Fund should be placed at the disposal of this Government as a special fund for defraying the cost of erection of new Court-houses in this Presidency, unless a sufficient assignment can at the beginning of the financial year be made for this purpose as an addition to the Public Works Grant.

22. I am also to point out that until the scheme of revised Judicial Establishments has been sanctioned by the Government of India, the fund cannot be credited to the General Revenues without serious danger of the judicial administration being injured; and to state that the scheme of revision of establishments will be submitted for sanction as soon as possible after receipt of the recommendations of the High Court.

I have the honour to be,

Sir,

Your most obedient Servant,

(Signed) JOHN JARDINE,
Acting Under Secretary to Government.

Bombay Castle, 14th December 1870.

No. 1272.

GOVERNMENT OF INDIA.
FINANCIAL DEPARTMENT.
Accounts.

FORT WILLIAM, the 4th March 1871.

Read again—

Financial Resolution No. 3513, dated the 16th September 1870, directing that the balance of the Ameens' Fund in the Bombay Presidency should be credited on the 31st December 1870 to the General Revenues, and the Fund abolished; and stating that, in the interval, the Bombay Government should submit a complete scheme for the re-organization of the subordinate Judicial Establishments.

Read—

An Office Memorandum from the Home Department, No. 2259, dated the 28th December 1870 forwarding, with remarks, a letter from the Government of Bombay, in which that Government suggest that the balance of the Ameens' Fund be placed at the disposal of that Government, as a special fund, for defraying the cost of erection of new Court-houses in that Presidency and points out that, until the scheme of revised Judicial Establishments has been sanctioned by the Government of India, the Fund cannot be credited to the General Revenues without serious danger of the judicial administration being incurred. Also states that the scheme of revision of establishments will be submitted for sanction as soon as possible after receipt of the recommendations of the High Court.

RESOLUTION.—The Governor General in Council observes that it is inexpedient to defer any longer the transfer to General Revenues of the amount standing at credit of the Ameens'

Fund in the Bombay Presidency, which transfer has long since been ordered, and was delayed only pending a revision by the Local Government of the pay of the Ministerial Officers in the Judicial Department.

2. Similar Funds existed in the several Provinces of the Bengal Presidency under the express sanction of the Legislature, but on a revision of the pay of Ministerial establishments in the Revenue and Judicial Courts in that Presidency, all the surplus assets of those Funds were transferred to General Revenues with the sanction of the Secretary of State, who indeed made that transfer an essential condition of his approval of the increased expense involved in that revision.

3. A similar revision of the pay of corresponding Ministerial establishments in the Bombay Presidency in the Revenue Department has already been effected, and the revision of the establishments in the Judicial Department is now under the consideration of the Local Government. The amount of increase that may be recommended, if found suitable, will be allowed in due course. But, pending the revision, His Excellency in Council does not think that the adjustment of the account should be delayed.

4. The charges hitherto defrayed from the Ameer's Fund will continue to be paid on the scale hitherto observed, but against the grant for Law and Justice, the receipts from 1st January being credited to the General Revenue.

5. It will thus be seen that the balance of the Ameer's Fund has been already appropriated for the improvement of the salaries of Ministerial officers, and is not available for the buildings for subordinate Courts.

ORDERED, that a copy of this Resolution be sent to the Home Department for information, and to the Accountant General, Bombay.

R. B. CHAPMAN,

Offg. Secretary to the Government of India.

PROVINCIAL SERVICES—(Bombay).

Table showing Probable Deficit in the Estimates of 1871-72 of £95,270.

1	2	3			4	5	6	7	8	9
		DEDUCT.								
		1	2	3						
Imperial Grant, 1870-71.	Proportion of £350,000.	Fixed Receipts.	Total.	Balance of Assigned Imperial Grant.	Add Estimated Receipts, 1871-72.	Total Amount available.	Budget for 1871-72.	Deficit.	REMARKS.	
	£	£	£	£	£	£	£	£	£	
1. Jails	73,234	5,000	664	5,664	67,570	5,400	72,970	81,025	8,055	The antique figures in Column 4 represent a balance against Government.
2. Registration	24,870	.....	30,141	30,141	5,271	31,335	26,064	27,014	950
3. Police	391,569	26,000	14,000	40,000	351,569	24,297	375,866	392,641	16,775	
4. Education	118,474	8,000	10,480	18,480	99,994	6,245	106,239	115,890	9,651	
5. Medical	88,427	5,000	.....	5,000	83,427	.....	83,427	92,548	9,121
6. Printing	28,530	2,000	.....	2,000	26,530	.....	26,530	34,579	8,049
7. Miscellaneous.....	.....	.....	.....	.....	.....	.....	.....	1,000	1,000
8. Public Works.....	297,732	20,351	.....	20,351	277,381	.....	277,381	319,050	41,669
Total.....	1,022,836	66,351	55,285	121,636	901,200	67,277	968,477	1,063,747	95,270	In Column 2, £50 added to round the figures in total of Column 4.

C. E. CHAPMAN,
Deputy Accountant General.

Bombay, 31st March 1871.

GOVERNMENT OF BOMBAY.

BUDGET ESTIMATE OF PROVINCIAL SERVICES.

GENERAL ABSTRACT of the Revenues and Receipts and of the Expenditure of Provincial Services for the Year from
1st April 1871 to 31st March 1872.

REVENUES AND RECEIPTS.	Reference to Detailed Estimate page.	Budget Estimate, 1871-72.	Budget Estimate, 1870-71.	Budget Estimate, 1871-72, compared with Budget Estimate, 1870-71.	Grant.	EXPENDITURE.	Reference to Detailed Estimate.	Budget Estimate, 1871-72.	Budget Estimate, 1870-71.	Budget Estimate, 1871-72, compared with Budget Estimate, 1870-71.
		Rs.	Rs.	Rs.				Rs.	Rs.	Rs.
Balance.....	.....	4,00,860	.....	.....				
I.—Allotment from General Revenues	4	90,12,000	.....	90,12,000	1	Jails	9	8,10,248	7,32,340	77,908
II.—Provincial and Local Rates and Taxes.	5	10,00,000	.....	10,00,000	2	Registration Department	13	2,70,186	2,48,700	21,486
III.—Jails	5	54,000	6,000	48,000	3	Police	14	39,26,406	39,15,690	10,716
IV.—Registration Department.....	6	3,13,350	3,06,414	6,936	4	Education	19	11,58,900	11,84,740	25,840
V.—Police	6	2,42,968	1,40,000	1,02,968	5	Medical Services	26	9,25,477	8,84,270	41,207
VI.—Education	7	62,453	.....	62,453	6	Printing	32	3,45,794	2,85,300	60,494
VII.—Printing	7	.....	.....	.....	7	Miscellaneous	36	10,000	.....	10,000
VIII.—Miscellaneous	8	.....	.....	.....	8	Public Works	37	31,90,500	29,77,320	2,13,180
IX.—Public Works	8	.....	.....	.....		Surplus on 31st March 1872.....	.....	4,48,170	.....	.....
Total.....Rs.		1,10,85,631	4,52,414	1,02,32,357		Total.....Rs.		1,10,85,631	1,02,28,360	4,09,101

GOVERNMENT OF BOMBAY.

BUDGET ESTIMATE OF PROVINCIAL SERVICES AND LOCAL FUNDS (AMALGAMATED.)

GENERAL ABSTRACT of the Revenues and Receipts and of the Expenditure of Provincial Services and Local Funds for the Year from
1st April 1871 to 31st March 1872.

REVENUES AND RECEIPTS.	Budget Estimate, 1871-72.	Budget Estimate, 1870-71.	Grant.	EXPENDITURE.	Budget Estimate, 1871-72.	Budget Estimate, 1870-71.
	Rs.	Rs.			Rs.	Rs.
Balance.....	33,03,704	.....			
I.—Allotment from General Revenues.	90,12,000	.....	1	Jails	8,85,008	7,58,644
II.—Provincial and Local Rates and Taxes	40,17,013	31,34,578	2	Registration Department	2,82,116	2,75,958
III.—Jails	1,91,790	1,55,949	3	Police	41,42,855	41,59,554
IV.—Registration Department	3,38,350	3,33,414	4	Education	21,21,641	19,83,034
V.—Police	4,83,271	4,60,395	5	Medical Services	10,25,241	9,48,531
VI.—Education	10,75,222	9,56,145	6	Printing	3,53,394	2,93,780
VII.—Printing	7,600	6,410	7	Miscellaneous	4,96,159	6,13,893
VIII.—Miscellaneous	1,37,254	1,42,552	8	Public Works	68,60,237	73,53,161
IX.—Public Works	1,11,826	95,563		Surplus on 31st March 1872	25,11,379	.....
Total.....Rs.	1,86,78,030	52,85,006		Total.....Rs.	1,86,78,030	1,63,86,555

Abstract of the Proceedings of the Council of the Governor of Bombay, assembled for the purpose of making Laws and Regulations under the Provisions of "the INDIAN Councils' Act, 1861."

The Council met at Bombay, on Friday, the 21st April 1871, at mid-day.

PRESENT:

The Right Honourable Sir W. R. S. V. FITZ GERALD, G.C.S.I., Governor of Bombay, *presiding*.
 The Honourable S. MANSFIELD, C.S.I.
 The Honourable H. P. St. G. TUCKER.
 The Honourable MUNGULDASS NATHOOBHOY.
 The Honourable A. D. SASSOON, C.S.I.
 The Honourable BYRAMJEE JEJEEBHOY.
 The Honourable COLONEL M. K. KENNEDY.
 The Honourable Sir JAMSETJEE JEJEEBHOY, Bart.
 The Honourable G. M. STEWART.
 The Honourable E. W. RAVENSCROFT.

The following papers were presented and read by the
 Papers read to the Council. Secretary to the Council:—

- (1) *REPORT of the Select Committee appointed to consider a " Bill to provide for the Cost of Police employed in Towns and Suburbs where Act XXVI. of 1850 is in force," which was as follows:—*

The Committee appointed to consider a " Bill (No. 1 of 1871) to provide for the cost of Police employed in Towns and Suburbs where Act XXVI. of 1850 is in force" approve of the principle of the Bill, and have made the following amendments:—

In Section I. words have been added giving the Bill operation in all the territories under the Local Government, and a proviso has been added limiting the maximum amount paid on the requisition of Government for the support of Municipal Police to one-fifth of the gross revenue of the Municipality during the previous year.

Three new sections have been added, to provide for the mode of payment, to declare that the Bill shall not apply to the City of Bombay, and to give it effect from the 1st April 1871.

(Signed) H. P. St. G. TUCKER.
 " ANDREW R. SCOBLE.
 " JAMSETJEE JEJEEBHOY.
 " E. W. RAVENSCROFT.
 " G. M. STEWART.
 " MUNGULDASS NATHOOBHOY.

- (2) *REPORT of the Select Committee appointed to consider a "Bill [No. 2 of 1871] for imposing duties on the rural non-agricultural classes in the territories subordinate to the Presidency of Bombay," which said—*

The Committee have made the following principal alterations:—

2. Section 4 has been altered so as to exempt those Municipal towns alone which will be charged with part of the cost of their Police under the Bill introduced as No. 1 of 1871.

3. A proviso has been added to Section 7 exempting persons whose individual or household income does not exceed Rs. 150 per annum. The Committee are of opinion that below this limit, direct taxation of the nature proposed is undesirable.

4. The Committee consider that the maximum rates levied from persons in Classes I. and II. may be raised without objection to Rs. 6 and Rs. 3 respectively, and they have altered the Schedule accordingly.

5. The Committee have endeavoured to define in more explicit terms the persons, whether heads of households or others, to whom the tax is to apply. A clause has been added to Section 1, and Sections 6 and 7 have been altered with this intention.

6. The words "Collector" and "Sub-Collector" have been substituted throughout the Bill for the expressions "Collector of the District" and "Collector."

7. It has been provided that the list prepared by the Sub-Collector shall be open for inspection without fee by any person chargeable under the Bill.

8. The Committee have omitted the Clause in Section 14 which limits the Collector of a District to a period of 30 days in making alterations in orders of his subordinate.

(Signed) H. P. ST. G. TUCKER.
 „ ANDREW R. SCOBLE.
 „ E. W. RAVENSCROFT.
 „ G. M. STEWART.
 „ JAMSETJEE JEJEEBHOY.
 „ MUNGULDASS NATHOOBHOY.

- (3) *Report of the Select Committee appointed to consider a "Bill to impose a duty on Feasts in the territories subordinate to the Presidency of Bombay." The report simply stated:—*

The Select Committee appointed to consider Bill No. 3 of 1871, "A Bill to impose a duty on Feasts in the territories subordinate to the Presidency of Bombay," regret that they have been unable to prepare a report within the time prescribed, and request that the time for reporting upon it be extended.

(Signed) H. P. ST. G. TUCKER.
 „ ANDREW R. SCOBLE.
 „ E. W. RAVENSCROFT.
 „ MUNGULDASS NATHOOBHOY.
 „ BYRAMJEE JEJEEBHOY.
 „ G. M. STEWART.

18th April 1871.

4. Letter from the District Magistrate of Surat, No. 375, dated 11th April 1871, forwarding for consideration extract from the proceedings of the annual General Meeting of the Surat Municipality on the Municipal Police and Duty on Feasts Bills.

5. Letter from the Secretary to the Bombay Association, dated 11th April 1871, requests the Select Committee to defer the consideration of Bill No. 3 of 1871 until the views of the Bombay Association are placed before them.

6. Letter from the Secretary to the Sarvajanic Subha, dated 13th April 1871, requesting Government to postpone the second and third reading of Bills Nos. 1, 2, and 3 of 1871, as these Bills being of importance, sufficient time should be allowed for the expression of public opinion in respect of them.

7. Petition from the Members of the Bombay Association against the provisions of Bills Nos. 1, 2, and 3 of 1871.

8. Petition from certain Khojas of Bombay against Bill No. 3 of 1871.

9. Petition from the inhabitants of Ahmedabad against Bills Nos. 1, 2, and 3 of 1871.

Bills and Orders of the Day—

The Honourable Mr. RAVENSCROFT, in moving the second reading of the "*Bill to provide for the cost of Police employed in Towns and Suburbs where Act XXVI. of 1850 is in force,*" said: Honourable members would recollect that at the last meeting when they had

Mr. Ravenscroft moves the second reading of the "*Bill to provide for the cost of Police employed in Towns and Suburbs where Act XXVI. of 1850 is in force.*"

had the pleasure of hearing from His Excellency the President his financial exposition, he had said that all the facts and figures regarding the budget had been so exhaustively

handled by His Excellency that he did not consider it necessary to go over the ground so ably traversed. He would now repeat that; but he might just touch upon the main facts, in order that members might see that the three Bills before the Council were necessary in order to supply the deficiency which the Decentralization Scheme imposed upon them. The budget, he might say, had been scrutinized with the greatest care, and every item which appeared in any way susceptible of reduction was carefully struck out. But notwithstanding all the care which had been exercised a sum of about 10 lakhs of rupees remained to be made up. The way in which the 10 lakhs should be made up had been fully considered, and the three Bills which he had the honour of proposing should be read a first time at last meeting were prepared and submitted. Of the second and third Bills he would subsequently speak, but he would now request the attention of the Council to Bill No. 1 of 1871. This Bill had received the best attention of the Select Committee to whom it has been referred, and had received some slight alterations. The Committee had approved the principle of the Bill, but had so modified it that the greatest amount that Government could demand from any municipality would be one-fifth of the revenues of that municipality for the previous year. The policy of taking from the municipalities a portion of the money necessary for the maintenance of the police was so obvious that he did not think it required to be enlarged upon. He did not know any large city in the world which laid claim to any civilization in which the police was paid otherwise than it was now proposed they should

be paid. Up to the present year the police of Bombay were in great proportion paid by the municipality; but Government contributed a lakh of rupees per annum towards the Bombay police, and it was thought that this was a fair opportunity of withdrawing that amount. Mr. Hope, he noticed, had sent down a petition from Surat in which it was urged that "the cost of the police ought not in justice to be thrown upon those towns only which have shown their intelligence by consenting to the introduction of the Municipal Act;" but in Act No. II. Government had exempted from payment of the tax leviable under that Act the rate-payers in all those municipalities which paid towards the police, and therefore he thought that was a fair set-off against the hardship which Mr. Hope's petition mentioned. As the Select Committee were, he believed, unanimously in favour of the Bill, he did not think there was anything he could urge further on the subject. He therefore now moved that Bill No. 1 of 1871 be read a second time.

The Honourable Mr. MUNGULDASS NATHOBBHOY—Sir, I repeat the regret which I expressed at the last meeting of this Council that your Excellency's Government should have found it necessary to impose additional taxation on the inhabitants of this Presidency, who are already excessively taxed, and whose cause was so ably advocated by the Honourable Mr. Chapman before the Supreme Legislature. I agree with that gentleman in saying the country loudly calls for cessation from taxation; but as your Excellency has declared, in introducing the Provincial Statement, that the public service of this Presidency cannot be provided for and carried on unless additional supplies to the extent of 9½ lakhs are granted this year, therefore no alternative is left to the members of this Council than to assist Government in procuring the supplies that are needed. Of the three Bills that have been introduced for raising the necessary funds, Bill No. 1 appears to me to be the least objectionable, as the different Municipalities in this Presidency will be able to meet the entire charge of maintaining the police by having recourse to such indirect modes of taxation as may be suitable to them. In order that the burden devolving on the Mofussil Municipalities may not press heavily on them, a proviso has been added to the Bill by the Select Committee, "limiting the maximum amount paid on requisition of Government for the support of Municipal Police to one-fifth of the gross revenue of the municipality during the previous year." With these few remarks, I will vote for the second reading of the Bill.

The Honourable Mr. STEWART—I have nothing to say against this particular Bill, but before proceeding further I should like to take this opportunity to say a few words on the general subject of the requirements of the year, and the way in which it is proposed to meet them. It has been clearly shown by your Excellency that taxation, in some shape or other, has been rendered absolutely necessary by the proceedings of the Government of India, and from the Budget Estimates it appears that a sum of nearly ten lakhs is required to make up the expected deficit. To enable Government to raise that amount three new Bills have been introduced. Now it is impossible to consider each of these Bills separately without reference to the others, and, in alluding to the general policy of the Government, I would ask to be allowed to reverse the order of things, and refer first to the means proposed for raising money, and then to the requirements. With regard to Bill No. 1, I approve of the policy of requiring the more important municipalities to contribute towards the police.

expenditure. I admit the justice of the principle by which Bill No. 2 is directed against that portion of the community who are at present most exempt from taxation; and although I think that direct taxation is unsuited to the particular classes who are likely to come under its operation, I intend to support the Bill, because it appears that under existing arrangements we are practically debarred from resorting to indirect taxation, I confess that I have been influenced to some extent by the hope that if Bill No. 2 is passed, Government may not find it necessary to resort to further taxation—at least for the present. Without committing myself to any decided opinion with regard to Bill No. 3, which has not yet reached the stage for consideration, I may say that, in my opinion, it is the least defensible of the three measures proposed by Government, and that I should be very glad if it could be dispensed with. Apart from all other considerations, I think it is very important, on this particular occasion, that the means adopted for raising money should be as simple as possible, and that it is most necessary to avoid putting in force the machinery necessary for the collection of any new tax that can by possibility be avoided.

His Excellency the PRESIDENT, interrupting the Honourable Mr. Stewart, said—Of course it is perfectly proper for a member of the Council to state those general considerations that appear to make new taxation unnecessary, and in that view the question of retrenchment may be legitimately discussed now; but as regards each Bill there will be a separate motion, and I think it would be regular that the objections in reference to each Bill should be made as each Bill is brought up for consideration, otherwise we shall get very much involved in our argument. There will be a motion in reference to the third Bill by my honourable colleague, Mr. TUCKER, and I think that will be the best time to take into consideration the observations which may be made with reference to that Bill.

The Honourable Mr. STEWART—Then, for the present, I will make no further reference to that Bill, but with your Excellency's permission I would like to refer to the circumstances under which the three measures proposed have been introduced. Your Excellency explained at the last meeting of this Council that it rests with the Government either by vigorous retrenchment to make requirements equal our means, or to increase the means to meet requirements. Your Excellency also invited members of this Council to point out any possible reduction in the Budget Estimates. Now, sir, I do not for a moment doubt that the Budget was framed with a view to rigid economy, and that every item of expenditure can be justified as being urgently required. But these estimates were made in order to determine what amount it was necessary or desirable to raise, and I think it will be admitted that it may be desirable to reconsider the subject if difficulties present themselves in the way of raising the full amount required. It may be, and I have no doubt it is, of the greatest importance for the good of this Presidency that the full amount of the Budget Estimate should be expended; but, at the same time, I submit that it is of greater importance, as a matter of policy, that the money required for the proposed expenditure should not be raised by means of taxes, which may possibly prove a hardship to any class of the community. Now it seems to me that under the head of Public Works some reduction in the estimates is possible. It is not for me to point to particular items, or state what reductions can be made. I would merely urge upon Government to make such reductions as may be attended with least disadvantage. But there are one or two items in

the estimates to which I would ask leave to call attention. The first item in the budget appears under the head of "Bombay Defences," and I would ask whether works connected with the defences of the country are a fair charge against the provincial revenues. The public works which are to be met from provincial funds are defined in the Financial Resolution of the Government of India, as "roads," "miscellaneous public improvements," and "civil buildings;" and I think it might fairly be urged that works connected with the defence of the country cannot come under any of these heads, and should be paid for from Imperial revenues. Again, your Excellency has told us that there are large balances to the credit of local funds, and I would ask whether there are not some items in this Budget which might fairly be charged to them.

His Excellency the PRESIDENT—Which do you refer to?

The Honourable Mr. STEWART—For instance, maintenance of roads, construction of bridges, and minor works of that sort, in districts where the one anna cess is levied. I admit that it would be no economy to reduce the grants for buildings or works already in course of construction. It is too late to think of retrenchment with respect to them, and probably the wisest course is to hasten their completion, with a view to bringing them sooner into use. But I believe it is the case that there are an extraordinary number of such works now in progress. I believe there have never before been so many calls of this nature at any one time; and I would ask whether under such circumstances it is wise to commence any new works whatever in an exceptional year like the present. It is true that only two new works are proposed, and I am quite ready to admit that they may be most urgently required: but they call for a sum of two and a half lakhs from the current revenue of the year, and will, I presume, necessitate further calls in succeeding years. Your Excellency's appeal on behalf of the Colaba lunatics and the Carwar malefactors would have touched a harder heart than mine, and it is far from my wish to urge Government not to relieve wants which are so pressing. I have myself visited the Colaba Asylum, and can testify to its wretched accommodation and to the necessity for some change in existing arrangements; nevertheless I would ask whether it is absolutely necessary that a new Asylum and a new Prison should be built, and if so, whether it is necessary that they should be commenced this year when there are so many reasons for curtailing expenses. Cannot the lunatics, or the less violent portion of them, be provided with quarters in the now deserted barracks on Butcher's Island; and if the Carwar prisoners are, as your Excellency described, kept within bounds by being made so comfortable that they have no desire to leave their prison, might they not be permitted to remain as they are for another year? I have already said that I intend to vote for the Bill now before Council, and I do so because, admitting that taxation is necessary, I consider that a charge for the police employed in wealthy municipalities affords a fair and proper means of raising money, and that it is not open to any objection that would not apply to any measure for enforcing payment of money.

The Honourable Colonel KENNEDY makes a statement concerning the position of the Department of Public Works.

The Honourable Colonel KENNEDY then made the following statement:—

I propose, with your Excellency's permission, to make a few observations on that part of the Provincial Budget which relates to the Public Works Department. The

total grant under the heads of service now classed as Provincial was in 1868-69 Rs. 37,27,000. The expenditure in that year against this grant was Rs. 38,98,000.

The grant in 1869-70 was Rs. 40,15,000, and the expenditure Rs. 33,40,006, exhibiting a considerable saving, which was caused by a reduction having been made in the grant by the Government of India, and by a general suspension of works when the year was far advanced, to meet in part the general financial deficit which was then anticipated.

The grant in 1870-71 was Rs. 27,42,000, it was at first fixed very nearly at the same amount as the reduced grant of the previous year; that is, it stood at first at 31 lakhs, from which subsequent reduction was made of about 3 lakhs. The expenditure against the grant is not at present accurately known, but it is expected it will equal the grant, and that there will be an equilibrium.

In 1871-72 the provincial assignment made by the Government of India for the services with which I am dealing is 23 lakhs, but from this must be deducted the proportion of the quota of contribution to the Imperial Treasury, which for these services amounts to $1\frac{1}{2}$ lakhs, reducing the assignment to $21\frac{1}{2}$ lakhs. But, to admit of proper comparison with the figures above given, to this sum must be added the amount of contribution from local funds for the maintenance of roads, as the totals above given include similar items. The contribution for 1871-72 is Rs. 5,75,000, and raises the sum to be dealt with to $27\frac{1}{4}$ lakhs, or as near as can be to the amount granted last year, which was at first the same as that allowed in the deficit year, and was subsequently reduced below that sum.

A consideration of these figures will therefore show that to carry on the services to which they refer, the grants that have been assigned are not only lower than they have ever been of late years, but are absolutely less than they were in 1869-70, the year of financial panic, when works were generally stopped. To suppose, therefore, that these services can be carried on without, in some manner, finding means to supplement the grant, is to suppose that they are to be even more partially performed than they are at present, or than they were during the year of financial panic.

It is therefore very clear that, unless the administrative wants of the country for public works are to a great extent neglected, the necessity of increased taxation is imposed on this Government, and they must assume this responsibility unless they are prepared for worse evils:—

To show how inadequate, at the best, are the grants that have been available to meet the wants of the country, I may state that in 1869-70 works to the undermentioned extent, all of which were more or less needed, and some very urgently required, were perforce excluded from the Budget:—

	Lakhs.
Civil buildings to the extent of	22 $\frac{1}{2}$
Communication	34
Miscellaneous public improvement.....	1
In the following year, 1870-71, the exclusions were—	
Civil buildings	47
Communications.....	44 $\frac{1}{2}$
Miscellaneous public improvement.....	4 $\frac{1}{2}$

These figures represent the outlay that could advantageously have been made in the year if the money had been available, in addition to the outlay which was actually provided for in the Budget of the years.

The total amount of the Budget which is now before the Council is Rs. 44,04,600, and the assets against which it is drawn are as follows :—

Assignment by the Government of India for Civil Buildings, Communications, and Miscellaneous Public Improvement	Rs. 21,34,045
Ditto for Establishment, Tools and Plants.....	„ 5,97,533
Contributions from Local Funds and other sources	„ 13,04,600
Balance to be met by new taxes or by other means	„ 3,68,422
	Total.....Rs. 44,04,600

The details of the charges in the Budget are as follows under the main heads—

Original Works.....	Rs. 26,44,600
Repairs.....	„ 11,25,000
Establishment	„ 6,00,000
Tools and Plant	„ 35,000
	Total.....Rs. 44,04,600

I will now run briefly through the budget, noticing such items as it seems to me the Council would probably desire some information on. And first, as to—

Civil Buildings.

As regards item No. 1, I beg to explain, with reference to a remark by my honourable friend on my right, that the work is one which refers to the Customs Department, and not to the Bombay Defences. The words in the first column of the budget—“Bombay Defences,”—refer to the executive division in which the work is to be executed, and not to the character of the works. The sheds are required for Customs purposes, and form no part of the defensive works of Bombay.

The new Secretariat Offices, I am happy to say, are approaching completion, and I trust this is the last budget in which they will appear. The same may be said of the Public Works Offices, and also of the Government House at Gunness Khind and the Elphinstone College. These have all been heavy works, and their completion will set free funds in future budgets for public improvement in other directions where improvements are greatly needed.

The Native General Hospital, which has made good progress during the past year, owes its existence thus far to the munificence of the late Mr. Goculdas Tejpal, who gave for the purpose a lakh and a half of rupees, leaving to Government to provide one lakh to complete a building, whose object is the provision of hospital accommodation for the general native population of a part of this great city. Much discussion took place as to a suitable design, and as to what accommodation was needed, on which points the Government of India required a great deal of information before the building was commenced, and this was the cause of a protracted delay that gave rise to considerable dissatisfaction, but all this was at length settled, and the building happily commenced.

The Strangers' Home has not yet been begun for want of a suitable design. Why such a design has not yet been forthcoming I can hardly explain, for I do not clearly know. I think, however, that the fact is in some way attributable to the circumstance that the matter has been in the hands of a Committee, and as it is said Councils of War seldom fight, so it might be observed that Committees do not always act as promptly as they might. Mr. Cowasjee Jehangeer Readymoney, who has so generously contributed half a lakh of rupees towards the cost of this building, is naturally impatient at the long delay that has occurred in giving effect to his good intentions, and has lately strongly remonstrated against his money being permitted to lie idle, and has hinted at withdrawing it; but I trust he will be satisfied when he learns that a suitable design is now about to be submitted, and that it will not now be long before a commencement is made. How much accommodation of this description is needed, the honourable members of this Council may learn by using their eyes as they pass through the streets of this city.

As regards the Sailors' Home we have been in a somewhat similar predicament. We have not yet got an approved design. We want something that will prove an ornament to the city,—that was indeed a condition of His Highness the Gaekwar's gift of two and a half lakhs for the work,—and we want a building with a large amount of accommodation; while our means are limited, for Government is not in a position to supplement the donation, and His Highness the Gaekwar has made it a condition that aid shall not be sought elsewhere. Thus we are in the position of requiring something large and handsome, our means being at the same time strictly limited. In this case, too, there is a Committee; but I trust now the difficulties that have lain in the way will be very shortly overcome, and that we shall get a design which will satisfy every one, though it may not afford the full amount of accommodation that was at first contemplated, which, as far as I can learn, was really in excess of what was needed.

The University buildings, for which this city will be indebted, first, to Mr. Premchund Roychund, who in happier and more prosperous days made over to Government a portion of his gains to the extent of four lakhs for the library and clock tower, and, secondly, to Mr. Cowasjee Jehangeer, who gave one lakh towards the Convocation Hall, are making good progress, and though they will not be completed in the year to which this budget refers, I think the next year will see them finished. They are from the designs by Mr. Gilbert Scott, and are under execution by Colonel Fuller, R.E., and I need say no more than this to indicate what any honourable member of this Council may see for himself by the promise they already give, that they are likely to be ornaments of which any city in the world might be proud.

The new High School at Surat, for which we are indebted to a great extent to the munificence of Mr. Sorabjee Jamsetjee Jejeebhoy, who contributed a sum of Rs. 35,000 to this work, is now very nearly completed, and will not fall on another budget. It is a very good and creditable building.

Your Excellency, in your speech at the last meeting of the Council, entered so fully into the question of the necessity of better accommodation for lunatics, that it is needless for me to dilate on the subject. I need only point out that provision has been made for the commencement of a new Asylum as soon as the preliminaries have been

determined. I regret, however, now to learn that my honourable friend on my right (Mr. Stewart) thinks that this accommodation is not absolutely wanted. I am the more surprised at this, as he states that he has recently visited the existing institution, than which anything more wretched cannot possibly be conceived, as is, I believe, well known to the Council. As regards his suggestion that the building at Butcher's Island should be used as a Lunatic Asylum, I can only observe that these buildings belong to the Military Department, and, being Imperial property, do not belong to the Provincial Government, and are therefore not available. They were required and were constructed for the overland troop service.

The Jail at Tanna is under execution, and has made some progress. It will not, however, probably be finished for a year or two. As regards accommodation for prisoners at Carwar, your Excellency has already explained to the Council how much necessity for such accommodation exists, and I trust it will not now be long before the want is supplied. The Yerowda Central Jail has been in progress for the last four years under the direct supervision of the Inspector General of Prisons. Its progress has not been altogether satisfactory. It is now proposed to make over the work to the Public Works Department.

This completes the heading "Civil Buildings," but it may be interesting to the Council to know that the twenty-three works which comprise it have obtained places in the Budget by a process which may be described, in the terms of a popular scientific theory, as one of natural selection or the survival of the fittest in the struggle for existence. They have been arrived at through a painful process of an elimination from a very long list of similar wants. Excluding contributions, they involve an expenditure during the year of 12½ lakhs, but the omitted works of the same class, 135 in number, all of which are more or less urgently needed, but which it was necessary to reject for want of means, involve an expenditure during the year of upwards of 30 lakhs. I hold in my hand a list of these works, and I find that they comprise—

			Number.
Buildings connected with the Revenue administration of the country.....			47
Do. do. Law and Justice			16
Do. do. Police			56
Do. do. Medical			9
Do. do. Educational			1
Do. do. Miscellaneous			6
<u>Total.....</u>			<u>135</u>

The total estimated cost of these works is Rs. 53,65,000. In addition, however, to the above works, which are more or less emergently needed, I hold also in my hand a further list of works of the same class, much, but not so urgently, needed. They are 55 in number, estimated to cost Rs. 20,70,000, and the sum that would profitably be spent upon them during the year, if it were available, is upwards of 15 lakhs. Thus, under the head of "Civil Buildings" alone, to meet an outlay which ought not to be less than 42½ lakhs, and might with the greatest advantage by 57½ lakhs, we have only 12½ lakhs, which we are obliged to eke out in the manner shown in the Budget.

I now come to the head—

Communications.

The road from Dharwar to Carwar is, I am glad to say, very nearly approaching completion. I have lately had very good accounts of it from the Superintending Engineer, who writes as follows :—“ All cause of complaint as respects the condition of the Arbyle Ghaut Road has been removed. There is now no real obstruction to the cotton traffic on the whole line. * * * . The general condition of the road, which is now bridged and drained throughout, is satisfactory.”

As the Council are probably aware, a State railway is in contemplation leading from the port of Carwar to the cotton district of the Southern Mahratta Country, and this railway will probably follow the general line of the road that has been made. It will be some years before the railway can possibly be completed, and the new road will not only be very useful in the meantime, but will very materially help the construction of the railway. I may here say a few words in reference to the port of Carwar, where there are already facilities for landing and shipping goods more than equal to the present requirements of the trade of the port, and likely to be equal to the want for some time yet to come.

Unfortunately, up to the present moment, the traders of Coompta have not been properly impressed with the advantage of the port of Carwar over their own open roadstead and shallow creek, and have not moved their agents to the former place. The construction of a railway to Carwar will no doubt compel them to this course. In the meantime the approach to Coompta from the cotton districts by the old road over the Devemunni Ghaut has not been neglected, and is capable as ever it was to carry the heavy traffic that comes upon it.

The road from Belgaum to Vingorla *via* the Parpooli Ghaut is completed, with the exception of a few of the heavy bridges, for which the iron work has arrived, and some trifling works here and there along the road. It has been for some time in use, and must be a great blessing to the traffic that is now no longer forced over the old Ram Ghaut, one of the most formidable mountain roads that can be conceived.

The improvement of Phoonda Ghaut, and of the road below it to the north of Dewghur, will supply a want which is greatly felt for a western outlet to the Coast for the produce of the Southern Maratha Country, there being no good communication over this portion of the Western Ghaut, between the Koobarli Ghaut on the north and the Parpooli on the south, or for a distance of about 100 miles.

The improvement of the Passurnee Ghaut Road will give proper means of access to Mahableshwur, the chief sanitarium of the Presidency, and supply a want very greatly felt. It is hoped that such members of the Council and of the general community who may visit the hills during this and succeeding seasons, will feel that the money expended on this object has been well laid out.

A sum of Rs. 1,10,000 has been set down for railway feeders in Goozerat, and it is hoped that during the year means may be found to spend this sum in a way that will greatly benefit the rich province referred to. Owing to a want of proper material the difficulty of road making in this alluvial country is very great. Many very useful and necessary roads have been commenced, but have been temporarily suspended for want

of sufficient means for carrying them on. Regarding one of these roads, that from Oolpar in the Surat Collectorate to the Sayen Railway Station, the Superintending Engineer of the districts writes as follows :—“ It would even now present an excellent surface for carts were it passable, but it is covered in many places with so dense a jungle of babul trees as to render the greater portion difficult and parts quite impracticable. I really felt that we were all disgraced in allowing such an expensively commenced road as this to be a mere harbour for partridges.” It is certainly greatly to be regretted that such a state of things exist, but it is hoped that it will not now much longer continue. An arrangement has been made by which the local funds shall contribute two-thirds of the cost of certain of these roads, and this will perhaps in part meet an observation of my honourable friend on my right, regarding the application of local funds to aid in provincial works. The remaining third will be found by Government. The sum set down should therefore represent only a third part of what will be expended on this important series of works within the year, and a similar or even an increased rate of progress may be looked on in succeeding years. It has been stated, with perhaps some truth, that Goozerat has not received in past years the full share of attention as regards works of communication that its needs demand or that its revenue would justify, but it must not be overlooked that to make any roads at all in this part of the country that would be better than the existing native tracks would involve a very heavy outlay, and it is also, I believe, a fact, that except in the monsoon—when there is very little commercial traffic—it is practicable to pass without let or hindrance over the flat soft surface of the country. In the Deccan and Southern Mahratta Country it is different. At no season can anything on wheels traverse the hard, stony, rolling surface of this part of the Presidency, or surmount its numerous rocky ridges, unless a road be previously cut out and levelled. Judging, therefore, by the relative needs of the two countries, in one of which the traffic can, and has, for centuries moved without artificial aids, and in the other where it never has passed, and never could pass, without such assistance, there is perhaps a good reason for the course which the Government has been compelled to adopt. If the Government is to be regarded as a whole, and not as an agglomeration of a number of smaller parts with independent claims and interests, it cannot, I think, be denied that the proper course with limited means is to attend to the most urgent wants first, leaving the less pressing needs to a time when they can be taken in hand without detriment to others which, from their very nature, must be held to be more emergent.

The road from Dohud to Godra opens up the dense tract of the Barea jungles, and the money for the work has been found chiefly from a fund termed the Barea Tribute Fund, which has been derived from the accumulation of the annual tribute by the Barea State to the Supreme Government, and which the Government of India authorised to be expended on works of improvement in the State. The funds derived from this source have been supplemented from the Punch Mahal Local Funds, and, in addition, a sum sufficient to complete the work will have to be provided from the provincial grant in the current year. Rs. 20,000 is so provided, but the work will not be finished until next year. It has been in progress for two years, and the opening up an almost impenetrable wilderness, as well as being on a main line of communication between Malwa and Goozerat, it is a very important work.

Items 34 to 37 refer to the reconstruction of certain small timber bridges which have become worn out by the process of natural decay. They are needed to preserve the communication along the lines on which they are situated.

Bridge over the Gotoor Nulla.—This work is required to provide a passage across almost the only unbridged nullah on the road between Kolapore and Belgaum.

Bridges and drains on the Chiploon and Rutnagiri Road are required to enable Rutnagiri to keep up communication with the rest of the habitable globe, from which it is now cut off for months during the rainy season.

The bridge over the Panch Gunga river, near Kolapore, is a work that is very greatly needed. I am personally very well acquainted with this river, and I have little hesitation in saying that it is a most formidable obstacle. The greater part of the cost of this work, *i. e.*, two lakhs of rupees, is to be met by the Kolapore State—a pretty good indication of the local value assigned to the bridge.

The Oodgaum Bridge has not yet been sanctioned, revision of the estimate in view to reducing its cost having been considered necessary. When that has been settled the work will be undertaken, a sum of at least rupees two lakhs being contributed to it by the Kolapore State.

Bridge over the Koina river at Kurrar.—The Koina, as the Council may be aware, is the most formidable obstacle in this presidency on the great north and south line of road leading to Madras and Mysore, and connecting Poona with the chief military and civil stations in the southern part of the Presidency. The bridge is now nearly complete; its construction has presented many practical difficulties owing to the extremely unfavourable character of the foundations. The original estimate has been unavoidably exceeded owing to this circumstance, but everything has at length been overcome, and the work will not, I hope, appear in any future budget.

The Neera Bridge at Sheerwull, on the same road, unfortunately failed at the early part of the last monsoon—not, I am sorry to say, from pressure due to floods or other natural causes, but owing to faulty building.

I am glad, however, to be here able to say that such instances of failure are in the Public Works Department few and far between, and are within, not in excess of, the reasonable proportion of such mistakes that will always occur in a large department of construction such as this. I avail myself of this opportunity of publicly making this statement, because I am aware that a contrary opinion exists. Such opinion is not, however, founded on fact, or, rather, is founded upon a few prominent instances of misfortune, which have come under the observation of many on account of the localities in which they have occurred. Of course any public department or private body concerned with the construction of engineering works on a large scale cannot hope to avoid occasional failure. If a comparison is made between the errors of the Public Works Department in this Presidency and those of either of the great Companies that deal with engineering matters in the same locality, I am prepared to say that it will be all in favour of the former—whether the actual or relative money value, or the proportions of failure to final outlay, or the number and extent of the works that have failed, be considered. I can also say, and say without fear of contradiction, for I am prepared to prove my

statement if necessary, that the cost of works by the Public Works Department is less than the cost of similar works executed by other large concerns engaged on engineering construction, such, for instance, as our railways. But it is, I believe, a fact that the outside public, who are also especially hard on the Public Works Department, assign too little value to the difficulty of construction in this country, though engineers have at length come to know it well through the teaching of experience. Engineering science at home, where we all gain our preliminary instruction, has to deal with a far easier set of physical conditions; it has not to provide for an enormous and concentrated rainfall, great alternation of temperature, as well as of dryness and moisture, nor with the want of really skilful labour, and almost in every case a deficiency of efficient lower supervision. But with all the advantages that there exist, failures are far from being unknown in Europe, as the profession is well aware.

I do not think I need refer to the remaining items under the head "Communication," but, as in the case of the selected works under the head "Civil Building," I may say that those which have been brought forward have been chosen from a long list of pressing works as the fittest for execution.

I have here in my hand a list of excluded works of communication, seventy-one in number, on which, if the means had been available, in addition to the nine and three-quarter lakhs (including contribution) set down for expenditure in the year, twenty-nine and three-quarter lakhs more might with great advantage have been spent on works estimated to cost an aggregate sum of ninety-eight and a half lakhs.

Repairs.

As regard this class of outlay the grants in 1868-69 were Rs. 13,39,000, the expenditure Rs. 11,56,000; in 1869-70 the grants were Rs. 12,25,000, the expenditure Rs. 9,88,000; in 1870-71 the grants was Rs. 11,75,000, and as far as is at present known the expenditure will be Rs. 9,50,000. Thus it will be seen that both grants and expenditure have been on descending series, and I very much fear, from the complaints that are constantly reaching me, that in this particular economy has been pushed too far. It is obvious that unless there was great extravagance in former years, which I do not think was the case, the cost of maintenance should increase rather than decrease, because the number of works that have to be maintained is added to from year to year.

The proposed grant for next year is Rs. 11,25,000, and still shows a decrease; but the subject is one that demands very careful attention, as it would be very false economy to push retrenchment too far in this direction. The charge for establishment is treated as a contribution to the Imperial budget, because it is impossible at present to separate the Imperial from the Provincial establishment.

The sum set down in the Provincial budget as a charge against the assignment, five lakhs, is somewhat smaller than the rateable proportion of the total cost of establishment, both Imperial and Provincial, due to the amount of the provincial grant.

I have now run through the budget, and I fear I must have exhausted the patience of your Excellency and the Council. I have tried to show that our wants are many—that we have endeavoured to meet them according to our ability with judgment and

discrimination as regards selection of those first to be satisfied, and that the means at our disposal have been fixed by the Government of India at a point much lower than we have ever before had to encounter, thus throwing clearly and unmistakeably on the Government the alternative of either increasing its means by fresh taxation or encountering a dead-lock as regards works necessary for administrative purposes or needful public improvements. Still, though hard the task may be, which is imposed on this Government, it is one which, in my opinion, it should readily and cheerfully undertake for the sake of what is behind after the first difficulties have been overcome. I am, in fact, thankful for present small mercies, which give hope for the future. For years this Government has striven consistently for an amount of legitimate independence from minute control in local matters, which would give such play to local knowledge, experience, and ability, as alone can deal satisfactorily with local subjects. This Government has striven under these circumstances, generally foiled, often weary with hope deferred, but always confidently looking forward to the dawn which is now but appearing, and which must in due course brighten into full daylight. The Government of India, in granting the small measure of actual relief from minute interference and control that has been accorded, has frankly admitted its inability to deal properly with many local matters that it previously sought to direct. Public opinion has begun to make itself felt; and it now only remains that the Local Government shall make a proper and judicious use of their partial freedom to ensure a full emancipation from a yoke under which they have hitherto so painfully toiled.

There is one point on which I desire to say a few words before I close, and that is as respects the local funds. Your Excellency has already intimated that changes in the mode of administration of these funds are called for, and that the subject will receive early attention. I most cordially concur in this view. Our local funds revenue is now very large; it amounts to upwards of sixty lakhs per annum, of which more than half or about thirty-five lakhs is devoted to Public Works. The Local Funds Public Works assignments are indeed larger than the provincial assignments for a similar purpose, and, from the experience I have had of the working of the local funds system, I am convinced that a large measure of economy could be secured by changes in the manner of its administration. It is needful, I think, to secure greater care and regularity as regards accounts, a more judicious selection of works and project, a better control over execution, and a revision and consolidation of establishments, so as not to have two or more agencies in the same district all working at half power, and all pulling against each other in the markets. I will not say more on this subject, except to express my opinion, that in taking up and dealing thoroughly with it at an early date, your Excellency will be doing that which would conduce greatly to general economy, and which would place at your disposal—without in any way affecting present interests, which must, of course, be carefully respected—means for supplementing the provincial grant and of extending useful public works without the necessity of adding very greatly to the burthen of taxation which the country now bears.

The Honourable Mr. MANSFIELD said he wished to say a few words with reference to Bill No. 1, and to express his dissent from the proviso attached to clause 1 of that Bill which had been suggested by the Select Committee. There appeared to be a general misapprehension regarding the question on whom the expense of the police

should fall. Under the Native Governments all local communities paid for police, and those Governments never spent a pie for that purpose. To this day each villager paid a certain amount of grain to the village watchman, and in former days, in bazaar towns and cities, when the town dues were levied, the police of the town were maintained by means of the people residing in the towns. Thirty-five years ago these taxes were done away with, and the people who had hereditary rights received compensation. These payments were termed girass, and in many instances are paid by Government up to the present time. Since then the Government had had to bear the whole expense of the police in towns and cities in the Mofussil. In former days, also, when the villagers were unable to maintain sufficient police for their own protection, they paid the neighbouring Chief so much to protect them. He thought it was clearly the duty of those persons who resorted to cities and towns for the purposes of trade to pay the police. It could not be expected that Government in a city like Bombay, with an enormous number of inhabitants from every part of the country, should pay the expenses of the police or contribute towards these expenses. By the present arrangement the contribution to the Bombay Police was one lakh of rupees, but it must not be forgotten that the Municipality had received from Government the tobacco duties and the revenue from liquor licences, which went to the payment of the police. He therefore thought that there should be nothing of the nature of this proviso suggested by the Select Committee in the Bill, and he would propose—

His Excellency the PRESIDENT pointed out to the honourable gentleman that the proper time for moving any amendment he thought desirable would be when the Bill was considered by the Council in committee.

The Honourable Mr. TUCKER then said—As there is no difference of opinion in this Council regarding the policy or principle of the particular Bill which is now before us, and as the same unanimity exists with reference to the equity of the distribution of taxation which it is proposed to effect by this Bill, it would not be necessary, sir, that I should say anything in defence of the measure, were it not that there seems to be considerable misapprehension on the part of many persons outside this Council with respect to the true meaning and scope of this portion of our new financial legislation. Three petitions have been presented to the Council which contain objections to this particular Bill—one from the Municipality of Surat, another from the Bombay Association, and a third from a large number of the citizens of Ahmedabad.

There is one argument common to all these petitions, viz., that the call made upon certain of the principal cities in the interior to contribute to the support of their police is unfair and inequitable. It appears to me that there is no foundation for this assertion, as it is the present arrangement, which is partial and unequal, and not the settlement which we propose to create by the Bill. At present the city of Bombay maintains its own police, aided by a contribution of Government, which we have expressed our intention to withdraw, and the agricultural portion of the community bear a considerable portion of the expense of the village police. There would seem to be no reason, therefore, why the dwellers in towns and cities in the Mofussil should not be called upon to pay for the protection of their lives and property in the same way as the inhabitants of the town and island of Bombay and the agricultural classes throughout the Presidency. To compel them to do this is the object of Bills Nos. 1 and 2 of 1871. Under the operation

of the former, requisitions will be made upon the larger cities where municipalities exist, while the smaller towns, with similar institutions or without them, will be subjected, in common with the non-agricultural section of the rural population, to the tax imposed by Bill No. 2. Now there are some towns in which municipalities have been introduced whose income is so small that it would be useless under present circumstances to call upon them to set aside any portion of that income to pay their police, and we have considered it better that such towns should be treated as a portion of the rural districts and brought under the operation of Bill No. 2, instead of imposing upon their municipal revenues a liability for police purposes. By this arrangement the incidents of taxation for the support of police will be more or less equalized. The city of Bombay and large cities in the Mofussil will contribute directly through the municipal revenues, and the non-agricultural classes in all other parts will be subjected to a special tax from which the same classes in the large municipal towns will be exempt, while the agricultural will continue to make the payments which are now exacted from them. The Surat Municipality represents "that the cost of police ought not in future to be thrown upon those towns only which have shown intelligence by consenting to the introduction of the Municipal Act." It will be seen by what I have stated that there is no such proposal. Those towns which the Municipal Commissioners of Surat have supposed to enjoy some exemption will fall under Bill No. 2, and pay their quota to the provincial revenues of this Presidency through the means of the special tax which will be levied under that Bill. The alteration which the Select Committee have introduced into Bill No. 2, which will be discussed hereafter, will therefore remove any cause of complaint which the Surat Commissioners may have supposed themselves to have possessed.

I next come to the petition of the Bombay Association. Para. 6 contains their objections to Bill No. 1, and I will read it—

"With regard to Bill No. 1, your petitioners are unable to see the justice or propriety of the proposal made by your Excellency's Government to devolve the *entire* charge of the police on the municipalities throughout this Presidency. The present arrangement, by which Government contribute a portion of the expenses of the municipal police establishment maintained for the security of person and property, is, your petitioners conceive, fair and reasonable, and should not be disturbed. Your petitioners submit that it forms part of the duty of Government to contribute towards the maintenance of the city police, and no valid reason has been assigned in favour of the proposal to devolve the whole of the cost of the police on the municipalities, thereby making the city population (already heavily and oppressively taxed) liable to additional taxation by the municipal bodies. The monstrous evil of spreading taxation far and wide, and in all directions and in different ramifications, through the instrumentality of the municipal bodies, practically irresponsible and uncontrolled, will, your petitioners trust, arrest the attention of your Excellency's Council. If the cost of the police be thrown upon the local municipalities, the machinery for additional taxation will be at once set at work, and the country will be deluged with numerous petty and vexatious imposts. The very idea of the misery that will thus be inflicted upon the masses is indeed appalling. Your petitioners take leave to submit that one tax, large or small, levied by the fountain-head is preferable by far to various and numerous taxes levied by smaller bodies, which in their effect are galling and oppressive; and

your petitioners therefore raise their humble voice against the principle of this Bill, the direct consequence of which is to bring into existence multifarious taxation throughout the country."

With respect to this statement, I have first to observe that the authors of this petition seem not to have understood the real character of the proposals of Government, and to have confused the different plans of treatment which it is intended to adopt with reference to the city of Bombay and with reference to the principal towns of the Mofussil. It is plain from the language of Bill No. 1 that it was never contemplated to devolve "the *entire* charge of the police on the municipalities throughout this Presidency," and that such a statement is correct only when confined to the city of Bombay. It is this city alone which will now be required to pay for the whole of its police; and its superior wealth and the other numerous advantages which it possesses, as well as the productive sources of revenue which have been surrendered to its municipal administration, are a sufficient justification for the greater demand which has been made upon it than upon the less prosperous communities in the interior. I do not understand that the petitioners complain of an invidious distinction having been made in the case of Bombay, but what they do appear to urge is the impropriety and inexpediency of extending taxation through the instrumentality of municipalities. Now I confess that I was greatly surprised when I read this statement. If my memory do not deceive me, a short time ago I saw a petition emanating from this same Association, addressed, not to this Council, but to the home authorities or to Parliament, I forget which; of that petition one of the prayers was that the natives of India might be allowed to have a voice in the administration of the revenues of the country, and be admitted by degrees to the blessings of self-government. I have not the petition to refer to, so I do not pretend to quote exact words, but I believe that aspirations of this nature were expressed. Well, sir, the institution of municipalities is the first step that has been taken with the view of giving an opportunity to the inhabitants of this country to take part in the regulation of their own affairs, and however imperfect and defective these institutions may be as at present constituted, they contain within themselves the germs of self-government, which, if carefully fostered and cherished, may some day expand into a plant of healthy growth and bear goodly fruit. It might have been supposed that a body like the Bombay Association would have advocated the encouragement and enlargement of such institutions with the view of demonstrating the capacity of their fellow-countrymen for the administration of public affairs; but, instead of this, we find they denounce the system which leaves in the hands of a selected body of Commissioners the duty of choosing the rates and imposts which should be levied in towns, and prefer that the taxes should be appointed direct by the chief authority without the intervention of any intermediate agency. As it is only intended to extend Bill No. 1 to a limited number of the larger cities, it can hardly be said with justice that the consequence of this Bill will be multifarious taxation throughout the country, nor do I understand how it can be stated that the present municipalities are practically irresponsible and uncontrolled. They are practically responsible and under the control of the executive Government, and I should have expected from the petitioners a representation that they were subject to too much control rather than to too little. The declarations of the Ahmedabad petitioners regarding Bill No. 1 require no special notice,

and I may conclude my observations upon this Bill with the remark that it ought not properly to be considered an offspring of the Decentralization Scheme. Such a measure would have been necessary if there had been no alteration in our financial arrangements, as it would not have been just that Poona, Surat, Ahmedabad, Broach, and other great towns should be permitted to throw upon the rest of the Presidency the burden of providing for their wants in the shape of police, and under any circumstances it would not have been right to allow this state of affairs to continue. I now pass on to a consideration of the general principles of our financial policy which have been touched upon by different speakers, and here again I would call attention to an assertion made by the Bombay Association in para. 6 of their petition. It is as follows:—

“Your petitioners further deem it their duty to bring to the notice of your Excellency’s Council that no small amount of dissatisfaction has been produced in the minds of the people of this country from the marked feature of the proposed local legislation in the matter of taxation. That feature is this, that whilst the European community will derive great, if not the greatest, benefit from the recent reduction of the income tax, the proposed taxes will fall almost exclusively on the native community, and will in a great measure nullify the benefit which they were destined to derive from the gracious reduction accorded to them by the Supreme Legislature. Your petitioners trust that no measures will be passed by your Excellency’s Council, the tendency of which is to favour one class of Her Majesty’s subjects at the expense of another.”

On the last occasion when I addressed the Council on the subject of these measures, I pointed out that I was personally averse to increased taxation in any shape, and that it was only a conviction that it would not be right to reject the offer made to us by the Government of India that induced me to assent to an arrangement which involved the necessity of new taxes. I also stated that, having accepted the situation, we proceeded to select our new taxes with the view of reaching classes who had hitherto enjoyed comparative immunity, and with the desire of rectifying any inequalities which might be found to exist in the existing system of taxation. Now, sir, it cannot be disputed that the European community contribute much more largely to the indirect taxation of the country than is done by their native fellow-subjects, and hitherto the burden of direct taxation has been shared by the two classes equally. In making a further addition to direct taxes it was therefore only just to select imposts which would fall more particularly upon the classes who had hitherto escaped from paying their full proportion of contribution to the revenues of the country. The Bombay Association characterizes this portion of our proceedings as “favouring one class of Her Majesty’s subjects at the expense of the other.” I trust, sir, that throughout my whole public career I have not been wanting in a desire to show equal justice to our Indian fellow-subjects, and to place them, as regards their rights, on the same footing as persons of our own race; but I am unable to see the justice or propriety of exacting from Europeans more than is paid by other classes, and hold that, as the pressure of indirect taxation weighs so heavily upon them, it is only fair and equitable that in the distribution of direct taxation they should experience some relief. Political economists tell us that the incidents of every single tax are so unequal that

the only way of securing equality of sacrifice on the part of all classes of the community is by the imposition of a variety of taxes, as by this means the inequality in the pressure of one tax can be corrected by an inequality in an opposite direction in the incidents of another tax. The petitioners do not acquiesce in this view, and desire that Government should continue an unfair and unequal system of taxation instead of adopting measures which will rectify existing inequalities. It is they, therefore, who, while demanding equal justice, desire to perpetuate injustice, and it seems to me that the proposals of Government are not open to the charge of unfairness, which, without sufficient thought, has been brought against them. With reference to our budget, some honourable members have suggested that it might be possible to dispense with some of the expenditure provided for. I can only say that I am not aware of any retrenchment which could be had recourse to without being productive of mischief. Neither the Council nor the public are sufficiently aware of the destitute condition of the several departments which have been entrusted to us, and how much there is to be done to place them on an efficient and proper footing. In considering whether the proper economy has been exercised in the preparation of the budget, it is necessary not only to consider what is in it, but also to take into account the urgent and pressing wants which we have not been able to meet in any way.

First, with regard to our Jails there can be no question that if a system of prison discipline is to be maintained in accordance with the principles which have been recognised by a large proportion of the more civilized nations of the world, a considerable expenditure is required in excess of what has been provided. Our central prisons are not complete; one is scarcely begun; and the jails in this city and in some of the Mofussil districts require alteration and improvement. At other places district and subordinate jails require to be constructed. In addition the state of the establishments of the prisons generally is most unsatisfactory, and increased salaries are necessary for jailors, accountants, and warders. At present the remuneration fixed for many of these posts is so inadequate that trustworthy persons cannot be obtained for them, so that the public purse suffers from the peculations practised under a system which has only been tolerated for a length of time on account of there being no funds at the disposal of this Government which could be applied to its reformation. Whatever savings we may be able to effect by more economical arrangements for feeding, clothing, and guarding the convicts, and however successful we may be in increasing the real profits of prison labour, there will still be additional outlay necessary before this department of the public service can be held to be in a satisfactory condition, and it would have been a false economy, which in the end would have involved increased expenditure, had we attempted to curtail the ways and means of this department more than we have actually done.

In the same way it may be remarked of Lunatic Asylums, that it is not only the state of the Asylum at Colaba which calls loudly for amelioration and reform. Throughout the country there is but one Asylum, namely, the one at Ahmedabād, which is really fit for the purpose for which such buildings are intended, and the accommodation afforded in the other wretched places which now do duty for Asylums is wholly insufficient for the number of afflicted persons to be found in all parts of the country. Constantly we are obliged to refuse shelter and medical care to persons for whose protec-

tion and seclusion it is the duty of the State to provide for in some way or another. As we recognize the obligation it would not be right to delay any longer to take steps which may ultimately enable us to discharge it in a creditable and efficient manner.

But it is not only in the case of Lunatic Asylums that the wants of the people are inadequately supplied. If the public health is to be a matter of concern to Government, the multiplication of dispensaries and hospitals is urgently needed in every direction.

The city of Bombay, in which we are to-day assembled, may at any moment be exposed to the most frightful calamity in consequence of the inadequacy of hospital accommodation for patients suffering from small-pox. During the last few days an occurrence has taken place which shows the defective character of our arrangements in this respect. Some soldiers and camp followers of the 19th Regiment N. I., which is quartered in Bombay, have been seized with small-pox, and it has been difficult to find a proper place to which they could be safely removed. At any time, notwithstanding the extension of the operations of the Vaccination Department, the influx of a few diseased persons from the Mekran Coast, where small-pox is raging, might expose the population of this city to the risk of decimation through the propagation of this terrible pestilence, in consequence of the non-existence of proper places for the segregation of small-pox patients.

It is impossible to prevent the spread of disease by continuing the "laissez-faire" system which has hitherto obtained and which would seem to meet the approval of many persons.

It would be useless to leave the protection of the people from these dangers to private enterprise or charity, as the needs of the community could not be supplied by these means. The task must devolve upon Government, who alone can effectually perform it, and to take money from the people for the purpose of using it for their benefit in supplying such wants as I have mentioned and in increasing the development of primary education, ought, if men could see things rightly, to be looked upon as true beneficence, instead of being denounced as tyrannical oppression. It should be remembered that when an Oriental Government imposed new taxes, it was usually with the view of swelling the privy purse of the sovereign and not for the purpose of advancing the true interests of the people. The pretext was ordinarily the occasion of a royal marriage, or the erection of some magnificent shrine or mausoleum by which the fame and glory of the Royal House would be perpetuated. Now, it is for no objects of this kind that we wish to augment the public revenues, but solely because we desire to give the people the benefit of an enlightened and improving system of government. I of course do not mean to say that all the revenues heretofore raised have invariably been expended profitably and that there has been no waste or prodigality; but I do say that we are sincere in our desire to practise a rigid economy, and that consequently we have restricted our estimate of expenditure to such charges as we hold to be indispensable, and have regulated our demands accordingly. Any other course would have checked all progress in the branches of the administration assigned to us and have been productive of incalculable evil. I cannot believe that any true friend of India, possessing a correct knowledge of the actual facts, would seriously desire that we should

have consented to leave affairs in the position they would have been in, if we had not decided to supplement the insufficient but fixed grants of the Government of India by the extension of local taxation.

His Excellency the PRESIDENT said—I only desire to add one or two words to the observations which have been made by the speakers who have preceded me. My honourable colleague who has just spoken has referred in very gentle terms to what he has called a misapprehension in a petition which has been addressed to the Government in the Legislative Department by the Bombay Association. Now, the Bombay Association assumes to itself a high position. It enrolls amongst its members important and influential citizens. Its members assume, in the petition which was read to the Council a short time ago, to speak on behalf of themselves and their countrymen in this Presidency; they send communications to the Secretary of State for India, and make representations to Parliament as well as to this Council; and is it too much to ask that an Association assuming this position should at least take the trouble to make themselves acquainted with the facts before they address this Council with reference to its legislation. It is not only that, in dealing with the general question of our financial position, the figures quoted are altogether and grossly inaccurate, but in reference to the particular measure which is now before us the Bombay Association in the eighth paragraph of their petition, say:—“The present arrangement by which Government contribute a portion of the expenses of the Municipal Police Establishment, maintained for the security of person and property, is, your petitioners conceive, fair and reasonable, and should not be disturbed.” Would not any one reading that assume, or be led to believe, that the municipalities which were to be affected by this Bill No. 1 of 1871 at the present time contributed to the support of the police within the limits of these municipalities? The Bombay Association speaks of the equitable arrangement now existing, by which the Government contributes a portion of the police expenses, whereas, as a matter of fact, the municipalities which are affected by this Bill not only do not contribute much, but do not contribute one farthing to the maintenance of the police within the municipal boundaries. Take, for instance, the city of Surat. The cost of the police is nearly Rs. 16,000 per annum, and that is irrespective of any charge for European superintendence, and I do not doubt but that the expense of the police for the municipality of Surat approaches Rs. 25,000, the whole of which is borne by the General Revenue. In point of fact the very arrangement which this Association says is fair and equitable and reasonable, is exactly that which the Government proposes to establish by the present Bill, and which does not at present exist; and I think I may ask the Bombay Association themselves, seeing the admission they have made, whether it is fair and reasonable that the general population of this Presidency should pay the total cost of the police in all these municipalities, and that those whose property is defended, whose streets are guarded, should not contribute a single pie towards that expenditure. I see a gentleman present who is closely connected with the Bombay Association, and I would ask all who hear me whether it would not be more becoming that the Bombay Association, before constituting themselves the mouth-piece of the whole of the Presidency, should at least acquaint themselves with the real state of things with which the legislation of this Council proposes to deal, and should not, by a total ignorance of the subject, thus entirely misrepresent

what is the real state of affairs. In the financial statement which I made to this Council a few days ago, I said it was proposed that the municipalities should contribute a portion of the expenditure; but the Bombay Association has chosen to assume that instead of that it is the object of Government to make the municipalities pay the entire and whole cost. Whatever may ultimately be done, such has not been hitherto the proposal. But as Government has hitherto borne the whole charge of the police, we think it fair that the inhabitants of these large and wealthy communities should at least contribute a portion of the expenditure.

His Excellency the PRESIDENT then put the motion that the Bill be read a second time, which was agreed to.

The Bill was then read a second time, and considered in Council. The only alteration made in the Bill was the introduction of the word "Rupees" between the words "twenty" and "per centum." The honourable Mr. Mansfield did not press his objection to the proviso in section 1, though still thinking it objectionable, because he believed that the cost of the police would never exceed 25 per cent. of the gross municipal revenue.

It was then agreed that the Bill should be read a third time on Tuesday.

The Honourable Mr. RAVENSCROFT submitted for the consideration of His Excellency the President that the standing orders be suspended, in order that the Bill for imposing duties on the non-agricultural rural classes might be read a second time.

Mr. Ravenscroft suggests that the standing orders be suspended in order that Bill No. 2 of 1871, may be read a second time.

His Excellency the PRESIDENT said he wished to consult the views of the members of the Council as to this motion. The standing orders required that seven days should elapse between the presentation of the report of a Select Committee on a Bill and the second reading of that Bill, and consequently this Bill, according to the standing orders, should not be read before Tuesday next. He would point out to the Council that the Bill had been a long time before the public, notwithstanding the opinion which had been expressed in one of the petitions before them; and therefore he thought there was no objection to suspending the standing orders. But if any member of the Council thought it preferable that the standing orders should be enforced, and that this Bill should not be read a second time before Tuesday, he was quite prepared to say he would not suspend the standing orders.

The Honourable Mr. TUCKER thought it would be better to keep to the standing orders in regard to a Bill of this kind.

The Honourable Mr. BYRAMJEE concurred.

His Excellency the PRESIDENT said that after that expression of opinion he thought it would be well to keep to the standing orders and have the second reading on Tuesday.

The Honourable Mr. TUCKER—With reference to Bill No. 3 of 1871, upon which the Select Committee appointed at the last meeting of this

Mr. Tucker moves that the Select Committee on the Bill for taxing festivals have an extension of time to present their report.

Council have not been able to report, I beg to propose that an extension of time be allowed to the said Committee for the purpose of completing their report. I make this motion for the purpose of placing myself in order, but I would at the same time point out that there is a very general feeling among the members of the Select Committee that it is not expedient to proceed any further with the consideration of this measure. A majority of the Committee are opposed to the principle of the Bill, and other members who are not prepared to concur with the majority to that extent nevertheless consider that it will be necessary to exclude so many entertainments which partake of a charitable character or originate in some religious obligation that the Bill would have to be restricted to festivals given on the occasion of marriages only, and that were it to assume this form it would be better to substitute for it a carefully graduated marriage tax. My learned friend the Advocate General, who has been unable to attend the Council to-day, as he is conducting an important criminal prosecution in the High Court, has permitted me to state, that though opposed to the Feast Bill, he would be prepared to support a properly graduated marriage tax; and I believe that all the members of the Select Committee are of the same opinion, with the exception of two, who, though they much prefer a marriage tax to the proposed impost on feasts, would desire not to commit themselves to support a marriage tax until the details of the measure, which it will be necessary to introduce for the purpose of imposing such a tax, shall be before the Council. The members of the Committee who are present will be able to tell your Excellency whether I have correctly represented their respective opinions. Now, sir, although I consider that a good deal may be said in favour of the tax on feasts which has been proposed, when the exemptions which the executive Government had intended to make shall be allowed for; yet I consider that there has been a sufficient expression of public opinion to show that taxation in this form will be peculiarly distasteful to a great multitude of our Indian fellow-subjects, and that under these circumstances it will be a wise policy on our part to withdraw the Bill and to substitute a tax upon marriages, carefully graduated, or any other tax which your Excellency in Council may think necessary to supply our deficiencies, which will be insufficiently met by the funds which will be collected under Bills 1 and 2. It would appear that many persons who cannot be reconciled to the payment of the duty upon feasts, see no objection to a marriage tax, and as I believe that we may obtain all that we require through the instrumentality of a marriage tax, I think that it would be a prudent and just concession to the wishes of the people to substitute, for a measure which has proved itself to be so unpopular, a project of taxation which is not regarded with the same amount of disfavour by those who will be subject to its operation.

The Honourable Sir JAMSETJEE JEJEEBHOY concurred with the Honourable Mr. Tucker, and said he would be prepared to support a properly graduated marriage tax if the Feasts Bill should be abandoned.

The Honourable Mr. BYRAMJEE JEJEEBHOY also suggested that the Bill should be withdrawn and a marriage tax substituted.

The Honourable Mr. MUNGULDASS NATHOOBHROY said that when this Bill was before the Council at first, he was not prepared to give any opinion on it, but now he had no hesitation in saying that the measure was the most unpopular and unfair that could well be. So much had been said in all the petitions that he would not take up the valuable time of the Council, but he would recommend the Government, not only on account of its inequality, but on many other grounds, and particularly on political grounds, to withdraw the Bill. Even were the deficiency greater than it was, he would respectfully suggest to His Excellency not to press such a tax; and though he had had little time to think about a marriage tax, and therefore was not in a position to state his opinion on that subject, he had no hesitation in saying that a marriage tax, if properly graduated, would be better than the feast tax. And though he was strictly out of order, he thought His Excellency would allow him to say one word in reference to the remarks which His Excellency had made about the Bombay Association. Some explanation was necessary in regard to the ignorance which was very properly pointed out by your Excellency. The thing was this: the original proposal was to petition against the feast tax only, and the meeting of the members of the Association was held for that purpose; but as the members who attended the meeting were unanimous against the two other Bills also, they availed themselves of that opportunity to petition against them. When any representation was about to be made by the Association to this Council, he and his colleagues had always declined to take any part in the proceedings, and on this occasion when this petition was adopted they followed that course, and were therefore not cognizant of the contents of the petition.

The Honourable Mr. STEWART—As one of the members of the Committee appointed to consider Bill No. 3 of 1871, I may say that I agree with the other members of the Committee as to the desirability of recommending Government to withdraw the Bill. I have no hesitation in urging this, for I think that if it is found absolutely necessary to raise the revenue which this Bill is intended to produce, an equal amount might be more satisfactorily raised by means of a marriage tax. But, sir, I would express a hope that by some possibility it may be found unnecessary to resort to any third measure. This being the first year under the new system, all estimates, with regard to revenue at least, must be more or less unreliable, and it is impossible to estimate what may be produced by Bill No. 2. I trust, therefore, that no further measure may be introduced till some reliable estimate can be made of what is absolutely required for the year. Apart from all considerations as to the nature and character of the Bill, I think that on this particular occasion it would be very desirable to avoid, if possible, having recourse to so many as three distinct Bills for taxation, not only for the reason that it is the first year, and that the proceedings must be in a great measure experimental, but because it is probable there may be some further extension or alteration in the financial administration of the country which may render it unnecessary to continue or renew any measure adopted now in any succeeding year. At the last meeting of this Council I expressed the opinion that it would be a very desirable extension of the Decentralization System if the Government of India would leave all *direct* taxation to the Local Governments, and the experience I have since had in the consideration of these Bills in Committee has confirmed that opinion. The Secretary of State for India has stated that the present arrangements are “necessarily experimental, and will be subject

to revision either in principle or detail should experience show that such a course is necessary." And I hope the first change that is made will remove the difficulty which at present prevents the imposition of a licence tax or house rate, and that in future years these may be made a permanent source from which to obtain funds to meet the public wants. The objections to temporary measures, or to continual changes and variety in the matter of taxation, cannot be overrated. New measures must always be more liable to create discontent, and are sure to be felt more irksome, than measures of a more permanent nature, which may to some extent accommodate themselves to the public. I would therefore urge that for the present at least no other Bill be introduced. I have already expressed a hope that some retrenchments may be possible in the Public Works Budget. Some of the particular items to which I referred have been alluded to by the Honourable Colonel Kennedy. He has urged that the Budget in the Public Works Department is made up of a few items eliminated from a great number of necessary works, and the inference is that the process of elimination might be carried a little further. Or perhaps some other means than current revenue might be resorted to for some part of the expenditure. I think it would be very desirable if in this exceptional year it were not necessary to pass three distinct measures to provide funds for the current year. I may mention, with regard to a marriage tax, that I believe marriages amongst the native community take place mostly between November and May, so that for the next six months at any rate there will be comparatively few marriages, and therefore the consideration of any such tax might be deferred for that time at any rate.

His Excellency the PRESIDENT—I desire to say a few words in consequence of what has fallen from my honourable colleague Mr. Tucker and the honourable gentleman who spoke last. And let me first address myself to what has been said by the Honourable Mr. Stewart. I quite agree with him that, if it were possible by retrenchment to make our present means equal to our wants, that should be our first care, and if he or any member of the Council can point out how that can be done, I am sure the Government would be glad to adopt his suggestions; but as soon as it is ascertained that retrenchment is impossible, and that the sum which is set down by the Government as being necessary to meet pressing public wants is not in excess of these wants, I then venture to say to the Council that it would be a dereliction of our duty if we were not to find the means necessary to meet the admitted and imperative needs of the country. The honourable gentleman says that this is an exceptional year, and he points out that the Secretary of State says that these measures may be subject to revision or modification, as time may prove whether they are successful or not; but surely nothing could be more condemnatory of ourselves, or of the Government of India as regards the course they have taken, if, for the first time the Local Government is entrusted with the care of their own people, we should take a course which would render a deficit inevitable in the very first year of our trial. The honourable gentleman admits that the works which we propose to carry out are necessary, and that the expenditure is not extravagant, but, on the contrary, has been the subject of careful and rigorous scrutiny; but if that be so, then I say at such a period as this it is the bounden duty of the Government to carry on the necessary services, and of the Council to find the means which in the opinion of the Government are necessary for that purpose. And as to the hope which the honourable gentleman entertains, that in the course of the

year the Government of India may see reason to extend their proposals, and to place increased means in our hands, I think, if he remembers the course of the debates at the late meetings of the Legislative Council at Calcutta and Allahabad, he will see that there is very small ground indeed for any such hope.

The Honourable Mr. STEWART—I do not anticipate anything in the current year, but in succeeding years.

His Excellency the PRESIDENT—I speak of the future, and I see very little grounds for the hope the honourable gentleman has expressed, because I think he will see, from what fell from the various members of the Council, that if increased means are found to be at the disposal of the Supreme Government, those increased means are not likely to be made use of in giving increased assignments to the Local Governments, but will go in the direction of other reforms which have been pointed out by Colonel Strachey, and devoted to the removal of exceptional inequalities in the Customs duties, to which just objection is taken, rather than in increasing our provincial revenues. And he must take into consideration that the four lakhs given to us this year are avowedly given for this year only. They form no part of the permanent grant, and will not be granted in succeeding years; and therefore with every desire to save to the very utmost the people of this Presidency from any taxation that can by any possibility be avoided, I deprecate the adoption of such a course as that suggested by the honourable gentleman, which would either leave us at the close of the year absolutely in debt, or would oblige us to suspend works in progress, and incur by so doing both discredit and loss. We should thus commence our independent career by wilfully incurring a deficit, and show ourselves in my opinion altogether unworthy of the trust which has been reposed in us. And now having said that, I should like to say a few words with reference to what fell from my honourable colleague, Mr. Tucker, and my native friends who are members of this Council. I expressed on behalf of the Government, when I first made the financial statement, a desire that the measures of the Government should meet with the fullest and frankest discussion. I desired that they should be examined by every member of the Council, and I purposely said there should be no undue pressure or haste, because I desired to elicit a general expression of public opinion upon them. That expression of opinion has been given with reference to the third Bill, which is the subject of my honourable friend's remarks, and I understand him to say that the majority of the members of the Select Committee of this Council, including the native gentlemen who are members of it, are of opinion that it would be better that the Government should bring forward a marriage tax, properly graduated, in place of the feast tax. I can only of course speak for myself, as our ultimate decision will require the consideration of my colleagues in Council, but I will not hesitate to say that if the general opinion be hostile to the Government measure, that expression of opinion should be respected. In saying this, however, I think I may fairly ask the Council to permit me to make an explanation, and to say that I am surprised beyond measure at the criticisms that have been passed on this Bill, and especially some of those which have been passed upon the Bill in the petition of the Bombay Association. It has been said that the effect of this Bill would be to tax all religious and charitable feasts. Well, my first impression was that those who took this objection could not have read the Bill. It is true that by the first clause the tax is applica-

ble to all religious and secular feasts, but a subsequent clause of the Bill specially gives power to the Government to exempt any class of persons or castes, and that clause was inserted specially in order that religious, in the proper sense of the term, and charitable festivals might be removed from the operation of the measure. And I would point out to the Council why the exemption took that form of permissive power given to the Government rather than of the exclusion of such feasts from the operation of the Bill by express provisions. The reason is this: suppose, on the one hand, by express legislation it was said that no religious festival should fall under the operation of the Act. Well, I have talked on this subject with many native gentlemen of learning and information, and the real fact of the case is that under such a clause as that, no festival would be exempted at all, because, although these festivals may be connected with religious occurrences, they are not matters of religious necessity, and would not come under a clause which exempted religious festivals which are of religious necessity. On the other hand, supposing that the clause stated that no festival should come under the operation of the Bill that had reference to any religious occurrence in a family or caste, then I believe that every festival would be exempt; and the consequence was that there being this difficulty, that if the one form of exemption had been adopted no festival would have been exempt, and, on the other hand, by the other that every one would be excluded, the only method by which religious and charitable festivals of a certain kind could be exempt was by giving the power to Government to make special regulations which should in each particular case and caste exclude those festivals which the prejudices or feelings of the native population made it desirable should be removed from the operation of the Act. Therefore, I wish it to be distinctly understood that the statement made in this petition, that the Government have made any proposals by which all religious and charitable festivals should be made the subject of taxation, is unfounded, and not only that, but contrary to the evident wish of the Government as evidenced by the very Bill which they have laid upon the table. Now, there is only one other point to which I would like to refer, and it is this: it is said that this proposal is a proposal that will press heavily on the poor. Well, in the first place, I will point out that no festivals at which not more than 100 people were present would be affected by the Bill, but if it were necessary, that number might easily be raised so as to secure that the feasts given by the poorest classes should not be affected. For my own part, however, I do not hesitate to say that if this measure could have the effect of discouraging this useless and extravagant expenditure the poor would indeed be gainers. But in point of fact there is no class, except perhaps the wealthiest, who do not more or less feel the burden which the obligation to give feasts upon all occasions imposes. It may be that in many instances, and especially in the case of charitable feasts, they are not costly, but we know from a member of this Council that they are too often the cause of hopeless embarrassment and debt. Long before this question of a festival tax was raised, a very eminent member of the native community, talking with me of the advantages and disadvantages of caste, pointed to many particulars in which he said the caste institutions of this country were productive of the greatest good. He urged that they prevented anything like destitution, that they operated like a poor law in England, and made it incumbent upon all the members of a caste to take care of its poorest members. He claimed for the institution of caste that it encouraged and enforced the noblest charity. "But," he added at the close of our conversation, "there is one great and crying evil

which I do admit arises from our institution of caste, and that is the extravagant expenditure, which has been growing daily, on the festivals which are forced upon the members of the caste, not by their religion but by usage," and he added that he believed it would be a happy day when something could be done to discourage an extravagance which produced the greatest evils in every branch of native society. I must say I have within a few hours been surprised to hear that this gentleman with whom I had that conversation is one of those who at the present time have taken the most active part in organising the opposition to this tax. Now, I would recall to the recollection of the Council what fell from my honourable friend Mr. Munguldass at the last meeting of the Council, when he was guarding himself against expressing an opinion upon the merits or demerits of this Bill. He said that, without expressing a hasty opinion in opposition to the proposal of the Government, he desired time to consider it and to consult his friends, but he added that these festivals were so obligatory by custom upon the members of various castes, and particularly the Gujarati caste, to which he belonged, that he had known people of very small means, earning only a few rupees, who, in order to obtain the means of giving a festival of this kind, had to beg, borrow, or have recourse to some other worse means. And knowing what the words are which generally follow begging and borrowing, we all understood what the honourable gentleman meant. Now, I would ask, is it the Legislature which tries to discourage a custom such as this which is hard upon the poor, or is it the custom itself which is hard upon the poor?—a custom which compels them in spite of themselves to meet an obligation like this by begging, borrowing, or what is worse. The honourable gentleman told me afterwards that there were not only cases such as that to which he had referred in his speech, but that men, in order to meet the necessities which this customary obligation imposes upon them, were obliged to use means from which humanity and virtue recoil. I think the honourable gentleman will bear me out when I say that he mentioned even this, that to meet an obligation of this kind he had known an instance where a father had sold the child of his bosom in order to obtain the money necessary.

The Honourable Mr. MUNGULDASS explained that what he meant was, that it was the custom in many castes that when there was an old man, say of sixty, who wished for a young wife, and was willing to pay a sum of say Rs. 3,000 for one, the father would give his young daughter for that consideration, in order that he might be enabled with the money to perform the funeral ceremonies, which mainly consist of feeding his caste, and would not care that the husband, being so old, would probably die in a few years, and she would remain a widow for life.

His Excellency the PRESIDENT—I am obliged to the honourable gentleman for the explanation of what he meant when he said he had known a man sell his daughter. The means to which this man had recourse are not quite so vile as I had thought; but even if, in order to raise the necessary means for a festival of this kind, a father can be led to hand over his own child to a decrepid old man in consideration of Rs. 3,000, which sum was to be spent on a wretched festival of this kind; if, as the honourable gentleman says, debt and even worse evils are the consequence of the observance of those customs,—it is hard to believe that an opposition to a measure which might tend to discourage, or at least restrict them within more moderate limits, can be supported by those who are so painfully cognizant of the evils they produce. And I would point

out that even in the petition of the Bombay Association they hesitate to say that these festivals are all of a religious character—that although they begin by stating that the measure interferes with religious observance, they temper that statement down towards the end of the paragraph, where they speak of festivals made obligatory by social usage. I will not detail the Council further. The whole object of the Government has been, in fulfilling the duty thrust upon them, to make as little demand upon the public as they possibly could. They desired the most ample discussion, as they knew that this Bill now under discussion was one on which much difference of opinion might exist. I am now only desirous that the views entertained by myself, and I believe by my colleagues, should not be misunderstood,—that the misrepresentations which have been made as to what would be the real effect of this tax, as regards the poorer classes, should be removed, and the evils of the present state of things laid bare. At the same time, after the expression of opinion that I have received from the members of the Select Committee, I have no doubt that the Government will think it desirable to withdraw this proposal, and probably to substitute for it the measure which seems to me to have the general approval of the members of the Committee, the introduction of a marriage tax. At the same time, I would say that when we were considering these questions, a strong representation was made in reference to a marriage tax, that it would be a tax on a religious observance, and I scarcely see how you can meet that objection if you are to admit the exemption of all festivals connected with an occurrence of a religious character. The proposal will, however, be carefully considered. For the present it is sufficient to say that, after the strong expression of opinion we have received, I do not think it desirable to proceed further with the feast tax.

The Honourable Mr. MANSFIELD was also in favour of withdrawing the Bill.

The Honourable Mr. TUCKER concurred, and withdrew his motion that the time for presentation of the report by the Select Committee should be extended.

Mr. Ravenscroft moves an amendment that the order referring the Bill to impose a tax on feasts to a Select Committee be discharged.

The order discharged.

The Honourable Mr. RAVENSCROFT then moved, as an amendment, that the order referring the Bill to impose a tax upon feasts to a Select Committee be discharged.

The Honourable Mr. RAVENSCROFT's amendment was put to the Council and carried, and the order discharged.

The Honourable Mr. MANSFIELD then moved for leave to extend the time for presenting the report of the Select Committees on the

Mr. Mansfield moves for extension of time for presenting the report of the Select Committee on the Burial and Burning Grounds Bill.

Burial and Burning Ground Bill. He also said that, as he wished to leave Bombay for some time, he would wish to retire from the Committee.

The motion was agreed to, and the Honourable Mr. Tucker appointed to the Committee in place of the Honourable Mr. Mansfield.

The Council was then adjourned till Tuesday, the 25th April, at noon.

JOHN JARDINE,

Acting Under-Secretary to Government.

Bombay, 21st April 1871.

Abstract of the Proceedings of the Council of the Governor of Bombay, assembled for the purpose of making Laws and Regulations under the Provisions of "the INDIAN Councils' Act, 1861."

The Council met at Bombay, on Tuesday, the 25th April 1871, at noon.

P R E S E N T :

The Right Honourable SIR W. R. S. V. FITZ GERALD, G.C.S.I., Governor of Bombay, *presiding*.
 The Honourable S. MANSFIELD, C.S.I.
 The Honourable H. P. ST. G. TUCKER.
 The Honourable the ACTING ADVOCATE GENERAL.
 The Honourable A. D. SASSOON, C.S.I.
 The Honourable BYRAMJEE JEJEEBHOY.
 The Honourable Colonel M. K. KENNEDY.
 The Honourable Sir JAMSETJEE JEJEEBHOY, Bart.
 The Honourable G. M. STEWART.
 The Honourable E. W. RAVENSCROFT.

The following papers were presented to the Council :—

A Petition from the Managing Committee of the Poona Sarvajanick Subha against the provisions of Bills Nos. 1, 2, and 3 of 1871, was presented, and it was agreed that it should lie on the table.

Mr. Ravenscroft moves the third reading of the "Bill to provide for the cost of Police employed in Towns and Suburbs where Act XXVI. of 1850 is in force." The Honourable Mr. RAVENSCROFT moved that Bill No. 1 of 1871 ("A Bill to provide for the cost of Police employed in Towns and Suburbs where Act XXVI. of 1850 is in force") be read a third time.

The Honourable the ADVOCATE GENERAL (Mr. Scoble)—Sir, I was unable to attend on the last occasion when the Council met, and I therefore wish to take this opportunity of expressing entire concurrence in the principle of this Bill. I have seen from the papers presented to the Council that the largest municipality in this Presidency except that of Bombay—I mean Surat—is of opinion that, because it has shown its intelligence by adopting the Municipal Act, it ought not to be called upon to pay any portion of the expenses of its police. But I think there is no force whatsoever in that argument. Where we find large bodies of men aggregated together, and large quantities of property accumulated in consequence, we generally find an increase in the criminal class, and greater necessity of providing for the maintenance of order, and for the protection of life and property. I therefore think that as in large communities such as these municipalities a larger body of police is required to be maintained than in the rural districts, it is fair, and just, and reasonable to require these communities to contribute to a larger extent than the inhabitants of the rural districts to the maintenance of the police of the zillah in which the municipalities are situated. It has also been suggested that some of the municipalities which have been constituted under Act XXVI. of 1850 are so small, and possess such small means, that to call upon them to contribute towards the cost of their police would be a

great hardship upon them; but as I understood from your Excellency that the sum proposed to be raised under this Bill was to be in round numbers $1\frac{1}{2}$ lakh of rupees, I conceive it will not be necessary for Government to go down so low in the scale as to require any contribution from those municipalities which have so infinitesimally small a revenue that it is hard to see any reason for their being municipalities at all. I find, Sir, that there is in the Sholapore district a municipality, that of Savé, which raises the enormous municipal revenue of Rs. 88 per annum, and of course it would be an absurdity to ask from such a community the cost of its police, as the whole of its revenue would be absorbed by the payment of one policeman. And, as your Excellency reminds me, two-thirds of the revenue of that flourishing municipality are absorbed by its municipal establishment, so that the balance for police would be small indeed. I find, however, on reference to the last Administration Report of this Presidency, that in the Northern Division there are altogether fifty-three municipalities, fifteen of which enjoy incomes of over Rs. 10,000 a year; and the largest of these is the city of Surat, whose income is entered at Rs. 3,89,158. I find that in the Southern Division there are 137 municipalities, whereof 14 have incomes of upwards of Rs. 10,000 per annum, and the largest of which is the municipality of Poona, which has an income, according to the last Report, of Rs. 1,29,827. And I find that the twenty-nine municipalities which are thus shown by the public records to possess an income exceeding Rs. 10,000 per annum, among them enjoy an annual municipal revenue of Rs. 13,14,971. Now, in order to raise the amount which I understand it is proposed by Government to take under this Bill, it will not be necessary by any means to approach the maximum of twenty per cent. on the gross municipal revenues which has been allowed by this Council, and it will not, I think, be necessary to touch a single municipality whose income is less than Rs. 10,000. I apprehend, therefore, that there is no force whatever in the objection that this Bill will be a burden upon municipalities already struggling under the burden of local taxation, but that it will affect only those which can be fairly and justly called upon to contribute, either altogether or in part, to the cost of their police. For these reasons I shall record my vote in favor of this Bill.

The Bill read a third time and passed. The Bill was then read a third time and passed.

The Honourable Mr. RAVENSCROFT in moving the second reading of Bill No. II. of 1871 ("A Bill for imposing duties on the rural non-agricultural classes in the territories subordinate to the Presidency of Bombay"), said

Mr. Ravenscroft moves the second reading of the "Bill for imposing duties on the rural non-agricultural classes in the territories subordinate to the Presidency of Bombay."

—The Bill which we are about to consider is a Bill to impose taxes on the rural non-agricultural classes in the territories subordinate to the Presidency of Bombay. It may be, perhaps, convenient, if I should explain here why it is proposed to impose a tax on the rural non-agricultural, and to pass over without any taxation the rural agricultural classes. The reason why it is proposed that those whose sole occupation is that of husbandry should be exempted from the operation of this Bill, is, because under Act No. III. of 1869 a local rate of one anna in every rupee of rent paid, either to the Government, or, in the case of alienated land, to Inamdars, is already exacted from all tenants, for the benefit of the local funds, to be expended for educational purposes, and for the improvement and opening up of the districts where these funds are obtained. Now, no equivalent burden is thrown on the rural non-agricultural classes; and, as His Excellency in his exhaustive speech, showing our financial condition, proved the necessity of taxation being raised to a certain extent, I think you will all agree with me, that, as there is a defi-

ciency to be met by some means or other, we cannot do better than indent upon the rural non-agricultural classes. The Council will see that by section 3 of this Act, the city of Bombay, which up to the 31st of March paid only a portion, and from the first of this month will pay the whole of its police charges, as well as those municipalities which under Act I. of 1871 will now be called upon to pay that portion of the police charges which Government in its wisdom may choose to impose, are both free from the operation of this Act. The reasons of this are so obvious that it is unnecessary I should dilate upon them; and I have no doubt that the Council will endorse the suggestions of the Select Committee. The Council will see by reference to section 7 of the Bill, that the Select Committee added a proviso to the effect that no person or household whose annual means of livelihood does not exceed Rs. 150 per annum, shall be liable to assessment. My honourable friend, Mr. Tucker, whose lively sympathies on behalf of the Natives of this country in general, and more especially on behalf of those who require a champion, are as notorious as they are creditable to him, fancied he had discovered a blot in the original Bill when he saw that no exemption of that sort had been introduced. He therefore proposed that the exemption which I have just read should be introduced into the Bill; and, the majority being of his opinion, the exemption was added. But in commercial matters, we find, as in railways, that the third class passengers pay more towards the revenues of railroads than the first and second classes combined, so under this Act, as it originally stood, the third class householders would have paid more than the first and second class householders combined; and when we consider that all the money we should have collected from the third class householders is the large annual sum of Rs. 1-8, or in English money 3 shillings, per head, I must say that I very much regret that the exemption was carried against my wish;—in fact, I have felt it my duty to propose an amendment that the exemption be omitted from the Bill; and it will be discussed in due course of time. But as a sort of compromise I have also proposed that third class householders, instead of paying Rs. 1-8 as was originally intended, shall only pay Rs. 1; though I must say that if that second amendment is over-ruled, I shall not be at all sorry. The Council will also perceive that as regards classes 1 and 2 the Select Committee raised the rates from Rs. 5 and Rs. 2½, to Rs. 6 and Rs. 3; and I trust the Council will endorse our alterations. With the view of avoiding all reason for evasion, and of doing away with the necessity of minute examination into incomes, the frame-work of the Bill was modelled on the plainest and simplest principles. I do not think there are any other points which require discussion at this stage; and therefore I beg to propose that the Bill be now read a second time.

The Honourable the ADVOCATE GENERAL—I have to express my concurrence in the general principle of this Bill also, and I do so on the ground that where the necessity for further taxation is cast upon the State, it is the duty of the State to endeavour to raise that further taxation, as far as it legitimately may, by equalizing so far as it possibly can, the pressure of taxation on all classes of the community subject to its rule; and that, Sir, I think will be the tendency of this Bill. After a careful investigation according to such means as I possess of the details of the Budget which were so ably laid before the Council by your Excellency some few days ago, I find no reason whatsoever for supposing that your Excellency's Government has fixed at too high an amount the sum which it will be necessary, not only for this year, but probably for some years to come, to raise from the people of this Presidency in order to meet the deficit created in the Provincial Budget, by the low assign-

ments which have been made for the provincial services by the Supreme Government; and I take it, Sir, it will be the duty of your Excellency to ask for, and it will be the duty of this Council to provide, in round numbers, the sum of ten lakhs of rupees per annum to meet that deficit. It seems to me that the Council, in considering this question, ought not to look merely to the exigencies of the present year. It may be that from retrenchments to be effected, the whole sum of ten lakhs may not be required for the items of the expenditure which are set down in the Budget; but, Sir, unforeseen contingencies may arise which will more than swallow up any amount that may thus be saved. It is certain, according to my view of the matter, that we ought not to take into consideration the sum of four lakhs of rupees, the proportion of the £200,000 of savings which the Government of India has for this year only made over to this Government. That is a source of income which will not last beyond the present year, and considering that before any new tax can be brought into operation several months must elapse, considering the difficulty of bringing new machinery for collecting the taxes into work, I think your Excellency's Government has adopted a wise and prudent course in treating those four lakhs as a windfall, constituting no part of the regular income to be calculated on by this Presidency, but forming a reserve fund to be drawn upon in case of any exigency. Now, your Excellency has stated that the necessity for this increased taxation has been cast on the Provincial Governments by the Supreme Government in consequence of the rate at which the allowances for the provincial services have been placed, and I think it is perfectly certain that these allowances are not likely to be increased for a considerable time to come. I find Lord Mayo, in a speech which he addressed to his Council on the 18th of March 1871, made a statement which I think it is of the utmost importance that this Council should consider, in determining upon the means of supplying the Provincial Government with the funds necessary to complete the amount required for the provincial expenditure. Lord Mayo said:—

“It is intended by the Supreme Government (and I think there should be no doubt on this point) that that sum should, for some time at all events, be a fixed sum. It is impossible to prophesy or say at present what can be done in the far future; but I should be misleading the Local Governments if I were not to say that it is our opinion that these sums are now fixed at an amount which cannot be exceeded for at least a number of years. I think it desirable that this should be perfectly understood, because one of our objects is the attainment of as great an amount of financial certainty as is possible. We believe that, in justice to other public claims which are certain hereafter to be made on imperial revenue, in view of increased charges for the payment of interest and other objects, we cannot, without recourse to large additional imperial taxation, increase this sum as now fixed to any very considerable amount. We know that, if it is necessary, the sums which have been hitherto allotted for this purpose can be increased by local taxation in a manner much less burdensome and much less offensive to the people than they could be by imperial taxation. If it is necessary or desirable to spend money, that money must come from some source. It is possible that the wants of the Local Governments may increase, and I dare say they will; but if they do, we believe, after the most mature consideration, that these wants can better be supplied within the limit of the provinces themselves, than they can be by adding to the imperial taxation of the Empire and the general burdens of the people.”

I take it, Sir, to be clear from these observations of the Viceroy, in the first place, that the necessity for provincial taxation is recognized by the Supreme Government, and,

in the second place, that it is not for this Council or for any Provincial Council to speculate on any increase on the allotments for the provincial service, at all events for a number of years; and I think, therefore, Sir, in seeking to provide this Government with the funds necessary for carrying on the administration of the Presidency, it is important to bear that fact in mind, for while our income is constant our necessities will increase. I for one sincerely hope that some of those heads of charge will go on increasing from year to year—I hope we shall see increased grants for education—I hope we shall see increased grants for medical services; and if, Sir, our necessities are on the increase in this manner from year to year, while our income, so far as supplied by the Imperial Government, is stationary, then I say it is necessary for us, in considering what is to be done under the circumstances in which the Council is placed, not to legislate for one year only, but to look forward to the number of years that Lord Mayo contemplates, and, if we can, at the outset assist your Excellency's Government in devising a scheme of taxation which will as our necessities increase provide the means of supplying them without recourse to perpetually new taxation. I therefore concur in what has been said by my honourable friend, Mr. Ravenscroft, that it is desirable that the non-agricultural classes in the Mofussil should be taxed. As my honourable friend has shown, those of them who do not live in municipalities and who do not pay land revenue are at present practically exempt from direct taxation—many of them have incomes equal to, if not larger than, those of the cultivators who are already assessed to the local funds and land revenue; and I see no reason, on any principle of fairness or of justice, why such persons should escape taxation, while their neighbours, the cultivators of the soil, are subject to it. We find in many of the towns which have not adopted the municipal system, in the cantonments attached to our military stations, and in the communities of fishermen who live along our coasts, large numbers of persons in the possession of very considerable annual incomes, not perhaps so much as to render them liable to the operation of the income-tax, but many possessing an income which would render them at least as liable to taxation as their agricultural brethren who live beside them. I think it is fair that those persons should be taxed; I think they will be reached by this Bill; and on these grounds the principle of this Bill has my support.

Bill read a second time and considered in detail.

The Bill was then read a second time, and the Council proceeded to consider it in detail.

No alteration was made in Sections 1, 2, 3, 4, and 5.

In reference to Section 7, the Honourable Mr. STEWART pointed out that in this section allusion was made to the classes named in the schedule, and asked whether this was the proper time to consider whether it might not be desirable to have 4 classes instead of 3 in the schedule. The honourable Mover of the Bill had given notice of an amendment to reduce the minimum fee from Rs. 1-8 to Rs. 1, and he thought it might be desirable to constitute a new class paying Rs. 2. His own knowledge of the rural population, he said, was so limited, that he hardly liked to express an opinion on a subject of this sort, but it seemed to him that such an alteration could be made with advantage if the amendment he referred to were passed.

His Excellency the PRESIDENT pointed out that the amendment would come more properly when the schedule was considered.

The Honourable Mr. RAVENSCHROFT moved that the words, "Provided always that no person or household whose annual means of livelihood do not exceed one hundred and fifty rupees shall be liable to assessment under this Act," forming the latter portion of the section, be omitted; and said he should also eventually, as a sort of supplement to this, propose that Rs. 1 be substituted in the schedule for Rs. 1-8. The Council would see that if the third class of householders were to be taxed according to the rate proposed in his second amendment, the sum to be obtained from them would be ridiculously small—namely, Rs. 1, or in English money 2 shillings per annum; and considering at this time the indirect taxes which these people paid, such as salt duties and duties on other things, were very limited in amount, he thought they would agree with him that the sum they would have to pay under this Bill would be so trifling that it would scarcely be necessary to make any exemption in their favor. This, as he had pointed out before, was the opinion of those by whom the Bill was drafted; but in the Select Committee, the addition was made of the words which he now proposed should be omitted. But one of the chief objects in drawing up the Bill was to avoid all the minute scrutiny which was indispensable in the assessment of the income tax; and if they allowed the exemption to stand, it would open the door, upon the one hand, to that attempt at evasion which under such circumstances was not unusual, and, on the other hand, would compel Government to use all the means in its power to see that its right dues were not withheld. These two reasons, he thought, were sufficient. And as he had said before, really the third class of householders were those who, as the Bill originally stood, and as the rates stood originally, would have contributed most largely towards the funds which under this Bill were hoped to be raised; and, in fact, he had no hesitation in saying that the amount which would be collected from the third class would equal, if it did not exceed, the amount from the first and second classes combined. And he had no doubt that were this exemption allowed and his amendment thrown out, the sum of about 4½ lakhs, which His Excellency hoped they should be able to realize by this Bill, would not be obtained, and in that case the Council would have the practical inconvenience of having to apply elsewhere for about a lakh and a half of rupees which had been counted upon with tolerable accuracy. That also was a consideration which ought to be borne in mind; and unless it could be proved that the hardship upon these people was so great that it imperatively demanded some remedy, he trusted that the majority of the Council would think proper to vote in favor of his amendment and exclude the exemption.

Mr. Ravenscroft moves that the proviso in Section 7 be omitted.

The Honourable Mr. STEWART said that when this clause was under consideration by the Committee he assented to the proviso which the Honourable Mr. RAVENSCHROFT had now moved should be omitted, on the ground that it was desirable that there should be some limit as to the class of people who would come under the operation of the Act, and an income of Rs. 150 per annum was fixed upon in order to exempt those whose payment would otherwise exceed one per cent. on their means of livelihood; but his reason for voting for the proviso would be entirely removed if the fee for the lowest class were made one rupee. But in any case he would be willing to vote for the removal of the proviso, because on further consideration he was convinced that such an exemption would very materially affect the amount which it had been estimated this tax would yield, and that those whose incomes did not amount to Rs. 150 per annum represented so large a proportion of the

population intended to come under this Act that the features of the Bill would be entirely altered. He was therefore prepared to support Mr. Ravenscroft's amendment.

The Honourable Mr. TUCKER said—With reference to the amendment of section 7, proposed by my honourable friend, Mr. Ravenscroft, I have to remark that the proviso was suggested by me to the Select Committee on the broad general principle that direct taxation should not be applied to classes subsisting on wages, whose earnings are only sufficient to give them the bare necessaries of a healthy existence. This appears to be one of the canons of taxation which are generally recognized by all political economists, and in my opinion direct taxation ought not to extend to such classes. I have listened very carefully to the objections which have been taken to this exemption, and notwithstanding that, I admit that it will affect the amount which will be collected under this Bill; yet, considering the way in which the operation of the Bill has been now extended to all towns, with the exception of the limited number which will have to contribute to the support of their police, my opinion is that the amount raised, though it will not be so great as was originally anticipated, will not be reduced to the extent which my honourable friend thinks. I shall therefore support the proviso, though I admit that some of the objections taken to it are deserving of consideration.

His Excellency the PRESIDENT—I wish to say a few words on this subject, because, while I am quite ready to admit the force of the argument that has been adduced by the last speaker, I think the Council should pause before they assent to the introduction of this proviso. And first I would say that I think it convenient to treat as quite distinct and separate questions the rate at which the tax is to be imposed and the exemption of a particular class—the exemption, rather, of all those who earn less than Rs. 150 per annum. For myself I should under any circumstances vote against reducing the amount imposed on the third class. The objections I have to this proviso are twofold—in the first place, it introduces a very unnecessary, and, I think, unwise distinction between the agricultural and non-agricultural classes of the same community. I think that when we impose a new system of taxation such as that which we are now devising, the whole principle of that system should be that it should affect all classes alike. Now, the result of this proviso would be, that in the same village you will have the Government taking 6½ per cent. from the agricultural-holder, although he probably pays only Rs. 2, Rs. 4, or Rs. 6 for the annual rent of his land—you will be taxing him at the rate of 6½ per cent. on his rental, and you will be allowing all those who have earned less than Rs. 150 per annum from any other source than the cultivation of land to escape taxation altogether. Now, I think that that in itself at once establishes an inequality of taxation between the agricultural and non-agricultural classes which it would be very undesirable to introduce. Again, I think another objection to this proviso is that it will necessitate enquiries almost identical in form and principle to those which are made under the income tax. It was the object of the Government by the plan they adopted in the Bill of dividing roughly the population into three classes to prevent any minute enquiry into the incomes of those who would pay the tax. What was to be considered was the ability of the party to pay the rate of tax which was imposed upon him under the the first, second, or third head. If he was only able to pay under the third head, then he would be put into the third class. But supposing he was unable to pay under the third head, then under the fifth clause of this Bill power is given to Government to exempt him entirely from the payment of the tax.

The only question under the Bill as it was framed was the ability of the person to pay the tax imposed, but under this proviso the Collector will have a great deal more to enquire into, to satisfy himself not whether he is able to pay the tax, but whether by the exercise of his calling he earns Rs. 150, or Rs. 140, or Rs. 160, as the case may be. The Bill now gives a power of appeal, and a number of details will have to be investigated which would have been perfectly unnecessary in the case of a person being called on to pay the tax, and pleading that he was unable to pay it. I have heard it said, with reference to the fifth clause of this Bill, that there are a great number of people earning small monthly wages, peons attached to the Mofussil Courts, and others earning their Rs. 6 or Rs. 7 per month, and that it would be very hard to tax them even under the third class. Granted. But then immediately the power of Government to exempt all such classes comes into play. For my own part, I must confess that I think the most valuable feature of the Bill was that it had nothing to do with a man's income, made no enquiry as to his income, but merely as to his ability to pay the tax, and I have said further that the proviso would introduce a very unnecessary and dangerous distinction between the agricultural and the non-agricultural classes. There is, however, another objection, which is this—that as the proviso enacts that no person whose income does not exceed Rs. 150 shall be liable under this Act, in the report of the Committee they have justified the introduction of the limitation on the ground “that the Committee are of opinion that below this limit direct taxation of the nature proposed is undesirable.” Are you going to adopt that as a principle of your finance. If that be so, can you continue to levy 6½ per cent. upon those among the agricultural classes whose gains fall below the limit under which you exempt the non-agricultural class? But if you admit that you cannot make an exemption in favor of the non-agricultural classes who earn less than Rs. 150 without at the same time applying the same principle to the agricultural classes who now pay 6½ per cent. on their rental, however small their holding is, I need not point out to the Council what the result of the adoption of such principle would be. At present there are something like 25 lakhs per annum raised for roads and other public works, besides a large amount for education by the 1 anna cess or the tax of 6½ per cent. on the agricultural classes. Are you prepared to surrender a large proportion of these local funds? and to supply its place by a large amount of general taxation? Or, if you are not prepared to do that, will you give up the important objects upon which that 1 anna cess is at present expended? Now, all these questions arise out of the adoption of this proviso, and, giving my honourable colleague, Mr. Tucker, every credit for his desire to interfere on behalf of the poorer classes, I must myself say I am unable to concur with him, when the results would be such as I have now pointed out.

The Honourable Mr. TUCKER—I may perhaps be permitted to say a few words regarding the comparison which your Excellency has made between the agricultural and non-agricultural classes. I would remind your Excellency that the agriculturalists who are subject to the land cess are not the cultivators who subsist upon wages, but the holders of land assessed to the land revenue, that is, the peasant proprietors, to whom a valuable property has been given, or at any rate the use of a commodity supplied, which can be made productive by means of their individual industry. The cess is a per-centage upon the assessment, which in no way represents the income of the landholder who pays it. These two sections of the community are therefore not in the same position. If they were, both ought to be equally exempted.

His Excellency the PRESIDENT then put the question to the Council that the words now proposed to be omitted stand part of the section.

The Council divided as follows:—

	AYES—3.	NOES—6.
The Honourable S. MANSFIELD, C.S.I. ....	...	1
The Honourable H. P. St. G. TUCKER	1	...
The Honourable the ADVOCATE GENERAL .....	...	1
The Honourable E. W. RAYENSCROFT.....	...	1
The Honourable A. D. SASSOON, C.S.I.....	...	1
The Honourable BYRAMJEE JEJEEBHOY	1	...
The Honourable Colonel M. K. KENNEDY.....	...	1
The Honourable Sir JAMSETJEE JEJEEBHOY, Bart.	1	...
The Honourable G. M. STEWART .....	...	1
	3	6

The proviso omitted.

The proviso was therefore omitted, and the section as amended stood part of the Bill.

Section 8 was passed without alteration.

On coming to Section 9,

His Excellency the PRESIDENT said he would request the honourable gentleman who had moved the Bill to consider whether it was necessary to decide that the whole amount for the year should be paid at one time, and if so, whether it should be fixed that it must be paid within so short a period from the first notice. He could conceive that at one time a man might be able to pay a much larger sum than he would have to pay, and yet at another time the same man might find it inconvenient to pay.

The Honourable Mr. RAYENSCROFT thought that it would be more applicable to agriculturists, who had sometimes to count on the sale of their products, than to shopkeepers and persons having wages. They might perhaps extend the time to thirty days.

Colonel KENNEDY—Yes, men on wages only get their pay once a month.

The Honourable Mr. SCOBLE thought it would be a pity to increase the machinery for serving notices, which would be necessary if the tax were to be paid by instalments.

The words "fifteen days" in the 11th line of the Section were then struck out, and the words "one month" substituted.

Sections 10 and 11 passed without alteration.

The Honourable Mr. BYRAMJEE JEJEEBHOY proposed that in Section 12, line five, instead of the words "fifteen days" the words "one month" should be substituted.

The Honourable Mr. TUCKER thought the person taxed should make his objection at once and not wait, and therefore he did not see the use of the proposed alteration.

The Council divided on the question put by His Excellency the PRESIDENT, that the words "fifteen days" stand, thus :—

	AYES—7.	NOES—2.
The Honourable S. MANSFIELD, C.S.I.	1	...
The Honourable H. P. St. G. TUCKER	1	...
The Honourable the ADVOCATE GENERAL	1	...
The Honourable E. W. RAVENSCROFT	1	...
The Honourable A. D. SASSOON, C.S.I.	1	...
The Honourable BYRAMJEE JEJEEBHOY .....	...	1
The Honourable COLONEL M. K. KENNEDY	1	...
The Honourable Sir JAMSETJEE JEJEEBHOY, Bart. ....	...	1
The Honourable G. M. STEWART	1	...
	7	2

The Section therefore passed without alteration.

No alteration was made in Sections 13 and 14.

In reference to Section 15, the Honourable Mr. TUCKER proposed that the word "April" in the fourth line should be struck out and the word "June" substituted.

His Excellency the PRESIDENT then put the question that the word April stand.

The votes on the proposition were :—

	AYES—1.	NOES—8.
The Honourable S. MANSFIELD, C.S.I.	1
The Honourable H. P. St. G. TUCKER	1
The Honourable the ADVOCATE GENERAL	1
The Honourable E. W. RAVENSCROFT	1	...
The Honourable A. D. SASSOON, C.S.I.	1
The Honourable BYRAMJEE JEJEEBHOY	1
The Honourable Colonel M. K. KENNEDY	1
The Honourable Sir JAMSETJEE JEJEEBHOY, Bart.	1
The Honourable G. M. STEWART	1
	1	8

The word June was therefore substituted.

The Honourable Mr. RAVENSCROFT said his name was down for an amendment in the schedule by altering the figures Rs. 1-8 to Rs. 1, as the payment to be made by persons in the third class. When he proposed that amendment, it was on the supposition that

the Honourable Mr. Tucker would not offer any opposition to the cancelling of the proviso ; but as there seemed to have been some misapprehension, and as his own private opinion was that Rs. 1-8 should be maintained, he would ask leave to withdraw his amendment.

Leave was given to withdraw the amendment.

On the suggestion of His Excellency the PRESIDENT, the word " rural," in line two of the preamble was struck out.

It was agreed that the Bill should be read a third time on the following day (April 26).

The Council then adjourned.

JOHN JARDINE,

Acting Under Secretary to Government.

Bombay, 25th April 1871.

Abstract of the Proceedings of the Council of the Governor of Bombay, assembled for the purpose of making Laws and Regulations under the Provisions of the "INDIAN Councils' Act, 1861."

The Council met at Bombay, on Wednesday, the 26th April 1871, at noon.

P R E S E N T :

The Right Honourable Sir W. R. S. V. FITZ GERALD, G.C.S.I., Governor of Bombay, *presiding*.
 The Honourable H. P. St. G. TUCKER.
 The Honourable A. D. SASSOON, C.S.I.
 The Honourable Mr. BYRAMJEE JEJEEBHAY.
 The Honourable Colonel M. K. KENNEDY.
 The Honourable Sir JAMSEVJEE JEJEEBHAY, Bart.
 The Honourable G. M. STEWART.
 The Honourable E. W. RAVENSCROFT.

The Honourable Mr. RAVENSCROFT proposed the third reading of Bill No. 2 of 1871,

Mr. Ravenscroft moves the third reading of the "Bill for imposing duties on the rural non-agricultural classes in the territories subordinate to the Presidency of Bombay." ("Bill for imposing duties in the rural non-agricultural classes in the territories subordinate to the Presidency of Bombay").

His Excellency the PRESIDENT pointed out that there was some little inconsistency between Section 9 and Section 15.

After some conversation the word "January" in the fourth line of Section 8 was deleted, and the word "April" substituted.

In Section 15, line four, the word "June," which had been inserted in line four on the previous day in place of the word "April," was struck out, and the original word "April" again inserted.

In Section 16, line six, the word "twelve" was altered to the word "nine."

The title of the Bill was then read so as to read "A Bill for imposing duties on certain of the non-agricultural classes in the territories subordinate to the Presidency of Bombay."

The Bill read a third time and passed. The Bill was then read a third time and passed.

His Excellency the PRESIDENT adjourned the Council.

JOHN JARDINE,

Acting Under Secretary to Government.

Bombay, 26th April 1871.