

PROCEEDINGS

OF THE

COUNCIL OF THE GOVERNOR OF BOMBAY

ASSEMBLED FOR THE PURPOSE OF

MAKING LAWS AND REGULATIONS.

1862.

VOLUME I.

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PROCEEDINGS
OF THE
LEGISLATIVE DEPARTMENT, BOMBAY.

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 Act of Parliament 24 and 25 Victoria, Chapter 67.

BOMBAY, *Wednesday, 22nd January 1862.*

His Excellency the Honorable SIR GEORGE RUSSELL CLERK, Knight of the Most Exalted Order of the Star of India, and Knight Commander of the Most Honorable Order of the Bath; Governor and President in Council of Bombay, having, in accordance with Section 29 of the Act passed in the 24th and 25th years of Her Most Gracious Majesty, Chapter 67, appointed the following Gentlemen to be additional Members of his Council, for the purpose of making Laws and Regulations, namely :—

Additional Mem-
bers.

M. R. WESTROPP, Esq., Acting Advocate General,
W. B. TRISTRAM, Esq.,
H. H. the NAWAB OF SAVANOR,
RUSTOMJEE JAMSETJEE JEJEEBHAY, Esq.,
MADHOWROW VITTUL VINCHOORKUR,
JUGONNATH SUNKERSETT, Esq.,
SHET PREMABHAI HEMABHAI.

And His Excellency the Governor having, in accordance with the 35th Section of the said Act, summoned to the first Meeting of His Council for the purpose of making Laws and Regulations the additional Councillors so appointed, as well as the other Members of his Council :

First Meeting of
the Council, 22nd
January 1862.

There were present this day—

His Excellency the GOVERNOR,
 His Excellency Sir W. MANSFIELD, K.C.B., Commander-in-Chief,
 The Honorable Mr. REEVES,
 The Honorable Mr. FRERE,
 The Honorable the ADVOCATE GENERAL,
 The Honorable Mr. TRISTRAM.
 The Honorable the NAWAB OF SAVANOR,
 The Honorable Mr. RUSTOMJEE JAMSETJEE JRJEBHOY,
 The Honorable MADHOWROW VITTUL VINCHOORKUR,
 The Honorable Mr. JUGONNATH SUNKERSETT,
 The Honorable Shet PREMABHAI HEMABHAI,
 And the SECRETARY.

Affirmations of office and declaration of allegiance made by the additional Members.

Opening address of the President.

The aforesaid additional Members made the necessary affirmations of office and declaration of allegiance, which were ordered to be recorded.

The PRESIDENT spoke as follows :—

“ I have called a Council in order to open the Legislative Department in accordance with the Act of Parliament which restores to this Presidency the power of making its Laws and Regulations. The new form in which this Government will exercise the power consists principally in the appointment of Non-Official Members. Such Members have therefore been appointed, and have now taken their seats. I feel satisfied that the zeal which some of them have at all times manifested for the public good, and the high character borne by the others in the management of their Estates and Chiefships will ensure their undertaking these responsibilities with a due sense of their importance.

On the manner in which these duties may be performed, it will depend whether many millions of our subjects enjoy contentment and security, or lead a life of uncertainty and confusion. On the one hand, by over-legislating, you will be liable to keep the people in a state of doubt and alarm. On the other hand, by bearing in mind that none know better to govern themselves individually and parochially, you may be constantly in the course of ameliorating their condition, while safely maintaining Her Majesty's just sway over a contented people. And be assured that your Consultations will lose nothing of safe guidance, by occasionally looking for it in Native discernment.

Although your functions will be important, they need not be difficult. The several races subjected to our Laws in this Presidency, and generally throughout India, are not of a restless character, unless rendered restless by misgovernment—and, everywhere they have an innate respect for authority, whenever authority is respectable and wise.

You will remember, that you owe to those whom you represent a strict account of the fulfilment of your duties—to a people who reasonably desire your protection of their acknowledged rights, and to live in peace.

An assembly on this scale has naturally a tendency to expand; and, seeing it has pleased Her Majesty's Government to consider that the time has arrived for conferring this privilege on you, it will doubtless, in due time, be enlarged; provided that, in its early exercise, you give proofs of sound judgment and discretion in your views of British Dominion in India.

During a short rule I have endeavoured to see something of all classes. I find those of our Countrymen who, in this wealthy Settlement, are engaged in commerce, enterprising and enlightened as they always are when they have fair play, and the best feeling subsisting between them and the Government. I find the Native Merchant active and prosperous; our many Native Chiefs loyal, and most grateful for the liberal and just measures adopted towards them by the present head of the Government of India; while the agricultural classes are steadily advancing from poverty to better prospects, by means of well-regulated reductions in a land tax which had been exceedingly burdensome. In these favourable circumstances, this Government was transferred to my hands by my lamented predecessor, whose unprejudiced and single-minded course of administration was such as always serves to improve British India, and to satisfy all classes of its inhabitants. With the aid of my experienced colleagues, I have sought to uphold that system. It will now devolve mainly on your counsel to preserve so satisfactory a condition of affairs in this Presidency.

I have directed the Secretary to lay before you some Bills which appear to me to require your early attention. With these, and others which individual members may propose to move, you may find your duties at present more laborious than it is probable that they will be hereafter; for there are a few of our projects of Law to consider, which there has not been time in the Legislature entrusted with them in Calcutta. These must of course come back to us. And there are some which I have not transmitted to that Council, because I foresaw that they must ultimately be disposed of here."

The President then declared the Meeting to be adjourned until Tuesday next the 28th of the present month of January.

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

M. J. SHAW STEWART,

Acting Secretary to Government.

Bombay Castle, 22nd January 1862.

PROCEEDINGS OF THE LEGISLATIVE DEPARTMENT, BOMBAY.

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 Act of Parliament 24 and 25 Victoria, Chapter 67.

Tuesday, 28th January 1862.

The Council of the Governor of Bombay, for the purpose of making Laws and Regulations, met according to adjournment.

PRESENT :

The Honorable Mr. REEVES,
 The Honorable Mr. FRERE,
 The Honorable Mr. TRISTRAM,
 The Honorable the NAWAB OF SAVANOR,
 The Honorable Mr. JUGONNATH SUNKERSETT,
 The Honorable Mr. RUSTOMJEE JAMSETJEE JEJEEBHOY,
 The Honorable Mr. MADHOWROW VITTUL VINCHOORKUR,
 And the SECRETARY.

The Honorable Mr. REEVES being the Senior Ordinary Member present, took the chair in the absence of the Governor.

Bills in preparation by Government.

The Honorable Mr. REEVES said, that he regretted that Government had not as yet been able to prepare any Bills for submission to the Council. The Rules require that each Bill shall be published for at least a week before it is discussed. The time of the Government has of late been so entirely occupied with the introduction of the various measures of general legislation passed by the Legislative Council of India, that it was found impossible to have any Bills in such a forward state as to be ready for discussion at this Meeting. He and his Colleagues, however, had not neglected to give their attention to their new duties, and they hoped to have Bills on the following subjects ready for immediate publication, after which they would be brought before the Council.

Bill for subjecting all Lands ceded by his Highness the Guicowar for the use of Railways to the Laws and Regulations of the Presidency of Bombay.

I. A Bill for the purpose of subjecting to the Laws and Regulations of this Presidency all lands ceded by His Highness the Guicowar, for the use of our Railways passing through his Dominions.

2. A Bill for repealing Regulation III. of 1829 and Act XV. of 1851, and re-enacting in a single law the useful provisions of those laws, with the view of meeting the provisions of the Penal Code and Code of Criminal Procedure, and securing, if possible, the important object of suppressing the production in the market of Cotton in an unclean state, and checking the practice of packing Cotton falsely.

Bill for the suppression of Cotton frauds.

3. A Bill for empowering Municipal Commissioners, under Act XXVI. of 1850, to expend Municipal Funds on Dispensaries and Schools and other suitable objects.

Bill for empowering Municipal Commissioners, under Act XXVI. of 1850, to expend Municipal Funds on Dispensaries, Schools and other suitable objects.

4. A Bill for the purpose of authorising Magistrates of the Town and Island of Bombay to appropriate fines imposed and realised by them for the maintenance of Reformatories. This, as well as such additions as may be thought necessary, it is contemplated to produce as an amendment to the Municipal Act.

Bill to authorise the Magistrates of Bombay to appropriate fines for the maintenance of Reformatories.

In order to give time for these Bills being duly published before the Council sits again, he would adjourn the Council till Saturday the 8th proximo, at 1 P. M.

By order of His Excellency the Governor in Council,

M. J. SHAW STEWART,

Acting Secretary to Government.

Bombay Castle, 28th January 1862.

PROCEEDINGS OF THE LEGISLATIVE DEPARTMENT, BOMBAY.

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 Act of Parliament 24 and 25 Victoria, Chapter 67.

Bombay, Saturday, 8th February 1862.

The Council of the Governor of Bombay for the purpose of making Laws and Regulations met according to adjournment.

PRESENT:

The Honorable Mr. REEVES,
 The Honorable Mr. FRERE,
 The Honorable Mr. WESTROPP,
 The Honorable Mr. TRISTRAM,
 The Honorable the NAWAB of SAVANOR,
 The Honorable Mr. RUSTOMJEE JAMSETJEE JEJEEBHOY,
 The Honorable Mr. JUGONNATH SUNKERSETT,
 The Honorable Mr. PREMABHAI HEMABHAI,
 And the SECRETARY.

The Honorable Mr. REEVES, being the Senior Ordinary Member present, presided in the absence of the Governor.

Letter dated
 13th Jan. 1862
 from the Secretary to the Government of India in the Home Department, respecting the proposed rules of the Council, read and discussed.

Under direction of the President, the Secretary read a letter, No. 214, dated the 13th January last, from the Secretary to the Government of India in the Home Department, in which the Government of India desired that the Rules for admission of Strangers should be passed in accordance with the 37th Section of the Indian Councils' Act, and not as separate rules for the purpose.

Further, expressing the great doubt of the Governor General in Council as to whether the revised Rules 11 to 15 provide sufficiently for the full deliberation and discussion on measures such as the Secretary of State contemplates, and such as is essential to good legislation; and whether the incidental allusion to Select Committees in the revised Rule 23 is enough to signify that, as an ordinary, if not an invariable Rule, Bills will be referred to a Select Committee before they are considered in detail by the Council and passed.

The Honorable Mr. FRERE thought this was hardly the time to consider this letter, and that it was matter for his Excellency the Governor, under whose authority the Rules had been made. On reference, however, to the Act of Parliament, the Honorable Member perceived that the Council had power to make alterations in the Rules, subject to the Governor's assent, and withdrew his objection.

The Honorable Mr. WESTROPP recommended that every Bill should be read a first and second time, and then referred to a Select Committee, and on receipt of their report, read a third time and passed.

The PRESIDENT proposed that the present Rules should be tried, and that on the occurrence of any practical difficulty, the necessary amendments should be recommended to the Governor for his approval.

Mr. WESTROPP urged that there was still a difficulty, and asked how the Bills now before Council were to be treated.

Mr. FRERE suggested that they should be read to-day for the first time.

Mr. WESTROPP said that he thought the leave of the Council should be asked before any Bill be brought forward.

It was then agreed that the discussion of the letter from the Government of India should stand over for the present, and that the Council should proceed to other business.

Discussion of the Letter postponed.

The Honorable Mr. FRERE observed that there are numerous precedents for bringing lands under Regulations, and proposed (the preamble and) the Bill for subjecting to the Regulations the lands ceded by the Guicowar for the Railway, drawn up in accordance with the usual form.

Bill for subjecting to the Regulations the Lands ceded by the Guicowar for the Railway, considered.

The Honorable Mr. WESTROPP said it does not appear to what Zillah these lands are to be attached, or what Officers should have jurisdiction over them. If they are not to be formed into a separate Zillah, which he presumed the Government do not intend, he considered it would be better to define this point: but he approved of the Bill in other respects.

Mr. FRERE would therefore add these words to the Bill, "and to be annexed to the Zillah of Surat." The Railway itself would facilitate any prisoners apprehended on the ceded lands being brought to Surat for trial.

Mr. WESTROPP thought it would be better to let this Bill stand over for further consideration, and that the Honorable proposer should be asked to perfect the Bill before the next Meeting of Council.

The PRESIDENT thought it should be either passed or referred to a Select Committee.

Mr. FRERE thought the further consideration of the Bill should be adjourned to the next meeting, when he promised to bring it forward with the requisite amendments.

Further consideration of the Bill adjourned to the next meeting.

Agreed to.

The Honorable Mr. REEVES said he thought it very desirable that the Bill regarding Juvenile Reformatories should be made over to a Committee for careful examination.

Bill regarding Juvenile Reformatories considered.

The Honorable Mr. FRERE said that this was a very complicated question, as the Bill not only provides for the confinement of Juvenile Offenders, but

mulcts the Municipal Commissioners of Bombay of a part of their revenue. It should therefore be referred to a Select Committee.

The Honorable Mr. TRISTRAM asked why this Bill should not have general application in the Mofussil, where benevolent individuals might be found ready to found reformatories like the "David Sassoon Institution." He would suggest that a wider scope be given to the Bill.

The Honorable Mr. JUGONNATH SUNKERSETT doubted the policy of sending a Juvenile Offender to prison with hard labour when he escaped from the reformatory. Confinement in a Jail would demoralize him, whereas suitable punishment administered within the walls of the reformatory would have a deterrent effect; Magistrates should therefore have discretionary power as to the punishment to be given to those who escape.

The Honorable Mr. WESTROPP remarked that the Honorable Mr. TRISTRAM's objection is met by Act XXV. of 1861, Section 433 (Criminal Procedure Act), which is now the law throughout the Mofussil.

Referred to a
Select Committee.

The Honorable the PRESIDENT then proposed,—

The Honorable Mr. FRERE,

The Honorable Mr. WESTROPP,

The Honorable Mr. JUGONNATH SUNKERSETT,

and

The Honorable the NAWAB of SAVANOR, to be a select Committee to consider this Bill.

Agreed to.

Bill for extending the powers of Municipal Commissioners appointed under Act XXVI. of 1850, considered.

The Honorable Mr. REEVES observed that the remaining Bill is one to provide a remedy for what has been long considered a defect in the Municipal Act.

The Honorable Mr. WESTROPP remarked that an entirely new principle is introduced, *i. e.* of making Education a charge on Municipal Funds. This he believed to be quite unprecedented, and contrary to the practice in England. It is, indeed, a project to which he would object entirely, were it not for the provision in the Clause of the Bill by which the assent of Government was required to all such disbursements.

The Honorable Mr. TRISTRAM observed that this Bill would enable the Municipal Commissioners to introduce a series of schools of different religious denominations; he therefore wished that it should be considered in full Council, and that some Rules should be laid down to ensure the due fulfilment of its provisions. He considered that it was necessary that such schools

should be open to all classes and all religions, and that they should be under the control of Government Educational Department.

Mr. WESTROPP understood that Dispensaries in England were managed by Grand Juries, and not by Municipal Corporations; but he had no objection to the Municipal Funds in India being made available for the support of Dispensaries.

The PRESIDENT thought as Municipal Commissioners were properly and carefully selected so as to represent different religions, there was no fear of any ill results coming from a preponderance of any one creed; he would, however, propose to nominate the following Select Committee to consider the Bill :—

Referred to a
Select Committee.

The Honorable Mr. REEVES,
The Honorable Mr. TRISTRAM,
The Honorable Mr. RUSTOMJEE JAMSETJEE JEJEEBHOY,
and
The Honorable Mr. PREMABHAI HEMABHAI.

Agreed to.

With reference to the letter of the Government of India, Mr. WESTROPP thought it would now be admitted to be advisable that there should be some more precise Rules laid down, so that the Honorable Members might be aware of the stage to which any Bill had advanced.

Further discus-
sion on the letter
from the Secretary
to the Government
of India respecting
the proposed Rules
of the Council.

Mr. FRERE would ask Mr. WESTROPP to bring forward at next meeting any amendments which he may consider to be called for.

Mr. WESTROPP said that he would agree either to bring it forward himself, or that the Governor should be asked to make such alterations as he may think required.

Mr. REEVES thought the best way would be to consider the subject out of Council, and to settle some amendments at next meeting, which would then be submitted for His Excellency the Governor's assent.

Agreed to.

The PRESIDENT adjourned the Council till Saturday, the 15th, at 1 p.m.

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

M. J. SHAW STEWART,
Acting Secretary to Government.

Bombay Castle, 8th February 1862.

PROCEEDINGS OF THE LEGISLATIVE DEPARTMENT, BOMBAY.

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 Act of Parliament 24 and 25 Victoria, Chapter 67.

Saturday, 15th February 1862.

The Council of the Governor of Bombay met for the purpose of making Laws and Regulations according to adjournment.

PRESENT:

The Honorable Mr. REEVES,
 The Honorable Mr. FRERE,
 The Honorable Mr. WESTROPP.
 The Honorable Mr. TRISTRAM,
 The Honorable the NAWAB OF SAVANOOR,
 The Honorable Mr. RUSTOMJEE JAMSETJEE JEJEEBHOY,
 The Honorable Mr. JUGONNATH SUNKERSETT,
 The Honorable Mr. PREMABHAI HEMABHAI,
 And the SECRETARY.

Proposed Rules
 of the Council.

The Honorable Mr. REEVES, being the Senior Ordinary Member of Council present, presided in the absence of the Governor.

The Honorable Mr. REEVES, with reference to the subject which stands first on the paper, asked the Honorable Mr. WESTROPP to favour the Council with his promised observations on the letter from the Government of India referring to the Rules of the Council.

The Honorable Mr. WESTROPP said the Secretary had furnished him with copies of the rules of the former Legislative Council, as well as the rules enacted by the Governor General for the business of his Council when assembled for the purpose of making laws and regulations. He considered that the rules of the late Council were too intricate for adoption here, but that the rules of the present Council of the Governor General would answer well. He had no doubt that the appointment of Select Committees to consider all Bills introduced into the Council was necessary, and he would propose that any Honorable Member, desirous to introduce a Bill, should apply for leave in the first instance, stating its objects and the necessity for its

being passed. He might at the same time propose that the Bill should be read a first time. The Bill should then be discussed in Council, and if leave be granted to introduce it, and if it be read a first time, the Bill should be referred to a Select Committee, and printed and published. The Committee should be directed to report on it after a certain date, to be fixed according to the nature of the Bill, a longer or shorter period being allotted as may be considered necessary. The period should not always be limited to the present Session, but might be fixed after the close of the Session, or at some time in the next Session, so as to give time to the public to express an opinion.

In the case of Bills of less importance, the Committee's report might be made during the sitting of Council.

If measures are passed with too great rapidity, he feared that they will not stand the test of practice in the Courts of Justice, and he was therefore anxious that no undue haste should take place in passing any Bill.

Before a Bill is read a second time it should again be discussed, and if necessary, amended in a Committee of the whole Council, without any recommittal to a special Committee, and on being twice read it should be passed by the Council and entrusted to an Honorable Member of the Executive Council for the purpose of being submitted to His Excellency the Governor for his assent.

This plan he proposed was in entire accordance with the rules for the Council of the Governor General, and he would therefore suggest that those rules beginning at No. 14 and as far as No. 27, should be adopted by this Council.

The Honorable Mr. REEVES thought that Bills introduced by Government should be brought forward without going through the form of requiring the leave of the Council, but a Bill originated by any individual member should not be introduced without the leave of Council. With this exception he approved of Mr. Westropp's propositions, and would order the Secretary to prepare a draft of Rules in accordance therewith.

The Honorable Mr. WESTROPP doubted the necessity of giving Government any preference in this matter, but he expressed his willingness, with the Secretary's assistance, to prepare a draft of Rules for consideration at next meeting.

A Draft of Rules to be prepared for consideration at next meeting.

Agreed to.

The Honorable Mr. FRERE stated that he had altered and amended the Bill for bringing under the Regulations and Acts certain lands ceded by His Highness the Guicowar for Railway purposes, which he proceeded to read as amended.

Bill for bringing under the regulations and Acts certain Lands ceded by His Highness the Guicowar for Railway purposes as amended by W. E. Frere.

A Bill for bringing under the Regulations and Acts certain Lands ceded by His Highness the Guicowar for Railway purposes.

WHEREAS His Highness the Guicowar has ceded to the Government of India certain lands for the construction of a Railway through his Territories, and it is necessary that those

Preamble. lands should be annexed to the Presidency of Bombay and made subject to the Laws and Regulations of that Presidency, it is enacted as follows:—

1. All such parts of Villages mentioned in the Schedule annexed to this Act as have been delivered over by His Highness the Guicowar to the Government of India for the construction of the Bombay, Baroda, and Central India Railway shall, from and after the passing of this Act, form part of the Zillah of Surat, and be subject to the Regulations and Acts which are or shall be in force within the Territories subject to the Presidency of Bombay.

SCHEDULE.

Baroda Purgunnah.

1 Hulderwa.	17 Maritha.
2 Tosrod.	18 Manaja.
3 Wullun.	19 Wursur (Inamee).
4 Dethan (Inamee).	20 Mazulpoor (Inamee).
5 Lakodra.	21 Nagurwarra.
6 Wurwa.	22 Akota.
7 Meeagaum.	23 Jetulpoor.
8 Kurjun.	24 Gorwa.
9 Kundaree.	25 Kurodia.
10 Kairda.	26 Oondera.
11 Surar (Inamee).	27 Bajwa.
12 Kassipoora.	28 Kurchia.
13 Etola.	29 Runnolee.
14 Wursula.	30 Puddumla.
15 Wurnama.	31 Nundesree.
16 Dulleepoor.	32 Fazulpoor (up the river Mahee).

Surat Attawsee Purgunnah.

33 Sukhpoor-oorf Rond, Purgunnah Gullet.	42 Morwar, Purgunnah Telaree.
34 Pellotha, Purgunnah Wesranee.	43 Chinum, ditto ditto.
35 Choowacha, ditto ditto	44 Tuvree, ditto ditto.
36 Koosoomha ditto ditto	45 Nowsaree Kusha.
37 Tursalee ditto ditto	46 Sagura Purgunnah Nowsaree (Inamee).
38 Hatoorun ditto ditto	47 Kudolee, ditto ditto.
39 Wurrudla ditto ditto	48 Danoda, Purgunnah Gundavee
40 Murolee Kusha.	49 Billimora, ditto ditto.
41 Posra, Purgunnah Morolee.	50 Desra, ditto ditto.

The Honorable Member proposed that the Bill, as amended, should now be printed, and that it should be considered at the next meeting of Council.

The Honorable Mr. WESTNOFF observed that the preamble of the Bill says, that the cession has been made to the Government of India and not to the Government of Bombay,—it may therefore be a question how far we have power to legislate for these lands.

The Honorable Mr. FRERE observed, that at the time this cession was made, the political relations with His Highness the Guicowar were under the Government of India, and that they have since been replaced under the Government of Bombay. He thought, therefore, that as the Bill could not become law till approved by the Governor General in Council, the objection taken by the honorable and learned Member would have but little force.

The Bill, as amended by the Honorable Mr. FRERE, was therefore ordered to be printed.

Ordered to be printed.

The Honorable Mr. REEVES proposed that the Secretary shall read the amended Bill for extending the powers of Municipal Commissioners, appointed under Act XXVI. of 1850, which has been submitted by the Select Committee.

Bill for extending the powers of Municipal Commissioners appointed under Act XXVI. of 1850, as amended by the Select Committee.

The Secretary read the Bill accordingly:—

“ WHEREAS by Act XXVI. of 1850 it was enacted that the Taxes raised from the inhabitants of any Town or Suburb under the said Act should be applied to the making, repairing, cleaning, lighting, or watching, any public streets, roads, drains, or tanks, or to the prevention of nuisances, or for improving the said Town or Suburb in any other manner;

AND WHEREAS it is expedient that, in addition to the above purposes, the Commissioners appointed for putting the said Act in force should be authorised to apply the said Taxes to the construction and support of Dispensaries, Hospitals, Schools, and other similar works of utility to the inhabitants of the said Town or Suburb;

AND WHEREAS it is also expedient that the Governor in Council should have power to enforce the right and just appropriation of the Taxes raised under the said Act for the benefit of the Community paying the same;

It is hereby enacted that the Taxes raised under Act XXVI. of 1850 are and shall be applicable to the construction, support, and maintenance of any Hospital, Dispensary, School, or similar work of public utility; and it

shall be competent to the Commissioners appointed under the said Act to expend the said Taxes to the extent of not more than 25 per cent. of the annual revenues of the Municipality for the purpose of such last mentioned works, with the approval of the Governor in Council.

And it is further enacted that, whenever it shall have been ascertained by the Governor in Council, through the Commissioner of Police or Magistrate, and other person or persons appointed by the Governor in Council to inquire and report, that the Commissioners appointed under the said Act in any locality have neglected any necessary work, act, or duty, it shall be lawful for the Governor in Council to issue an order to the said Commissioners to execute such work, act or duty; and if that order shall not be obeyed within one week from the date of its issue, it shall further be lawful for the Governor in Council to order the Commissioner of Police, or the Magistrate, to execute the said necessary work, act, or duty, and to recover the expense thereof from the Municipal Funds; and in failure of immediate payment of the said expenses by the Municipal Commissioners, it shall be lawful for the Governor in Council to make the said Commissioners, collectively and individually, personally responsible for payment of such expenses, in the manner laid down in Section 9 of the said Act, as for money due to, and at the suit of Her Majesty's Secretary of State for India in Council."

The Honorable Mr. REEVES said that he would be inclined to omit the words "act or duty" in the last Section: he thought the word "work" would be sufficient, but he would leave his point for discussion at the next meeting. In the mean time he proposed that the Bill should be printed and circulated, and that its further consideration should be postponed till the next meeting.

Ordered to be printed and circulated. Further consideration postponed till next meeting.

Agreed to.

Bill to amend Act XI. of 1843 introduced.

The Honorable Mr. REEVES observed that the next Bill which he would submit, was one to amend Act XI. of 1843 by Section 4, of which the approval of Government was necessary for certain appointments to Hereditary Offices. This has been found to be very inconvenient, as the Local officers are well acquainted with the circumstances of each case, and able to dispose of them: it has resulted in a long list of all such appointments being sent up at the end of each year for the formal approval of Government, and this approval is granted as a matter of course, as there are no data before Government whereon to form a disapproval.

This Bill was read by the Secretary:—

"WHEREAS it is desirable that the Government of Bombay should be empowered to depute authority to the Revenue and Police Commissioners of

sanctioning the term for which a sharer in a Wuttun nominated under Section 4 of Act XI. of 1843 shall hold office, and of approving of selections made by the Collector or Controlling Officer under the same Section ;

It is hereby enacted that the words " or *Revenue Commissioner when authorised by Government*" shall be inserted after the words " with the sanction of the Governor in Council " in Section 4, Act XI. of 1843, and that the words " or *Revenue Commissioner when authorised by Government*" shall be added after the words " to the approval of the Governor in Council" at the end of the said Section, and that the words so inserted shall be taken as part of the said fourth Section of Act XI. of 1843."

It was ordered that it should be printed and circulated to the Honorable Members and considered at the next meeting.

Ordered to be printed, circulated, and considered at next meeting.

Agreed to.

The Honorable Mr. FRERE said that he had to introduce a Bill for extending the jurisdiction of the Native Subordinate Civil Courts to the same as that exercised by similar Courts on the other side of India.

Bill for extending the jurisdiction of the Native subordinate Civil Courts, to the same as that exercised by similar Courts on the other side of India, introduced.

The Bill was read by the Secretary : —

" WHEREAS it is deemed expedient to enlarge the Appellate Jurisdiction of Principal Sudder Ameens, to lessen the pecuniary jurisdiction of Sudder Ameens and Moonsiffs, and to invest Moonsiffs with a final jurisdiction in certain cases : It is therefore enacted as follows :—

I. In extension of the provisions of Regulation XVIII. of 1831 Section 3, Clause 1, it shall be lawful for the Zillah Judge to refer for trial appeals from original decisions passed by Sudder Ameens or Moonsiffs in any District of the Bombay Presidency, to the Principal Sudder Ameen of such District, without restriction as to the amount in dispute.

II. In modification of Clause 2, Section 3, of the aforesaid Regulation, it is hereby provided that Sudder Ameens shall be authorised to try suits to the amount of Rs. 1,000 only, and Moonsiffs to the amount of Rs. 300 only.

III. In all suits of the nature described in Act XLII. of 1860, Section 3, in which the debt, damage, or demand does not exceed in amount or value Rs. 20, the decisions and orders of the Moonsiff trying the same shall be final."

It was ordered to be printed and circulated and considered at next meeting.

Ordered to be printed, circulated, and considered at next meeting.

Agreed to.

Proposed hour
of meeting of the
Council.

The Honorable Mr. TRISTRAM referred to the Rules of the Council, and thought that 11 o'clock A.M. should be the hour of meeting instead of 1 o'clock P.M.

The Honorable Mr. JUGONNATH SUNKERSETT thought that 1 o'clock would be more convenient to the majority of the Members.

The Honorable Mr. REEVES informed the Council that His Excellency the Governor is opposed to the alteration of the hour of meeting to 1 o'clock, and that His Excellency thought the hour of meeting should be fixed at 11.

The Honorable Mr. MADHOWROW VITTUL VINCHOORKUR considered that so long as the rule stands as it is, the Council should meet at 11, and that no other hour for meeting should be fixed until the rule be altered.

The Honorable PRESIDENT then adjourned the meeting till Saturday, 22nd instant, at 11 A.M.

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

M. J. SHAW STEWART,

Acting Secretary to Government.

Bombay Castle, 15th February 1862.

PROCEEDINGS OF THE LEGISLATIVE DEPARTMENT, BOMBAY.

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 Act of Parliament 24 and 25 Victoria, Chapter 67.

Saturday, 22nd February 1862.

The Council of the Governor of Bombay for the purpose of making Laws and Regulations met according to adjournment.

PRESENT:

The Honorable Mr. FRERE,
 The Honorable Mr. WESTROPP,
 The Honorable Mr. TRISTRAM,
 The Honorable the NAWAB OF SAVANOR,
 The Honorable Mr. RUSTOMJEE JAMSETJEE JEJEEBHOY,
 The Honorable Mr. MADHOWROW VITTUL VINCHOOKUR,
 The Honorable Mr. JUGONNATH SUNKERSETT,
 The Honorable Mr. PREMABHAI HEMABHAI,
 and the Secretary and DEPUTY SECRETARY.

The Honorable Mr. FRERE being the only ordinary Member of Council present, presided in the absence of the Governor.

The PRESIDENT informed the Council that His Excellency the Governor in Council had been pleased to appoint Mr. L. H. Bayley, Deputy Secretary to the Government of Bombay in the Legislative Department.

Mr. L. H. Bayley having been appointed Deputy Secretary to Government in the Legislative Department, took the usual oath.

Mr. BAYLEY took the usual oath.

The PRESIDENT said that the first subject for the consideration of the Council was to consider further the letter from the Government of India, No. 214, dated the 13th January, desiring certain amendments to be made in the Rules of the Council.

Letter dated 13th Jan. 1862 from the Government of India, further considered.

Mr. WESTROPP stated he had prepared new Rules; that among other provisions he proposed that every Bill when read a first time should be referred to a Select Committee, and that the Committee might report during the interval between the Sessions; but, as he would suggest that the Rules should be printed and circulated, it would be unnecessary to state the provisions in detail on the present occasion.

New Rules.

The PRESIDENT proposed that the Rules be printed and circulated.

Ordered to be printed and circulated.

Agreed to.

The PRESIDENT stated that they were now to consider a "Bill for bringing under the Regulations and Acts certain lands ceded by His Highness the Guicowar for Railway purposes," and he moved that the Bill be read a second time.

Bill for bringing under the Regulations and Acts certain lands ceded by His Highness the Guicowar for Railway purposes, second Reading.

The NAWAB OF SAVANOR stated that, in his opinion, the Council should not legislate on the subject of Railroads piecemeal. That there should be one general Act to bring under the Laws all lands that had been or might be ceded by Independent Chiefs or Jageerdars.

The PRESIDENT supported the necessity for the Bill in its present shape.

Mr. WESTROPP did the same.

Mr. JUGONNATH SUNKERSETT saw no objection to the Bill.

Mr. RUSTOMJEE JAMSETJEE JEJEEBHOY agreed to the Bill.

Amendment proposed by Mr. Premabhai Hemabhai.

Mr. PREMABHAI HEMABHAI moved, as an amendment, that the villages mentioned in the Schedule, and numbered from 23 to 32, both inclusive be annexed to the Ahmedabad Zillah, to which they were adjacent, and the rest to the Surat Zillah.

Mr. FRERE explained that, if the Resident at Baroda was appointed a Magistrate, he could try offences committed in the neighbourhood of Baroda, so that few cases would be sent either to Ahmedabad or Surat; and that it was advisable, to prevent any question of jurisdiction, that all the lands should be annexed to one Zillah.

Mr. RUSTOMJEE JAMSETJEE JEJEEBHOY stated he was in favour of the amendment.

Negatived.

On the amendment being put to the vote, there being two in favour of the amendment, and five against it, the amendment was lost.

Bill read a second time and passed.

Bill for extending the powers of Municipal Commissioners appointed under Act XXVI. of 1850, considered.

The Bill was read by the Deputy Secretary a second time, and passed.

The PRESIDENT stated that the next subject for consideration was a "Bill for extending the powers of Municipal Commissioners appointed under Act XXVI. of 1850."

The DEPUTY SECRETARY read the Bill.

Mr. TRISTRAM said that the Bill was brought forward by Mr. Reeves who was unable to attend to-day in consequence of illness.

Mr. TRISTRAM mentioned some of the provisions of the Bill, and argued in their favour. There was recently a case at Poona which illustrated his remarks, and proved the necessity for some such provisions as are made in this Bill. He concluded by moving that the Bill be read a second time.

Mr. WESTROPP thought the Bill ought not to pass in its present form. It gave too great a latitude to Government. He agreed in thinking that, in the case of any dereliction of duty on the part of the Municipal Commissioners in respect to sanitary arrangements, power should be given to Government to enforce the performance of the Act; but that that power should only be allowed to Government in the cases of overruling necessity.

He called attention to the proviso at the end of the 2nd Section, and thought it preposterous to make the Commissioners individually and personally responsible, because they happened to differ in opinion from the Government of the day; on the other hand, the 9th Section of Act XXVI. of 1850 was a perfectly fair one, because, under it, a penalty could only be inflicted where there was *mala fides*.

He thought the words in the 2nd Section "other similar works of utility" ambiguous. He proposed that the Schools, &c. should be under the control of Government; and that unless two-thirds of the members of the whole body of Municipal Commissioners agreed, and not merely a majority of those members present at a meeting, no expenditure should be allowed. He concluded by proposing that the words "other similar works of utility" be struck out wherever they occurred in the preamble or Bill.

Mr. JUGONNATH SUNKERSETT asked whether the Act would sanction support being given to Dispensaries, Hospitals, and Schools already in existence out of the taxes raised under the Act.

Mr. WESTROPP said that as the words were "to apply the said taxes to the construction and support," and not "construction or support," the Act would only apply to Dispensaries, &c. hereafter to be erected.

It was then put to the vote that the words "and other similiar works of utility to the inhabitants of," in the 2nd Clause of the preamble, and the words "or similar works of utility," in the 4th Clause of the preamble, be struck out.

Amendments
carried.

Carried unanimously.

Mr. WESTROPP proposed that the word "and" be inserted between the words "Hospitals" and "Schools" in the 2nd Clause of the preamble, and the word "in" before the words "the said Town and Suburb" in the last line of that Clause.

Carried unanimously.

Mr. WESTROPP proposed that the words "in certain cases" be inserted in the second line of the 3rd Clause of the preamble between the words "should" and "have."

Carried unanimously.

Mr. WESTROPP then proposed the following amendments in the 1st Clause of the Bill :—

That the word "or" be inserted between the words "Dispensary" in the fourth line, and "School" in the fifth line, and that the words following the word "School" be left out, and the following inserted :—"If such application be adopted by a majority consisting of two-thirds of the Members of the whole body of the Municipal Commissioners of the Town or Suburb: provided always, that it shall not be competent to the said Commissioners to expend annually the said taxes to an extent exceeding 25 per cent. of the annual revenues of the Municipality for the purposes last aforesaid, or to extend any portion thereof for such purposes without the approval of the Governor in Council."

The above amendments were put, and *carried unanimously.*

Mr. WESTROPP proposed the following amendments in the 2nd Section of the Bill :—

That the words “ necessary ” and “ Act ” be omitted wherever they occur in this Section, and that after the word “ duty ” in the ninth line the following be inserted, “ falling within the scope of this Act or of Act XXVI. of 1850, and indispensable in the opinion of the Governor in Council for the public health or safety.”

That between the words “ or ” and “ duty ” in the twelfth line, and between the same words in the 17th line, the words “ perform the said ” be inserted.

The amendments were put, and *carried unanimously*.

Mr. WESTROPP then proposed the following amendments :—

To insert the words “ out of the said Municipal Funds ” between the words “ Municipal Commissioners ” and “ it ” in the 21st line, and to strike out all that follows the word “ to ” in the 22nd line of the same Section, and to substitute the following, “ recover the amount thereof by suit in the Civil Court or Courts having jurisdiction in the said Town or Suburb, and the costs of the said suit from the said Municipal Commissioners or any one of them, and the said Municipal Commissioners may, out of the accruing municipal rates, reimburse themselves in any sum or sums which they or any one of them may be compelled to pay to the Governor in Council for the expenses of the execution of such work or performance of such duty, but not the costs of any such suit as aforesaid and the said suit may be instituted in the name of the Secretary of State for India in Council, and no Municipal Commissioner shall be exempt from responsibility in such suit by reason of his having resigned his appointment after the order of the Governor in Council for execution of the work or performance of the duty was issued to the said Commissioners.”

The amendments were put, and *carried unanimously*.

Mr. WESTROPP then moved that the Bill, as amended, be reprinted, and circulated to the Council, and be reconsidered at their next meeting.

Agreed to.

Bill as amended ordered to be reprinted, circulated and reconsidered at the next meeting.

Bill. to amend Act XI. of 1843. Referred to a Select Committee.

The PRESIDENT said the next subject was to consider a “ Bill to amend Act XI. of 1843.” The Bill had been read at the last meeting, proposed that it now be referred to a Select Committee, consisting Reeves and Mr. Madhowrow Vittul Vinchoorkur, to report on it meeting.

Agreed to.

The PRESIDENT then proposed that the next subject for consideration, a "Bill for extending the jurisdiction of the native subordinate Civil Courts to the same as that exercised by similar Courts on the other side of India," which had also been read at the last meeting, be referred to a Select Committee.

Bill for extending the jurisdiction of the Native subordinate Civil Courts to the same as that exercised by similar Courts on the other side of India. Referred to a Select Committee.

Mr. JUGONNATH SUNKERSETT moved that Mr. Frere, Mr. Westropp, and Mr. Madhowrow Vittul Vinchoorkur, form the Committee, and to report at the next meeting.

Agreed to.

The PRESIDENT said the next subject for consideration was a "Bill for regulating the establishment of Markets," brought in by Mr. Reeves. He moved it to be read a first time.

Bill for regulating the establishment of Markets. Read a first time.

The Deputy Secretary read the Bill.

A Bill for Regulating the Establishment of Markets.

WHEREAS the establishment of new Markets in the neighbourhood of places where Markets have been previously established leads to disputes between the owners of the lands on which such new and previously established Markets are held, and such disputes not unfrequently occasion breaches of the peace, and serious inconvenience to the frequenters of such Markets ; it is enacted as follows :—

I. After the passing of this Act no person shall establish a new Market, without permission, in writing, from the Magistrate of the District. If any person shall attempt to establish a new Market without such licence, he shall, on conviction by the Magistrate, be subject to a fine not exceeding two hundred Rupees.

11. When any person desires to establish a new Market, he shall make application in writing to the Magistrate. The application shall specify the name of the place at which it is proposed to establish such new Market ; the days on which it is to be held ; the name of the place where the nearest existing Market is held, and the days on which it is held ; the distance, in English miles, between the two places, and the reasons of the applicant for desiring to establish the new Market.

III. On receipt of the application the Magistrate shall issue a proclamation, stating the desire of the applicant to establish a Market at the place named by him, and the days on which it is proposed to be held, and calling every person who may have any objection to the establishment of the Market to state his objection in writing within six weeks from the date of the issue of the Proclamation. The above Proclamation shall be affixed in a conspicuous place in the town in or near to which it is proposed that the new Market

No new Market to be established without permission of Magistrate.

Application for permission.

Issue of Proclamation Notice.

shall be held; and a copy of the same shall be affixed at the Police Station within the jurisdiction of which the Village or Town is situate, and in the Court of the Magistrate. If it shall appear that any existing Market is held within a distance of four miles from the place where it is proposed that the new Market shall be established, the Magistrate shall cause a Notice to the effect of the Proclamation to be served upon the owner of the land where such existing Market is held. The Proclamation and Notice (if any) shall be issued and served at the expense of the applicant.

IV. If, within the time specified in the Proclamation and Notice (if any) no objection is preferred to the establishment of the proposed Market, the Magistrate shall pass an order permitting it to be established. If, within the time specified, any objection is preferred, the Magistrate shall inquire into the objection, and pass such order as may appear proper in the circumstances of the case.

V. If within six months from the passing of this Act, any objection shall be preferred to the Magistrate in respect of any Market which has been newly established within a period of two years before the passing of this Act, the Magistrate shall inquire into the objection; and, if it shall appear that such new Market has been established within a distance of four miles from any previously existing Market, and that the establishment of the new Market has been the cause of disturbances or other inconvenience to the people of the neighbourhood, the Magistrate may, if he think necessary, change the days upon which such new Market is held, or, at his discretion, order that it be discontinued.

VI. Every order passed by a Magistrate under this Act shall be open to appeal to the Commissioner of Police, and the order of the Commissioner, subject to the control of the local Government, shall be final.

VII. Every person who shall contravene any order duly passed under this Act, shall be liable to a fine not exceeding two hundred Rupees.

VIII. All the provisions of this Act relative to the establishment of new Markets shall be applicable also to the establishment of new fairs.

Referred to a
Select Committee.

The PRESIDENT moved that the Bill be referred to a Select Committee, consisting of Mr. Reeves, Mr. Jugonnath Sunkersett, and the Nawab of Savanoor, to report at the next meeting but one.

Agreed to.

The PRESIDENT moved that a "Bill for the preservation of the Bhagdaree Tenure" be read a first time.

Bill for the preservation of the Bhagdaree Tenure. Read a first time.

The Bill was read by the Deputy Secretary.

Draft.

WHEREAS it has been found that the permanence of the tenure known as the Bhagdaree tenure, which has existed from time immemorial in certain parts of the Presidency of Bombay, is endangered by the increasing practice of attachment and sale by civil process of the homesteads and building sites appertaining to, and forming integral parts of, the constituted Bhags, or the recognised sub-divisions of such Bhags, in Bhagdaree Villages; and whereas it is undesirable that the said ancient tenure should be subjected to destruction by the action of the Civil Courts; it is therefore enacted as follows :—

I. No portion of a Bhag in any Bhagdaree Village other than a recognised sub-division of such Bhag shall, from and after the passing of this Act, be liable to seizure, sequestration, attachment, or sale by the process of any Civil Court; and no process of such Court shall be enforced so as to cause the dismemberment from any such Bhag; or recognised sub-division, of any homestead, building site, or premises forming an integral part thereof.

II. It shall be lawful for the Collector of the District in which any Bhagdaree village is situated, though not a litigating party, to represent, when necessary, to any Civil Court having jurisdiction in the case, any objection which may exist to the attachment, seizure, or sale of any land or premises to which this Act may be applicable; and it shall be lawful for such Court to pass such order thereon as shall be equitable and just, and such order shall be appealable in the same manner as a decree of the Court in which it is made.

The PRESIDENT moved that the Bill be referred to a Select Committee consisting of Mr. Reeves, Mr. Westropp, and Mr. Premabhai Hemabhai, to report at next meeting but one.

Referred to a Select Committee.

Agreed to.

The President then adjourned the Meeting till Saturday, the 1st March next, at 11 A.M.

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

LYTTELTON H. BAYLEY,

Deputy Secretary to Government.

Bombay Castle, 22nd February 1862.

PROCEEDINGS OF THE LEGISLATIVE DEPARTMENT, BOMBAY.

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 Act of Parliament 24 and 25 Victoria, Chapter 67.

Saturday, 1st March 1862.

The Council of the Governor of Bombay, for the purpose of making Laws and Regulations, met according to adjournment.

PRESENT:

The Honorable Mr. REEVES,
 The Honorable Mr. FRERE,
 The Honorable Mr. WESTROPP,
 The Honorable Mr. TRISTRAM,
 The Honorable the NAWAB OF SAVANOR,
 The Honorable Mr. RUSTOMJEE JAMSETJEE JEJEEBHOY,
 The Honorable Mr. MADHOWROW VITTUL VINCHOORKUR,
 The Honorable Mr. JUGGONATH SUNKERSETT,
 The Honorable Mr. PREMABHAI HEMABHAI,
 And the DEPUTY SECRETARY.

Mr. REEVES being the Senior Ordinary Member of Council present, presided in the absence of the Governor.

Petition.

The DEPUTY SECRETARY said he had just received a Petition in the Gujarati Language addressed to the Legislative Council.

Mr. FRERE said that there were two objections to its reception—

1st—That it was addressed to the Legislative Council, instead of the Governor in Council.

2nd—That it was not accompanied by any translation.

The petition was accordingly not received.

Not received.

Letter from the Government of India dated 13th January 1862, desiring certain amendments to be made in the Rules of the Council, and the Draft Rules prepared by Mr. Westropp, considered.

The PRESIDENT said that the first subject for the consideration of the Council was to consider further the letter from the Government of India No. 214, dated 13th January 1862, desiring certain amendments to be made in the Rules of the Council, and the Draft Rules prepared by Mr. Westropp.

* Proposed Rules of the Council considered.

These rules were presented at the last Meeting of the Council, and the question now was whether they should be adopted.

Mr. WESTROPP said he had some formal amendments to make which he had furnished to the Deputy Secretary ; but before they were read, he should be glad to know if any objections existed to the substance of them.

Mr. FRERE suggested that the Members should be asked whether there was any objection to them *seriatim*.

The PRESIDENT put the question as to Rule 1.

Agreed to.

The PRESIDENT put Rule 2.

Agreed to.

The PRESIDENT put Rule 3.

Agreed to.

The PRESIDENT put Rule 4.

Mr. FRERE thought there would be no necessity for the proviso at the end.

Mr. WESTROPP thought that, if the Governor was to have power, it would be better to say so ; that frequently circumstances might take place which would render it desirable for the Council to meet at another hour besides 11 o'clock.

Mr. TRISTRAM agreed with Mr. Westropp.

The PRESIDENT thought the hour might very well be left to the Council ; that the Governor had a very strong objection to frequent alterations.

Rule as printed *agreed to.*

Mr. WESTROPP asked whether there would be any objection to the day of meeting being changed from Saturday to Wednesday.

No objection was made.

The PRESIDENT put Rule 5.

Agreed to.

The PRESIDENT put Rule 6.

Agreed to.

The PRESIDENT put Rule 7.

Agreed to.

The PRESIDENT put Rule 8.

Agreed to.

The PRESIDENT put Rule 9.

Agreed to.

Rule 1.

Agreed to.

Rule 2.

Agreed to.

Rule 3.

Agreed to.

Rule 4.

Agreed to.

Rule 5.

Agreed to.

Rule 6.

Agreed to.

Rule 7.

Agreed to.

Rule 8.

Agreed to.

Rule 9.

Agreed to.

Rule 10. The PRESIDENT put Rule 10.

Agreed to. *Agreed to.*

Rule 11. The PRESIDENT put Rule 11.

MR. MADHOWROW VITTUL VINCHOORKUR suggested that the word "Secretary" should be inserted instead of "Member" in the first line.

MR. FRERE thought that the word "Member" should be retained, as it was not desirable that the Secretary should take part in the debates.

MR. JUGONNATH SUNKERSETT and the other members agreed that the word should remain as it was.

Agreed to. *Agreed to.*

Rule 12. The PRESIDENT put Rule 12.

MR. FRERE asked why the word "Canarese" was left out.

MR. WESTROPP said he had learnt from Mr. Shaw Stewart that it would be attended with considerable expense, and that there was at present no necessity for the translations being made into that language.

MR. FRERE said there were a great many people who did not know Marathi.

MR. RUSTOMJEE JAMSETJEE JEJEEBHOY said the word should be Hindustanee.

The NAWAB OF SAVANOR said that Canarese was necessary for the people in the country.

MR. JUGONNATH SUNKERSETT was in favour of Canarese.

MR. FRERE said the copies for the Members of the Council were in manuscript.

The PRESIDENT said it was unnecessary for the Members of the Council.

MR. TRISTRAM thought that when a Bill was passed into law it should be translated into every language.

MR. WESTROPP said he was in favour of a Bill, directly it was proposed, being translated into Canarese.

Amended and agreed to. The PRESIDENT put the question whether the word "Canarese" should be inserted after the word "Marathi."

Agreed to.

Amended and agreed to. MR. WESTROPP proposed the amendments, viz. to substitute "amongst" for "to" in the last line but three, and to insert "Bombay" before "Government" in the last line but one.

Agreed to.

The PRESIDENT put Rule 13.

Agreed to.

Rule 13.

Agreed to.

The PRESIDENT put Rule 14.

Rule 14.

Mr. FRERE suggested the insertion of the word "Canarese" after the word "Marathi" in the 5th line.

Amended and
agreed to.

Agreed to.

The PRESIDENT put Rule 15.

Rule 15.

Agreed to.

Agreed to.

The PRESIDENT put Rule 16.

Rule 16.

Agreed to.

Agreed to.

The PRESIDENT put Rule 17.

Rule 17.

A discussion then ensued on this Rule between the PRESIDENT, Mr. FRERE, and Mr. WESTROPP.

Agreed to.

Agreed to.

The PRESIDENT put Rule 18.

Rule 18.

Mr. WESTROPP proposed a formal amendment by the insertion of the following words after the word "Bill" in the 3rd line "or not published by order of the Governor in Council under Rule 14." That amendment was necessary to render the rule consistent with the other rules.

Amended and
agreed to.

Agreed to.

The PRESIDENT put Rule 19.

Rule 19.

Mr. FRERE hardly thought the rule necessary, as we could trust the Members not to bring forward a rejected bill again during the same session.

Mr. WESTROPP thought that if the course of conduct provided against by the rule was expected it would be better to retain it.

Agreed to.

Agreed to.

The PRESIDENT put Rule 20.

Rule 20.

Agreed to.

Agreed to.

The PRESIDENT put Rule 21.

Rule 21.

Agreed to.

Agreed to.

The PRESIDENT put Rule 22.

Rule 22.

Agreed to.

Agreed to.

The PRESIDENT put Rule 23.

Rule 23.

Agreed to.

Agreed to.

Rule 24. The PRESIDENT put Rule 24.

Agreed to. Mr. FRERE would not suggest that the reports be circulated in Canarese.
Agreed to.

Rule 25. The PRESIDENT put Rule 25.

Mr. FRERE doubted the necessity of the words "but not until a week after the report has been furnished to the Members."

Mr. WESTROPP thought the rule necessary in order to prevent hasty legislation, which the Council might fall into unless the rule was retained.

The PRESIDENT thought it a doubtful point.

Mr. WESTROPP thought that three weeks was the shortest time for a legislative measure to be before the Public.

Mr. FRERE thought that as the Council had power to adjourn the consideration of any measure, he was not in favour of the rule as it stood.

The other members expressed opinions in favour of the rule.

Agreed to. *Agreed to.*

Rule 26. The PRESIDENT put Rule 26.

Mr. WESTROPP argued in favour of the rule, and said that the President could not refuse, under Rule 27, to allow an amendment to be considered. The two Rules 26 and 27 were to be taken together.

Mr. FRERE asked whether there was any objection to the substitution of the word "may" for "shall" in the 5th line.

Mr. WESTROPP said he had no objection.

Amended and agreed to. The PRESIDENT put the question whether the word "may" should be substituted for "shall."

Agreed to.

The rule as amended was then agreed to.

Rule 27. The PRESIDENT put Rule 27.

Agreed to. *Agreed to.*

Rule 28. The PRESIDENT put Rule 28.

Agreed to. *Agreed to.*

Rule 29. The PRESIDENT put Rule 29.

Agreed to. *Agreed to.*

The PRESIDENT put Rule 30.

Agreed to.

Rule 30.

Agreed to.

The PRESIDENT put Rule 31.

Agreed to.

Rule 31.

Agreed to.

The PRESIDENT put Rule 32.

Agreed to.

Rule 32.

Agreed to.

The PRESIDENT put Rule 33.

Rule 33.

Mr. FRERE thought the concluding words ought to be omitted, as provision was already made in the 45th Section of the 24th and 25th Victoria, c. 67.

Mr. WESTROPP had merely followed the Governor General's rule, but had no objection to Mr. Frere's amendment.

The PRESIDENT put to the vote whether the words "in case of an equality of voices, the President shall have the casting vote" be omitted.

Amended[#] and
agreed to.

Agreed to.

The rule as amendment was then *agreed to.*

The PRESIDENT put Rule 34.

Agreed to.

Rule 34.

Agreed to.

The PRESIDENT put Rule 35.

Agreed to.

Rule 35.

Agreed to.

The PRESIDENT put Rule 36.

Agreed to.

Rule 36.

Agreed to.

The PRESIDENT put Rule 37.

Agreed to.

Rule 37.

Agreed to.

The PRESIDENT put Rule 38.

Rule 38.

Mr. FRERE thought the words "Under Secretary or Assistant Secretary" should be omitted.

The PRESIDENT agreed that there was no necessity for the words "Under Secretary or Assistant Secretary," inasmuch as the word Secretary was fully defined in Rule 44.

The PRESIDENT proposed that the words "Under Secretary or Assistant Secretary" be omitted.

Amended and
agreed to.

The Rule as amended was then *agreed to.*

The PRESIDENT put Rule 39.

Agreed to.

Rule 39.

Agreed to.

The PRESIDENT put Rule 40.

Agreed to.

Rule 40.

Agreed to.

Rules 41. The PRESIDENT put Rule 41.

Agreed to. *Agreed to.*

Rule 42. The PRESIDENT put Rule 42.

Agreed to. *Agreed to.*

Rule 43. The PRESIDENT put Rule 43.

Mr. FRERE thought the rule unnecessary.

Mr. WESTROPP was of opinion that it was better to make the provisions as clear as possible.

Mr. JUGONNATH SUNKERSETT saw no objection to the Rule.

Mr. RUSTOMJEE JAMSETJEE JEJEEBHOY thought the Rule might be dispensed with, as the matter was sufficiently provided for by Rule 8.

The PRESIDENT thought as the members were in general averse to it, it should be rejected.

Rejected. *Rule rejected.*

Rule 44. The PRESIDENT put Rule 44, and suggested that 44 should be altered
Altered to Rule to 43.
43 and agreed to.

Agreed to.

Mr. WESTROPP suggested that in printing the Rules as amended the references to the Bombay Rules be omitted.

Agreed to.

Rules as amended ordered to be printed, and a copy forwarded to His Excellency the Governor for his approval.

The PRESIDENT moved that the Rules as amended be printed, and a copy of them forwarded to His Excellency the Governor for his approval.

Bill for extending the powers of Municipal Commissioners appointed under Act XXVI of 1850. Second Reading.

The PRESIDENT said the next subject was that a Bill (No. 2) for extending the powers of Municipal Commissioners appointed under Act XXVI. of 1850 be re-considered. He moved that the Bill be read a second time.

Amendments carried.

Mr. WESTROPP proposed the omission of the word "accruing" in the 15th line from the end of the Bill.

Agreed to.

Mr. FRERE moved that the word "Suburbs" in the 8th line of the 1st Section be altered to "Suburb."

Agreed to.

Mr. FRERE said that under the 1st Section, 25 per cent. might be expended on a Hospital, 25 per cent. on a Dispensary, and 25 per cent. on a School, in other words 75 per cent., in one town or suburb.

Mr. WESTROPP thought the legal construction would not be so.

Mr. JUGONNATH SUNKERSETT said there was no provision for watering the streets. He moved that the word "watering" be added.

Mr. FRERE thought it better to wait until complaints were made.

Mr. JUGONNATH SUNKERSETT then proposed that after the words "paying the same," another recital be inserted, "and whereas it is also expedient that in addition to the above purposes, the said Commissioners should be authorised to apply a reasonable portion of the said taxes in the watering of public streets and roads in the said town or suburb," that a third Section be added as follows :—

3rd. "It is hereby also enacted, that the said Commissioners may also apply a reasonable portion of the Municipal taxes in watering the public streets and roads of any such town or suburb as aforesaid."

Mr. FRERE thought it far better to leave the Bill as it was.

Mr. TRISTRAM thought it rather fine-drawn legislation.

Mr. WESTROPP said it was very doubtful whether by Act XXVI. of 1850 the Commissioners had power to water the streets. He thought it most desirable that they should have it, if they had not got it already, and further that an indemnity clause should be added.

Mr. PREMABHAI HEMABHAI was against the amendment.

The PRESIDENT, after the opinion of the members had been asked, said that the amendment was carried.

Mr. WESTROPP then proposed the indemnity clause.

The PRESIDENT put the following clause :—

4th. "And it is hereby also enacted, that any portion of the Municipal taxes heretofore *bonâ fide* employed in watering any public street or road in any such town or suburb as aforesaid, shall be considered to have been legally and properly so applied."

Carried unanimously.

Mr. FRERE proposed that the word "not" be inserted in the 10th line of the 1st Section between "extent" and "exceeding," and the words "in the whole" added after the word "exceeding," and the words "all or any of" inserted between the words "for" and "the" in the 12th line, and the word "three" inserted between the words "the" and "purposes" in the same line.

Carried.

Mr. FRERE proposed the insertion of the words "on the subject" after the word "report" in the 6th line of the 2nd Section.

Carried.

The PRESIDENT proposed that the Bill as amended be now read a second time and passed.

Bill as amended read a second time and passed.

The Bill was read by the Deputy Secretary a second time and passed.

Report of Select Committee on a Bill to amend Act XI. of 1843.

The PRESIDENT said the next subject was "a Bill to amend Act XI. of 1843," which was referred to a Select Committee.

The Committee had reported, and he requested the Deputy Secretary to read the Report.

Read.

The DEPUTY SECRETARY read the following Report:—

Report of the Select Committee appointed to consider and report on a Bill to amend Act XI. of 1843.

The Committee having considered the Bill beg to suggest the following amendments:—

That the words "in future" be inserted between the words "should" and "be" in the 2nd line of the Preamble of the Bill, and the word "or" be substituted for "and" in the 3rd line of the Preamble.

That the word "to sanction" be substituted for the words "of sanctioning" in the 4th line of the Preamble, and the words "to approve" be substituted for the words "of approving" in the 7th line of the Preamble.

That the words "a Holder of or" be inserted before the words "a sharer in a Wuttun" in the 5th line of the Preamble.

That the word "a" be inserted before the word "Revenue," and the words "or a Police" before the word "Commissioner" in the 2nd and 6th lines of the Bill; and that the word "respectively" be inserted between the words "when" and "authorised" in the 2nd and 7th lines of the Bill.

That the words "from and after the passing of this Act" be inserted between the words "shall" and "be" in the 11th line of the Bill.

The Committee would therefore suggest that the Bill be read as follows:—

A Bill to amend Act XI. of 1843.

WHEREAS it is desirable that the Government of Bombay should in future be empowered to depute authority to the Revenue or Police Commissioners to sanction the term for which a Holder of or sharer in a Wuttun nominated under Section 4 of Act XI. of 1843 shall hold office and to approve of selections made by the Collector or Controlling Officer under the same Section:

It is hereby enacted, that the words "*or a Revenue or a Police Commissioner when respectively authorised by Government*" shall be inserted after the words "with the sanction of the Governor in Council" in Section 4 of Act XI. of 1843, and that the words "*or a Revenue or a Police Commissioner when respectively authorised by Government*" shall be added after the words "to the approval of the Governor in Council" at the end of the said Section; and that the words so inserted shall from and after the passing of this Act be taken as part of the said fourth Section of Act XI. of 1843.

Mr. FRERE objected to the words "or Police Commissioners" in the Preamble. He thought the Government ought not to have the power to authorise Revenue Commissioners to interfere with Police Commissioners.

Mr. WESTROPP said the objection might be removed by using the words "Revenue and Police Commissioners, or either of them."

Mr. FRERE finally proposed to substitute the word "and" for "or" in the 4th line of the Preamble, to omit the words "respectively" in the 2nd, 3rd, and 7th lines of the Bill, and to insert the word "of" between the words "or" and "a" in the 1st and 2nd lines of the Bill, and between similar words in the 6th and 7th lines of the same.

The PRESIDENT agreed and proposed that the Bill thus amended be read a second time and passed.

The Bill as amended was then read by the Deputy Secretary a second time and passed.

The PRESIDENT said the next subject for consideration was "a Bill for extending the jurisdiction of the Subordinate Civil Courts to the same as that exercised by similar Courts on the other side of India," referred to a Select Committee at the last meeting of the Council.

He moved that the Deputy Secretary should read the report.

The DEPUTY SECRETARY read the following Report:—

Report.

"The Committee report that they are of opinion that provided it is considered necessary that the jurisdiction of Moonsiffs should in certain cases be final, decisions of the Sudder Ameens and Principal Sudder Ameens should in certain cases be also made final.

"The Committee are also of opinion that instead of referring to Section 3 of Act XLII. of 1860 the purport of that Section should be embodied in the Act, but as the first proposal if adopted would lead to a further reference

Amendments
carried.

Bill as amended
read a second time
and passed.

Report of Select
Committee on
a Bill for extend-
ing the jurisdic-
tion of the Sub-
ordinate Civil
Courts to the same
as that exercised
by similar Courts
on the other side
of India.

Read.

to the Judges of the Sudder Dewanee Adawlut, the Committee are of opinion that the whole Act should be recast, and they would further suggest that all Acts defining the jurisdiction of the Principal Sudder Ameens, the Sudder Ameens and Moonsiffs should be consolidated; there being some Zillahs in which there are no Sudder Ameens and another in which there is no Principal Sudder Ameen."

Mr. FRERE moved that the Report be adopted.

Mr. WESTROPP argued in support of the suggestions of the Select Committee, and that the subject should be more fully considered during the Recess.

Adopted.

The motion that the Report be adopted was then *carried unanimously*.

The PRESIDENT proposed that Mr. Frere should take his (the President's) place in the Select Committee on "the Bill for the preservation of the Bhagdaree Tenure."

Agreed to.

Notice given by Mr. Reeves of his intention to introduce a Bill for the restoration of the Grassias in the Ahmedabad Collectorate, and for their relief from debt, at the next meeting.

The PRESIDENT stated that at the next meeting he intended to introduce a Bill for the restoration of the Grassias in the Ahmedabad Collectorate, and for their relief from debt.

The PRESIDENT then adjourned the Meeting till Saturday, the 8th instant, at 11 A.M.

By order of His Excellency the Governor in Council,

LYTTELTON H. BAYLEY,

Deputy Secretary to Government.

Bombay Castle, 1st March 1862.

PROCEEDINGS OF THE LEGISLATIVE DEPARTMENT, BOMBAY.

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 Act of Parliament 24 and 25 Victoria, Chapter 67.

Saturday, 8th March 1862.

The Council of the Governor of Bombay, for the purpose of making Laws and Regulations, met according to adjournment.

PRESENT:

The Honorable Mr. REEVES,
 The Honorable Mr. FRERE,
 The Honorable Mr. TRISTRAM,
 The Honorable Mr. RUSTOMJEE JAMSETJEE JEJEEBHOY,
 The Honorable Mr. JUGONNATH SUNKERSETT,
 The Honorable Mr. PREMABHAI HEMABHAI,
 The Honorable Mr. MADHOWROW VITTUL VINCHOORKUR,
 The Honorable Mr. ELLIS,
 The Honorable Mr. SCOTT,
 And the DEPUTY SECRETARY.

Mr. REEVES being the Senior Ordinary Member of Council present, presided in the absence of the Governor.

Mr. BARROW HELBERT ELLIS and Mr. MICHAEL HUGH SCOTT having been appointed additional Members of the Council of the Governor of Bombay for the purpose of making Laws and Regulations, took the usual affirmation.

Mr. B. H. Ellis and Mr. M. H. Scott appointed additional Members, affirmation taken.

The PRESIDENT said that the first subject was to consider the Report of the Select Committee upon "a Bill for regulating the Establishment of Markets."

Report of the Select Committee on a Bill for regulating the establishment of Markets.

The Committee had reported, and he requested the Deputy Secretary to read the Report.

The DEPUTY SECRETARY read the following Report:

Read.

Report of the Select Committee appointed to consider and report on "A Bill for regulating the Establishment of Markets."

"The Committee having considered the Bill, beg to suggest the following amendments:—

That the words "and Fairs" be added to the title of the Bill, and the words "or Fairs" be inserted after the word "Markets" wherever it occurs in the Preamble of the Bill, and the words "or Fair" after the word "Market" wherever it occurs in the Bill.

That the words "or in default of payment to imprisonment without hard labour for any period not exceeding two calendar months" be added at the end of the first Section of the Bill.

That the word "under" be substituted for "in" in the last line but one of Section IV. of the Bill.

That the words "within six weeks" be inserted between the words "shall" and "be" in the second line of Section VI. of the Bill.

That the words "disobey or oppose" be inserted between the words "contravene" and "any" in the second line of Section VII. of the Bill, and the word "final" between the words "any" and "order" in the same line of the same Section, and that the following be added at the end of the Section "or in default of payment to imprisonment with or without hard labour for any period not exceeding two calendar months."

That Section VIII. of the Bill as printed be omitted, and the following substituted :—

VIII. This Act shall not extend to the Islands of Bombay and Colaba. That the following Section be added as Section IX. :—

IX. Nothing in this Act shall be held to apply to assemblages of people collected at, or concerned in the inauguration of sacred edifices, collected at or concerned in any other religious festivals or ceremonies.

The Sections
considered, and
amended.

The PRESIDENT said that the Bill should be considered Section by Section.

Section I. was then read.

Mr. FRERE suggested that "simple imprisonment" should be substituted for "imprisonment without hard labour."

Agreed to.

Section II. was then read.

Mr. ELLIS said he should prefer that the application referred to in the Section should be made to "a Magistrate" and not to "the Magistrate."

He moved that the words "of the District" be inserted after the word "Magistrate" in the 4th line.

Agreed to.

Section III. was then read.

Mr. ELLIS asked why the limits of 4 miles were fixed.

The PRESIDENT said that Fairs were held in some places every day in the week, and it was desirable to have some limit.

Mr. MADHOWROW VITTUL VINCHPOORKUR moved by way of amendment that the words at the conclusion of the Section "and served at the expense of the applicant" be omitted.

The opinion of the Council was then taken, and 8 being in favour of the retention of the words, and 1 for their omission, the amendment was lost.

Clause 3 was then agreed to.

Clause 4 was then read.

Mr. ELLIS proposed the insertion of the words "of the District" after the word "Magistrate" in the 5th, 6th, and 9th lines.

Agreed to.

Clause 5 was then read.

Mr. ELLIS proposed the insertion of the words "of the District" after the word "Magistrate" in the 15th and 16th lines.

Agreed to.

Clause 6 was then read.

Mr. ELLIS asked whether it was intended to give an appeal to the Government.

Mr. FRERE thought it better to strike out the words "subject to the control of the Local Government."

Agreed to.

The Clause, as thus amended, was then agreed to.

Clause 7 was then read.

Mr. ELLIS proposed the omission of the word "final" in the 3rd line.

Agreed to.

Mr. FRERE proposed the substitution of the words "of either kind" for the words "with or without hard labour."

Agreed to.

Clause 8 was then read.

Agreed to.

Clause 9 was then read.

The PRESIDENT said this Section was introduced at the suggestion of his colleagues Mr. Juggonath Sunkersett and the Nawab of Savanoor.

Mr. FRERE had no objection to the words "in the inauguration of sacred edifices;" but he thought that the Magistrate's sanction should be obtained for any large assemblages of persons at the religious festivals or ceremonies which were proposed after the 1st year.

Mr. ELLIS said all fairs were religious.

Mr. FRERE said the difficulty might be obviated by inserting the words "not forming a part of a fair or market."

Mr. TRISTRAM put the question whether the Section should remain as amended by the Committee, or whether the words "not forming a part of a fair or market" should be added.

The majority of the Council being in favour of the addition of the words, the Clause, with the above additional words, was agreed to.

Mr. FRERE proposed the addition of the following Clauses :—

X. Nothing in this Act should be held to restrict the general powers of Government to control the orders of the Magistrate or Commissioner of Police in regard to markets or fairs.

Carried.

XI. The word "Magistrate" when used alone, without the addition of the words "of the District," includes every officer authorised to exercise the full powers of the Magistrate.

Carried.

The PRESIDENT moved that the Bill be read a second time and passed.

Mr. JUGONNATH SUNKERSETT said that the people have had no opportunity of considering the Bill. The report of the Select Committee had only been read to-day. He begged to move as an amendment that the Bill be read a second time this day week.

Bill ordered to be read a second time this day week.

The PRESIDENT then said that in that case he would not put the motion that the Bill be now read a second time and passed, but instead thereof he would put the question that the Bill be read a second time this day week.

Carried.

Report of the Select Committee on a Bill for the preservation of the Bhagdaree Tenure, Read.

The PRESIDENT said the next subject was to consider the report of the Select Committee upon "a Bill for the preservation of the Bhagdaree Tenure."

The DEPUTY SECRETARY read the following Report :—

"The Committee having considered the Bill, beg to suggest that it be extended to the Nurwadaree Villages, and that the wording of the Bill be amended as follows :—

Draft.

Whereas it has been found that the permanence of the tenures, known as the Bhagdaree and Nurwadaree tenures which have existed from time immemorial in certain parts of the Presidency of Bombay, is endangered by the increasing practice of attachment and sale by civil process of the homesteads and building sites ("Gubhan") appertaining or appendant to the constituted Bhags or the recognised sub-divisions of such Bhags or Shares in Bhagdaree or Nurwadaree Villages ; It is therefore enacted as follows :—

I. No portion of a Bhag or Share in any Bhagdaree or Nurwadaree Village other than a recognised sub-division of such Bhag or Share shall, from and after the passing of this Act, be liable to seizure, sequestration, attachment, or sale by the process of any Civil Court, and no process of such Court shall be enforced so as to cause the dismemberment from any such Bhag or Share or recognised sub-division thereof of any homestead, building site (Gubhan), or premises forming an integral part thereof.

II. Whenever any process has issued out of any Civil Court for the seizure, sequestration, attachment, or sale of any portion of a Bhag or Share in any Bhagdaree or Nurwadaree Village other than a recognised sub-division of such Bhag or Share, or for the seizure, sequestration, attachment, or sale of any homestead, building site (Gubhan), or premises forming an integral part thereof, it shall be lawful for the Collector of the District in which any

such Bhagdaree or Nurwadaree Village is situated, although not a litigating party, to move in such Civil Court that such process should be set aside or quashed, and that the provision of this Act be put in force; and if such Court be of opinion, on the evidence adduced by the Collector on such motion, that the case is one falling within this Act, it shall set aside or quash such process; and it is hereby further enacted, that any order which the said Court may make on such motion shall be appealable in the same manner as a decree of the Court in which it is made.

III. And it is hereby further declared that nothing in this Act contained shall be construed as prohibiting the issue and execution of any such process as aforesaid against any Bhag or Share or recognised sub-division of any Bhag or Share in any such Village as aforesaid, together with its homestead, building site (Gubhan), and other proper appurtenances if the issue and execution of such process be in other respects authorised by law."

Mr. FRERE said that after the meeting of the Select Committee it occurred to Mr. Westropp, who was unable to attend to-day, that several alterations should be made in the Bill. Mr. Westropp had also added two new Clauses; and it appeared to Mr. Frere that, as the Bill was thus nearly recast, it would be desirable to refer the Bill back to the same Select Committee.

Referred back to the same Select Committee.

Agreed to.

The PRESIDENT said that the third subject for consideration was a "Bill for the Restoration of the Grassias in the Ahmedabad Collectorate, and for their relief from debt."

Bill for the Restoration of the Grassias in the Ahmedabad Collectorate, and for their relief from debt.

The PRESIDENT made the following remarks:—

In the Ahmedabad Collectorate of Guzerat there is a class of Landholders called Talookdars, really "Grassias," whose estates are situated in the Dholka, Veerungaum, Purantej, and Dundooka Districts. Most of these "Grassias" are Rajpoots, some are Mehwassees, *i.e.*, Coolies, and others. There is no doubt that they are sprung from an ancient race of hereditary proprietors who were found by the Moguls at their first appearance in Guzerat possessed of considerable power and wealth. The Moguls managed to expel the whole of them from their estates, but on a stubborn resistance being made, they felt themselves obliged to restore to the Grassias in the immediate vicinity of the Capital, Ahmedabad, a portion of their lands which is held to this day rent-free as "Wanta;" while to those situated more remote from the Capital, and whose resistance was still more resolute, restoration of their lands was made in full, burdened, however, with the obligation of paying tribute. This tribute, which was annual, amounted to about half the net revenue of each estate, and was payable in cash. It nowhere appears that the estates were.

First reading.
Speech of Mr. Reeves in moving the same.

burdened in any other manner. And thus the Grassias were settled by the Moguls as actual proprietors of their estates, with the simple liability of paying tribute to the Government.

The accession and dominion of the Mahrattas effected no difference whatever in the tenure of the Grassias, though the annual payments varied under their administration; but although less than half the net revenue was sometimes taken by what was called Moolukgeeree, we find no record of the exaction of any more than one half.

For some time after their acquisition of Guzerat from the Mahrattas, the British Government continued to realize annual payments according to past years. But it would appear that very soon the nature of the payments was altered: instead of tribute, the Government assumed it to be Rent or Revenue they were collecting. A significant change this, which ought to be borne in mind, for it had an all important effect on the conditions of the Grassias. Besides this, about the year 1821 an increase was made to the yearly rentals about 50 per cent., and this, as may be supposed, constituted a burden on the Grassia Chiefs such as men accustomed to a free style of living, and who were at best inapt financiers, very soon found to be insupportable. They were obliged, nevertheless, to submit as they best could, and the consequence was that they fell into pecuniary embarrassment, and so became impoverished and needy.

The Honorable Mr. Elphinstone subsequently introduced annual leases, and also fixed the payments at 70 per cent. of the produce; but it is obvious that this large share, which was exacted without remissions of any kind, barely admitted of a livelihood to the Grassias, and could not arrest the ill effect of previous mistakes and oppressive treatment. The impoverishment of these landholders has therefore continued to this day, and we now find a number of them sunk into a state of irretrievable poverty; their estates have passed from them. Others are so far gone, that their restoration also to competency is hopeless, unless Government come to their aid in some very effectual manner to remedy the mischief produced by their own grievous errors.

Since the time of Mr. Elphinstone it has been frequently declared, and that too on the authority of the Legal Remembrancer, that the tenure of the Grassia or Talookdar is that of a hereditary Leaseholder dependent on the pleasure of Government.

The President then read extracts from the records of Government illustrative of this statement.

“ I. There is no such thing as the Talookdaree ‘tenure’ as distinct from the provisions of the Talookdaree leases. The mutual rights of the Talookdars and the Government can only be determined by looking at the terms of the lease.

Legal Remembrancer
to Government, No. 123
of 1855.

“ II. By the usage of the country there may be right in the Talookdar to have his lease renewed, or rather to have a lease for a further period granted to him ; but as Government can practically evade this by introducing any stipulations it pleases, the right to the lease obviously could not be enforced as a legal right.

Legal Remembrancer
to Government, No. 43
of 1855.

Legal Remembrancer
to Government, No. 123
of 1855.

Resolution of Go-
vernment, No. 3455 of
1855.

Legal Remembrancer
to Government, No. 124
of 1855.

“ III. Under the stringent provisions of the cases, Government can always protect themselves by annulling the lease, and resuming the village immediately on its being attached.

“ IV. Government might in this case, (Leea), without waiving their undoubted right to determine whom they will admit to hold the lease of the village as Talookdar, permit, &c.

“ V. The legal rights of Talookdars are defined by their lease, the provisions of which are so stringent as to make the Talookdar little better than a tenant-at-will of Government.”

He then proceeded :—

I must here observe that the annual leases are of the most stringent character, as may be readily seen by inspection.

We have thus seen the ancient chief, actual proprietor of his domain, and once powerful enough to resist Mogul invasion of his rights sword in hand, converted by British mismanagement, founded on error, but not the less most unrighteous, into an annual leaseholder or mere tenant-at-will of Government and reduced to extreme degradation.

On every principle of justice, I say, the British Government is bound to do its utmost to restore these Chiefs, so far as it is possible so to do, to the position in which they were found at the cession of the Ahmedabad Districts by the Mahrattas,—a position, be it remembered, in which the Grassias of the neighbouring district of Kattywar, of the same race, and only separated from their more unfortunate fellows by accident, are at this moment to be seen.

After anxious consideration, the Bombay Government has now acknowledged this obligation, and has come to the conclusion that nothing short of legislation will suffice to apply the necessary remedy. The Bill before the Council contains the measures which it is proposed to adopt to enable Government to discharge its duty effectually.

The creditors of the impoverished Chiefs, with whose estates it is now proposed to deal, oppose all attempts at amicable and reasonable compromise. They will generally, or with few exceptions, be satisfied with nothing that shall leave their debtors any property but their rags ; and anything like a

Bankruptcy process will fall short therefore of the necessities of the case. If the Talookdar were unembarrassed, we might at once recant our misinterpretation of his tenure, declare him proprietor, and lower his tax, and there would be an end of the matter. But to declare him a proprietor under existing circumstances would be merely to enable his creditors to sell his whole estate from under him by process of the Civil Court, which hitherto has not had a lien on it. We cannot leave the Talookdar thus unprotected. We have, therefore, decided on bringing forward a strong measure, that of suspending the jurisdiction of the Civil Courts, so far as the Talookdar estates and their proprietors are concerned, for a period sufficient to admit of the usurious liabilities of the Chiefs being inquired into, dealt with on equitable principles, and liquidated. I am in hopes that the Honorable Members will concur in considering this measure not a whit stronger than is absolutely necessary. It really amounts to nothing more than the establishment of a kind of Chancery in behalf of men who, as they have been subjected to exceptional injustice, are certainly entitled to demand restitution by some exceptional legislative authority.

It will further be seen that one provision of the Bill is to guarantee to the Talookdar those proprietary rights which have been so long withheld by Government. It is further contemplated, though not provided for in the Bill, to concede more liberal terms to the recognised proprietor in the matter of taxation.

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

The PRESIDENT then moved that the Bill be read a first time, and be referred to a Select Committee, composed of

THE CHIEF SECRETARY or the ACTING CHIEF SECRETARY TO GOVERNMENT,

Mr. WESTROPP, and

Mr. PREMABHAI HEMABHAI.

The Committee to report progress this day week.

Agreed to.

The DEPUTY SECRETARY read the Bill :—

A Bill for the restoration of the Grassias in the Ahmedabad Collectorate, and for their Relief from Debt.

Whereas the lands held in the Zillah of Ahmedabad, in the Province of Guzerat, under the Talookdaree Estates, are only held on leasehold tenure determinable at the pleasure of Government; and whereas it has been brought to the notice of Government that many of the holders of these Estates have borrowed money on the security of their Estates, which, under the aforesaid tenure, is no good security; and whereas it is expedient to enable the Talookdars to disencumber themselves of their debts, which cannot be effected under

the Laws and Regulations in force for the liquidation of debt and process of the Civil Courts,

It is hereby enacted that, from and after the day of
186 the said Talookdaree Estates in the Zillah of Ahmedabad, Province of Guzerat, being those which are enumerated in the Schedule appended to this Act, shall not be liable, during a period of twenty years, to any of the processes of the Civil Courts which are in force under the Laws and Regulations of the Bombay Presidency for the satisfaction of debt.

And it is hereby enacted that from and after the day of
186 all suits arising out of claims on the land or landed revenue of the said Talookdars which may be pending before any of the Civil Courts established in the said Zillah or before the Court of Sudder Adawlut shall be transferred for settlement to such Officer or Officers as may be appointed by the Governor in Council to the duty hereinafter to be described.

And it is further enacted that from and after the day of
186 the Government of Bombay do acknowledge and declare that the said Talookdars being hereditary incumbents of the Estates aforesaid have full proprietary rights over the said Estates as regards succession to and possession, management, and transfer of the same, subject to such land tax as the Governor in Council may be pleased to reserve and to the further provisions of this Act.

Whenever it shall have been ascertained that the encumbrances on any one of the said Estates are equal to or exceed ten times the average profit derived by the Talookdar from the said Estate during the previous five years, the management of the said Estate shall become vested in an Officer or Officers who shall be specially appointed by the Governor in Council, and such Officer or Officers shall during the continuance of their management of the Estate, receive the whole of the profits, rents, and payments of every kind that would otherwise be payable to the Talookdar, and shall pay to the Talookdar such annual sum only as shall appear to the Governor in Council requisite for his decent support.

All arrangements and orders for the management of the revenue of such Estate which shall be devised and made by the Officer or Officers appointed as above described, shall be obeyed by all persons concerned, and the said Officer or Officers shall prepare a Schedule of all liabilities *bonâ fide* incurred by the Talookdar, and shall make arrangement for the settlement and liquidation of them in accordance with rules laid down by the Governor in Council to be called "Rules for the management of encumbered Talookdaree Estates," and it shall be lawful for the Governor in Council to add to and alter such rules from time to time as necessity may arise.

It shall be competent to the Officer or Officers aforesaid with the sanction of the Governor in Council to raise a fund to be applied to the liquidation of the debts of an encumbered Talookdaree Estate under their management by assigning a portion of such Estate to be held and enjoyed for a limited period by any fit person who may advance money on the security of the Estate or by the sale of such portion of the Estate as may appear expedient, but in either case the consent of the Talookdar and of his next heir, if the latter be of age, shall first be obtained.

The entire scheme for the disencumberment of each Talookdaree Estate shall, as soon as completed, be submitted to the Governor in Council for approval, and on such approval being obtained, shall then, and not till then, be carried into execution with the same effect as a decree of a Civil Court.

It is hereby declared that during the period when an Estate shall be under the control and management of an Officer or Officers appointed as above described, for the purpose of settling and liquidating the debts and encumbrances thereof, it shall not be competent to any Talookdar, being its proprietor, to incur any fresh liabilities on the security of the land or the revenues of such Estate or to alienate any portion of them, and a public Notification shall be made to this effect at the commencement of every settlement.

The PRESIDENT then adjourned the Meeting to Saturday, the 15th March, at 11 o'clock A.M.

By order of His Excellency the Governor in Council,

LYTTLETON H. BAYLEY,

Deputy Secretary to Government.

Bombay Castle, 8th March 1862.

PROCEEDINGS OF THE LEGISLATIVE DEPARTMENT, BOMBAY.

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 Act of Parliament 24 and 25 Victoria, Chapter 67.

Saturday, 15th March 1862.

The Council of the Governor of Bombay for the purpose of making Laws and Regulations met according to adjournment.

PRESENT:

The Honorable Mr. FRERE,
 The Honorable Mr. WESTROPP,
 The Honorable Mr. TRISTRAM,
 The Honorable Mr. RUSTOMJEE JAMSETJEE JEJEEBHOY,
 The Honorable Mr. JUGONNATH SUNKERSETT,
 The Honorable Mr. PREMABHAL HEMABHAI,
 The Honorable Mr. SCOTT,
 The Honorable Mr. ROBERTSON,
 And the DEPUTY SECRETARY.

Mr. FRERE being the only Ordinary Member of Council present, presided in the absence of the Governor.

Mr. ARCHIBALD DAVID ROBERTSON having been appointed Acting Chief Secretary to Government, and having thus, on the resignation of Mr. B. H. Ellis, become an additional Member of the Council of the Governor of Bombay for the purpose of making Laws and Regulations, took the usual affirmation.

Mr. A. D. Robertson appointed an additional Member on the resignation of Mr. B. H. Ellis, affirmation taken.

The PRESIDENT said that the first subject for the consideration of the Council was a "Bill for regulating the establishment of Markets and Fairs," the second reading of which was adjourned at the last meeting.

Bill for regulating the establishment of Markets and Fairs, Second Reading.

The PRESIDENT asked if any Member had any objections to the Bill.

No objections being urged, the President requested the Deputy Secretary to read the Bill.

A Bill for Regulating the Establishment of Markets and Fairs.

WHEREAS the establishment of new Markets or Fairs in the neighbourhood of places where Markets or Fairs have been previously established leads to disputes between the owners of the lands on which such new and previously established Markets or Fairs are held, and such disputes not unfrequently occasion breaches of the peace, and serious inconvenience to the frequenters of such Markets or Fairs; It is enacted as follows:—

I. After the passing of this Act, no person shall establish a new Market or Fair, without permission, in writing, from the Magistrate of the District. If any person shall attempt to establish a new Market or Fair without such license, he shall, on conviction by the Magistrate, be subject to a fine not exceeding two hundred Rupees, or in default of payment, to simple imprisonment for any period not exceeding two Calendar months.

No new Market or Fair to be established without permission of Magistrate of the District.

II. When any person desires to establish a new Market or Fair, he shall make application in writing to the Magistrate of the District. The application shall specify the name of the place at which it is proposed to establish such new Market or Fair; the days on which it is to be held; the name of the place where the nearest existing Market or Fair is held, and the days on which it is held; the distance, in English miles, between the two places, and the reasons of the applicant for desiring to establish the new Market or Fair.

Application for permission.

III. On receipt of the application the Magistrate shall issue a Proclamation, stating the desire of the applicant to establish a Market or Fair at the place named by him, and the days on which it is proposed to be held, and calling upon any person who may have any objection to the establishment of the Market or Fair to state his objection in writing within six weeks from the date of the Proclamation. The Proclamation shall be affixed in a conspicuous place in the Village or Town in or near to which it is proposed that the new Market or Fair shall be held; and a copy of the same shall be affixed at the Police Station within the jurisdiction of which the Village or Town is situate, and in the Court of the Magistrate. If it shall appear that any existing Market or Fair is held within a distance of four miles from the place where it is proposed that the new Market or Fair shall be established, the Magistrate shall cause a Notice to the effect of the Proclamation to be served upon the owner of the land where such existing Market is held. The Proclamation and Notice (if any) shall be issued and served at the expense of the applicant.

Issue of Proclamation and Notice.

IV. If, within the time specified in the Proclamation and Notice (if any) no objection is preferred to the establishment of the proposed Market or Fair, the Magistrate of the District shall pass an order permitting it to be established. If, within the time specified, any objection is preferred, the Magistrate of the District shall inquire into the objection, and pass such order as may appear proper under the circumstance of the case.

Magistrate's order.

V. If, within six months from the passing of this Act, any objection shall be preferred to the Magistrate in respect of any Market or Fair which has been newly established within a period of two years before the passing of this Act, the Magistrate shall inquire into the objection; and if it shall appear that such new Market or Fair has been established within a distance of four miles from any previously existing Market or Fair, and the establishment of the new Market or Fair has been the cause of disturbances or other inconvenience to the people of the neighbourhood, the Magistrate of the District may, if he think necessary, change the days upon

Markets and Fairs established two years before the passing of this Act.

which such new Market or Fair is held, or, at his discretion, order that it be discontinued.

VI. Every order passed by a Magistrate under this Act shall within six weeks be open to appeal to the Commissioner of Police, and the order of the Commissioner shall be final.

Appeal.

VII. Every person who shall contravene, disobey, or oppose any order duly made under this Act, shall be liable to a fine not exceeding two hundred Rupees, or, in default of payment, to imprisonment of either kind for any period not exceeding two Calendar months.

Penalty for contravening, disobeying, or opposing order.

Act not to apply to Islands of Bombay and Colaba.

VIII. this Act shall not extend to the Islands of Bombay and Colaba.

IX. Nothing in this Act shall be held to apply to assemblages of people collected at or concerned in the inauguration of sacred edifices, or collected at or concerned in any other religious festivals or ceremonies not forming a part of a Fair or Market.

Or to religious assemblages.

Act not to restrict the general powers of Government to control the orders of the Commissioner of Police in regard to Markets or Fairs.

X. Nothing in this Act shall be held to restrict the general powers of Government to control the orders of the Magistrate or Commissioner of Police in regard to Markets or Fairs.

XI. The word "Magistrate" when used alone without the addition of the words "of the District" includes every officer authorised to exercise the full powers of the Magistrate.

Interpretation of the word "Magistrate" when used alone.

The Bill was read a second time and passed.

Read a second time and passed.

The PRESIDENT said the next subject for consideration was the further report of the Select Committee on a "Bill for the Preservation of the Bhagdaree and Nurwadaree Tenures."

Further Report of the Select Committee on a Bill for the Preservation of the Bhagdaree and Nurwadaree Tenures, Read.

The DEPUTY SECRETARY read the Report of the Select Committee.

"Further Report of the Select Committee appointed to consider and report on a Bill for the Preservation of the Bhagdaree and Nurwadaree Tenures."

The Committee determine to recommend that this Bill, as further amended by them as follows, be adopted:—

A Bill for the Preservation of the Bhagdaree and Nurwadaree Tenures.

WHEREAS it has been found that the permanence of the tenures, known as the Bhagdaree and Nurwadaree tenures, which have existed from time immemorial in certain parts of the Presidency of Bombay, is endangered by the increasing practice of attachment

Preamble.

and sale by civil process of the homesteads and building sites (Gubhan) appertaining or appendant to the constituted Bhags or the recognised sub-divisions of such Bhags or Shares in Bhagdaree or Nurwadaree Villages.

And whereas it is desirable to prevent the alienation, assignment, mortgaging, charging or incumbering of any portion of any Bhag or Share in any Bhagdaree or Nurwadaree Village other than a recognised sub-division of such Bhag or Share, or the alienation, assignment, mortgaging, charging, or incumbering of any homestead, building site (Gubhan), or premises appurtenant or appendant to any such Bhag or Share or recognised sub-division separately or apart from such Bhag or Share or recognised sub-division; It is therefore enacted as follows :—

I. No portion of a Bhag or Share in any Bhagdaree or Nurwadaree

No portion of a Bhag or Share in any Bhagdaree or Nurwadaree Village to be liable to seizure, sequestration, attachment, or sale, by the process of any Civil Court.

Village other than a recognised sub-division of such Bhag or Share shall, from and after the passing of this Act, be liable to seizure, sequestration, attachment, or sale by the process of any Civil Court, and no process of such Court shall be enforced so as to cause the dismemberment from any such Bhag or Share or recognised sub-division thereof of any homestead, building site (Gubhan), or premises, appurtenant or appendant to such Bhag or Share or recognised sub-division thereof.

II. Whenever any process has issued out of any Civil Court for the

Whenever any such process has issued, it shall be lawful for the Collector of the District to move that such process be set aside or quashed.

seizure, sequestration, attachment, or sale of any portion of a Bhag or Share in any Bhagdaree or Nurwadaree Village other than a recognised sub-division of such Bhag or Share, or for the seizure, sequestration, attachment, or sale of any homestead, building site (Gubhan), or premises, appurtenant or appendant to such Bhag or Share or recognised sub-division thereof, it shall be lawful for the Collector or other Chief Revenue Officer of the District in which any such Bhagdaree or Nurwadaree Village is situated, although not a litigating party, to move in such Civil Court that such process shall be set aside or quashed,

And the Court shall set aside or quash such process if it be of opinion that the case is one falling within this Act.

and that the provisions of this Act be put in force; and if such Court be of opinion, on the evidence adduced by the Collector or other Chief Revenue Officer of the District on such motion, that the case is one falling within this Act, it shall set aside or quash such process, and cause the provisions of this Act to be put in force; and it is hereby further enacted that any order which the said Court may make on such motion shall be appealable in the same manner as a decree of the Court in which it is made.

III. It shall not be lawful to alienate, assign, mortgage, or otherwise

It shall not be lawful to alienate, assign, mortgage, or otherwise charge or incumber any portion of any Bhag or Share in any Bhagdaree or Nurwadaree Village other than a recognised sub-division of such Bhag or Share.

charge or incumber any portion of any Bhag or Share in any Bhagdaree or Nurwadaree Village other than a recognised sub-division of such Bhag or Share, or to alienate, assign, mortgage, or otherwise charge or incumber any homestead, building site (Gubhan), or premises, appurtenant or appendant to any such Bhag or Share or recognised sub-division as assigned or appurtenant thereto, apart or separately from any such Bhag or Share or recognised sub-division thereof. Any alienation, assignment, mortgage, charge or incumbrance contrary to the provisions of this Section shall be null and void.

It shall be lawful for the Collector or Chief Revenue Officer of the District summarily to remove any person or persons who may be in possession of any portion of any Bhag or Share as aforesaid.

And it shall be lawful for the Collector or other Chief Revenue Officer of the District, whenever he shall upon due inquiry, find that any person or persons is or are in possession of any portion of any Bhag or Share in any Bhagdaree or Nurwadaree Village other than a recognised sub-division of such Bhag or Share in violation of any of the provisions of this Section, summarily to remove him or them from such possession, and to restore the possession to the person or persons whom the Collector shall deem to be entitled thereto, and any suit brought to try the validity of any order or orders which the Collector may make in such matter must be brought within three Calendar months after the execution of such order or orders.

IV. And it is hereby further declared that nothing in this Act contained

Act not to prohibit the issue and execution of any process in other respects authorised by law.

shall be construed as prohibiting the issue and execution of any such process as aforesaid against any Bhag or Share, or recognised sub-division of any Bhag or Share in any such village as aforesaid, conjointly and in the gross with its homestead, building site (Gubhan), and other proper appurtenances, if the issue and execution of such process be in other respects authorised by law.

V. And it is hereby further declared that nothing in this Act contained

Act not to prohibit the alienation, assignment, mortgaging, charging or incumbering any Bhag or Share as aforesaid if in other respects warranted by law.

shall be construed as prohibiting the alienation, assignment, mortgaging, charging or incumbering any Bhag or Share, or recognised sub-division of any Bhag or Share in any such village as aforesaid conjointly and in the gross with its homestead, building site (Gubhan) and other proper appurtenances, if such alienation, assignment, mortgage, charge or incumbrance be in other respects warranted by law, the objects and intention of this Act being to prevent the dismemberment of Bhags or Shares, or recognised sub-divisions thereof, in Bhagdaree

or Nurwadaree Villages, and also to prevent the severance of homesteads, building sites (Gubhan), or other premises, appurtenant or appendant to Bhags or Shares or recognised sub-division of Bhags or Shares from the same or any of them.

Verbal amendments in Clauses 3 and 5 agreed to.

Mr. WESTROPP proposed some verbal amendments in the 3rd and 5th clauses.

Agreed to.

Mr. PREMABHAI HEMABHAI asked if it was intended that the Act should be retrospective.

Mr. WESTROPP said that the Act was silent on the subject, and therefore a Court would be bound to construe the Act prospectively.

Mr. JTGONNATH SUNKERSETT asked for the meaning of some of the provisions of the Act.

Mr. WESTROPP explained the Act, and stated that the Act did very little more than enact what the Sudder Adawlut had already declared to be the existing law. It gave the Collector, however, though he might not be a party to the suit, power to prevent the severance of a Bhag.

The PRESIDENT in answer to Mr. PREMABHAI HEMABHAI, said that the whole Bhag could be sold and also any recognised sub-division of it ; but a sub-division not recognised could not be sold.

The PRESIDENT moved that the Bill as amended by the Select Committee, and further amended by the Council, be read a second time and passed.

Bill as amended read a second time and passed.

The Bill was read by the Deputy Secretary a second time, and passed.

Report of the Select Committee on a Bill for the Restoration of the Grassias in the Ahmedabad Collectorate, and for their relief from Debt.

The PRESIDENT said the next subject before the Council was to consider the report of the Select Committee on a " Bill for the Restoration of the Grassias in the Ahmedabad Collectorate, and for their relief from debt."

Mr. WESTROPP said that the Committee had not met, owing to Mr. Ellis' appointment as Revenue Commissioner, N. D., and consequent inability to attend the Select Committee, as an official member. The subject of the Bill was one of considerable difficulty ; and, as the Committee had been directed to report progress to-day, and no progress had been made, he requested that further time might be allowed for the preparation of the Report.

Time for making the Report extended to next meeting.

The PRESIDENT proposed that Mr. Robertson be added to the Committee, and that the time for making the report be extended to next meeting.

Agreed to.

The PRESIDENT then informed the Council that the Rules for regulating the conduct of the business of the Council which they had suggested at a former meeting for His Excellency the President's consideration, had been assented to by His Excellency the Governor, and that therefore they were the Rules which His Excellency now intended to be observed in future meetings.

Assent of His Excellency the Governor to the Rules for regulating the conduct of the business of the Council.

The PRESIDENT then adjourned the Meeting to Saturday, the 22nd March, at 11 o'clock A.M.

By order of His Excellency the Governor in Council,

LYTTLETON H. BAYLEY,

Deputy Secretary to Government.

Bombay Castle, 15th March 1862.

PROCEEDINGS OF THE LEGISLATIVE DEPARTMENT, BOMBAY.

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 Act of Parliament 24 and 25 Victoria, Chapter 67.

Saturday, 22nd March 1862.

The Council of the Governor of Bombay for the purpose of making Laws and Regulations met according to adjournment.

PRESENT :

The Honorable Mr. FRERE,
 The Honorable Mr. TRISTRAM,
 The Honorable Mr. RUSTOMJEE JAMSETJEE JEJEEBHOY,
 The Honorable Mr. JUGONNATH SUNKERSETT,
 The Honorable Mr. PREMABHAI HEMABHAI,
 The Honorable Mr. SCOTT,
 The Honorable Mr. ROBERTSON,
 And the DEPUTY SECRETARY.

Mr. FRERE, being the only Ordinary Member of Council present, presided in the absence of the Governor.

The PRESIDENT said that the first subject for consideration was the Report of the Select Committee on a "Bill for the Restoration of the Grassias in the Ahmedabad Collectorate, and for their relief from debt."

Report of the Select Committee on a "Bill for the Restoration of the Grassias in the Ahmedabad Collectorate, and for their relief from Debt."

Report Read.

The DEPUTY SECRETARY read the following Report :—

REPORT OF THE SELECT COMMITTEE appointed to consider and report on a
 “ Bill for the Restoration of the Grassias in the Ahmedabad Collec-
 torate, and for their relief from Debt.”

The Committee determine to recommend that this Bill, as amended by
 them as follows, be adopted :—

A B I L L

*For the Amelioration of the Condition of Talookdars in the Ahmedabad
 Collectorate, and for their relief from Debt.*

WHEREAS the lands held in the Zillah of Ahmedabad, in the Province
 of Guzerat, under the title of Talookdaree Estates
 Preamble. are now only held on leasehold tenure determinable
 at the pleasure of Government; and whereas it has been brought to the
 notice of Government that many of the Talookdars are in embarrassed
 circumstances, and have borrowed money on the security of their Landed
 Estates; and whereas such of the said Landed Estates as are of the
 Talookdaree tenure aforesaid could not and cannot be lawfully charged,
 incumbered, or alienated; and whereas it is expedient to enable the said
 Talookdars to effect a settlement of their debts and liabilities, it is hereby
 enacted as follows :—

I. Whenever it shall appear to the Governor in Council that any
 Talookdar in the Zillah aforesaid is subject either
 personally or in respect of his Landed Estates of any
 description of tenure to debts or liabilities equal to or
 exceeding five times the average annual profit derived
 by the Talookdar from his Estates aforesaid during the
 previous five years, it shall be lawful for the Governor
 in Council to make a declaration vesting the management of the said Estates
 in an Officer or Officers, who shall then be appointed by the Governor in
 Council in that behalf, and the said declaration shall be published in the
Bombay Government Gazette.

II. From and after the making of such declaration as aforesaid, all
 suits or judicial proceedings, for or in respect of debts
 or liabilities in the first Section above mentioned,
 other than debts due or liabilities incurred to the Crown
 or Government, pending before or under appeal from
 any of the Civil Courts in the said Presidency, shall
 be and are hereby declared to be permanently stayed,
 and no further prosecution thereof shall be permitted, and all writs, processes,
 executions, or attachments for or in respect of such debts and liabilities shall
 forthwith cease and be raised.

III. From and after the making of such declaration, the said Officer or Officers shall have power, without resorting to any Civil Court, to remove from possession of the Landed Estates of the Talookdar or any part thereof any mortgager or encumbrancer who may be in possession of the same without prejudice to such mortgager or encumbrancer bringing his claim under Section VIII. and IX. before the Officer or Officers appointed for the management of the said Estates.

Officer or Officers may remove any mortgager or encumbrancer from possession of the Landed Estates of the Talookdar.

IV. From and after the publication of such declaration as aforesaid, the Talookdar, the subject of such declaration, shall not be liable to arrest under any process of the Civil Court of the Presidency of Bombay, for or in respect of any debts or liabilities existing at the time of such declaration, other than debts due or liabilities incurred to the Crown or government.

V. From and after the making of such declaration as aforesaid, the Landed Estates of such Talookdar of any description of tenure, and the rents, profits, and income thereof shall, during the period of the management thereof by the said Officer or Officers, be wholly exempt from seizure, attachment, or sale under or by virtue of any process, decree, judgment, or execution of any Civil Court of the Presidency of Bombay, for or in respect of the debts and liabilities aforesaid other than debts due or liabilities incurred to the Crown or Government.

VI. It shall be lawful for the Governor in Council to make Rules for the purpose of carrying this Act into effect, and from time to time to alter, vary, or amend such Rules as necessity may arise.

Governor in Council to make Rules for carrying this Act into effect.

VII. The said Officer or Officers shall, during the continuance of his or their management of the said Estates, receive the whole of the rents, profits, and income thereof, and shall pay to the Talookdar such annual sum only as shall appear to the Governor in Council requisite for the decent support of the Talookdar and his family; and any balance remaining after such payment as aforesaid, shall be applied in discharge of the expenses of such management as aforesaid, and in liquidation or settlement of the debts and liabilities to which at the time of making the said declaration the Talookdar is subject, either personally or in respect of his Landed Estates of any description of tenure in accordance with the Rules alluded to in the last preceding Section.

The Officer or Officers to receive the rents, profits and income of the said Estates.

And pay annual sum for support of the Talookdar and his family.

Expenses of management.

And in liquidation of settlement of debts and liabilities.

In accordance with the Rules alluded to in last Section.

VIII. The said Officer or Officers shall publish in the *Bombay Government Gazette* a Notice in English and Guzeratee calling upon all persons having claims against the said Talookdars or their said Landed Estates in respect of any of the debts or liabilities aforesaid, to notify the same in writing to such Officer or Officers within three calendar months from the time of such notice in the

Gazette; and the said Officer or Officers shall before or contemporaneously with such publication in the *Gazette*, cause copies of such Notice to be exhibited at the Mamlutdars' Cutcherries in the said Zilla, and in such place or places as to such Officer or Officers shall seem fit, and as may be directed by the said Rules.

And cause copies of such Notice to be exhibited at the Cutcherries and other places.

IX. Any debt or liability of the Talookdar, other than as aforesaid to which he is subject either personally or in respect of his said Landed Estates existing at the time of the said declaration by the Governor in Council, not duly notified to the said Officer or Officers within the time and in the manner in the last preceding Sections specified, shall and is hereby declared to be for ever barred. Provided always, that

Any debt or liability not duly notified to be barred.

Upon proof given of inability of claimant to have complied with these provisions.

complied with the provisions of these and the last preceding Sections, it shall be lawful for the said Officer or Officers to entertain and admit such claim within the further period of nine calendar months from the expiration of the above-mentioned period of three months.

Claims may be admitted within further period of nine months.

X. The said Officer or Officers shall as early as possible prepare and submit to the Governor in Council a scheme for the disencumberment of each Talookdaree Estate, and such scheme, when approved by the Governor in Council, shall be carried into effect. The amount of any debt or liability, as fixed in such approved scheme, shall not be liable to increase. Any debt or liability disallowed by such Officer or Officers shall, if such disallowance be approved by Government, be and it is hereby declared to be for ever barred.

The Officer or Officers to prepare and submit a scheme for the disencumberment of each Talookdaree Estate for approval of the Governor in Council.

XI. It shall be lawful for the Governor in Council to empower the Officer or Officers aforesaid to raise a fund to be applied to the liquidation of the debts of an encumbered Talookdaree Estate under his or their management by assigning the whole or a portion of such Estate to be held and enjoyed for a limited period or

Governor in Council may empower the Officer or Officers to raise a Fund for the liquidation of the debts of a Talookdaree Estate under management.

periods by any fit person or persons who may advance money on the security thereof, or by the sale of such portion of the Estate as may appear expedient; but in either case the consent of the Talookdar and of his next heir, if the latter be of age, shall first be obtained.

XII. Any debt or liability, except as hereinbefore excepted which may be incurred by the Talookdar, either personally or in respect to his said Landed Estates or any part thereof during the period of such management as aforesaid shall not be enforceable in any manner whatever either during or subsequently to such period of management against his said Landed Estates or any part thereof. And it shall not be competent for the Talookdar during the said period of management to charge, encumber, sell, or alienate his said Landed Estates or any part thereof, and such charges, encumbrance, sale, or alienation shall be null and void.

Any debt or liability, &c., incurred during such management not enforceable against the said Landed Estates.

And Talookdar not competent during such period to charge, sell, or alienate his said Landed Estates.

XIII. It shall be lawful for every Officer or Officers appointed under this Act to demand and require the production of any writs, decrees, judgments, records, deeds, documents, exhibits, pleadings, books, accounts, letters, petitions, papers, or writings, filed in any of the suits mentioned in the 2nd Section of this Act, or relating to the debts or liabilities of any Talookdar, whose Landed Estates are brought under such management as aforesaid, in the custody or control of any Civil Court, or in the custody or control of any Judges, Judge, Assistant Judge, Officer, or Person connected with such Court; and upon notice being given in writing by such Officer or Officers to such Civil Court, or to any Judges, Judge, Assistant Judge, Officer, or Person connected therewith, such writs, decrees, judgments, records, deeds, documents, exhibits, pleadings, books, accounts, letters, petitions, papers, or writings in the said Notice mentioned, shall be immediately given up to the said Officer or Officers appointed under this Act in the manner directed by the said Notice; any act, usage, or custom to the contrary in any wise notwithstanding.

Civil Courts to give up writs, decrees, papers, &c., when required.

XIV. It shall be lawful for any Officer or Officers appointed under this Act, to summon witnesses, and to take evidence upon oath or solemn affirmation, and to administer oaths or solemn affirmations to persons whom he or they may admit to give evidence, and any such witness wilfully giving false evidence, shall be subject to be proceeded against in like manner, and to suffer, if convicted, the same punishment as if he or she had committed wilful and corrupt perjury; and it shall also be lawful for the said Officer or Officers to compel the production of books, accounts, papers, deeds, or other docu-

Power to Officer, &c., to take evidence.

ments, and to inflict a fine not exceeding Rupees one hundred for disobedience to any Sunnud or order made under this Section.

XV. The Officer or Officers appointed for the management of the Landed Estates of any Talookdar under this Act, shall have, for the purpose of the realisation and recovery of the rents, profits, and income of such Landed Estates, the same powers as a Collector possesses under the Regulations or Acts now or hereafter in force for the realisation and recovery of Land Revenue due to Government.

The Officer or Officers to have, for the purpose of realising the rents and profits of such Estates, the powers of a Collector.

XVI. The management of the Landed Estates of any Talookdar by such Officer or Officers as aforesaid shall not extend beyond the period of twenty years, to be calculated from the first publication of such declaration as aforesaid in the *Bombay Government Gazette*, and at the expiration of such management, whether before or at the end of such period of twenty years, all debts and liabilities (except as hereinbefore excepted) existing at the time of such declaration, and comprised in such approved scheme as aforesaid, shall be deemed to be for all intents and purposes whatsoever fully discharged and satisfied, and neither the Talookdar, nor his heir, nor his representatives, nor his, her, or their Estates, whether moveable or immoveable, or any part thereof, shall be subject in any manner whatsoever to such debts or liabilities (except as hereinbefore excepted) or any part thereof.

Management not to extend beyond twenty years, and at expiration of management all claims, &c., to be considered as settled.

XVII. It shall be lawful for the Governor in Council from time to time to appoint new Officers to carry this Act into effect, and all such Officers shall have the same powers as the Officer or Officers first appointed.

Governor in Council may appoint new Officers.

XVIII. Officers appointed under this Act shall have the same powers for enforcing the payment of Fines imposed under this Act as are given to Magistrates by Act II. of 1839.

Officers to have powers for enforcing payment of Fines given to Magistrates by Act II. of 1839.

XIX. Notwithstanding anything to the contrary in this Act, it shall be lawful for the Civil Courts to entertain and dispose of suits relating to the succession to or rights of coparcenary in or rights of persons claiming maintenance out of any Landed Estate brought under the operation of this Act. Provided, always, that neither the Crown nor Government, nor any Officer or Officers appointed under this Act, shall be liable to any suit for or in respect of any act or acts done in good faith by such Officer or Officers.

Civil Courts may entertain suits relating to succession rights of coparcenary or rights of persons claiming maintenance out of Landed Estates brought under the operation of this Act.

Crown, Government, or Officer or Officers, not liable to suit for acts done in good faith by such Officer or Officers.

XX. From and after the expiration of the period of management of the Estate of any Talookdar, whether such period extend to or be less than twenty years, the Talookdar shall be the absolute Proprietor of his said Landed Estates as regards succession to, and possession, management, and transfer of the same, subject to such Land Tax as the Governor in Council may be pleased to reserve, and all usual remedies for the recovery thereof.

After expiration of period of management, Talookdar to be absolute Proprietor of his Landed Estates as to succession, possession, management, and transfer of the same, subject to Land Tax.

XXI. The following words and expressions in this Act shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction (that is to say) : the term "Civil Court" shall mean and include every Court of Civil Judicature in the Presidency of Bombay whether established by Royal Charter or not.

Interpretation Clause.

Words importing the masculine gender shall include the feminine.

Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number.

The PRESIDENT asked what alterations had been made in Committee.

Mr. ROBERTSON said that the Bill had been entirely recast, and explained several of its provisions.

The DEPUTY SECRETARY called the attention of the Council to the 25th Rule, which provides that the Report of a Select Committee should be taken into consideration as soon as might be, but not until a week after it had been furnished to the members, and stated that that had been done on Wednesday last.

Mr. PREMABHAI HEMABHAI moved that the 25th Rule be suspended by the President.

Mr. JUGONNATH SUNKERSETT opposed the motion, and said that no sufficient reason had been given.

Mr. PREMABHAI HEMABHAI said he was anxious not to delay the Session of the Council longer than was absolutely necessary ; and that the Bill should therefore be passed at once.

Mr. RUSTOMJEE JAMSETJEE JEJEEBHOY spoke against the motion.

The PRESIDENT said that as the Council were not unanimous, he would not suspend the Rule, and consequently that the Report could not be considered until the next meeting.

The PRESIDENT said the next subject for consideration was the Report of the Select Committee on a " Bill regarding Juvenile Reformatories."

Consideration deferred until the next Meeting.

Report of the Select Committee on a Bill regarding Juvenile Reformatories.

The DEPUTY SECRETARY read the following Report:—

REPORT OF THE COMMITTEE appointed to consider and report on a Bill regarding *Juvenile Reformatories*.

The Committee determine to report that in their opinion the following Bill, founded upon the provisions of the Imperial Acts noted in the margin, should be substituted for the Bill submitted to the Select Committee.

1 and 2 Vict. c. 82.
17 and 18 Vict. c. 86.
20 and 21 Vict. c. 55.
21 and 22 Vict. c. 103.

A Bill for the Establishment and Regulation of Reformatory Schools for Juvenile Offenders.

WHEREAS it is expedient to provide for the Establishment and Regulation of Reformatory Schools, as contemplated in the Code of Criminal Procedure, in which Juvenile Offenders may be detained and corrected, and may receive such instruction and be subject to such discipline as shall appear most conducive to their reformation and to the suppression of crime; and whereas it is considered advisable to provide for the confinement in such Reformatories of Juvenile Offenders who may be sentenced by any of the Criminal Courts in the Presidency of Bombay:

I. It is enacted, that it shall and may be lawful for the Governor of Bombay in Council upon application made to him by the Directors or Managers of any such Institution, to direct the Inspector of Jails and Director of Public Instruction to examine and report to him upon its condition and regulation; and any such Institution as shall appear to the satisfaction of the said Governor of Bombay in Council to be useful and efficient for its purpose, shall be held to be a Reformatory School under the provisions of this Act, and a Certificate to that effect shall be given to the Directors or Managers of the Institution, under the signature of one of the Secretaries to Government. Provided, always, that it shall be lawful for the Inspector General of Prisons, or Director of Public Instruction, to visit from time to time any Reformatory School which shall have been so certified as aforesaid, and if upon the report of either or of both of them the said Governor of Bombay in Council shall think proper to withdraw the said Certificate, the withdrawal shall be notified in writing by one of the Secretaries to Government, to the Directors or Managers of the said Institution, and the same shall forthwith cease to be a Reformatory School within the meaning of this Act.

II. Whenever the said Governor of Bombay in Council shall at any time grant a Certificate under this Act to any Reformatory School, a notice thereof, specifying the names of the Directors or Managers thereof, shall, within One Calendar month, be published in the *Bombay Government*

Gazette, and such publication shall be a sufficient evidence of the fact of such Reformatory School having been certified, to justify the Judge or Magistrate, before whom any such Juvenile Offender shall have been convicted, to commit such Juvenile Offender thereto, subject to the provisions of this Act; and whenever the Governor of Bombay in Council shall withdraw the Certificate granted to any Reformatory School, notice of such withdrawal shall, within one Calendar month, be given in the said *Gazette*.

III. Whenever, after the passing of this Act, any person under the age of sixteen years shall be convicted of any offence punishable by law before any Police Magistrate, or any of the Criminal Courts subject to the Presidency of Bombay, then, and in every such case, it shall be lawful for any Court, Judge, or Police Magistrate, before or by whom such offender shall be so convicted, in addition to the sentence then and there passed as a punishment for his offence, to direct such offender to be sent, at the expiration of his sentence, to some one of the aforesaid Reformatory Schools to be named in such direction, the Directors or Managers of which shall be willing to receive him, and to be there detained for a period not less than two years, and not exceeding five years, and such offender shall be liable to be detained pursuant to such direction. Provided, always, that no offender shall be directed to be so sent and detained as aforesaid, unless the sentence passed as a punishment for his offence at the expiration of which he is directed to be so sent and detained, shall be one of imprisonment for fourteen days at the least; provided also, that the Court, Judge, or Police Magistrate, may, if it thinks right, direct such term of imprisonment to be carried out, as far as practicable, in the Civil Jail or in separation from the more heinous offenders; and provided also, that the Governor of Bombay in Council may at any time order any such offender to be discharged from any such school.

IV. If any offender who shall be ordered to be confined in any of the aforesaid Reformatory Schools shall, at any time during the term of such confinement, escape from the place of his confinement, or in his conveyance to such place of confinement, or from any lands belonging to the Reformatory, he shall be punished by an addition, not exceeding two years, to the term for which at the time of his escape he was subject to be confined; and if an offender so punished by such addition to the term of confinement shall afterwards be convicted of a second escape, he shall be liable to be imprisoned with rigorous imprisonment for a term not exceeding three years; and if any offender who shall be ordered to be confined in the said Reformatory shall at any time during the term of such confinement, attempt to escape from the place of his confinement, or shall forcibly break out of his cell, or shall make any breach therein with intent to escape, he so offending, being convicted thereof, shall be punished by imprisonment for a term not exceed-

ing twelve Calendar months, in addition to punishment to which he, at the time of committing any such offence, was subject.

V. Every person who shall rescue any offender who shall be ordered to be confined in any Reformatory, either during the time of his conveyance to the said Reformatory, or whilst such offender shall be in the custody of the person or persons under whose care and charge he shall be so confined, and also every person who shall aid in any such rescue, shall be liable, on conviction, to be imprisoned with rigorous imprisonment for a term not exceeding three years; and every person having the custody of any such offender, employed by the person having such custody as an Assistant or Guard, who shall knowingly allow such offender to escape, and also every person who shall, by supplying arms, tools, or instruments of disguise, to otherwise in any manner aid any such offender in any escape or in any attempt to make an escape though no escape be actually made; or who shall attempt to rescue any such offender or aid in such attempt, though no rescue be actually made, shall, on conviction, be liable to fine and to be imprisoned with rigorous imprisonment for a term not exceeding three years; and every person having such custody as aforesaid, who shall carelessly allow any such offender to escape shall, on being lawfully convicted of the same, be liable to fine or imprisonment not exceeding three months, or to both, at the discretion of the Court.

VI. In every case in which any Juvenile Offender shall be sentenced to be detained in a Reformatory School under this Act, the Court by which he shall be so sentenced shall in the Warrant direct that the parent of such offender shall, if of sufficient ability, be liable to contribute to his support and maintenance a sum not exceeding Rupees three per month; and upon the complaint of the Directors or Managers or any one of them named in the notice published in the *Government Gazette*, under Section II. of this Act, it shall be lawful for the Zillah Judge, or Magistrate of Police, to summon the parent, and on the hearing of such summons, whether the party summoned shall appear or not, to examine into his or her ability to contribute to such offender's support or maintenance, and to make an order upon him or her for such monthly payment, not exceeding Rupees three per month, as shall seem reasonable during the whole or any part of the detention of such Juvenile Offender in any such Reformatory School, such payment to be made at such times as by such order may be directed to the Director or Manager of the Institution, or to such person as may be appointed to receive the same, and by him to be accounted for and paid, as the Zillah Judge or Magistrate of Police may direct.

VII. In case default be made for the space of fourteen days in payment of any sum of money which may have become payable by such parent under

any such order, such sum of money shall in every such case be levied upon the goods and chattels of the Defendant by distress and sale thereof; and if it shall appear, on confession of the Defendant or otherwise, or if it shall be returned to the Warrant of Distress in any such case that no sufficient goods of the party against whom such Warrant shall have been issued can be found, it shall be lawful to the Magistrate or Judge to whom such return is made, to commit the Defendant to prison, for any term not exceeding ten days, unless the sum to be paid, and all costs and charges of the distress, and of the commitment and conveying of the Defendant to prison (the amount thereof being ascertained and stated in the Warrant or Commitment shall be sooner paid.

VIII. It shall be lawful for the Governor of Bombay in Council, upon the application of the Directors or Managers of any Reformatory School for youthful offenders, already established in whole or in part by voluntary contributions, or of the Promoters of a Reformatory School intended to be so established, to make an order for the payment of money in aid of such Reformatory School or of the Establishment thereof, subject to such conditions as may be agreed upon between the Governor of Bombay in Council and the said Directors, Managers, or Promoters; Provided also, that in the case of any Reformatory established in the Island of Bombay, payment in aid may be made out of the Municipal Fund as to a "public work," under Section XXVIII., Act XXV. of 1858.

IX. It shall be lawful for the Governor of Bombay in Council, if he shall think fit to do so, to remove any such youthful offender from any Jail to any Reformatory School under this Act; provided always, that such removal shall not increase the period for which such offender was sentenced to remain in the Jail.

X. Section 433 of Act XXV. of 1861 shall be applicable to all Officers exercising magisterial authority in Military Cantonments.

The PRESIDENT said that as a week had not elapsed since the Report had been circulated, the consideration of it could not take place until the next meeting.

Consideration deferred until the next Meeting.

The PRESIDENT gave notice that at the next meeting he should propose the following amendments:—

Notice of amendments to be proposed by the President at the next meeting.

That instead of the words "such Institution" in the 4th and 5th lines of Section I. of the Bill, the following be substituted:—

"School in which Industrial training is provided, and in which children are clothed, lodged, and fed, as well as taught."

That the word "he" be substituted for "it" in the 26th line of Section III. of the Bill.

That the words "be liable to" in the 6th line of Section VI. of the Bill be omitted; and that the following Section be added as Section XI. :—

"XI. The word Parent in this Act shall include any person legally liable to maintain a child."

The PRESIDENT then adjourned the meeting to Wednesday, the 26th instant, at 11 o'clock.

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

LYTTLETON H. BAYLEY,

Deputy Secretary to Government.

Bombay Castle, 22nd March 1862.

• PROCEEDINGS OF THE LEGISLATIVE DEPARTMENT, BOMBAY.

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 Act of Parliament 24 and 25 Victoria, Chapter 67

Wednesday, 26th March 1862.

The Council of the Governor of Bombay for the purpose of making Laws and Regulations met according to adjournment.

PRESENT:

The Honorable Mr. FRERE,

The Honorable Mr. INVERARITY,

The Honorable Mr. WESTROPP,

The Honorable Mr. TRISTRAM,

The Honorable Mr. RUSTOMJEE JAMSETJEE JEJEEBHOY,

The Honorable Mr. JUGONNATH SUNKERSETT,

The Honorable Mr. PREMABHAI HEMABHAI,

The Honorable Mr. SCOTT,

The Honorable Mr. ROBERTSON,

And the DEPUTY SECRETARY.

Mr. FRERE, being the Senior Ordinary Member of Council present, presided in the absence of the Governor.

The PRESIDENT said that the first subject before the Council was the Report of the Select Committee on "a Bill for the Restoration of the Grassias in the Ahmedabad Collectorate and for their relief from debt," the consideration of which had been postponed at the last Meeting.

Report of the Select Committee on a "Bill for the Restoration of the Grassias in the Ahmedabad Collectorate, and for their relief from debt," considered.

Mr. WESTROPP said it would be found that the Committee had considerably enlarged the Bill, but substantially it was based on the original one prepared by Mr. Reeves. He thought it desirable to have the average annual profit mentioned in the 1st Section more clearly defined.

Mr. ROBERTSON said that 70 per cent. was now taken by the Government, leaving only 30 per cent. to the Talookdar.

Mr. WESTROPP proposed the following amendments in the 1st Section :—

Amendments.

That the words "annual profit" in the 9th line be omitted, and the words "rents, profits, and other annual income" be inserted in lieu thereof; and that after the word "years" in the 11th line the following words be inserted: "after deducting thereout the Land Tax and other dues of Government."

Carried unanimously.

Mr. PREMABHAI HEMABHAI moved as an amendment that the word "ten" be substituted for the word "five" in the 8th line.

The amendment was negatived by 6 to 3.

Mr. WESTROPP proposed that the word "publication" be substituted for the word "making" in the first lines of the 2nd, 3rd, and 5th Section.

Carried.

Mr. PREMABHAI HEMABHAI wished to know whether the words "Landed Estates" in the 7th line of the 3rd Section included Wanta.

Mr. WESTROPP said they certainly did.

Mr. WESTROPP proposed that after the word "Talookdar" in the 7th line of the 3rd Section, the following be inserted: "of any description of tenure."

Carried.

Mr. WESTROPP proposed that the word "mortgager" in the 8th line of the 3rd Section be changed to "mortgagee," and that after the word "or" in the same line the word "other" be inserted.

Carried.

Mr. WESTROPP proposed that after the word "arrest" in the 5th and 6th lines of the 4th Section, the following be inserted: "nor shall his personal Estate of any description whatsoever be liable to seizure, attachment, or sale."

Carried.

Mr. WESTROPP proposed that between the words "process" and "of" in the 6th line, the following be inserted: "decree, judgment, or execution."

Carried.

Mr. WESTROPP proposed that the word "publication" be substituted for the word "making" in the 18th line of the 7th Section.

Carried.

Mr. PREMABHAI HEMABHAI proposed that the word "six" be substituted for the word "three" in the 11th line of the 8th Section.

Mr. WESTROPP objected to the proposed amendment, and said that the Committee were of opinion that three months were quite enough.

Mr. JUGONNATH SUNKERSETT was in favour of six months because a man might not be at the place, or he might have gone on a pilgrimage.

Mr. ROBERTSON said those cases were provided for by the 9th Section, and that six months would protract the officer's labours very considerably.

Mr. JUGONNATH SUNKERSETT withdrew his objection.

The amendment was put and negatived by 8 to 1.

Mr. WESTROPP proposed to omit the words "disencumberment of each Talookdaree Estate" in the 5th and 6th lines of the 10th Section, and to substitute "settlement of the Talookdar's debts and liabilities."

Carried.

Mr. PREMABHAI HEMABHAI proposed to add the words "nor decrease" after the word "increase" in the 11th line of the Section.

The amendment was put and negatived by 8 to 1.

Mr. WESTROPP said that the 11th Section was adopted on the suggestion of the gentleman who had made such an able report on these matters (Mr. Peile), and he (Mr. Westropp) was certainly in favour of the Section being retained, though in an altered form. He therefore proposed to substitute for the 11th Section the following one :—

" XI. It shall be lawful for the Governor in Council to empower the Officer or Officers aforesaid to raise a Fund to be applied to the settlement of the debts and liabilities of the Talookdar, by assigning the whole or a portion of his landed Estates of any description of tenure to be held and enjoyed for a period or periods not exceeding 20 years from the publication of the declaration aforesaid by any fit person or persons who may advance money on the security thereof, or by the sale of such outlying portion or portions of the said Estates as may appear expedient, but in case of such sale the consent of the Talookdar and of his next heir, if the latter be of age, shall first be obtained.

Carried.

Sections 12, 13, 14, 15, 16, and 17 were then agreed to.

Mr. WESTROPP proposed to omit the words "Magistrates by Act II. of 1839" in Section 18, and substitute the following: "Courts by Section 61, Act XXV. of 1861."

Carried.

Sections 19, 20, and 21 were then agreed to.

Mr. WESTROPP proposed to insert after the word "shall" in the 6th line of the 7th Section the following words: "defray thereout the land tax and other debts due or liabilities incurred or hereafter respectively to grow due or be incurred to the Crown or Government and."

Carried.

The PRESIDENT said that under the 29th Rule the motion for the second reading could not be made.

Mr. WESTROPP proposed, as the Bill had been fully discussed and was now agreed to, that the President should suspend the 29th Rule.

The PRESIDENT suspended the 29th Rule.

Mr. TRISTRAM moved that the Bill as amended be read a second time.

The Bill as amended was then read a second time by the Deputy Secretary and passed.

The PRESIDENT said the next subject for consideration was the Report of the Select Committee on a Bill regarding Juvenile Reformatories.

The PRESIDENT moved the following amendments of which he had given notice at the last meeting:—

"That instead of the words 'such Institution' in the 4th and 5th lines of Section I. of the Bill, the following be substituted: 'School in which Industrial training is provided, and in which children are clothed, lodged, and fed, as well as taught.'"

Agreed to.

"That the word 'he' be substituted for 'it' in the 26th line of Section III. of the Bill."

Agreed to.

"That the word 'be liable to' in the 6th line of Section VI. of the Bill be omitted, and that the following Section be added as Section XI."

Agreed to.

XI. "The word Parent in this Act shall include any person legally liable to maintain a child."

Agreed to.

Rule 29th suspended.

Bill as amended, read a second time and passed.

Report of the Select Committee on a Bill regarding Juvenile Reformatories, considered.

Amendments proposed by Mr. W. E. Frere and agreed to.

Amendments
proposed by Mr.
Premabhai Hema-
bhai proposed and
negatived.

Mr. PREMABHAI HEMABHAI considered the provisions of the Bill to be too rigorous, and proposed the following amendments :—

“ That the following words be inserted between the words ‘ direct’ and ‘ such’ in the 11th line of Section III. : ‘ If such Court, Judge, or Police Magistrate shall think fit.’ ”

Negatived.

“ That word ‘ one’ be substituted for ‘ two’ in the 16th line of the 3rd Section, and the word ‘ four’ for ‘ five’ in the 17th line of the same Section.

Negatived.

“ That the word ‘ six months’ be substituted for ‘ three years’ in the 15th line of the 4th Section.”

Negatived.

“ That the words ‘ if able’ be inserted between the words ‘ and’ and ‘ to’ in the 17th line of the 6th Section.”

Negatived.

Bill read a second time and passed.

The Bill was then read a second time by the Deputy Secretary and passed.

Question as to the intentions of Govt. regarding the proposed Bill to suppress Cotton frauds put by Mr. Scott.

Mr. Scott asked the President whether the Government intended to bring in the Bill alluded to in the Proceedings of the Council of the 28th January 1862, with the view of securing, if possible, the important object of suppressing the production in the market of Cotton in an unclean state, and checking the practice of packing Cotton falsely.

The PRESIDENT said that Government having made inquiries into the subject of Cotton frauds, found that Act III. of 1829 had for the last ten years, when strictly enforced, been found efficient not only to punish all frauds committed at Surat and Broach, but to deter men from attempting to commit them. It therefore appeared unnecessary to legislate further on the subject. But Government directed the Police Commissioners to take care that the Act was enforced in all cases that came before their subordinates, and the respectable dealers had every assistance from them in bringing offenders to justice.

It is not the intention of Government to introduce any new Legislative measure on the subject, as the merchants have the remedy in their own hands ; for if they will only unite to bring the offenders forward, Government will take care that the law is enforced.

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The PRESIDENT then addressed the Council in the following words :—

“ I am now directed by His Excellency the Governor to close this the first Session of his Council for making Laws and Regulations.

Address of the President in closing the first Session of the Legislative Council.

“ Eight Bills have been laid before you for consideration. Of these seven have been passed, and one for altering the jurisdiction of the subordinate Civil Courts has been withdrawn for further consideration, which it will receive before being again introduced.

“ Of the Bills which have been passed, three are on subjects of much importance. The Bill for extending the powers of Municipal Commissioners, by allowing them to assign a certain portion of their Funds to Local Dispensaries and Schools will extend their means of doing good. But its working must be closely watched by the Government in order to prevent any abuse of the discretion now permitted.

“ The Bills for the preservation of the Bhagdaree tenure and the restoration of the Talookdars, though of application only in a small portion of the territory subject to Bombay, will, it is hoped, have the effect of re-establishing in Guzerat a body of men holding their property on a tenure more independent of Government than that on which the Ryots generally hold.

“ The duties of the Council having been new to all of us, we have of course experienced their minor difficulties, which henceforth will disappear. However, I hope we have worked satisfactorily and in the cause of good order.

“ His Excellency the Governor desired to alter the Rules under which we first met, so as to adapt them to what we find our proceedings require, and the time therefore which we have spent this Session in preparing those Rules for his approval, will, I hope, next Session be spared for Laws of more general application should any such be called for.

“ In conclusion, His Excellency the Governor desires me to express to you his satisfaction and approval of your proceedings, and his thanks for your attention to your duties, the fruits of which he trusts will be secured for future generations.

“ The Session is adjourned to Tuesday the 15th July 1862.

Adjournment of the Session to the 15th July 1862.

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

L. H. BAYLEY,
Deputy Secretary to Government.

Bombay Castle, 26th March 1862.

PROCEEDINGS OF THE LEGISLATIVE DEPARTMENT, BOMBAY.

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 Act of Parliament 24 and 25 Victoria, Chapter 67.

The Council met at Poona on Tuesday, the 15th July 1862.

PRESENT:

HIS EXCELLENCY SIR H. B. E. FRERE, K.C.B., Governor of Bombay, presiding.

HIS EXCELLENCY SIR W. R. MANSFIELD, K.C.B.

THE HONORABLE MR. FRERE.

THE HONORABLE MR. INVERARITY.

THE HONORABLE THE ADVOCATE GENERAL.

THE HONORABLE MR. TRISTRAM.

THE HONORABLE MR. RUSTOMJEE J. JEJEEBHOY.

THE HONORABLE MR. MADHOWROW VITTUL VINCHOORKUR.

THE HONORABLE MR. JUGONNATH SUNKERSETT.

THE HONORABLE MR. ROBERTSON.

THE HONORABLE MR. SCOTT.

THE SECRETARY, AND THE DEPUTY SECRETARY.

Additional Member.

MR. ARTHUR JAMES LEWIS, the Advocate General, having been nominated an additional Member of the Council of the Governor of Bombay, for the purpose of making Laws and Regulations, the resignation of Mr. M. R. Westropp, Acting Advocate General, of the Office of additional Member having been previously accepted by the Honorable Sir H. B. E. Frere as Governor of the Presidency, took the necessary Affirmation of Office and Declaration of allegiance.

The President's Address.

His EXCELLENCY addressed the Council as follows:—

“ GENTLEMEN,

“ I have called you together this day, in accordance with the first of the rules for the conduct of business by this Council, and in pursuance of the adjournment from your last sitting on the 26th of last March.

“ There is a considerable amount of important business, which will be laid before you in the course of the Sessions, for although but three Bills have hitherto been published, there are several in so forward a state as to admit of publication within the next few days. Some of them provide for important additions to the general law, such are an Act for the Relief of Insolvent Debtors in the Mofussil,—a very important Bill for consolidating and amending the law under which the Mofussil Police acts—one for the amendment of

Prison Discipline,—and a Bill to provide for the care of Minors' property, to which I trust the attention of our Native Colleagues will be particularly directed with a view to make it as complete and useful a measure as possible.

“ There are also two Bills for extending the jurisdiction of the Small Cause Courts in Bombay and Kurrachee ; and I observe, with special pleasure, that the Bombay Bill has been taken in hand by one of the additional Members of the Council, whose thorough knowledge of the subject is an excellent guarantee for the production of a useful and practical measure. There is also a Bill for bringing Sattara and Canara and other districts under the same laws which apply to the Bombay Presidency.

“ There are three Bills of a Municipal character—

1. To give to the Revenue Commissioners powers now vested in Government ;
2. For the better regulation of the Vehar WaterWorks in Bombay ; and,
3. To legalize a cess for local Public Works and Education in Sind.

“ There is also a measure similar to that which has been lately enacted in Bengal, to promote the formation of Roads and Railway Feeders.

“ There are two Bills of considerable interest to internal commerce,—one relating to Port Dues in Canara, another to the Registry of River Boats and levy of Pilot Fees on the Indus.

“ There is also a very important Bill relating to the Bank of Bombay, but our proceeding with it must depend upon the instructions we receive from Her Majesty's Secretary of State and the Government of India.

“ One of the most important Bills which will be submitted, is that, to give legal effect to the settlement of Enam Lands which occupied so much of the attention of the late Governor, and which will, I believe, have a most beneficial effect in defining and securing rights in lands held free or partially free of Land Tax.

“ I also hope to bring in a Bill to carry out in this Presidency the Resolution of the Governor General in Council dated 17th October last, relative to the Sale of Waste Lands, and to the Redemption of Land Tax.

“ Under Section 43 of the Indian Councils' Act of 1861, this measure must be submitted for the previous sanction of the Governor General, but I trust such sanction may be received in time to admit of the Bill being introduced this Session.

“ It would not have needed any reference to this Resolution, one of the latest, in my humble opinion, one of the most useful of Lord Canning's measures, to remind us of the great loss we have sustained in the death of the late Viceroy.

“ I do not now speak of the great national loss, which will be most deeply felt by those who had the honour of being associated with him in the work of administration during his tenure of office in this country.

“ We have a special loss of our own, and we could not meet together here this day as the Council of the Governor of Bombay assembled for the purpose of making Laws and Regulations, without feeling acutely the loss of him who restored to this Presidency the power of making its own local Laws and Regulations, and gave to us, the trained servants of Government, the inestimable advantage of publicly deliberating on all matters of legislation with men chosen from among the best and wisest of the non-official subjects of Her Majesty.

“ The time has not yet come when full justice can be done to Lord Canning’s measures in this matter, partly because we have yet to realize the greatness of the change which he effected.

“ These Councils, of which ours is one, are yet on their trial.

“ I cannot do better than recall to your memory what was so well said by my predecessor in this Government when he first opened this Council, and beg you to bear in mind what was then stated by one so able, and so experienced, and so sincerely anxious for the best interests of India, as Sir George Clerk.

“ It is only by a patient and conscientious discharge of our duty continued throughout a long series of years, that we can hope to win general confidence, and establish our character as an important and useful branch of the administration of this vast Empire.

“ We must be equally on our guard against neglecting any portion of the wide range of duty entrusted to us, and against the still more dangerous temptation of over-legislation or of overstepping the limits of our powers which have been marked out for us by the Imperial Parliament, or by the Governor General or Secretary of State.

“ I, for one, have no misgiving as to the result. Even in the most restricted sense, the local affairs of so many millions of our fellow-subjects are matters of real and imperial interest even in so vast an Empire as that of England, and when we consider how much wealth, intelligence, and energy are to be found in the population of this Presidency, what vast forces, material as well as moral and intellectual, are at work in it either for good or evil, to the future of England as well as of India, I cannot but think that the duty of legislating for such a country to the extent entrusted to us is one weighty enough to satisfy the most ardent aspirant who ever hoped to mould the future destinies of his race.

“ Such is the importance of the duty, that I trust we shall never fail to obtain the aid of those best qualified to assist us, among the community which is not otherwise directly connected with the Government of the country.

“ But whatever the result, whether we succeed or not in establishing our character as a useful and indispensable portion of the machinery of Indian administration, History will tell that to Lord Canning belongs the honour of securing for the experiment the great elements, without which, I believe, success would be impossible.

“ While still engaged in extinguishing the last embers of the fiery ordeal through which India had passed in 1857-58, he had recognized the great defects of the former legislative machinery. Its excessive centralization, its exclusive composition, comprising as it did none but official servants of Government, and the absence of those who could speak personally as to the wants and wishes of the native community. He had proposed a measure in which all those defects were supplied, and in all the discussions which followed he never swerved from the great principles he then laid down, and, if we rise to the occasion before us, it is to him that we owe the opportunity, for it was he who secured to us the power for localized legislation on all subjects of local interest, the admission to the legislative body of non-official members, and among them of those who can best advise us as to the opinions and wants of our native fellow-subjects; above all, to him we owe that publicity of all our proceedings, without which I believe all our other advantages would have been thrown away.

“ I will only further express a hope that our deliberations may be directed to a result equal to the opportunities we have at our disposal for promoting the happiness and welfare of this Presidency and the honour of Her Majesty’s Government in India.”

The Members of Council having then taken their seats, the PRESIDENT said that the first subject for the consideration of the Council was a “ Bill to amend Section 45, Clause 1, of Regulation XIII. of 1827.”

Bill to amend
Section 45, Clause
1, of Regulation
XIII. of 1827.

Mr. W. E. FRERE explained that the Judges of the Sudder Adawlut had brought to the notice of Government that, under the existing Law, European British subjects sentenced to hard labour, if confined in the Mofussil Criminal Jails, were obliged to be fettered, but that European prisoners were not put in irons in the House of Correction in Bombay nor in England, except when sentenced to death or in cases of urgent and absolute necessity, of which due notice must be given to one of the visiting Justices. They therefore suggested that Europeans should be exempted from fetters in this country as they are in England. Government, however, being of opinion that sentence of imprisonment with hard labour, or rigorous imprisonment as it is now called, should not of itself include the indignity of subjecting any man to be fettered, had determined to ask the Council to amend the Law, and the Bill which he asked permission to introduce would provide that it be permissive and not imperative to fetter prisoners sentenced to rigorous imprisonment. Mr. FRERE moved that the Bill be read a first time, which question was put and carried. Mr. FRERE then moved that the Bill be referred to a Select Committee consisting of

Read a first time
and referred to a
Select Committee.

MR. RUSTOMJEE J. JEJERBHOY,
MR. MADHOWROW VITTUL VINCHOORKUR,
and HIMSELF,

to report at next meeting of Council, which question was put and carried.

Mr. JUGONNATH SUNKERSETT said he was not prepared to bring in the Bill for making better provision for the care of the persons and property of Minors in the Presidency of Bombay, and proposed to defer doing so till the next meeting of Council.

First reading of
Bill for making
better provision
for the care of the
persons and pro-
perty of Minors in
the Presidency of
Bombay, deferred
till next Meeting.

The PRESIDENT put the question whether the consideration of the Bill should be deferred till the next Meeting, and the same was carried.

The PRESIDENT then adjourned the Council to Wednesday the 23rd instant.

By order of His Excellency the Governor in Council.

M. J. SHAW STEWART,

Acting Secretary to Government.

Bombay, 15th July 1862.

PROCEEDINGS OF THE LEGISLATIVE DEPARTMENT, BOMBAY.

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 Act of Parliament 24 and 25 Victoria, Chapter 67.

The Council met at Poona, on Wednesday, the 23rd July 1862.

PRESENT :

HIS EXCELLENCY SIR H. B. E. FRERE, K.C.B., the Governor of Bombay, presiding.

HIS EXCELLENCY SIR W. R. MANSFIELD, K.C.B.

THE HONORABLE MR. FRERE.

THE HONORABLE MR. INVERARITY.

THE HONORABLE THE ADVOCATE GENERAL.

THE HONORABLE MR. TRISTRAM.

THE HONORABLE MR. MADHOWROW VITTUL VINCHOORKUR.

THE HONORABLE MR. JUGONNATH SUNKERSETT.

THE HONORABLE MR. ROBERTSON.

THE HONORABLE MR. SCOTT, and

THE DEPUTY SECRETARY.

The Honorable Mr. FRERE presented the Report of the Select Committee on a "Bill to amend Section 45 of Clause 1 of Regulation XIII of 1827."

His Excellency Sir W. R. MANSFIELD said he had an amendment to propose, but would defer it to the next meeting, when the Report of the Select Committee would be considered.

The ADVOCATE GENERAL remarked that he also wished to propose an amendment, and would send notice of it to the Secretary, in accordance with the Rules.

MR. JUGONNATH SUNKERSETT, in proposing the first reading of a "Bill for making better provision for the care of the Persons and Property of Minors in the Presidency of Bombay," said :—

"The Bill which I am going to bring forward in Council to-day is, a 'Bill for making better provision for the care of the Persons and Property of Minors in the Presidency of Bombay.' It has been prepared by the Judges of the Sudder Adawlut, at the request of Government, and is intended to remedy the

Report of the Select Committee on a Bill to amend Section 45 of Clause 1 of Regulation XIII. of 1827, presented.

Bill for making better provision for the care of the Persons and Property of Minors in the Presidency, of Bombay, first Reading.

present defect in the law of this Presidency touching the care of the persons and property of Minors. I am glad it has fallen to my lot to bring forward this Bill. As the law now stands, there is nothing to prevent the natural guardians of Minors from making away with the Minors' estates. A want of provision to remedy this defect in the law has been much felt ; and this Bill is intended to supply the want.

“ Section 15 enacts, that the proceedings of the Collector in charge of the estate should be subject to the control of the superior Revenue Authority. It is difficult to see why he should not be subject to the jurisdiction and control of the Civil Court, as well as any other manager of the Minors' estates.

“ In Section 18, where it runs, ‘ But no such person shall have power to sell or mortgage, &c.,’ I would add the words, or ‘ otherwise alienate or dispose of ’ immediately after the word ‘ mortgage,’ and this can be done in Committee. I think this addition necessary, because though the estate may not be sold or mortgaged, it may be disposed of in gift, as the law contains no prohibition against this,—the addition suggested therefore will, in my humble opinion, prevent the estate being so given away, and I think it should be considered whether the same restriction should not be extended to the moveable property of the Minor,—or to some extent.

“ I also wish to make another addition, viz. in regard to the marriage of Minors. It is well known in India that females ripen earlier than in a cold climate. Before the age of 18 years girls are known to have become mothers of children. I think, therefore, that a provision should be made in this Bill to enable a Minor, a female Minor especially, to get married some time before she arrives at maturity—for, according to Oriental ideas and customs, girls cannot be allowed to remain unmarried till they attain the age of 18. I am myself, I confess, averse to very early marriages, and have made it a rule in my own family, not to celebrate them—and I only hope that my fellow-countrymen who are fond of early marriages will think of the evil consequences arising from such proceedings and desist from such course.

“ With these additions, which suggest themselves to me at present, I beg to introduce the Bill, which I trust may be discussed in the Committee, and outside these walls, and I would recommend that a fair time be allowed to the public to come forward, and state their reasons and objections if they have any such in regard to this enactment. I therefore move that this Bill be read a first time.”

The PRESIDENT put the question that the Bill be read a first time, which was carried.

Read a first time.

The ADVOCATE GENERAL said he did not know whether it had been considered that the same person might be appointed guardian of the person and property. The Act seemed drawn up from the Calcutta Act. The words “ Houses, Gardens, or the like ” in the 9th Section seemed not to include moveable property. Then he did not see any reason for compelling the guardian of the person to give security. He did not think the words of Section 13

sufficiently large. The Court should have a general discretion as to costs in case any proceedings were improperly taken. He fully concurred in the observation of the Honorable Member opposite (Mr. Jugonnath Sunkersett) in the propriety of restricting the right of alienation or mortgage.

Then as to Section 29 he should think it doubtful whether 18 years was the proper age.

As to the last Section, he should like to know why the Supreme Court was to be excluded? He did not see why that Court should not have cognizance of matters respecting Minors residing within the Presidency Town.

The PRESIDENT said no doubt these observations would be very valuable when the details of the measure came to be considered; but as the first reading of the Bill had been carried, he would suggest that they should be reserved till the matter came before the Committee.

Mr. JUGONNATH SUNKERSETT said the Bill was so important that he thought that the Report ought not to be made till ample time had been given for the discussion of its provisions—he was inclined to propose three months.

His Excellency Sir W. R. MANSFIELD said that it was probable the Bill would be much altered in Committee; he therefore thought the views of the Honorable Mr. Jugonnath Sunkersett would be better carried out if a reasonable time, say a month, were given to the Committee. The public would have a better opportunity of forming an opinion on the measure when the Report of the Select Committee was published, which would probably embody some of the alterations which the Honorable Mover and the Advocate General seemed inclined to propose.

Referred to a
Select Committee.

Mr. JUGONNATH SUNKERSETT proposed that the following members be appointed a Committee:—

The Honorable W. E. FRERE,

The Honorable A. J. LEWIS (Advocate General),

The Honorable RUSTOMJEE J. JEJEEBHOY,

The Honorable MADHOWROW VITTUL VINCHOORKUR,

And the MOVER,

with instructions to make their report within one month from this date.

Carried.

Leave given to
bring in a "Bill to
abate the Nuisance
arising from the
Smoke of Furnaces
in the Islands of
Bombay and Cola-
ba."

Mr. TRISTRAM said that in pursuance of the notice he had given, he moved for leave to bring in a "Bill to abate the Nuisance arising from the Smoke of Furnaces in the Islands of Bombay and Colaba." A similar Bill had been introduced in Calcutta. The increase of smoke from furnaces now used in the different mills and manufactories, as well as in numerous public and private buildings where machinery worked by steam had been introduced, is very apparent. These establishments are on the increase in the Fort and Colaba, as well as the outskirts of the Native Town, as any person may readily satisfy himself.

The comparatively limited space comprised within the limits of the Island and the dense masses of people residing thereon, seem to render it very desirable that means should be taken as early as practicable to abate the nuisance and to prevent its increase.

Mr. TRISTRAM then moved for leave to introduce the Bill.

The PRESIDENT put the question, which was carried.

The PRESIDENT then adjourned the Meeting to Wednesday, the 30th July, at 11 o'clock.

By order of His Excellency the Governor in Council,

L. H. BAYLEY,

Deputy Secretary to Government.

Poona, 23rd July 1862.

PROCEEDINGS OF THE LEGISLATIVE DEPARTMENT, BOMBAY.

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 Act of Parliament 24 and 25 Victoria, Chapter 67.

The Council met at Poona, on Wednesday, the 30th July 1862.

PRESENT:

HIS EXCELLENCY SIR H. B. E. FRERE, K.C.B., Governor of Bombay, presiding.

HIS EXCELLENCY SIR W. R. MANSFIELD, K.C.B.

THE HONORABLE MR. FRERE.

THE HONORABLE MR. INVERARITY.

THE HONORABLE THE ADVOCATE GENERAL.

THE HONORABLE MR. TRISTRAM.

THE HONORABLE MR. RUSTOMJEE J. JEJEEBHoy.

THE HONORABLE MR. MADHOWROW VITTUL VINCHOORKUR,

THE HONORABLE MR. JUGONNATH SUNKERSETT.

THE HONORABLE MR. ROBERTSON.

• THE HONORABLE MR. SCOTT, and

THE DEPUTY SECRETARY.

His Excellency the PRESIDENT said the first subject for consideration was the Report of the Select Committee on a Bill to amend Section 45, Clause 1, of Regulation XIII. of 1827.

Mr. FRERE said the Report had been for some time before the Council, and he moved the Bill as amended by the Select Committee be read a second time.

Report of the Select Committee on a "Bill to amend Section 45, Clause 1, of Regulation XIII. of 1827" considered.

Sir W. MANSFIELD, in moving the amendment of which he had given notice, said he had been led to consider the report of the Select Committee, and he thought there had been an omission in the Draft.

In this country, when a British subject was guilty of an offence, he could not be tried except by English law, and should not therefore be subject to penalties by local legislation which may be contrary to that law. He called attention to the reasons given by the Sudder Judges, and he thought the Act defective as being wanting in injunction or warning, and as being permissive only when it should be imperative. Whatever might be the precautions taken under the Regulations for the securing of Native prisoners, that does not affect the immunities of the British-born convict as by law secured to him in his own country.

He believed that no discretion ought to be given to executive officers. His own experience was against it. In behalf of the unfortunate class of subjects, who looked to him for protection, he moved the insertion of the Clause of which he had given notice:—

II. “ Provided always that British-born subjects sentenced to hard labour or to rigorous imprisonment or to penal servitude shall not be secured with fetters, excepting when it may be urgently necessary so to secure them for the discipline of the Jail or the prevention of violent or dangerous behaviour.”

Amendment proposed by Mr. Jugonnath Sunkersett.

Mr. JUGONNATH SUNKERSETT said that he thought that the Bill should not be confined to British-born subjects, and he proposed by way of amendment that the word “ Prisoners” should be inserted instead of “ British-born subjects.”

Mr. ROBERTSON said he though much depended on the way in which prison labour was carried on. He would rather see the amendment as it originally stood.

Mr. RUSTOMJEE J. JEJEEBHOY said he was in favour of Mr. Jugonnath Sunkersett’s amendment.

Mr. FRERE remarked that he differed from His Excellency the Commander in Chief. It was very desirable that Englishmen should retain the liberty they possess in England, in all parts of the world in which circumstances would permit it, but we must bear in mind that the Jails in this country are very different from those in England, where, with closed doors and windows, men may be left in security, but were the doors and windows so closed in this country, the English prisoners would be stifled. Some further security is therefore required in the open Jails in this country, and hence the necessity that all prisoners convicted of serious offences, European as well as Native, should be confined in fetters.

His Excellency Sir W. Mansfield’s amendment would meet the case suggested by the Honorable Mr. Robertson, as it allows of Europeans being fettered when urgently necessary, and the necessity would be most urgent when prisoners were working in a dense jungle. But he (Mr. Frere) could not see that the amendment proposed gave any security against the abuse of the discretion with

which the Session Judge is invested in this country in the control and management of the Jail. The Judge here has control of the Jail, and acts the part of visiting Justice in England. There you have a visiting Justice within call, and the Jailor's powers are circumscribed; here you have no visiting Justice but the Judge, who is further responsible for the prisoners' safe custody, and we must trust to his discretion in the management of the Jail as we would were he the visiting Justice in England. The Draft drawn out by the Judges of the Sudder Foujdaree Adawlut was confined to Europeans, but the Select Committee to whom it was referred thought that all persons should be exempted from fetters at the discretion of the Session Judge, and he would not limit the exercise of that discretion in the case of Europeans any further than in the case of other Prisoners. He therefore opposed the amendment.

The ADVOCATE GENERAL was in favour of the Bill as it originally stood without the amendment. It appeared to him much better that the Judge should have general discretion. He thought it would be an invidious distinction to single out the British-born subjects as contradistinguished from the other subjects of Her Majesty.

His Excellency Sir W. MANSFIELD in reply said we were not justified in inflicting on English subjects in India punishments from which they were exempt in England.

The point which had been noticed by Mr. Jugonnath Sunkersett had occurred perhaps quite as strongly to himself when considering his proposed amendment.

The PRESIDENT put the question whether Mr. Jugonnath Sunkersett's amendment should stand part of the Bill.

The amendment was negatived.

The PRESIDENT then put the question whether the Clause proposed by Sir W. Mansfield should stand part of the Bill.

The Council then divided.

Ayes

The Honorable Mr. SCOTT,
The Honorable Mr. TRISTRAM.
The Honorable Mr. INVERARITY.
His Excellency Sir W. R. MANSFIELD.
The Honorable Mr. ROBERTSON.

Noes.

The Honorable Mr. JUGONNATH
SUNKERSETT.
The Honorable Mr. RUSTOMJEE JAM-
SETJEE JEJEEBHOY.
The Honorable Mr. FRERE.
The Honorable the ADVOCATE GENE-
RAL.

The amendment was accordingly carried.

The ADVOCATE GENERAL moved that the following Clause be added to the Bill:—

III. "When any prisoner shall be sentenced to hard labour or rigorous imprisonment, the Court shall, at the time of passing such sentence, declare whether such prisoner shall or shall not be secured with fetters."

Mr. Jugonnath Sunkersett's amendment negatived.

Sir W. R. Mansfield's amendment carried.

Amendment proposed by the Advocate General.

Mr. SCOTT was in favour of the amendment, if it would still be competent for the Court or the Jailor to put on fetters after sentence in case of necessity arising from violent conduct, &c.

Mr. TRISTRAM would vote for this amendment.

Mr. INVERARITY and Mr. JUGONNATH SUNKERSETT were in favour of it.

Sir W. MANSFIELD would like before he voted to have further information on the subject of the present practice with regard to fettering prisoners in Jail.

Mr. FRERE explained that as the law now stood, when a Session Judge passed sentence of imprisonment with hard labour, the Convict, as a matter of course, had fetters put upon him when he was received into Jail—it was a part of the sentence: imprisonment with hard labour being imprisonment in irons. This, however, did not prevent the Session Judge, on the recommendation of the Civil Surgeon, or if he saw a man as he thought too heavily ironed, from ordering him lighter fetters, or to be released from fetters altogether.

The Bill, as proposed by the Select Committee, left it discretionary with the Session Judge to place the Convict in irons. The amendment just carried restricted the use of fetters to cases of Prison discipline. The amendment now proposed would make it imperative on the Session Judge to declare when passing sentence whether the Convict should be fettered or not;—that is, it would give the Judge a power of enhancing the punishment in any case he liked—the sentence would be of imprisonment with hard labour, with or without fetters, and the fetters would become an enhancement of punishment, not instruments of Prison discipline, to which the amendment last carried evidently intended to restrict their use in Europeans, and he could not see why there should not be the same restriction in all cases; he would therefore oppose the amendment of the Advocate General.

Mr. VINCHOORKUR was in favour of the existing law and practice by which the Judge had a discretion.

The ADVOCATE GENERAL disclaimed any intention of neutralizing by a side-wind the amendment of the Commander in Chief.

Amendment proposed by Mr. Scott.

Mr. SCOTT proposed that the following words be added to the Advocate General's amendment:—"Provided that it shall be lawful to put on fetters in all cases when, after sentence, it may be found urgently necessary so to secure Prisoners for the discipline of the Jail or the prevention of violent or dangerous behaviour."

Amendment proposed by the Advocate General and Mr. Scott carried. Bill recommitted.

The ADVOCATE GENERAL said he had no objection to the addition.

The Clause as thus amended was put and carried.

Mr. FRERE moved that the Bill be recommitted to a Select Committee consisting of—

Sir WILLIAM MANSFIELD,

The ADVOCATE GENERAL,

Mr. SCOTT,

Mr. JUGONNATH SUNKERSETT, and

The MOVER,

with instructions to report at the next sitting.

Carried.

Mr. TRISTRAM said he had been instructed to bring forward a Bill for the levy of Port-dues in the Ports of the North Canara District. He thought that one or two of the Clauses might with advantage be amended; for instance, he wished to know whether a steamer putting in at Sadasheoghur to coal would be liable to the Port-dues contemplated by the Act. He moved that the Bill be read a first time.

"Bill for the levy of Port-dues in the Ports of the North Canara District." First Reading.

Mr. ROBERTSON said he believed any steamers touching at Sadasheoghur to coal have to pay the Port-dues.

The PRESIDENT put the question whether the Bill be read a first time, which was carried.

Read a first time and referred to a Select Committee.

Mr. TRISTRAM moved that the Bill be referred to a Select Committee consisting of—

The Honorable Mr. ROBERTSON,
The Honorable Mr. SCOTT,
The Honorable Mr. RUSTOMJEE JAMSETJEE JEJEBHOY, and
The MOVER,

with instructions to report this day fortnight.

Carried.

Mr. INVERARITY said the duty had been cast upon him of introducing a Bill for amending the law relating to the Small Cause Court at Kurrachee.

"Bill for amending the law relating to the Small Cause Court at Kurrachee." First Reading.

He described the extent of the jurisdiction of the Court, and pointed out the reasons which had led Government to bring forward the present Bill, and explained its provisions. He thought it might be worthy of consideration whether the proposed increase of jurisdiction with reference to the Court at Kurrachee might not be extended to other Small Cause Courts. He moved that the Bill be read a first time.

Carried.

Mr. INVERARITY then moved that the Bill be referred to a Select Committee consisting of—

The ADVOCATE GENERAL,
Mr. ROBERTSON, and
The MOVER,

Read a first time, and referred to a Select Committee.

with instructions to report at next meeting of Council.

Carried.

The PRESIDENT adjourned the meeting till Wednesday next, the 6th August, at 11 o'clock.

By order of His Excellency the Governor in Council,

L. H. BAYLEY,

Deputy Secretary to Government.

Poona, 30th July 1862.

PROCEEDINGS OF THE LEGISLATIVE DEPARTMENT, BOMBAY.

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 Act of Parliament 24 and 25 Victoria, Chapter 67.

The Council met at Poona, on Wednesday, the 6th August 1862.

PRESENT:

HIS EXCELLENCY SIR H. B. E. FRERE, K.C.B., Governor of Bombay, presiding.

HIS EXCELLENCY SIR W. R. MANSFIELD, K.C.B.,

THE HONORABLE MR. FRERE,

THE HONORABLE MR. INVERARITY,

THE HONORABLE MR. TRISTRAM,

THE HONORABLE MR. MADHOWROW VITTUL VINCHOORKUR,

THE HONORABLE MR. JUGONNATH SUNKERSETT,

THE HONORABLE MR. ROBERTSON,

THE HONORABLE MR. SCOTT, and

THE DEPUTY SECRETARY.

Consideration of the further Report of Select Committee on a "Bill to amend Section 45, Clause 1, of Regulation XIII. of 1827" postponed till next Council.

The further Report of the Select Committee on "A Bill to amend Section 45, Clause 1, Regulation XIII. of 1827," was read by the Deputy Secretary.

Mr. FRERE said that as the Honorable the Advocate General, who is a Member of the Select Committee, was unable to attend the Meeting of the Committee, he proposed that the consideration of the Report be postponed until next Council.

Agreed to.

Consideration of the Report of the Select Committee on a Bill for amending the Law relating to the Small Cause Court at Kurrachee referred till next Council.

Mr. INVERARITY presented the Report of the Select Committee on "A Bill for amending the Law relating to the Small Cause Court at Kurrachee."

The consideration of the Report was deferred till next Council.

"Bill to abate the Nuisance arising from the Smoke of Furnaces in the Islands of Bombay and Colaba."

Mr. TRISTRAM, in moving that "A Bill to abate the Nuisance arising from the Smoke of Furnaces in the Islands of Bombay and Colaba" be read a first time, said considerable discussion on the subject took place in England some years ago, and the opinions of the most eminent chemists of the day were taken. An Imperial Act was passed in 1853 (16 and 17 Vict., chap. 128), and a Bill founded on that Act was recently introduced into the Legislative Council of Bengal. He had little more to add to what he stated when he asked leave to introduce the Bill, and he concluded by moving that the Bill be read a first time.

The motion was carried.

Mr. TRISTRAM then moved that the following gentlemen be appointed a Select Committee, to consider and report on the Bill:—

Read a first time and referred to a Select Committee.

Mr. INVERARITY,
Mr. SCOTT,
Mr. ROBERTSON,
Mr. RUSTOMJEE JAMSETJEE JEJEEBHOY, and
--THE MOVER,

with instructions to report within a fortnight.

Agreed to.

Mr. TRISTRAM presented the Report of the Select Committee on "A Bill for the levy of Port Dues in the Ports of the North Canara Districts."

Consideration of the Report of the Select Committee on a "Bill for the levy of Port-dues in the Ports of the North Canara District" deferred till next Council.

The consideration of the Report was deferred till next Council.

The PRESIDENT then adjourned the meeting to Wednesday, the 13th August 1862.

By order of His Excellency the Governor in Council,

L. H. BAYLEY,
Deputy Secretary to Government.

Poona, 6th August 1862.

PROCEEDINGS OF THE LEGISLATIVE DEPARTMENT, BOMBAY.

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 Act of Parliament 24 and 25 Victoria, Chapter 67.

The Council met at Poona on Wednesday, the 13th August 1862.

PRESENT:

THE HONORABLE W. E. FRERE, presiding.
HIS EXCELLENCY SIR W. MANSFIELD, K.C.B.,
THE HONORABLE MR. INVERARITY,
THE HONORABLE MR. TRISTRAM,
THE HONORABLE MR. RUSTOMJEE JAMSETJEE JEJEEBHOY,
THE HONORABLE MR. MADHOWROW VITTUL VINCHOORKUR,
THE HONORABLE MR. JUGONNATH SUNKERSETT,
THE HONORABLE MR. ROBERTSON,
THE HONORABLE MR. SCOTT, and
THE DEPUTY SECRETARY.

The PRESIDENT said the first subject was the "Further Report of the Select Committee on a Bill to amend Section 45, Clause 1, of Regulation XIII. of 1827."

"Further Report of the Select Committee on a Bill to amend Section 45 Clause 1 of Regulation XIII. of 1827" considered.

He had received a letter from the Advocate General, in which he thanked the Council for having adjourned the consideration of the Bill at the last meeting in consequence of his absence, and stated that he would be unable to attend this meeting, but that he had no objection to the Report of the Select Committee being adopted, if the Council approved of it.

Mr. FRERE then moved that the Bill, as amended by the Select Committee, be read a second time.

Amendment proposed by Mr. Inverarity.

Mr. INVERARITY proposed the amendment of which he had given notice, viz.: that the following Section be substituted for Section I. of the Bill :—

1. "Prisoners sentenced to hard labour, transportation, penal servitude, or death, may, when necessary, be secured, at the discretion of the Session Judge or other Officer in charge, with fetters, handcuffs, or stocks, which means of restraint may also, when necessary, be used to secure other prisoners."

Mr. SCOTT preferred the Bill as it stood.

Mr. TRISTRAM and Mr. JUGONNATH SUNKERSETT were in favour of the amendment.

Sir W. R. MANSFIELD thought it not certain that a Zillah Judge would clearly understand the real meaning of the proposed amendment, and might feel bound to take the irons off the hundreds of prisoners under his charge, because he could not accuse them individually of violence or dangerous intentions, thus giving great opportunity to the escape of the prisoners. He alluded to the state of the Tanna Jail which he had personally inspected. He moved that the Bill be referred to a Select Committee to consider the very important points respecting Prison discipline raised by the amendment.

The PRESIDENT said that he hoped to bring in a Bill for the regulation of Jails at the next Session, when the whole subject of Jail discipline would be brought under discussion; and he thought it very desirable that the Bill, as amended by the Select Committee, should be passed.

Carried.

Bill and Amendment referred to a Select Committee.

Mr. INVERARITY'S amendment was then put and carried.

Sir W. R. MANSFIELD moved that the whole Bill and the amendment be referred to a Select Committee, consisting of—

The Honorable Mr. INVERARITY,
The Honorable Mr. SCOTT,
The Honorable Mr. JUGONNATH SUNKERSETT,
The Honorable Mr. ROBERTSON, and
The MOVER,

with instructions to report at the next meeting.

Carried.

"Bill for amending the law relating to the Small Cause Court at Kurrachee," agreed to stand over *sine die*.

The PRESIDENT said the next subject was the Report on "A Bill for amending the Law relating to the Small Cause Court at Kurrachee."

Agreed to stand over *sine die*, as a reference respecting the Bill had been made to the First Judge of the Bombay Court of Small Causes, to which no answer had as yet been received.

The PRESIDENT said the next subject was the Report of the Select Committee on "A Bill for the levy of Port-dues in the Ports of the North Canara District."

"Bill for the levy of Port-dues in the Ports of the North Canara District."

Mr. TRISTRAM moved that the Bill, as amended by the Select Committee, be read a second time.

Carried.

The Bill was then read a second time and passed.

Read a second time and passed.

The PRESIDENT said the next subject was "A Bill for further amending Act XXVI. of 1850."

"Bill for further amending Act XXVI. of 1850."
First Reading.

Mr. INVERARITY introduced the Bill, which was to give power to Government to depute certain powers to the Police Commissioners, who were confidential servants of Government.

He moved that the Bill be read a first time.

Carried.

The Bill was read a first time.

Read a first time, and referred to a Select Committee.

Mr. INVERARITY then moved that the Bill be referred to a Select Committee, consisting of—

The Honorable Mr. TRISTRAM,

The Honorable Mr. ROBERTSON,

The Honorable Mr. JUGONNATH SUNKERSETT, and

The MOVER,

with instructions to report at the next meeting.

Carried.

The PRESIDENT said the next subject was "A Bill to extend the Jurisdiction of the Bombay Court of Small Causes, and to provide for the appointment of additional Judges of that Court."

"Bill to extend the Jurisdiction of the Bombay Court of Small Causes, and to provide for the appointment of additional Judges of that Court."
First Reading.

Mr. SCOTT, in introducing the Bill, said:

"The Bill which I now beg to bring before the Council is one to extend the jurisdiction of the Bombay Court of Small Causes, and to provide for the appointment of additional Judges of that Court.

"The object of the Bill is to extend the usefulness of the Court, and we have sought to effect this—

1st.—By extending its jurisdiction to all suits when the amount at issue does not exceed Rupees 1,000.

2nd.—By enabling it to take cognizance of suits involving any amount, provided that the parties thereto agree to submit to its decision.

3rd.—By increasing the number of Judges.

4th.—By enabling Legatees or next of kin, in cases when the assets of an Estate do not exceed Rupees 5,000, to recover by its comparatively inexpensive process their legacies or distributive shares against executors or administrators.

" It will be seen that the Bill, to a certain extent, is precisely similar to that introduced on 22nd March last into the Bengal Legislative Council; it is, however, a much more comprehensive measure.

" Sections I., III., and V. contain the provisions whereby the jurisdiction of the Court is extended to suits involving an amount of Rupees 1,000.

" Section I. is precisely the same as the corresponding one in the Bengal Bill, and it does not seem to call for any remark.

" Section III. provides that when by a set-off of any debt or demand, the amount involved in any suit is reduced to Rupees 1,000 or less, the Court shall have jurisdiction. This appears to me to be a very important and useful provision, though it has not been inserted in the Bill brought forward in Bengal. A precisely similar provision has been made in the English County Courts Amendment Act of 1856.

" Section V. extends the jurisdiction given to the Court by Section XCI. of Act IX. of 1850, to cases when the rent due in respect of any house, land, or tenement, does not exceed Rupees 1,000, and further provides that for the word 'owner' in Sections XCI., XCII., XCIII., and XCVI., of the said Act, the words 'owner, landlord or other person having right to the immediate possession of the premises' shall be substituted. The first Clause of this Section requires no remark; the necessity of the second was recently pointed out in Court by the present able Judge of the Small Cause Court.

" I may state that, since this Bill was drafted, I have ascertained that the Mercantile community of Bombay are in favour of an even greater extension of the compulsory jurisdiction of the Court than that for which we have provided. They believe that the limit might, with advantage, be extended to Rupees 2,000, and in this I personally most cordially concur: this point is one which will doubtless receive most careful consideration in Committee.

" Section II. provides for the second means by which it is sought to increase the usefulness of the Court.

" A similar provision is made in the 2nd Section of the Bengal Bill, but the wording of the latter seems to have been taken from Section 17 of Clause 61 of the original English County Courts Act of 1850, repealed by the amended Act of 1856. We have adopted what appears to be the improved phraseology of Section 23 of the latter Act.

" I can speak from personal experience of the boon which the passing of this Section will confer on the Mercantile community.

" Sections X. and XI. provide for the appointment of additional Judges. Even as the Court is at present constituted, I believe that the work is far too great for the present Judges to overtake, and it seems therefore absolutely necessary to provide assistants. It may also be considered desirable—it certainly seems to me necessary—to increase very considerably the emoluments of the Judges. The fees of the Court already amount to a large sum; they will be

greatly increased under the extended jurisdiction, and will, I conceive, amply suffice for all necessary increase of salaries. This point I would urge upon the careful consideration of the Committee to which the Bill may be referred.

“ Sections XII., XIII., and XIV. provide that all suits involving a greater amount than Rupees 500 shall be tried before a Barrister Judge, and that in any case in which jurisdiction is given by this Act, appeal shall, under certain provisions, lie to the High Court. These provisions are based on the recommendations of the present Judges of the Supreme Court. The Sections themselves have been adopted from the English County Courts Act.

“ Section XV., also adopted from the same Act, provides that the right of appeal may, by mutual consent of both parties to a suit, be abandoned.

“ Sections XVII. to XXII. have been framed on the recommendation of the Judges of the Supreme Court, but a somewhat more extended jurisdiction has been given than that which was proposed by them. These Sections have been adopted from the Irish Act 14 and 15 Vict., Chapter 57.

“ Since this Bill was framed, an elaborate report has, I believe, been received from the present Chief Judge of the Small Cause Court, and I have no doubt it will contain many very valuable suggestions for consideration in Committee.

“ I now beg to move that this Bill be read a first time.”

SIR W. MANSFIELD said he should like to make some observations on Sections 10 and 11. He did not see why an invidious distinction should be made in regard to a distinguished Service by prescribing that the Chief Judge of the Small Cause Court should necessarily be a Barrister Judge, or forbidding the Civil Service Small Cause Court Judges from trying the cases of a value exceeding 500 Rupees. He thought that, now that the High Court was thrown open to Civil Servants, who were in this respect put on a par with the Barrister Judges, except the Chief Justice, and considering that Zillah Judges had always been chosen from that body, no such distinction should have been made. He paid a high tribute to the services of those Officers (the Zillah Judges), and said he believed that substantial justice had been generally administered by them, to which ample testimony had been borne by a late learned and distinguished Chief Judge of the Common Pleas. A distinction which was intelligible in the case of the Chief Justice, was quite the reverse in the sphere of a Small Cause Court, in which the business was confined to unimportant cases of an insignificant value, as compared with those disposed of in the Zillah Courts. The proposed measure called to his recollection a saying of a very learned person, who, while admitting that substantial justice had been rendered by the Civil Servants, remarked that their innings had lasted 100 years, and others would have their turn now. He would not oppose the first reading of the Bill, but begged to call the attention of the Honorable Member, Mr. Scott, to the point.

Mr. Scott said that, looking to the provisions with regard to right of appeal, he would gladly adopt His Excellency the Commander-in-Chief's suggestions.

Read a first time,
and referred to a
Select Committee.

The motion for the first reading was then carried.

The Bill was then read a first time.

Mr. Scott proposed that the Bill be referred to a Select Committee, consisting of—

His Excellency Sir W. R. MANSFIELD,
The Honorable Mr. FRERE,
The Honorable Mr. LEWIS,
The Honorable Mr. TRISTRAM,
The Honorable Mr. JUGONNATH SUNKERSETT, and
The MOVER,

with power to consider the report of the Chief Judge of the Small Cause Court, and such other reports, &c., as may come before them, and to call for such information as they may consider desirable, to report within a fortnight.

Carried.

Amendment of
the Rules propos-
ed by His Excel-
lency Sir W. R.
Mansfield.

His Excellency Sir W. R. MANSFIELD said it had been brought to the notice of Government that considerable delay in the business of the Council had been caused by the existing rules; what with the necessity for translation into the various Native languages, and the length of time required to elapse after Reports, &c., had been furnished to Honorable Members, the Council had hitherto been doing little more than "marking time."

It appeared unnecessary that a Bill relating to Sudasheoghur should be translated into Mahratta, or that one relating to the Small Cause Court at Kurrachee should be translated into Canarese. But in all cases of general importance, or involving any general principle, the Bills would be translated into all the languages.

He explained the various alterations he proposed, and mentioned that as he was finishing the Draft of his proposed amendments, His Excellency the Governor chanced to honour him with a visit, when His Excellency was pleased to approve of them. There were two clerical alterations in Rules 14 and 27 which he begged to make, and moved that the Rules, as amended, be adopted by the Council.

Carried,

Carried.

The PRESIDENT then adjourned the Council to Wednesday next, at such hour as the Governor should direct.

By order of His Excellency the Governor in Council;

L. H. BAYLEY,

Deputy Secretary to Government.

Poona, 13th August 1862.

PROCEEDINGS OF THE LEGISLATIVE DEPARTMENT, BOMBAY.

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 Act of Parliament, 24 and 25 Victoria, Chapter 67.

The Council met at Poona, on Wednesday, the 20th August 1862.

PRESENT :

HIS EXCELLENCY SIR H. B. E. FRERE, K.C.B., Governor and President in Council, presiding.

HIS EXCELLENCY SIR W. R. MANSFIELD, K.C.B.

THE HONORABLE MR. FRERE,

THE HONORABLE MR. INVERARITY,

THE HONORABLE MR. TRISTRAM,

THE HONORABLE MR. RUSTOMJEE J. JEJEEBHOY,

THE HONORABLE MR. MADHOWROW VITTUL VINCHOORKUR,

THE HONORABLE MR. JUGONNATH SUNKERSETT,

THE HONORABLE MR. ROBERTSON,

THE HONORABLE MR. SCOTT, and

THE DEPUTY SECRETARY.

The "Further Report of the Select Committee on a Bill to amend Section XLV. Clause 1 of Regulation XIII. of 1827," was read by the Deputy Secretary.

"Further Report of the Select Committee on a Bill to amend Section 45 Clause 1 of Regulation XIII. of 1827," considered.

On Section II. being put, the ADVOCATE GENERAL said he thought the Section was completely useless, as the 1st Section of the Bill had been altered. He thought there was no distinction between the two Sections.

Sir W. R. MANSFIELD considered there was a very great difference. The 1st Section had been very carefully worded, and he had more than once pointed out since this discussion arose the distinction between the two classes of Prisoners—Natives and British-born subjects. He differed entirely from the Honorable the Advocate General, and he trusted that the 2nd Section would be allowed to stand.

Mr. W. E. FRERE observed there was a very marked distinction between the two Clauses.

The ADVOCATE GENERAL said he would not press his objection.

The 2nd and other Sections, as amended by the Select Committee, were then agreed to, and the Bill, as amended and reported on by the Select Committee, was read a second time and passed.

Agreed to.
Bill read a second time and passed.

The Report of the Select Committee on a "Bill for amending the law relating to the Small Cause Court at Kurrachee" was considered.

Report of the Select Committee on a "Bill for amending the law relating to the Small Cause Court

On Section 1st the PRESIDENT put the following amendment, of which Mr. Frere had given notice :—

at Kurrachee" considered. Amendment proposed by Mr. Frere.

"That the first Section stand in the form in which it originally stood, and that the following Section be added to the Bill:—

"Section VI. Words in the singular number, and words in the masculine gender, shall be understood to include several persons as well as one person and females as well as males, unless there be something in the context repugnant to such construction."

Mr. FRERE said his object was to prevent useless verbiage.

The ADVOCATE GENERAL said that the proposed amendment would introduce about three times the number of words into the Bill. He thought the amendment was a little hypereritical.

The Council then divided on the question that the amendment stand part of the Bill:

<i>Ayes—4</i>	<i>Noes—6</i>
His Excellency Sir W. R. MANSFIELD, K.C.B.	The Honorable Mr. INVERARITY.
The Honorable Mr. FRERE.	The Honorable the ADVOCATE GENERAL.
The Honorable Mr. RUSTOMJEE JAMSETJEE JEJEEBHOY.	The Honorable Mr. TRISTRAM.
The Honorable Mr. MADHOWROW VIT-TUL VINCHOORKUR.	The Honorable Mr. JUGONNATH SUNKERSETT.
	The Honorable Mr. ROBERTSON.
	The Honorable Mr. SCOTT.

Negatived.

The amendment was accordingly negatived.

Section I., as amended, II., III. and IV. passed.

The question whether Section 1., as amended, stand part of the Bill was then put and carried.

Sections II., III. and IV. were passed.

Amendment proposed by Mr. Inverarity.

The following amendment, of which Mr. INVERARITY had given notice, was then put:—

"That the following Section be inserted in the Bill, as amended by the Select Committee, and that the 4th and 5th Sections of the said amended Bill stand respectively the 5th and 6th Sections thereof:—

"There may be appointed one or more Deputies to the Clerk of the said Court as occasion may require; and such Deputy Clerks may perform all or any of the duties of the Clerk of the Court as the Court may direct."

Deputy Clerks may be appointed.

Mr. INVERARITY said, since the Bill was before the Council, a proposition had been forwarded to Government, and favourably entertained by them, of extending the Small Cause Court throughout the Zillah of Kurrachee. A subsequent Act No. XII. of 1861, "an Act to amend Act XLII. of 1860," provided for the appointment of a Clerk of the Court, and by the 5th Section his duties were defined. It becomes therefore necessary to introduce a Section having reference to Deputy Clerks.

Sir W. R. MANSFIELD said he did not see that there was any Clause authorising the Small Cause Court Judges to go on circuit. He thought it open to question whether, under the provisions of Act XLII. of 1860, such power was given.

The ADVOCATE GENERAL supported the Clause proposed to be inserted by the amendment, and stated his opinion that the Government had the power, under Section VII. and VIII. of that Act, to direct the Small Cause Court Judges to go on circuit.

Mr. INVERARITY said he thought that those Sections were amply sufficient to enable the Government to increase the jurisdiction in the manner proposed.

Sir W. R. MANSFIELD said he only wished to guard against the possibility of there being any doubt on the subject, and that if the Council was of opinion that there was no foundation for the objection, he would withdraw it.

The PRESIDENT then put the question whether the Section proposed in the amendment of Mr. Inverarity stand part of the Bill as Section V., which was carried.

Carried.

Section V. in the Bill amended by the Select Committee was passed to stand part of the Bill as Section VI.

The second reading of the Bill was then postponed to the next meeting of the Council.

Second Reading postponed to the next meeting.

On the Report of the Select Committee on a "Bill to abate the Nuisance arising from the Smoke of Furnaces in the Islands of Bombay and Colaba," being presented, Mr. TRISTRAM said the Report had not been circulated in sufficient time to enable it to be considered this meeting. He had discovered since the Bill was prepared that it might cause inconvenience if it were to take effect from the 1st August 1863, and therefore proposed to postpone the commencement of the Act till the 1st January 1864.

Report of the Select Committee on a "Bill to abate the Nuisance arising from the Smoke of Furnaces in the Islands of Bombay and Colaba" presented.

Mr. W. E. FRERE thought the Committee should state in their report what amendments they had made to avoid the trouble of having to go through a long Act, and compare the Sections word by word, for the purpose of discovering what alterations had been made.

The PRESIDENT said that in future amendments as they were to stand in the text should be printed in italics, and all omissions and alterations as they stood in the original Bill should be printed in the margin opposite in small type.

Amendments in Bills, how to be printed.

The consideration of the "Report of the Select Committee on a Bill for further amending Act XXVI. of 1850" was deferred till the next meeting of the Council.

Consideration of the Report of the Select Committee on a "Bill for further amending Act XXVI. of 1850," deferred.

Mr. JUGONNATH SUNKERSETT said the Report of the Select Committee on a "Bill for making better provision for the care of the Persons and Property of Minors in the Presidency of Bombay" was nearly ready, and he asked the Council to extend the time for receiving the Report until the next meeting.

Report of the Select Committee on a "Bill for making better provision for the care of the Persons and

Property of Minors in the Presidency of Bombay."

Mr. W. E. FRERE said the Report would be printed, and in the hands of Honorable Members by Saturday next, and it could therefore be considered at the next meeting.

Period of reception of the Report extended.

The PRESIDENT put the question, whether the period of reception of the Report be extended to the 27th instant.

Carried.

" Bill to promote the Construction of Lines of Communication as Feeders to Railways, High Roads, Navigable Rivers, and Canals."

First Reading.

Mr. SCOTT, in introducing a " Bill to promote the Construction of Lines of Communication as Feeders to Railways, Highroads, Navigable Rivers, and Canals," said—

" The objects and reasons of the Act have already been laid before the Council and the public, and it does not seem necessary that I should say anything in support of them. They speak for themselves. If the provisions of the Act be taken advantage of, as I trust they may, we shall ere long see a marvellous change in the means of transport to the Coast of the bulky and valuable produce of the interior—a change which will greatly cheapen that produce to the consumer, and lead, though indirectly I believe, to its great increase. One of the great cries of late years has been for improved means of communication in India, and those who have been so loud in uttering these, will, I trust, not be backward in coming forward to supply them, now that Government provides such facilities for their doing so—facilities calculated not only to benefit the public, but to give profit to themselves.

" I will shortly sketch the purport of the Bill. It is provided therein that any person desirous of constructing any work, such as those to which the Act applies, may, on satisfying Government as to the public utility of his scheme, its *bonâ fide* nature, and his means of carrying it out, obtain, under certain needful restrictions, the land necessary for the construction of the works. This land will be taken by Government under the provisions of Act VI. of 1857, but it shall only be so taken after every facility for objection has been given to parties whose interest may be affected by the proposed works, and after due provision has been made for the satisfaction by the promoters of their just claims for compensation.

" Sundry provisions follow, inserted with a view chiefly to the protection of the interests of the public, and in great measure such as, I believe, will meet with the unanimous approval of the Council. One or two Clauses, the 15th for instance, will, I think, require careful revision, but this can perhaps be better considered in Committee.

" I beg to move that the Bill be read a first time."

Read a first time.

The Bill was then read a first time.

Mr. Scott proposed that the Bill be referred to a Select Committee, consisting of—

Referred to a
Select Committee.

The Honorable Mr. INVERARITY,
The Honorable Mr. ROBERTSON,
The Honorable Mr. TRISTRAM,
The Honorable Mr. JUGONNATH SUNKERSETT, and
The MOVER.

with instructions to report within a week.

Carried.

The PRESIDENT adjourned the meeting till Wednesday next the 27th August, at 3 o' clock P.M.

By order of His Excellency the Governor in Council.

L. H. BAYLEY,
Deputy Secretary to Government.

Poona, 20th August 1862.

PROCEEDINGS OF THE LEGISLATIVE DEPARTMENT, BOMBAY.

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 Act of Parliament 24 and 25 Victoria, Chapter 67.

The Council met at Poona on Wednesday, the 27th August 1862.

PRESENT:

HIS EXCELLENCY SIR H. B. E. FRERE, K.C.B., Governor of
Bombay, presiding.
HIS EXCELLENCY SIR W. R. MANSFIELD, K.C.B.
THE HONORABLE MR. FRERE.
THE HONORABLE MR. INVERARITY.
THE HONORABLE MR. TRISTRAM.
THE HONORABLE MR. RUSTOMJEE J. JEJEEBHOY.
THE HONORABLE MR. MADHOWROW VITTUL VINCHOORKUR.
THE HONORABLE MR. JUGONNATH SUNKERSETT.
THE HONORABLE MR. ROBERTSON.
THE HONORABLE MR. SCOTT.
AND THE DEPUTY SECRETARY.

The DEPUTY SECRETARY said he had received a Petition signed by 874 persons in Dharwar, praying that a Bill for the abolition of Hindoo and Mahomedan Law Officers in the District Courts be not proceeded with. The Petition was ordered to be transferred for consideration to the Judicial Department.

Petition.

Bill for amending the Law relating to the Small Cause Court at Kurrachee, read a second time and passed.

Report of the Select Committee on a "Bill to abate the Nuisance arising from the smoke of Furnaces, &c." considered.

Amendment proposed by Mr. W. E. Frere.

Mr. INVERARITY moved the second reading of the "Bill for amending the Law relating to the Small Cause Court at Kurrachee," which was carried, and the Bill passed.

The Report of the Select Committee on "a Bill to abate the Nuisance arising from the Smoke of Furnaces in the Islands of Bombay and Colaba" was considered.

On the question whether Section I, stand part of the Bill, Mr. W. E. FRERE said he thought it very desirable to leave out the enumeration of the various Manufactories, and he moved by way of amendment that those words be omitted.

The PRESIDENT put the question that the words be omitted.

The Council then divided :

Ayes—3.

The Honorable Mr. FRERE.
The Honorable Mr. MADHOWROW
VITTUL VINCHOORKUR.
The Honorable Mr. ROBERTSON.

Noes—6.

His Excellency Sir W. R. MANSFIELD.
The Honorable Mr. INVERARITY.
The Honorable Mr. TRISTRAM.
The Honorable Mr. RUSTOMJEE JAM-
SETJEE JEJEEBHOY.
The Honorable Mr. JUGONNATH
SUNKERSETT.
The Honorable Mr. SCOTT.

Negatived.

Sec. 1. amended.

The amendment was therefore not carried.

At the motion of Mr. TRISTRAM, "January 1864" was substituted for "August 1863" in the first line of Section I. of the Bill, and in the 25th line of the same Section.

On the question whether Section III. stand part of the Bill, Mr. FRERE said he thought there was a material deficiency in the wording of the Section. He could not understand what the Section meant. The former part contradicted the latter part of the Section.

The PRESIDENT said he could not see any difficulty in the Section. He thought it sufficient.

On the motion of Mr. FRERE the President put the question whether the consideration of Section III. be deferred.

The Council divided :

Ayes—3.

His Excellency Sir W. R. MANSFIELD.
The Honorable Mr. FRERE.
The Honorable Mr. JUGONNATH SUN-
KERSETT.

Noes—6.

The Honorable Mr. INVERARITY.
The Honorable Mr. TRISTRAM.
The Honorable Mr. RUSTOMJEE JAM-
SETJEE JEJEEBHOY.
The Honorable Mr. MADHOWROW
VITTUL VINCHOORKUR.
The Honorable Mr. ROBERTSON.
The Honorable Mr. SCOTT.

Mr. W. Frere's motion that the consideration of Section III. be deferred.

Negatived.

Mr. FRERE then moved that the further consideration of the Bill be adjourned till next meeting.

Consideration of the Bill adjourned.

The question was put and carried.

The report of the Select Committee on "a Bill for further amending Act XXVI. of 1850" was then considered.

Report of the Select Committee on a "Bill for further amending Act XXVI. of 1850," considered.

Mr. INVERARITY said that before Section II. was considered he wished to call attention to two letters he had received a few hours ago. They were from the Revenue Commissioner Northern Division, and suggested an additional Section to the Bill, providing for the appointment of certain Government Officers as *ex-officio* Members of Municipal Commissions established under Act XXVI. of 1850. Mr. INVERARITY moved that the following Section be added as Section II. of the Bill :—

"II. All Collectors, Sub-Collectors, Assistant and Deputy Collectors, Mamlutdars and Mahalkurries shall be *ex-officio* Commissioners of every Municipality within the limits of their local jurisdiction, and the following officers shall be *ex-officio* Commissioners when resident in any City, Town, or Suburb, in which a Municipal Commission is or shall be established, viz :—

Additional Section proposed by Mr. Inverarity.

The Executive Engineer of the District.

The Civil Surgeon.

The Superintendent of Police.

The Assistant Superintendent of Police.

The Deputy Collector at the Sudder Station.

The City or Town Foujdar."

The PRESIDENT said as no notice had been given of the amendment, he thought it would be better to postpone the consideration of the Bill until the next meeting, which was carried.

Consideration of the Bill postponed.

The Report of the Select Committee on a "Bill for making better provision for the care of the Persons and Property of Minors in the Presidency of Bombay" was then considered.

Report of the Select Committee on a "Bill for making better provision for the care of the Persons and Property of Minors, &c." Consideration thereof postponed.

Mr. JUGONNATH SUNKERSETT said that as the report had not appeared in the public prints, the second reading of the Bill should be deferred to some future period. He therefore moved that the report of the Select Committee with the Bill as amended by them be republished in the *Government Gazette*, and stand for consideration at the first meeting of the Council after the 23rd September next.

Carried.

The Report of the Select Committee on "a Bill to promote the Construction of Lines of Communication as Feeders to Railways, High Roads, Navigable Rivers and Canals" was then considered.

Report of the Select Committee on a "Bill to promote the Construction of Lines of Communication as Feeders to Railways, &c." considered. Sundry amendments carried.

On the question whether Section IV. stand part of the Bill, Mr. FRERE proposed that the word "language" be substituted for the word "direct" in the 16th line, which was carried.

On Section VIII. Mr. FRERE suggested that the words "Public Railway Company" in the 6th line be omitted, and the following be inserted :—" Companies being owners of the Railway," which was carried.

On Section XIII. Mr. FRERE said he would prefer the omission of the word "private" in the last line but one of the Clause, which was carried.

On Section XVI. being put, Mr. W. E. FRERE thought that there ought to be a penalty provided in cases where the orders of the Government were not obeyed, and on his motion the consideration of Section XVI. was postponed to allow of a Clause being prepared.

On the question whether Section XXI. stand part of the Bill being put, Mr. W. E. FRERE suggested that the word "quarries" between the words "local" and "or" in the second line of the section, and the word "quarry" after the word "mine" in the 10th and 18th lines of the same Section be inserted, which was carried, and the remaining Clauses passed.

Remaining
Clauses passed.

Report of the
Select Committee
on a "Bill to extend
the Jurisdiction of
the Bombay Court
of Small Causes."
Further time to
prepare it, given.

"Bill to facili-
tate the adjust-
ment of unsettled
Claims to exemp-
tion from the pay-
ment of Govern-
ment Land Reve-
nue, &c." First
Reading.

Mr. SCOTT said the Committee had not been able to prepare their report on "a Bill to extend the Jurisdiction of the Bombay Court of Small Causes," and he asked that a further week be given, which was carried.

Mr. ROBERTSON, in introducing the "Bill to facilitate the adjustment of unsettled claims to exemption from the payment of Government Land Revenue, and to regulate the succession to, and transfer of, lands wholly or partially exempt from the payment of such Revenue in those parts of the Bombay Presidency which are subject to the operation of Act XI. of 1852 of the Legislative Council of India," said :—

"The subject of the Bill which I have the honour to-day to bring before the Council, has been prominently before the public for a considerable period and its object, as explained in the 'Statement of Objects and Reasons,' published with the Draft, is to legalize a Summary Settlement which has been effected during the past year with those holders of land exempt from the payment of Land Revenue whose lands are not held on political tenure, or subject to conditions of service in those districts to which Act XI. of 1852 is applicable, and whose titles to such exemption remained still to be adjudicated under the provisions of that Act.

"The payment of Land Revenue may be stated to be the normal condition on which land is held in this country; and the right to challenge all exemption from such payments is a right which, not only Native rule has always been held to be inherent in the Government, but which this Government, in enacting Laws and Regulations, has from the first reserved to itself under certain forms and conditions. In the General Code of 1827, drawn up under the Government of the Honorable Mounstuart Elphinstone, this right was clearly laid down, and if Honorable Members will refer to that Code, they will there find it stated, in Chapter IX. of Regulation XVII., what constituted good and sufficient titles to exemption from the payment of Land

Revenue. And I would here desire to remark, that it is important for a right understanding of the present question, to distinctly bear in mind that the inquiries which have been conducted into titles to alienated holdings did not in the least affect the rights of occupancy, but were simply intended to ascertain whether or not the claim to exemption from the payment of the State dues or to receive those dues from the occupants of the land was good and valid.

“ But to return, if Honorable Members will refer to Regulation XVII. of 1827, Chapters IX. and X., they will there find stated—

“ *1stly.*—On what grounds titles to the exemption from Land Revenue might be considered admissible; and

“ *2ndly.*—The Rules under which claims to such exemptions are to be examined and decided upon.

“ Not only will it be perceived from this, that it is competent for the Collector of a District to call upon the occupant of land, wholly or partially exempt from the payment of revenue, to prove his title to the exemption, but that the *onus* of establishing his title was thrown upon the holder or claimant, and that ever since the acquisition of the country by the British Government, inquiry and the right to challenge their claims have hung over all holders of rent-free lands who had not obtained the formal adjudication on, and recognition of, their claims, provided for in Section XLV. of Regulation XVII. of 1827. The inquiries which it will thus clearly be seen it was intended should be made into each claim to exemption from Land Revenue demands, were conducted at first, and for a long period, in a desultory manner—cases being taken up from time to time only as the other onerous and numerous pressing duties of the Collectors would permit.

“ As an apology for the neglect of inquiry in the earlier years of our administration, I may perhaps be permitted to state, that the collection of the revenue was then a most laborious duty, requiring such personal attention on the part of the Collectors and their Assistants in the supervision of all its details, both to protect the ryots on the one hand from extortion, and the Government on the other from corrupt influences; and that in addition to the Land Revenue the Collectors had to supervise the collection of the transit and town duties, as also of the Mohturfa and other taxes.

“ Consequent on this state of things, a special agency was, in 1843, appointed to conduct the necessary inquiries in the Southern Maratha Country. This was a step in the right direction, as it not only tended to subject to the payment of revenue all lands unauthorisedly held exempt, but as calculated to offer a speedy removal of doubts and uncertainties with regard to their titles on the part of all whose claims to exemption were good and sufficient.

“ The special agency on commencing its duties found that the first thing to be done was to systematically arrange and classify the voluminous State Registers and Accounts of the late Government, which contained a complete record of all the alienations of the public revenues, and furnished the most ample means of testing and verifying the authenticity of all recognised claims—but which records had fallen into much confusion. Owing to the necessity

of arranging these records, and in consequence also of the tedious scrutiny which had to be made in each case, to test not only the authenticity of the documentary evidence produced before the Commission, but to obtain evidence if possible also on behalf of those claimants who had no documentary evidence in their possession, or to discover connecting links in the chain of evidence which many were unable to produce, the progress made by the Commission (the extension of whose inquiries throughout the Presidency was approved by the Supreme Government in 1850) was so slow, that, in a general review of the progress, and of the probable future duration of the inquiry which was made at the close of 1856 by this Government, in compliance with a call made upon it by the Supreme Government, this Government came to the conclusion that to bring the inquiry into Inams to a close within a reasonable period, one of two courses only was open to them—viz. either to adopt a plan which had originated with Major Wingate, and to assess the whole of the Inams indiscriminately at 25 per cent. of the Survey Assessment, or to prosecute vigorously and completely the investigations which had for some years been in progress in the six Collectorates of the Deccan, and to do the same in Guzerat and the Concan, foregoing inquiry into those of the lowest value and most numerous class, and contenting themselves with scrutinizing the titles of those which were higher in value and fewer in number.

“Honorable Members will here see the first germs of a Summary Settlement. In consequence, however, of the disturbances which supervened shortly after the submission of these proposals to the Government of India, the question received no further consideration until 1859, when the Bombay Government, anxious to bring the protracted inquiries of the Inam Commission to a close, and to reduce if possible the expense of this costly agency, submitted to the Supreme Government details of a scheme which finally found shape in the Bill which was laid before the Legislative Council of the Government of India some fifteen months ago, and which was read a second time on the 6th July of last year, at which stage of the proceedings it was referred to a Select Committee for consideration. But before the Committee had made their report, the Act for constituting Local Councils became law, and the question being considered one of a purely local character, the Bill was returned in order that it might be considered by this Council.

“In the meantime, however, the Bombay Government, desirous to lose no unnecessary time in carrying out the measure, wherever it could be carried out in anticipation of the passing of the Bill then before the Government of India, directed the Revenue Commissioner of the Southern Division to make an offer of the Summary Settlement on the terms which had been approved by the Government of India, and sanctioned by Her Majesty’s Secretary of State, to the holders of lands exempt from the payment of revenue in the six Collectorates of his Division, in which the state of the law was considered to be such as to render it unnecessary to wait for legislation in the matter.

“And this leads me to explain that the claims to exemption from the payment of land revenue in this Presidency may be broadly divided into two

classes, according to the laws wherewith they may be adjudicated. I have already adverted to the Code of 1827, and shown how it reserved to Government the right to investigate all claims to exemption, and laid down the rules and forms of procedure under which the inquiries were to be conducted. By this law, which is the law in force to the present day with respect to all such claims in Guzerat and the Concan, the adjudication of the claims is vested in the Courts of Civil Justice, the original jurisdiction resting with the Collectors ;— but in Khandeish, the Deccan, and the Southern Mahratta Country, which, from the period of their acquisition until 1826, were administered by a separate Commissioner (the first Commissioner being the Honorable Mountstuart Elphinstone), it was specially provided in bringing these Districts under the Regulations of 1827—by Regulation XXIX. of 1827 and Regulation VII. of 1830—that the cognizance of the Civil Courts was not to extend to claims against Government on account of Inams.

“ When the working, therefore, of the Inam Commission was fully established, it was found necessary to enact for its guidance a Code of Procedure, whereby the Officers of the Commission might regulate their decisions on the cases which might come before them for trial. This led to the enactment of Act XI. of 1852, which is the law at present applicable to the trial and adjudication of claims to exemption from the payment of Land Revenue in the Districts I have just enumerated, and in all Districts which may have been more recently annexed to this Presidency.

“ This law, although it has been much decried, will be found, by those who will attentively consider its provisions without bias, to be framed in a spirit of great liberality, which throws upon Government the entire *onus* of disproving the title of holders or occupants of rent-free lands.

“ As, however, this law will, I trust, shortly be almost a dead letter, I should be uselessly taking up the time of this Council were I to allude further to it in this place than is sufficient to enable Honorable Members to understand in what respect the law for the adjudication of claims to exemption in the older Provinces differs from that in force in the Southern Districts, and which differences the Government considered to be such as to allow of their proceeding in the latter Districts with the settlement without delay and why, in consequence of the action thereupon, it is now necessary to introduce a separate Bill, for the Districts of the Presidency which are subject to the operation of Act XI. of 1852, leaving the question of the application of a similar measure to the holders of alienated lands in Guzerat and the Concan for separate disposal. The object of the present Bill is simply to give legal effect to the agreements which have on the one part been entered into by the Inamdars, and by Government on the other. It has been explained in the printed ‘ Statement of Objects and Reasons,’ which accompany the Draft Bill, that out of 40,878 holders of land, on whom notices were served, the settlements had, up to the 30th April last, the date of the latest return sent in to the Government, been completed in the case of 38,764 holdings, a result which will, I trust, leave little doubt on the minds of this Council, that the

settlement has proved, generally, I may say universally, acceptable to those interested ; and in saying this, I beg it may be borne in mind that the option of demanding a formal inquiry, and of obtaining, on establishing a good title, entire exemption from the payments which the compromise imposes, was open to every one.

“The necessity which lay upon the Government to devise some such settlement as that provided by this Bill, in justice to holders of alienated revenue, who have been for a long time kept in a state of uncertainty as to their position owing to the slow progress made in the inquiries into their titles, will be apparent, when I explain that, with a Commission costing in round figures a lac of Rupees per annum, the largest number of cases disposed of in any one year in the Southern Division was 1,298, so that at this rate it would have taken thirty years to dispose of the claims of the 38,764 with whom the settlement as above explained has been already completed. To increase the Commission so as to pursue the investigations into rent-free holdings throughout the Presidency, that the inquiries might be completed within a reasonable period, would have required a pressure which would have produced an amount of excitement which it was undesirable to bring about—and financially such an increase to the establishment was out of the question. The only course therefore left open to the adoption of Government was to effect a summary settlement which should take the form of a compromise of the right of the State to make inquiry into the title of Alienees for a moderate payment.

“It seems hardly necessary to enter into any great detail in respect to the provisions of the Act, as the settlement for which it provides has been almost entirely completed ; but there are one or two points on which I will briefly touch. But before doing so, I would observe that the present Bill is substantially the same as the Bill introduced into the Calcutta Council, the alterations now made in the latter consisting merely in the omission of one or two Sections or Clauses which are unnecessary in a settlement, which is, it may be said, already in effect, and Clauses which, although applicable to Guzerat and the Concans, are uncalled for in a Bill intended for the Districts subject only to Act XI. of 1852. To proceed then, taking the first Section, I would notice that the settlement has been confined to unadjudicated cases. I am aware that out of doors it has been strongly advocated that the settlement should have been extended to cases which have already been adjudicated unfavourably to the holders ; I cannot, however, see the justice of this, for these claims have been proved to be bad, and it would be unjust towards the general public to burden the State Revenues with charges upon them to the receipt of which the claimants have no good title ; and I may add that Her Majesty’s Secretary of State has distinctly refused to allow the admission of these claims. But I may state that the Government have under consideration a proposal whereby it is intended to admit to the benefits of a more permanent title those cases in which the enjoyment of Alienated Revenue has been guaranteed for one or more generations only.

“Section II. provides, by the payment of a Nuzzerana, for the conversion of the holdings into hereditary and transferable property. This is a very valuable concession, for under all Native grants succession to Inams and such like holdings are generally restricted to the heirs male of the grantee, or some individual or individuals mentioned in the deed of grant. By the provisions in question, however, the inheritance to alienated lands will be extended to collateral heirs, and holders will be able to will away or otherwise dispose of their lands as they may think fit. It may be my duty hereafter to propose an amendment on the Nuzzerana Sections of the Bill, but I reserve for the present further allusion to this point.

“The right to demand a trial and adjudication of their titles is reserved to all holders by Section VI. Opinions have varied as to whether this option should have been given, but this option has been considered in conjunction with the alteration to which I shall in the next place advert, made by desire of the Government of India and the Secretary of State in Act XI. of 1852, the law applicable to the Districts to which this Bill applies. I confess I myself would have preferred to see no option left, because the object of the measure is summarily to get rid of the necessity of proceeding further with the investigation of claims to exemption from payment of Land Revenue.

“In Section X. an important change in the law above referred to, with respect to the adjudication of claims in the Districts to which this Bill applies, has been made. By Act XI. of 1852, as I have already explained, the *onus* of disproving the titles of the holders or occupants of rent-free lands was thrown on the Government; but here a return to the provisions of the Code of 1827 has been made, by throwing the burden of proof, in cases in which the parties may demand inquiry, upon the claimants themselves.

“In conclusion, I may state that in dealing practically with this question, the Government have on all doubtful points leaned to the side of liberality—admitting to the settlement all claims in which appeals against decisions adverse to the claimants lay undisposed of before Government, and extending the terms of it to land found to be in the occupation of Inamdars in excess of their recorded holdings, which excess might fairly and without hardship have been at once subjected to the payment of full assessment.

“Begging the Council to pardon me for having occupied so much of their time, I beg to move the first reading of the Bill, viz.: ‘A Bill to facilitate the adjustment of unsettled claims to exemption from the payment of Government Land Revenue, and to regulate the succession to, and transfer of, lands wholly or partially exempt from the payment of such Revenue in those parts of the Bombay Presidency which are subject to the operation of Act XI. of 1852 of the Legislative Council of India.

The Bill was then read a first time.

Read a first time.

Mr. JUGONNATH SUNKERSETT said that considerable time for discussion should be given, and that if a translation of the Honorable Mover's speech were given, it would be of great service.

Referred to a
Select Committee.

On the motion of Mr. ROBERTSON, the Bill was referred to a Select Committee, consisting of—

The Honorable Mr. INVERARITY,
The Honorable Mr. MADHOWROW VITTUL VINCHOORKUR,
The Honorable Mr. TRISTRAM,
The Honorable Mr. JUGONNATH SUNKERSETT, and
The MOVER,

with instructions to report at the first meeting after 23rd September 1862; the Report of the Select Committee, together with the speech of the Honorable Mover, being translated into Mahrathi and Canarese.

SIR W. R. MANSFIELD said that after what had dropped from Mr. JUGONNATH SUNKERSETT, the public might suppose that a novelty was being introduced; whereas, in point of fact, the Bill was merely a Bill of indemnity to legalize what had been already carried out during the last eighteen months.

Mr. SCOTT asked whether Government intended to proceed this Session with the Bank Charter Act, or, if not, when Government intended to proceed with the matter.

The PRESIDENT stated that no further step could be taken, pending the receipt of instructions from the Secretary of State, to whom the matter had been referred, and under whose consideration it still was.

The PRESIDENT then adjourned the meeting to Wednesday next, the 3rd September 1862, at 3 P. M.

By order of His Excellency the Governor in Council,

L. H. BAYLEY,

Poona, 27th August 1862.

Deputy Secretary to Government.

PROCEEDINGS OF THE LEGISLATIVE DEPARTMENT, BOMBAY.

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 Act of Parliament 24 and 25 Victoria, Chapter 67.

The Council met at Poona, on Wednesday, the 3rd September 1862.

PRESENT:

HIS EXCELLENCY SIR H. B. E. FRERE, K.C.B., Governor of Bombay, presiding.

HIS EXCELLENCY SIR W. R. MANSFIELD, K.C.B.

THE HONORABLE MR. FRERE,

THE HONORABLE MR. INVERARITY,

THE HONORABLE THE ADVOCATE GENERAL,

THE HONORABLE MR. TRISTRAM,

THE HONORABLE MR. MADHOWROW VITTUL VINCHOORKUR,

THE HONORABLE MR. RUSTOMJEE JAMSETJEE JEJEEBHAY,

THE HONORABLE MR. JUGONNATH SUNKERSETT,

THE HONORABLE MR. ROBERTSON,

THE HONORABLE MR. SCOTT, and

THE DEPUTY SECRETARY.

Bombay Bank
Charter Act. In-
quiry respecting
the intentions of
Government.

The consideration of the "Report of the Select Committee on a Bill to abate the nuisance arising from the smoke of Furnaces in the Islands of Bombay and Colaba" was resumed.

The following amendment, of which Mr. Frere had given notice, was put :—

"That the following Section be substituted for Section III. of the Bill as amended by the Select Committee :—

III. "It shall, for the purposes of this Act, be competent for a Magistrate, or the Municipal Commissioners of Bombay, to appoint a person or persons, who shall be thereby authorised to enter any premises to which the provisions of this Act shall apply, and inspect any Furnaces therein ; and if the owner or occupier of the premises, or if the Agent, Foreman, or other person employed by such owner or occupier shall refuse to allow their premises to be inspected by the person so authorised, it shall be lawful for any Police Officer or Constable authorised by the order in writing of a Magistrate, with or without any assistance, to enter into and upon any building or premises in the Town and Suburbs of Bombay, in which any furnace may be, or in which any noxious trade or business may be carried on, and to examine into the construction of such furnace, and into the manner of carrying on such trade or business ; and any person obstructing any such Police Officer or Constable in the execution of any such order shall, upon a summary conviction for such offence before a Magistrate, forfeit and pay any sum not exceeding 500 Rupees."

Mr. FRERE said that as the following clause of the Bill rendered the authority of a Magistrate or the Municipal Commissioners necessary before any proceedings were taken under the Act, he thought it desirable that Magistrates or the Municipal Commissioners should have power to appoint the person to enter premises and inspect furnaces.

Sir W. R. MANSFIELD said he thought that the expression "a Magistrate" was not sufficiently definite.

The ADVOCATE GENERAL thought there was a miscarriage in the 3rd Section. He considered that perhaps the best plan would be to adopt the amendment.

Mr. ROBERTSON said that he thought the power of authorising persons to enter premises should be limited to either the Municipal Commissioners or to the Chief Magistrate, but that he would suggest it should be conferred on the former.

The question was put whether the words "a Magistrate or" be omitted from the second line of the Section proposed to be substituted for Section III.

Carried.

The question was then put whether the amendment of Mr. Frere with the words "a Magistrate or" omitted stand part of the Bill.

Carried.

Consideration of the Report of the Select Committee on "a Bill to abate the nuisance arising from the smoke of Furnaces, &c." resumed.

Amendment proposed by Mr. W. E. Frere.

Proposed Clause amended.

Mr. Frere's amendment carried.

Sections 4, 5, 6, and 7, as amended by the Select Committee, passed.

Sections 4, 5, 6, and 7, as amended by the Select Committee, were passed.

Mr. TRISTRAM said that as it was desirable that the Bill should pass, and the amendment made was clerical, he would ask the President to suspend the Standing Orders.

The PRESIDENT said he thought the amendment made was more than merely clerical, and that he would prefer not to suspend the Standing Orders.

Second Reading postponed.

Consideration of the Report of the Select Committee on a "Bill for further amending Act XXXVI. of 1850," resumed.

The second reading of the Bill was accordingly postponed to next meeting.

The consideration of the "Report of the Select Committee on a Bill for further amending Act XXVI. of 1850" was resumed.

Section I., as amended by the Select Committee, was agreed to.

Amendment proposed by Mr. Inverarity.

The following amendment, of which Mr. Inverarity had given notice, was put:—

"That the following Section be inserted as Section II. of the Bill as amended by the Select Committee, and that Section II. in the amended Bill stand in the Bill as Section III.

"II. All Collectors, Sub-Collectors, Assistant and Deputy Collectors, Mamludars, and Mahalkurries, shall be *ex-officio* Commissioners of every Municipality within the limits of their local jurisdiction, and the following Officers shall be *ex-officio* Commissioners when resident in any City, Town, or Suburb in which a Municipal Commission is or shall be established, viz:—

"The Executive Engineer of the District.

"The Civil Surgeon.

"The Superintendent of Police.

"The Assistant Superintendent of Police.

"The Deputy Collector at the Sudder Station.

"The City or Town Foujdar."

Mr. INVERARITY explained the objects of the Bill and amendment.

Sir W. R. MANSFIELD would like to inquire whether the proposed Clause would not give too great a number of Government officers, and therefore cause the Municipality to assume the appearance of Government machinery for taxation. It must be remembered that the influence would be one of patronage and superior education as well as of number. He thought it doubtful whether the Clause would not deprive the Town's people of the power of expressing their opinion.

Mr. JUGONNATH SUNKERSETT thought the proposed increase of Government influence too great.

Mr. ROBERTSON suggested that the difficulty might be met by limiting the number of *ex-officio* members in each Municipal Commission to one-third of the whole number of Commissioners.

The PRESIDENT said his own inclination was in favour of having *ex-officio* members, but not in such a proportion to the non-official members as to override them. He quite agreed that some limitation should be placed on the number.

The question was then put whether the following Proviso be added at the end of the Section proposed in the amendment of Mr. Inverarity:—

“ Provided that the *ex-officio* Commissioners shall not at any time exceed the proportion of one-third in number of the non-official Commissioners of any Municipality.”

Mr. INVERARITY's amendment with the above mentioned *Proviso* was then put and carried.

Section III. was then passed.

On the question whether the Preamble should stand (the Preamble of the Bill), Mr. Frere said it would require alteration in consequence of a new Section being added to the Bill.

The following words were then added to the Preamble after the words “ Act XXVI. of 1850 ”:—

“ And to make provision for certain Officers to be *ex-officio* Members of Municipal Commissions.”

The consideration of the “ Report of Select Committee on a Bill to promote the construction of Lines of Communication as Feeders to Railways, High Roads, Navigable Rivers, and Canals, so far as relates to Section XVI. of the Bill, was resumed.

“ The following amendment, of which Mr. Frere had given notice was put:—

“ That the word ‘order’ be substituted for ‘direct’ in the 12th line of Section XVI. of the Bill, and that the following be added at the end of the 16th line, within a certain time to be specified in that order in case of wilful failure on the part of the Company to comply with that order, they shall be liable to a fine not exceeding Rupees Five hundred for every day that they fail so to do,”

and carried.

On the amendments of which Mr. Inverarity had given notice being put—

Mr. INVERARITY said that since the Bill was printed, he had been in communication with one of the most experienced and eminent authorities on all subjects connected with Railways on this side of India, and the valuable suggestions of this authority had been embodied in the amendments which he begged to propose.

Sir W. R. MANSFIELD had some doubts whether on a point of order, now that the report of the Select Committee on the Bill had been agreed to, the Council could admit the amendments till the second reading of the Bill was moved.

Proviso added to the amendment.

Amendment carried.

Section 3 passed. Preamble.

Amended.

Consideration of the Report of Select Committee on a “ Bill to promote the construction of Lines of Communication as Feeders to Railways, &c.” resumed.

Amendment proposed by Mr. W. E. Frere.

Carried.

Amendments proposed by Mr. Inverarity.

Consideration thereof postponed.

On the question whether the amendments of the Honorable Mr. Inverarity be now considered, the Council divided :

Ayes—4.

The Honorable Mr. INVERARITY.
The Honorable Mr. TRISTRAM.
The Honorable Mr. JUGGONATH SUN-
KERSETT.
The Honorable Mr. SCOTT.

Noes—6.

His Excellency Sir W. R. MANSFIELD,
K.C.B.
The Honorable Mr. FRERE.
The Honorable Mr. LEWIS.
The Honorable Mr. RUSTOMJEE JAM-
SETJEE JEJEEBHOY.
The Honorable Mr. MADHOWROW
VITTUL VINCHOORKUR.
The Honorable Mr. ROBERTSON.

Bill referred to the former Select Committee to consider the amendments proposed by Mr. Inverarity.

Report of Select Committee on a "Bill to extend the Jurisdiction of the Bombay Small Cause Court."

Period for the reception thereof extended.

"Bill to enable Magistrates to depute to Subordinate Magistrates power to try certain offences punishable under the Penal Code," &c.

First Reading postponed.

"Bill for the Registry of Vessels and levy of Pilotage fees on the River Indus."

First Reading.

The question whether the Bill be again referred to the Select Committee who had reported on the Bill, to consider the amendments proposed by Mr. Inverarity, was then put and carried.

On the next order of the day, viz. the Report of the Select Committee on a "Bill to extend the jurisdiction of the Bombay Court of Small Causes, and to provide for the appointment of additional Judges of that Court" being read—

The ADVOCATE GENERAL said the Bill had been almost recast in Committee. His avocations elsewhere having prevented his considering the report, he moved that the period for receiving the report be extended to the next meeting of the Council.

The PRESIDENT put the question whether the period for the reception of the Report be extended to the 10th instant.

Carried.

Mr. FRERE said he was not prepared at present to introduce the "Bill to enable Magistrates to depute to subordinate Magistrates power to try certain offences punishable under the Penal Code, and to enable district Police Officers to try certain minor offences specified in Chapter 14 of the Indian Penal Code."

He would do so at the next meeting, when he also intended to introduce two Police Bills.

The first reading of the Bill was then postponed to the next meeting.

Mr. INVERARITY, in introducing the "Bill for the Registry of Vessels and levy of Pilotage fees on the River Indus," spoke to the following effect:—

"The navigation of the Indus has long been declared free to all nations, but it still remains to secure that navigation from all undue risk. The obstacles which the River Indus offers to navigation are twofold. These are the difficulties presented by the main stream and the difficulties met with at the entrance and in the branches of the Delta.

"Among the first is the difficulty of controlling the stream. During the inundation, the waters of the Indus in some places spread over a surface of 15 miles in breadth, and during their subsidence it is never a matter of certainty which bank the current of the stream will most affect. Any thing imaginable

in the shape of irregularity scarcely comes up to the truth in regard to the eccentricities and caprice of the Indus. Three times within the memory of existing man has Kusmore in Upper Sind been washed away. Twice have Gobla and Bustanee shared the same fate. When the Rookun road was first lined out some ten years ago, it was miles from the river, two embankments put up to protect the country from the encroachments of the river have since been carried away; and at the present day a stone might be thrown from the deck of a passing steamer into the staging bungalow built on the side of that road. Lower down the river, between Tatta and the sea, there are standing in the centre of the stream some rocks which not many years ago were some distance inland. Besides this difficulty of control, there are difficulties of clearance. Frequent shoals, uncertain situation of channels, and foulness of the river bed, all present obstacles to safe navigation. The mere grounding of a boat is sufficient to raise a shoal, to divert the current from its course, and create a new channel. During the inundation many trees are carried down and deposited, and during the low season many trees topple with the banks on which they stand in the stream, and there in a short time become firmly inbedded. These sunken trees are obstacles from which danger is most to be apprehended, because no attention of the navigator can effectually guard against them. It will be within the recollection of some at this Board that, but a few years ago, a young and accomplished Officer of Engineers lost his life by his boat coming in contact with a sunken tree some miles above Hyderabad. It will not be forgotten that the ill-fated "Meteor" lies at the bottom of the river irrecoverably lost, and more recently the Steamers "Lawrence" and "Chenab" were both snagged, but by great exertions were both happily saved. Thus it came to pass that a consideration of risks and of the large and increasing development of trade on the river induced the Government to initiate a system of conservancy, and the Steamer "Assyria" has, during the past low season, been successfully employed in clearing and improving the navigable channel by removing sunken obstructions. To provide something towards the expenses of this conservancy, a Registry fee on boats plying on the Indus has been imposed, to the satisfaction of all concerned.

"But besides these difficulties which affect the main stream, there are the difficulties met with at the entrance and in the branches of the Delta. Here are seen the combined effects of the inundation and the South West Monsoon, in low, shelving mud banks intersected with continually shifting channels. A system of Pilotage has here been organised, and while the navigable channels are marked out with posts, beacons are exhibited on prominent points to give the general direction and bearings. Towards the maintenance of an Establishment for Pilotage and Beaconage purposes, small pilotage fees, originally fixed as regards native craft by the traders interested, are levied to the satisfaction of all concerned.

"Opinions have been invited from Sind, and to-day I have seen a letter from the Commissioner, who reports that the Kurrachee Chamber of Commerce give the Bill as now presented its cordial support, and that the Registry and

Pilot Fees give general satisfaction. With these few remarks, I beg to move the first reading of the "Bill for the Registry of Vessels and levy of Pilotage Fees on the River Indus."

Read a first time,
and referred to a
Select Committee.

The Bill was then read a first time.

Mr. INVERARITY moved that the Bill should be referred to a Select Committee consisting of—

The Honorable Mr. ROBERTSON,

The Honorable Mr. TRISTRAM,

The Honorable Mr. SCOTT,

The Honorable Mr. JUGONNATH SUNKERSETT,

The Honorable Mr. RUSTOMJEE JAMSETJEE JEJEEBHoy, and

The Mover,

with instructions to report at next sitting of the Council.

Carried.

"Bill for the better suppression of Frauds in the Cotton Trade in the Presidency of Bombay."

Motion for leave to bring in the same.

Mr. SCOTT, in moving for leave to bring in a "Bill for the better suppression of Frauds in the Cotton Trade in the Presidency of Bombay," said:—

"I make the motion, of which I have given notice, with some little diffidence, because Government withdrew the measure on the same subject, which they had intended to bring forward at the last Session of the Council, and because I am aware that the opinion is held in high quarters that any legislation such as that which I propose is unnecessary. In this I cannot agree. On the contrary, I am convinced that some interference by Government is absolutely necessary, and my conviction in this respect is, I believe, shared by the whole mercantile community of Bombay. I do not speak of the European mercantile community only, but of the better class of the native merchants, who, equally with their European brethren, are sufferers by the universal system of fraud which appears to pervade our cotton trade.

"Rule 13 provides that a member moving for leave to bring in a Bill shall be at liberty to state *concisely* his reasons for so doing. I shall endeavour to abide by the strict reading of this rule, but I crave the forbearance of the Council if my remarks should appear a little too lengthy. I know, as I have said, that objections are entertained to any legislation on this subject; and I should be glad if a short statement of the case, as it appears to me, should so far disarm these, that the permission I now ask for may be accorded, and an opportunity afforded hereafter for the full discussion of the whole subject in Council.

"The subject of Indian Cotton has attracted much attention of late, and much more information with regard to the trade is probably now in the possession of *outsiders* than has ever been the case before. I question, however, whether it is generally known, or at any rate generally believed, that at no time within the last ten years has the adulteration of Indian cotton been carried to so great an extent as during the past twelve months. I am careful to speak of ten years only, because for that period I can speak from personal knowledge. At no period has the improvement of the quality of Indian cotton been of such

vital importance as of late ; at no period has the trade itself been of such vital importance both to this country and to Europe, and at no period within my recollection has the adulteration of the staple been so great and so universal.

“ Adulteration is effected in many ways. Compta cotton used to enjoy the unenviable notoriety of being full of seed, while Broach and Dhollera bales used to be weighted with stones and dirt. In the past year all have retained their own failings, and have besides appropriated those of their neighbours: Compta has been as seedy as ever, and as dirty as Broach and Dhollera often used to be ; Broach and Dhollera have been dirtier than for many years past, and the former especially, as seedy as Compta almost ever was. So far I have spoken of one kind of adulteration ; another, and perhaps the more serious, is adulteration by the mixture of one kind of cotton with another,—the inferior with the superior,—and the sending them to market in such packages as have hitherto been distinctive of the superior quality. The Oomrawuttee name and the Oomrawuttee docra have been usurped by the somewhat similar, but short stapled and dirty cotton of the neighbouring province of Kandeish. Verawul and Mangrole have deserted their old docras, and come to market in bales fashioned to represent those of Dhollera and Bhownuggur, and sometimes bearing these names in native characters upon them. The New Orleans seed cotton of the Southern Mahratta Country, commonly known as “ Dharwar Saw-ginned,” and from which so much was expected in the way of raising the character of Indian cotton, has latterly been of the most wretched description : much of it is the common indigenous cotton, but much of it has never seen the Dharwar Districts at all, but has come from Kandeish.

“ While on this subject, I may mention a singular circumstance which is within my own knowledge. The firm to which I belong had some years ago large cotton ginning establishments in Kandeish. These we have not been working lately ; but the machinery is still standing and I last season permitted an old agent of ours to use it in ginning cotton for the neighbouring sowcars. A considerable quantity of Kandeish cotton,—very poor cotton too,—as reported to me at the time, was thus ginned, and yet, strange to say, not a docra of Kandeish ginned cotton ever appeared in Bombay : it left Dhurrungaum for Bombay, but never appeared there for sale under its own name. I have found it, I believe, in Dharwar docras over and over again, but no Kandeish ginned cotton was to be bought as such in the market. I mentioned the matter to our agent, and on his taking the sowcars to task, they laughingly admitted that they knew their cotton was used to adulterate, or to represent the superior Dharwar growth.

“ I trust I have now shown that the evil exists, and that it is so great as to demand a remedy. As to this remedy, I have been told—*1st*, that it is supplied by the present law ; and *2ndly*, that the merchants of Bombay can supply it themselves. As regards the first point, it might almost be enough to say that there must be something singularly insufficient in laws which not only do not check the evils which they were intended to prevent, but permit their great increase. These laws, as far as I have been able to discover, consist of Regula-

tion III. of 1829, and Act XV. of 1851. The first of these was, I believe, a dead letter for upwards of 20 years. It was then, in 1850, on the urgent representations of the Chamber of Commerce, and with good effect, put in force at Broach by the late Mr. J. M. Davies. It has not, as far as I know, been since acted on, except in a case where I believe, owing to its non-application to certain districts, the executive officer was held by Government to have exceeded his powers in attempting to put its provisions in force. The Regulation contains two great defects:—1st, there is a doubt as to whether it is applicable to any part of the Presidency except Guzerat, to which, according to the preamble, it is specially intended to apply; 2nd, it only permits of the confiscation and destruction of adulterated cotton when the loss “*can be made to fall upon the person or persons who have been convicted of having committed the fraud.*” This, I believe, renders the Regulation practically useless, and in this opinion I believe the executive officers of Government will agree.

“Then as to Act XV. of 1851; this only refers to the Islands of Bombay and Colaba. Its provisions are good in so far as they go, but there have been great difficulties in the way of putting them in force. In the first place it has been felt by all that they fail to reach the guilty parties. They may punish a Bombay cotton dealer, but in so doing they may inflict a grievous wrong upon him, for they do not go beyond him, or enable him to reach the up-country dealer by whom he has probably himself been victimized. This consideration has, I believe, prevented in great measure any attempts to put the law in force. I only know of one attempt to do so on the part of an influential European firm, and it was met by a combination among the dealers not to sell any cotton whatever to the parties in question. Such a course was not, under the circumstances, extraordinary or altogether inexcusable, but it was productive of very serious inconvenience and loss to the firm of whom I have spoken, and who only endeavoured to avail themselves of the laws provided for their protection,

“So far regarding the existing laws, which have certainly failed to provide the required remedy. They have been almost useless, but their very existence affords an argument for the further legislation which I advocate. If any law be necessary, let us have one which has some pretension to being effectual. If none be necessary, then expunge from the statute book those which now uselessly encumber it. Now, as regards the assertion that the merchants of Bombay can themselves supply the remedy, they are told that they can do so in two ways:—

1st.—By refusing to buy adulterated cotton.

2nd.—By going themselves into the producing districts, and there buying the cuppas or the cotton direct from the ryots.

“As regards the first point, I fear I could not, without going greatly into detail, explain fully the almost powerlessness of the exporting merchant. Take, however, an ordinary case. An English house commissions a Bombay firm to purchase on their account 1,000 bales, say of Broach cotton. The Bombay firm contracts for this quantity often necessarily months in advance of delivery. When the cotton comes to Bombay, and is tendered to the purchasers, it is found to be adulterated. What then are they to do?—decline to receive it, and endea-

your to buy in the open market on account of the seller? This advice is easy to give, but difficult to follow. In the first place, if good cotton be procurable, there remains a long lingering law-suit against the original seller, in which success hinges on the proof, often most difficult, of adulteration, and in which, if successful, the plaintiff must often feel that he is dealing somewhat harshly with the defendant. In the second place, if, as in the past season, there has really hardly been any good cotton to be had, there remains the lawsuit as before and other very serious complications. The English house claims its cotton, which the Bombay firm, trusting to the Bombay dealer, has undertaken to supply, and if the cotton be not forthcoming, serious claims for damages may arise. In practice, then, it has been found to be almost absolutely impossible to carry on the trade, except by making all bargains, with English houses on the one hand, and with Bombay dealers on the other, for cotton of a certain growth, and of a fair average quality of a certain season's crop. When adulteration is the rule, and the exceptions are rare, where then is the remedy at all?

"As regards the second point, the establishment by European firms of agencies in the up-country producing districts for the purpose of dealing direct with the ryots, here I freely admit lies the remedy for many of the evils of which I complain, and for many more than I have referred to. No one can consider the establishment of such agencies more desirable than I do myself; no one can anticipate from them greater benefit than I do. Without them I do not think that we shall ever get to the root of the evil, or effect any material improvement in the quality of Indian cotton. Believing all this, and admitting this, I must still emphatically declare that no prudent European merchant dare, in the existing state of the law, establish such agencies on a large scale without some system of easy registrations of contracts, and without some summary law for the enforcement of contracts, criminal or otherwise I don't much care; he would be going to certain loss. This opens a large question, on which I must not enter, but the subject is one upon which I claim to speak from experience.

"The firm to which I belong is the only one on this side of India which has attempted such operations on a large scale, and in my own earlier career in India I had a great deal to do with their management up-country. A history of our doings is on the records of Government, and I need not enter upon it here. Suffice it to say that after fighting against all difficulties for ten years, after expending large sums in machinery, and in the importation of foreign cotton seed, &c., we were obliged to withdraw our agencies, and abandon altogether a large sum in outstanding advances. What caused our failure? The want of a system of registration of contracts, and the want of some means of summarily enforcing these. Give us these, and we will commence again, and so will many others. Without them we can do nothing.

"In order to enforce my argument on this point, I may be permitted to state one case, taken also from our own experience. On the 6th May 1852, we contracted with a person in the Dharwar districts for the delivery of a certain quantity of cotton, and, according to custom, paid half purchase money in advance. He failed to deliver, and we sued upon the contract. We obtained

a decree in the Sudder Ameen's Court on 23rd November 1853, and on appeal in the Judge's Court on 27th November 1854. The defendant then appealed to the Sudder, and his appeal was dismissed with costs on 30th January 1857. His property was then attached, and almost simultaneously he died. Claimants then rose up against the attachment. We again obtained decrees in our favour, and an appeal was again made in August 1861—ten years fighting for a paltry sum, which would have been abandoned long ago, save that we objected to being *done*. This is an extreme case, but it has occurred, and might occur again; I have endeavoured to show, then, that the evil exists, that the law does not provide a remedy, and that we cannot find a remedy for ourselves. I therefore ask leave to endeavour to provide one by further legislation.

“The Act which I purpose to bring before the Council will be very similar to one which was, on the 16th January 1858, introduced in the Legislative Council of India by the late Mr. LeGeyt, and which was subsequently withdrawn. It cannot be brought forward this Session, but I think the delay will be of advantage rather than otherwise, for the subject is a very difficult one, and I hope that, as attention has now been drawn to it, we may receive from competent authorities many useful hints.

“I now beg to move for leave to bring in ‘A Bill for the better Suppression of Frauds in the Cotton Trade in the Presidency of Bombay.’”

Mr. FRERE said he should be most happy to support any Bill which was introduced for the purpose of putting an end to these frauds, but he was not sanguine of success, though he would give the Honorable Mover all the assistance in his power.

Sir W. R. MANSFIELD said that in England a Select Committee or a Commission would issue for the purpose of obtaining evidence in such a difficult matter. Thus while most anxious to forward the Honorable Member's views, if it should be in his power to frame such a measure as might meet the approval of the Council, he would throw out, for the consideration of the Honorable Mover, whether it might not be desirable to appoint a Select Committee to take evidence on the whole subject during the recess.

Mr. SCOTT said he would be in a position to state what course he would pursue next meeting.

Leave was then given to Mr. Scott to introduce the Bill.

Granted.
Proposed adjournment of the Sessions.

The PRESIDENT said that at the last meeting he stated that he hoped to be in a position this meeting to inform the Council how long the present Sessions would be further protracted and he proposed at the next meeting either to adjourn the Sessions, or to state on what date it would be adjourned.

The PRESIDENT then adjourned the Council to Wednesday next, the 10th September, at 3 P.M.

By order of His Excellency the Governor in Council,

L. H. BAYLEY,

Deputy Secretary to Government.

Poona, 3rd September 1862.

PROCEEDINGS OF THE LEGISLATIVE DEPARTMENT, BOMBAY.

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 Act of Parliament 24 and 25 Victoria, Chapter 67.

The Council met at Poona, on Wednesday, the 10th September 1862.

PRESENT:

HIS EXCELLENCY SIR H. B. E. FRERE, K.C.B., GOVERNOR OF
Bombay, presiding.
HIS EXCELLENCY SIR W. R. MANSFIELD, K.C.B.,
THE HONORABLE MR. W. E. FRERE,
THE HONORABLE MR. J. D. INVERARITY,
THE HONORABLE MR. W. B. TRISTRAM,
THE HONORABLE MR. RUSTOMJEE JAMSETJEE JEJEEBHAY,
THE HONORABLE MR. JUGONNATH SUNKERSETT.
THE HONORABLE MR. A. D. ROBERTSON,
THE HONORABLE MR. M. H. SCOTT, and
THE DEPUTY SECRETARY.

Mr. TRISTRAM moved the second reading of the "Bill to abate the nuisance arising from the Smoke of Furnaces in the Town and Suburbs of Bombay;" and in doing so, called attention to the wording of Clause 3, and suggested the insertion of the words "For the town" between the words "Commissioners" and "of Bombay" in the 3rd line of that Section.

Bill to abate the nuisance arising from the smoke of Furnaces in the Town and Suburbs of Bombay.

Agreed to.

The Bill was read a second time and passed.

Mr. INVERARITY moved the second reading of the Bill for further amending Act XXVI. of 1850.

Mr. FRERE proposed the following amendment in the Preamble, viz. the insertion of the words "whereas it is desirable" between the words "and" and "to" in the 6th line of the Preamble.

Read a Second time and passed.
Bill for further amending Act XXVI. of 1850.
Amendments carried.

Carried.

The President intimated that in a communication received from the Secretary to the Government of India, in reply to the letter forwarding the Bill to the Government of India, objection was taken to the authority which it was proposed to confer on the Executive Government to delegate to *any person* all the powers confided to Government by Act XXVI. of 1850.

The question the words "or others" be omitted from the 4th line of the Preamble to admit of the insertion of the words "and the Commissioner in Sind," was put, and also whether the words "and to" be inserted before the word "the" in the 5th line of Section I., and the words "or to any person or persons" omitted from the 5th and 6th lines of the same Section.

Carried.

Read a second time and passed.

Further report of the Select Committee on a "Bill to promote the construction of lines of Communication as Feeders to Railways, &c." Read. Order to be printed and circulated.

Report of the Select Committee on a "Bill to extend the Jurisdiction of the Bombay Court of Small Causes," &c. considered. *

The Bill was then read a second time and passed.

The further Report of the Select Committee on a "Bill to promote the construction of lines of Communication as Feeders to Railways, Highroads, Navigable Rivers, and Canals" was read by the Deputy Secretary.

The Report was ordered to be printed and circulated to the Members.

The Report of the Select Committee on a "Bill to extend the Jurisdiction of the Bombay Court of Small Causes, and to provide for the appointment of additional Judges of that Court" was then considered.

Sections 1, 2, 3, 4, and 5 of the Bill, as amended by the Select Committee, were passed.

On the question whether Section 6 stand part of the Bill, the PRESIDENT said that a communication had been received from the Government of India respecting the Kurrachee Small Cause Court Bill, and it would be better that the Deputy Secretary should read the remarks of the Secretary to the Government of India on the subject.

The DEPUTY SECRETARY read the following note of the Secretary to the Government of India :—

"The first Clause of this Bill is meant to meet a real evil of considerable magnitude, viz. that a good many corporations and persons who carry on trade or other operations, or who own property within the jurisdiction of the Court, are, nevertheless, non-resident, and so no action will lie either against them, or their agents, in the Court.

"It appears to follow the model of the Bengal Act II. of 1862, to which, however, it has been with reason objected that it is somewhat too widely worded.

"It was intended to give the Courts jurisdiction over principals, having Agents residing within the Court's limits only in respect of matters done in connection with such agency.

"The wording of the Clause, however, does not express this restriction, and hence, if the Act passed as drafted, the principal might be sued at Kurrachee for an act done in Bombay or Poona, or for a debt, such as servants' wages, due at the latter places.

"Some such wording as that of the Clause in the margin, which is proposed by the Recorder of Penang (Sir Benson Maxwell) to meet a similar difficulty arising out of the present form of the letters Patent constituting his Court, would probably be preferable to the Clause as it now stands in the proposed Bill."

"And all actions, suits, and other proceedings, the cause or causes of which shall have arisen wholly or in some material particular within the said Settlement where the person or corporate bodies proceeded against though not themselves being resident or established in the said Settlement shall carry on business there by an Agent or partner, or have property there under the management or control of an Agent or partner. Provided always, that where the cause of action, suit, or other proceeding is against two or more persons jointly responsible, any one or more of them may be sued without the other or others, if the latter is or are not within the said Settlement at the time of the institution of the action, suit, or proceeding."

posed by the Recorder of Penang (Sir Benson Maxwell) to meet a similar difficulty arising out of the present form of the letters Patent constituting his Court, would probably be preferable to the Clause as it now stands in the proposed Bill."

The question was then put whether the following Proviso be added at the end of Section 6 :—

“ Provided always, that in any suit brought under this Section, the cause or causes of such suit shall have arisen wholly or in some material particular within the territorial limits of the said Bombay Court of Small Causes.”

Section 6, as thus amended, was passed.

Section 7 was passed.

On Section 8 being put, Mr. JUGONNATH SUNKERSETT moved the following amendment of which he had given notice :—

“ Provided that nothing in this Act shall be held to take away or diminish any rights or privileges of any person not being a Barrister or an Attorney, who, at the date when this Act comes into operation, may have been or may hereafter be admitted to practice as a Pleader in the said Court of Small Causes,” and said—

“ I beg to state that I am not satisfied, nor do I think the community in general will be satisfied, with the omission from the Bill of all mention of the class of Pleaders who were, in pursuance of the Government Resolution No. 1349, dated 14th April 1860 (approved of by the Secretary of State for India), admitted to practice in the Court of Small Causes.

“ I need not trouble the Council with the history of the Government Law Classes, and the admission of the most successful pupils to practice in the Small Cause Court. It is set forth at length in a printed collection, which, I understand, has been put into the hands of all my honorable colleagues ; but I may say that I believe that Pleaders have done their work in a manner satisfactory to their clients, who are mostly of a class too poor to pay the fees claimable by Barristers and Attorneys, in addition to the expense of interpreters, who are in many cases required by European Lawyers.

“ These young men have successfully passed through a course of legal instruction in the Government Law Classes. Their knowledge has been tested by severe examinations held by Barristers of the late Supreme Court. Lately they have been permitted to recover a fee of Rupees 15 from their clients. Being apprehensive that their just claims to recognition as an existing class of Pleaders might be overlooked by the Council, they drew up and submitted a petition, which I do not think it necessary here to read.

“ The majority of the Select Committee has resolved to return an answer, which I will read with the permission of the Council :—

“ The Select Committee have had before them a petition from the Law Students at present practising in the Bombay Court of Small Causes. The Petitioners state that they are surprised to find no recognition whatever in the Bill before the Council of the class to which they belong, and that they are strongly inclined to attribute such omission to the ignorance of the Honorable Mover concerned in framing the Bill, of their existence as practitioners in the said Court, and not to any wish to deprive them of the boon conferred on them by the Government Resolution of the 14th April 1860.

Section 6 amended.

Amendment proposed by Mr. Jugonnath Sunkersett on Section 8.

‘ They therefore pray that provision may be made for their fees and costs as well as those of Barristers and Attorneys.

‘ The Select Committee, who have learned from the Honorable Member referred to that the omission was not unintentional, have maturely considered the said petition of the Law Students, and do not esteem it necessary to recognise them. Their position is not affected by this Bill to extend the provisions of Act IX. of 1850, nor are they precluded by it from enjoying the advantages of the boon conceded to them as an encouragement to the study of Law in the University of Bombay, by the abovementioned Resolution of Government, the Select Committee having every reason to believe that the measure was only intended to be a temporary one, and not by any means for the purpose of creating a permanent new class of Pleaders.’

“ I do not think this reply should be made to the Petition. I am strongly of opinion that the rights of these meritorious young men should not be left to the caprice of the Judges of the Court, who (if the Legislature is silent) may consider that they are no longer bound to admit the Pleaders to practice before them, or to give them power to recover fees. I believe that it is always the practice in England to insert provisos in Acts of Parliament to protect vested rights, if there is any chance of their being affected by legislation. It is said that here there is no danger of the Pleaders being deprived of their privileges. I hope there is none; but I think it will be safer to insert a proviso to ensure that effect, and I have drawn one up which has already been circulated among the Honorable Members. It will remove all causes of alarm from the Petitioners, and it cannot be objected to for any of the reasons mentioned in the Committee’s intended reply to the Petition.

“ I may mention that Mr. Hore, the experienced First Judge of the Small Cause Court, whom I have consulted on this subject, and whose opinion ought, I think, to carry great weight, thinks that the rights or claims of the Pleaders (the passed Law Students) should be recognised in this Bill, and I am sure he will be very sorry if this is not done. I understand that the Director of Public Instruction, in a report called for by Government, has also expressed an opinion to the same effect. The general public will also be greatly disappointed at the omission of all mention in the Bill regarding the existing class of Pleaders, whose admission has been a decided boon to the poorer classes of the public.

“ The special object of the formation of the Government Law School has been, to use the words of Dr. Reid, as expressed in his opening address to the Students in 1855, ‘ to contribute towards the production of a better educated and more trustworthy class of Native Lawyers, as well as Advocates as Judges.’ Dr. Reid said on that occasion that the correspondence between the Committee of the Perry Testimonial and Government, which he had seen at the Secretariat, clearly showed that the formation of a better class of professional Lawyers was the principal object in founding the School. Government has actually given effect to that intention by their Resolution of the 14th April

1860, and several of the Law Students, acting on the faith of that Resolution, have materially altered their condition in life.

“The practice of the Court of Small Causes at Calcutta is to confer the privilege of practising before it on any person of sound general education. I hold in my hand a list of Pleaders recognised by the Court of Small Causes at Calcutta. They are nearly 50 in number. This list is taken from the Calcutta Directory of 1861, page 7, part 7.

“One of the objections raised against recognising the position of the qualified Law Students in the proposed Bill is, that no mention is made of them in the Small Cause Court (Act IX. of 1850). I may state that, if this objection be allowed to stand, it holds even against the Barristers and Attorneys, no mention being at all made of them in the said Act. It is only under Section 32 of the Rules framed by the Judges of the Small Cause Court, by power vested in them by Section 41 of Act IX. of 1850, that the fees of Barristers and Attorneys are regulated. The fees of the Pleaders are also regulated by virtue of the Rules framed by the Judges of the Court of Small Causes, under the very same power. So far, therefore, as the question of fees is concerned, both these classes of Barristers and Attorneys on the one hand, and the Pleaders on the other, stand in the same category. Why should we therefore make any invidious and unjust distinction by recognising the fees of the one, and making no provision for those of the other in the New Bill?”

Mr. FRERE proposed that the words “or may hereafter be” in the amendment be omitted.

Mr. SCOTT said:—

“I regret that, notwithstanding the able advocacy of my honorable friend opposite, I must oppose his amendment. The amendment is carefully worded, and, at first sight, there would not appear to be much in it to which one might reasonably object; but there can be no doubt about what my honorable friend has in view, viz. to cause the recognition, by the Legislature, of the somewhat anomalous class of Pleaders now practising in the Small Cause Court under the name of “Qualified Law Students.” In opposing the amendment, I believe I am consulting the best interests, not only of the public, but of the very class to which those Pleaders belong.

“Looking to the interests of the public, I oppose the amendment, because I cannot conceive it to be desirable that cases of such importance as may be tried under the new jurisdiction of the Court, should be conducted by lads, who, however well they may have passed a certain examination, cannot possess much more than the mere rudiments of legal knowledge, or that a permanent new class of Lawyers should be recognised, holding so anomalous a position, part Barrister, part Solicitor, part Solicitor’s Clerk, and not subject to that wholesome control which the Judges of the Supreme Court (the High Court now) exercise over, what I may call, the legitimate branches of the legal profession.

"I am careful to speak of the matter only in so far as this Act is concerned. I do not enter upon any objections to the employment of the Pleaders even in the Court as now constituted. Government doubtless sanctioned their employment for some good reason, and may still continue to do so. With this I have nothing whatever to do; and, as will have been observed, the Select Committee express no opinion on the question.

"So much for the public. Then as regards the Pleaders themselves, I think it would be far better for them to study really to fit themselves for the practice of law, and to seek to enter one of the two branches of the legal profession by the recognised door,—not to halt upon the threshold, as they are now doing. The entrance has, and, as I believe, for wise purposes, been somewhat strictly guarded; but I would throw it as wide open as is consistent with these purposes, and invite all who are duly qualified to enter. Some of the very best of the class to which these students belong are, as I gather from their own pamphlet, which has, I believe, been placed in the hands of every Member of the Council, seeking to do that which I recommend. This, I think, is to their great credit; and, in common justice to them, I would not admit the others to that position, for which, by years of study, they are seeking duly to qualify themselves.

I am sorry to observe in the pamphlet of which I have spoken, that the view which may be taken of the claims of these Pleaders is, so to speak, considered a test of whether we have at heart the education and welfare "of the natives of India." I think my honorable friend will give me credit for this, even though I feel compelled altogether to oppose his amendment."

Mr. FRERE said he agreed with most of the remarks of the Honorable Member, Mr. Scott, but he thought it right to recognise in this Bill those Pleaders who are now practising in the Court, as they had the authority of the Bombay and Home Governments.

Mr. JUGONNATH SUNKERSETT said he really took up the case partly on behalf of the poor people of Bombay, to whom it was a great boon to be able to secure the services of the Pleaders at charges less than those paid to Barristers and Attorneys.

Sir W. MANSFIELD said he should like to know whether we are legislating for the poor classes of Bombay or for the Pleaders. He thought that the effect of recognising the Pleaders would be to provide cheap law, which he strongly deprecated.

Mr. TRISTRAM said he entirely agreed with Mr. Scott. He should like to know the meaning of the word "rights" in the Proviso proposed by Mr. Jugonnath Sunkersett. The Pleaders had certain privileges, but he was at a loss to understand what their rights were. Their present anomalous position was a matter of favour.

Mr. JUGONNATH SUNKERSETT said that, considering the present feeling of the Council, he would not insist on the retention of the words "rights or" in his Proviso.

The words
"rights or" in
proposed amend-
ment omitted.

The question was then put whether the words "or may hereafter be," be omitted from the Proviso proposed by Mr. Jugonnath Sunkersett.

The Council divided:

Ayes—6

SIR W. R. MANSFIELD.
MR. FRERE.
MR. INVERARITY.
MR. TRISTRAM.
MR. ROBERTSON.
MR. SCOTT.

Noes—2.

MR. RUSTOMJEE J. JEJEEBHOY.
MR. JUGONNATH SUNKERSETT.

Question whether the words "or may hereafter be," in the proposed amendment be omitted.
Carried.

The question was then put that the following amended Proviso be added to Section VIII. :—

"Provided that nothing in this Act shall be held to take away or diminish any privileges of any person not being a Barrister or an Attorney, who, at the date when this Act comes into operation, may have been admitted to practice as a Pleader in the said Court of small Causes."

Question that amended Proviso be added to Section VIII.

The Council divided:

Ayes—5.

SIR W. R. MANSFIELD.
MR. FRERE.
MR. INVERARITY.
MR. RUSTOMJEE J. JEJEEBHOY.
MR. JUGONNATH SUNKERSETT.

Noes—3.

MR. TRISTRAM.
MR. ROBERTSON.
MR. SCOTT.

Carried.

The question was then put whether the Section as amended stand Section VIII. of the Bill, and carried.

Sections 9, 10, 11, 12, and 13 were passed.

On Section 14 being put, Mr. TRISTRAM said—

"This Bill has received the patient consideration of the Select Committee during several protracted sittings; and, although I formed one of the Committee appointed to report upon the Bill, I do not wish altogether to give a tacit consent to, or silent vote on a matter so important to the commercial interests of Bombay.

Amendment proposed by Mr. Tristram on Section XIV.

"Several important alterations have been made to the original draft of the Bill, and the Committee has had the benefit of several suggestions and remarks communicated by the Law Society of Bombay, and by Mr. Hore, the First Judge of the Court, which have been of value, as coming from quarters well able to state what are the requirements of the Court, and where deficiencies in its working have been experienced; but as the report of the Select Committee is before the Council, there is no occasion for me to notice particularly the different Sections in the Bill.

"I wish, however, to take this opportunity to state my views with regard to the 14th Section of the Bill, which provides for the appointment of Judges

of the Small Cause Court, and more particularly, as on the first reading of the Bill, His Excellency the Commander in Chief protested against the restriction to professional men, that this will be invidious as regards the members of the Covenanted Civil Service. I feel now I am trenching on rather delicate ground, when approaching the question of the appointment of Covenanted Civil Servants to Judgeships in this Court ; but, Sir, in any observations I may consider it to be my duty to make, I hope I shall be absolved from any imputation of depreciating a Service among whose members I number relatives and friends, and whose brilliant services to the State in various departments of administration are universally admitted. His Excellency referred to administration of justice in the Mofussil, as constituting a certain claim to the appointments in the Small Cause Court ; but without entering into the question, whether the administration of justice in this country has been so efficient and popular as His Excellency supposes, I submit such reasoning is hardly relevant to the point under discussion.

“ It may be true that Covenanted Civil Servants are quite fitted for judicial appointments in the Mofussil, where points of technical English law are never in dispute—though, I believe, Government, both in England and India, has decided, that more legal knowledge is required than they have hitherto possessed ; but the circumstances of a great commercial-city like Bombay are entirely different from those of the Mofussil in this respect, and Judgeships should not be filled by what I may call amateurs or non-professional persons. Under the increased jurisdiction of the Small Cause Court, the new business which will be introduced into that Court, will be chiefly commercial actions by, and against, masters of vessels on charter parties, on bills of lading, on suits between merchants, on contracts for the delivery or acceptance of goods, suits against underwriters on marine policies, or on foreign bills of exchange, besides cases of bottomry, jettison, barratry, and the like.

• “ Now, with every respect for the Civil Service, which I really and honestly feel, it is well known that, save in the very rare case of its members going home to be called to the bar, as one gentleman of the Bombay Civil Service has done, none of them have ever devoted any serious attention to questions of English law ; not that the mere fact of a gentleman eating a certain number of dinners, keeping Terms, as it is called, at the Temple, or Lincoln’s Inn, and being called to the Bar, will in itself make him a Lawyer, though he may be a Barrister—still, without the special kind of knowledge, which makes a Lawyer, a gentleman selected from the Covenanted Branch of the Civil Service, and placed on the Bench of the Small Cause Court, would find himself in a very painful position when called upon to decide any such disputes.

“ It is quite out of the question to suppose that the merchants of Bombay would be satisfied with the opinion of an unprofessional Judge on such subjects, even were he a judicial officer of many years’ standing in the Civil Service ; whereas the fact certainly would be that a Small Cause Court Judgeship, from the smallness of the salary, and other reasons, would only be accepted by a comparatively junior and inexperienced Civil Servant.

“ If a Professional Lawyer is not employed, it would be infinitely better to put a merchant (if one of experience and ability could be induced to occupy such a post) on the Bench of the Court, solely to hear such cases, in preference to a judicial officer from the Mofussil ; but I do not suppose any merchant of position and character would find it worth his while to accept such an appointment.

“ For several years past, in mercantile cases of importance it has been the practice for litigant parties coming into the Small Cause Court to endeavour to bring their case before Mr. Hore in preference to his colleagues, because he is a trained Lawyer, and they are therefore satisfied that, whatever his decision is, it may be relied on as *sound in law*. Now if this has been the case in the days of the low jurisdiction of Rs. 500, how much more will it be the case when the stake is increased ? I verily believe if a Covenanted Civil Servant appointed to the Bench of the Small Cause Court has any case involving mercantile law of any nicety brought before him, there will be an appeal from his decision ; and this being the case, what benefit will it be to the suitors to have their case tried in the first instance before a tribunal by whose decree neither party will abide if it be hostile to him ?

“ If the state of business now in the Court affords any criterion as to what it may be expected to be under the increased jurisdiction, the addition of professional Lawyers to the Bench will, to use the words of the First Judge, Mr. Hore, in his Report on this Bill, ‘ *be absolutely necessary*,’ for the mercantile litigants will be satisfied with no other, and an appeal from the decision of an unprofessional Judge will become a matter of course.

“ Under such circumstances, a Covenanted Civilian on the Bench will be a mere judicial stop-gap, and a cause of unnecessary expense to the suitors. Only a Barrister or Attorney ought, I consider, to be eligible for the *two senior Judgeships*—I say an Attorney, because a good Attorney of experience, sense, and integrity, will be far preferable to a third-rate briefless member of the Bar. The greatest amount of legal knowledge, coupled with general ability, should be sought for ; and this, I humbly submit, except in extraordinary cases, cannot be looked for in the members of the Covenanted Civil Service. Wherefore I see nothing invidious in drawing a distinction between them and members of the legal profession. It is true Government are about to institute legal training as a preparation for the judicial branch. This will tend in some degree to supply what has long been an admitted deficiency, though I doubt if the single year, to which I believe such branch of training is to be restricted, will afford the required proficiency ; but at any rate, it will be some years before a young man who has joined the service will have acquired the standing and experience necessary to gain the confidence of suitors in those mercantile cases to which I have referred, and which may be looked for henceforth, in greatly increased numbers, in the Bombay Court of Small Causes. I will go further and say that I think the judicial officers themselves would not care to be transferred from the Mofussil Bench, where, in the words of His Excellency the Commander in Chief, they administer “substantial

justice," to the Bombay Small Cause Court, filled with jealous Lawyers and discontented litigants.

"I must apologise for the length of these remarks into which I have been led in considering this portion of a very important Bill, and I thank the Council for the patience with which they have given me their attention. I would beg to move the suspension of the Standing Orders on this occasion, to enable the Council to confirm at once the amendment I wish made in Section 14, whereby the appointment of two professional Judges, who shall be the Senior Judges of the Small Cause Court, is vested in the Governor in Council."

Mr. TRISTRAM then proposed the following amendment:—

That the words "who, together with the second of the" be submitted for "two of which" in the 5th line of Section XIV.

The PRESIDENT said, under the provisions of Rule 27, he declared that this amendment might be now considered.

Sir W. MANSFIELD said that amongst the various suggestions which had been received from Calcutta was one which had particular reference to this Section. The Honorable Gentleman's proposal still further augmented the objections stated by the Supreme Government to the principle involved. He thought it far better that Government should not be hampered in their appointments, and that the Section should be allowed to stand as it was. If the responsibility of making fitting appointments is trammelled by official requisites, the door is thrown open to the worst jobbery, for which there is absolutely no redress. He entirely disagreed with the Honorable Member's arguments, which he believed to rest on fallacious expectations. It was very doubtful whether the Bar of Bombay could possibly supply a sufficient number of Barrister Judges to meet the views of the Honorable Gentleman.

The question whether the words "two of which," be omitted in order to insert "who, together with the second of the" was then put.

The Council divided:—

Carried.

Ayes—6.

Mr. INVERARITY.
Mr. TRISTRAM.
Mr. RUSTOMJEE J. JEJEEBHOY.
Mr. JUGONNATH SUNKERSETT.
Mr. ROBERTSON.
Mr. SCOTT.

Noes—2.

Sir W. MANSFIELD.
Mr. FRERE.

The question was then put whether the Section as amended stand Section 14 of the Bill.

Carried.

• Section 15 and the remaining Sections were then passed.

Mr. SCOTT said that as the Bill has been a long time before the Public, and the Committee had very carefully considered it, he thought he was

justified in asking for the suspension of that Rule, in order to allow the Bill as amended being read a second time.

The PRESIDENT declared Rule 29 suspended.

The Bill as amended was then read a second time and passed.

Mr. FRERE then said—

“ There are four Bills connected with the Police of this Presidency which I wish to bring before the Council :—

“ One for the regulation of the District Police.

“ Another for the regulation of the Village Police.

“ A third to enable Magistrates to depute Subordinate Magistrates of the 2nd Class to try offences; and the fourth, which has only just been printed, to entrust Landholders with the charge of the Police in their respective lands.

“ Act V. of 1861 was introduced to the Legislative Council of India by His Excellency the Governor on the 29th September 1860, as a Bill for the regulation of Police within any parts of the British Territories of India to which it may please the Governor General in Council to extend its provisions, and was passed on the 22nd March 1861 as an Act for the regulation of Police. The penultimate Section of the Act providing that it should not take effect in any Presidency, unless extended to it by the Governor General in Council by an order to be published in the *Government Gazette*.

“ The second Section of the Act provides that the entire Police Establishment under a local Government shall, for the purposes of the Act, be deemed to be one Police Force, and shall be formally enrolled. An exception is made, however, in Section XXI. in the case of Hereditary or other Village Police Officers, who are not to be enrolled without their consent, but who, when enrolled, are to be considered always on duty, and may be employed in any part of a Police District. When, therefore, it was proposed to Sir George Clerk's Government that Act V. of 1861 should be extended to this Presidency, in which there were in almost every village Hereditary Officers of Police or Revenue who were bound to serve as Policemen if required, and received pay or enjoyed lands or hucks in consideration of their being liable to be called upon for that duty, Government saw that it would be impossible to introduce Act V. without either confiscating the Wuttuns held by the Village Hereditary Police or Revenue Officers, or incurring a further expense, which would equal, if not exceed, the amount of Revenue now alienated for purposes of Police. Government therefore reported that it was not necessary to introduce Act V. of last year into this Presidency, and now that the power of making laws has been conferred on the Local Government, we are called upon to make those reforms in our Police which we should have recommended to the Legislative Council of India to make for us, had the jurisdiction of that body still existed in matters of local Legislation over this Presidency.

“ The object of the third Section of the Bill now proposed is to repeal and re-enact, with amendments, Chapter VI. of Regulation XII. A.D. 1827, under

Bill as amended
read a second time
and passed.

1. Bill for the
regulation of the
District Police.

2. Bill for the
regulation of the
Village Police.

3. Bill to enable
Magistrates to de-
pute to subordin-
ate Magistrates
power to try cer-
tain offences pun-
ishable under the
Indian Penal Code.

4. Bill to entrust
Landholders with
the charge of the
Police within their
respective Lands.
First reading.

which the Village Police is now governed, and to conjoin the Village Police with the General or District Police of the country in such a manner that, while the Hereditary Village Police is reformed, and made more efficient, it will be assisted or may be even, if necessary, superseded by the District Police.

“The Bill for regulating the District Police commences by rescinding those parts of Regulation XII. A.D. 1827 and other Police Regulations which have been left unrepealed by Act XVII. of 1862, and those Clauses which it is thought desirable to retain are re-enacted, so that instead of having to search in several Regulations and Acts, we shall find the Police Regulations included in two Acts.

“I shall not have much trouble in explaining on what the different Sections of the first of these two Bills is founded, as I perceive the Bill has been printed with some of my marginal notes on it.

“The principal point in which it differs from Act V. of 1861 is in the names of the Police authorities, and in giving to the Commissioner of Police and Magistrate of the District the fullest control over the force.

“The parts of Act V. of 1861 which are omitted are Sections VIII. and X., which provide that every Policeman shall receive a certificate of office, and not engage in any other duty, unless expressly permitted to do so. The former appears hardly necessary, and the latter is secured by the Proviso in Section XVI. that he shall not withdraw from his duties or absent himself without express leave.

“Section XIII., which provides for the supply of additional Police Force on the requisition of individuals, does not appear applicable to this part of the country. The Bill provides for military aid if the Police be unequal to quelling a Riot; for additional Police on any Railway Canal or public work where large bodies of people are collected together, and in Districts which are disturbed; and as the villagers are answerable for the peace of the country within their own limits, there appears no occasion for making a special provision that individuals may have a Police Force to defend themselves if they choose to pay for it.

“Instead of the provisions for special Police Officers in Section XVII., which requires application to be made to a Magistrate by a Police Officer not below the rank of Inspector, it is proposed in Section XXIII. to empower the Head of the Village Police even to call upon any person to assist in the preservation of the Peace,—provision very necessary in the large Zillahs of which this Presidency is formed.

“Section XXIV., which appears unnecessary, as every man has a right to inform and prosecute if he chooses.

“Sections XXXVIII., XXXIX., and XL., because, for reasons which I shall show hereafter, they are not required, and Sections XLIV. and XLV., because the power to call for returns or require Diaries to be kept appears to be included in the authority given to the Commissioners and Government of Bombay in Section II.

"I will now proceed to point out in detail the provisions of the District Police Bill.

"Sections IV., V., XV., XVI., XVII., XX., XXI., XXII., XXIV., XXVII., XXVIII., XXXI. to XXXV. inclusive, and XXXVIII. to the end are taken from Act V. of 1861.

"Section II. is taken from Act XXVIII. of 1850, and from Sections XII., XLIV., and XLV. of Act V. of 1861.

"Section III. from Section I. Regulation XII. A.D. 1827.

"Section VI. is new; it gives the District Magistrate power over all other Magistrates in the District.

"Section VII. is taken from Clause 4 Section X. Regulation XII. A.D. 1827.

"Section VIII. is a re-enactment of Section XXVIII., Regulation XII. A.D. 1827, a most useful and very necessary enactment as a matter of Police in this Presidency.

"Section IX. is much of the same nature, but is taken from Clause 2 Section XXVII., Regulation XII. A.D. 1827, which is still in force.

"Section X. from Section XXXVII. of the same Regulation; a most excellent provision of Police if properly carried out, and still in force in most parts of the country.

"Section XI. from Section XIX. of Regulation XII. A.D. 1827.

And Section XII. is a repetition of the provisions of Section 308 of the Criminal Code of Procedure.

"Sections XIII. and XXXIX. are re-enactments of Act II. of 1839.

Note.—Section X., Act XXVI. of 1850 provides "the powers of Act II. of 1839 for the recovery of fines shall be applied for the recovery of all arrears of taxes, &c."

which was rescinded by Act XVII. of the present year, but its re-enactment is rendered necessary, as it is referred to in Section X. Act XXVI. of 1850. which has not been repealed, but which it is proposed now to repeal and re-enact in these Sections,

"Section XIV. is taken from Section XX. Regulation XII. A.D. 1827.

"Section XIX., from Clause 4 Section XXXI. Regulation XII. of 1827.

"Clause 2, Section XXIV., from Section XXX. Regulation XII. A.D. 1827.

"Section XXVI., from Clause VIII. Section XIX. Regulation XII. A.D. 1827.

"In Section XXXV. taken from Section 34 Act V. of 1861, I shall in Committee propose that "suburb and other places" be added; the Police Commissioner N. D., suggested the addition, as he also did that a second Clause should be added to Section XXXVI. for the removal of prickly pear and other vegetable nuisances from common grounds, and which I also intend to add in Committee.

"Section XXXVII. is a re-enactment of Clause 2 Section XVIII. Regulation XII. A.D. 1827—a most necessary Police arrangement in this part of the country.

“The conduct of domestic servants is a subject, I think, of Police, not matter to be legislated for by any but the Local Legislation. All reference to classes is omitted in the Penal Code, and rules for domestic servants and local nuisances are very properly left to the Local Legislature. In our Camps and Cantonments the Cantonment Magistrate has power (Clause 3, Section XXVI. Regulation XXII. A.D. 1827), confirmed by Section 442 of the Criminal Procedure Code, to punish to the same extent as it is now proposed the Magistrate should have; and he can further flog,—a power which it is not proposed to give to the Magistrate.

“Section XXIX. provides for the punishment of Police officers for bribery on conviction before a Magistrate or Subordinate Magistrate of the first class,—an enactment which, as well as that for the removal of nuisances, it has been thought necessary to enable others than the Magistrates of the District to punish for these common and often trivial offences, as it may so happen that the misconduct of Police officers will not always bring them within the provisions of Sections 165 and 166 of the Penal Code, the only Sections which give Subordinate Magistrates power to punish. I may here remark that while, on the other side of India, districts I understand seldom exceed 1,500 square miles, on this side there is but one small one, Kaira, and that contains 1,375 square miles; others exceeding 2,000, 3, 4, 5, 6, 8 and 10,000 square miles, while one, Khandeish, exceeds 16,000 square miles in area. It is therefore very certain that a Police which would suit a district of 1,500 square miles would hardly be compatible with the wants of our districts. Arguments founded upon our wants arising from the size of our Zillahs have been met by the answer, “then reduce the size of them;” a course I have no doubt the Government of Bombay would be most happy to adopt, but unfortunately it could only be done by at least doubling our Civil expenses, and, unless the Government are prepared to say that the outlay is absolutely necessary, that it is impossible to get on without it, they would neither, I imagine, obtain the money nor consider themselves justified in making the application for it. Here, then, is an alternative. With these acts and our enormous Zillahs, we can manage the Police of this Presidency with little or no extra expense. If we are obliged to adopt Act V. of 1861 in its integrity, we shall be obliged to divide our 12 Zillahs, into some 60 districts, of an area of about 1,500 square miles each, and at least treble our expenditure.

“Government by making Broach and Surat into one Zillah, which reduced them from two districts, one of 1,400 and the other of 1,500 square miles, into one of 2,900, effected a saving of Rs. 39,000 per annum. To make our districts which have an area in the aggregate of upwards of 90,000 square miles (omitting Sind) into districts of 1,500 square miles each, we should require 60 districts; we have now 12 only. The expense of the 60 districts would certainly not be five times that of 12, but it could not be less than twice the present expense; or, if we take 20,000 out of the 39,000 saved in Broach and Surat as what will be required in each district if the whole

country is sub-divided, we should require more than $9\frac{1}{2}$ lacs of Rupees per annum in addition to our present expenditure.

“It may be well to point out, if we are obliged to adopt Act V. of 1861, that though the Act specifies the Inspector General of Police, Deputy Inspector General, Assistant Inspector General, District Superintendent, Assistant District Superintendent, and Police Officers, it contemplates other ranks; for as noticed before in Section XVII. “Inspectors, &c.,” are mentioned, and in Section XXV. they refer to Constables, though who and what these Constables and Inspectors are the Act does not say, except that they are Police Officers.

“I shall occupy less time in my remarks on the Village Police. The greater part of the proposed Act is a re-arrangement and re-enactment of Chapter VI. Regulation XII. A.D. 1827, which has as yet been left unrepealed; and as Section 442 of the Criminal Procedure Act provides that nothing in that Act shall be held to alter or affect the jurisdiction, duties, and procedure of the Village Police Officers in the Presidency of Bombay, it becomes necessary to adapt the provisions of Chapter VI. Regulation XII. to the requirements of the Penal and new Procedure Codes.

“Sections III. and V. are new; the object of them and the necessity for them is obvious.

“Section IX. is merely the enactment here of the power of punishment of the Police which the Collector and Magistrate had over their establishment generally under the old Regulations.

“Clause 3, Section XII. is new, but very desirable, and so are the provisions of Section XVII. if any hopes are entertained of improving the sanitary state of our villages. Under the Code of Criminal Procedure nuisances are only triable before the District Magistrate or Subordinate of 1st Class, and it does not, I think, require any arguments, when I have shown you the size of our Districts, to prove that nuisances will either never be punished, or that the punishment, Rupees 200 fine, after the offender has travelled to the nearest Subordinate Magistrate of the 1st Class and been left there to find his way home again, something far heavier than the Penal Code could ever have contemplated; but I shall refer to this again.

“The next Bill, No. 6 on the list, to which I have to ask your attention, is the one of which notice was given before, but the Council were good enough, at my request on Wednesday last, to allow me to postpone it.

“Chapter XIII. of the Penal Code is “of offences relating to weights and measures,” but a Subordinate Magistrate of the 1st Class or the Magistrate of the District himself are alone competent to inflict punishment under these sections, so Chapter XIV. treats of nuisances and the public health, safety, and convenience, but there also the Court of Session in one case, to be sure a serious one, and the Magistrate of the District in four cases, can alone punish, a Subordinate Magistrate of the 1st Class being competent to punish in the other 25; but I think I have already shown you that from our large Zillahs it will be

necessary to make all Subordinate Magistrates subordinates of the 1st Class, or else to extend the power of the subordinates of the 2nd Class to try certain offences.

“The objection to making all Subordinate Magistrates subordinates of the 1st Class is that you invest them with more power than it is advisable to give them. You then enable them to try all offences which Magistrates of that class can try. We propose only to give them power to try certain offences, and those of the most trivial kind. For, if we are obliged to take the Act in its integrity, and every offence which by it is cognizable by a Subordinate Magistrate of the 1st Class must be tried by him, we must send a man who has been riding furiously along the road at Gogo to Veerungaum or Prantej, where the Magistrate or Subordinate of the 1st Class may be, or we must else let him off unpunished. I think you will agree that it is better to make offences of this nature cognizable by any Subordinate Magistrate, though the punishment may not exceed a month's imprisonment, or Rupees 50 fine, than that the accused should have to travel from one end of our enormous Zillahs to another, and thus suffer enhanced punishment, or else, escape punishment altogether, because the prosecutor would rather let him off than partake of his tedious journey.

“The second Section was added on the recommendation of the Judges of the Sudder Adawlut. The whole of the offences enumerated therein, with the exception of Section 283, “causing danger or obstruction in any public way or line of navigation” are included in the District Police Act, and it will therefore be for the Select Committee to decide whether that Section need be retained, or whether it would not be advisable to add Section 283 to the provisions of Section XXXV. of the District Police Act.

“There is yet another Bill that I wish to lay before the Council. It is one for investing Landholders with the charge of the Police within their respective lands. As stated in the “Objects and Reasons,” Regulation XV. A.D. 1827 was recognised in Section 442 of the Criminal Procedure Code but somehow was repealed by Act XVII. of 1862. The Bill contains the purport of the whole of the 1st Chapter of Regulation XV. and 2 Sections only (XIV. and XV.) of the 2nd Chapter. I need offer no further remarks upon it now. It will be desirable that it should be referred to the same Select Committee as the other three. I ought to remark that in framing these Police Bills I have received the greatest assistance from the Police Commissioners, who have, since these Bills have been printed, offered further suggestions for improving them, which, as none of them amount to material alterations, I shall suggest for adoption in Committee.

“I now move that the following Bills :—

I. “A Bill to enable Magistrates to depute to Subordinate Magistrates power to try certain offences punishable under the Indian Penal Code, and to enable District Police Officers to try certain minor offences specified in Chapter XIV. of the Indian Penal Code.”

II. "A Bill for the Regulation of the District Police in the Presidency of Bombay."

III. "A Bill for the Regulation of the Village Police in the Presidency of Bombay."

IV. "A Bill to entrust Landholders with the charge of the Police within their respective lands,"

be read a first time, and referred to a Select Committee, consisting of

His Excellency Sir W. R. MANSFIELD,
The Honorable Mr. ROBERTSON,
The Honorable Mr. MADHOWROW VITTUL VINCHOORKUR, and
The MOVER,

with orders to report at the next meeting of Council."

The PRESIDENT said he proposed to adjourn the Council to-day for some time, and he thought it quite within the spirit of the Rules to suspend Rules 12 and 17 to enable the three last of these Bills to be read a first time and referred to Select Committees, and declared Rules 12 and 17 suspended.

The four Bills were then read a first time, and referred to a Select Committee, consisting of

His Excellency Sir W. R. MANSFIELD,
The Honorable Mr. ROBERTSON,
The Honorable Mr. MADHOWROW VITTUL VINCHOORKUR, and
The MOVER,

with instructions to report at the next sitting of Council, and the Report to be translated into Marathi, Goozerathi, and Canarese.

Mr. FRERE, in introducing the "Bill to amend Act XVIII. of 1862, as far as regards Prisons and Jails," said that the object of the Bill was to authorise the Judges of the High Court and Police Magistrates to send persons sentenced to rigorous imprisonment, and to be imprisoned either in the House of Correction or Common Jail at their discretion, and to preserve the right of the Government to transfer prisoners from one Jail to another. The Bill was recommended by the Judges of the late Supreme Court, as they found that they were restricted as to whether prisoners should be sent to the County Jail or to the House of Correction. The state of the Jails and sanitary considerations rendered it desirable that they should be allowed the option of sending convicts to either or both of them as they may think best, and he moved that the Bill be read a first time, and referred to a Select Committee, consisting of

The Honorable Mr. RUSTOMJEE JAMSETJEE JEJEEBHOY,
The Honorable the ADVOCATE GENERAL, and
The MOVER,

with instructions to report at next meeting of Council.

Carried.

The Bill was then read a first time.

Read a first time and referred to a Select Committee.

Bill to amend Act XVIII. of 1862 as far as regards Prisons and Jails.

Read a first time and referred to a Select Committee.

Bill for bringing under the Regulations and Acts the Province of Sattara, &c.

Mr. FRERE, in introducing a "Bill for bringing under the Regulations and Acts of the Presidency of Bombay the Province of Sattara, certain Villages and lapsed states in the Collectorate of Sholapoor, and in the Southern Maratha Country, certain lands ceded to the Government of Bombay for Railway purposes and the district of North Canara, with the exception of the Talooka Cundapoor, and for excluding the village of Mochundee, Purgunna Jutt, from the operation of the Regulations and Acts of the Presidency of Bombay," said :

"That the Bill was merely formal, and though it was a troublesome one to prepare, it will give the Council little trouble. The death of the Rajah of Sattara brought that Territory under this Government, and the Bill therefore provides for the Collectorate of Sattara being now brought under the Regulations and Acts of Government instead of continuing as it hitherto has done, an extra Regulation Province.

"Schedule A, however, does not include the whole of the Territories of the late Rajah, for there are eleven villages entered in Schedule B which lapsed with the Sattara State, but were in 1853, for the convenience of management, transferred to the Collector of Belgaum, and are accordingly included in the list of the Southern Maratha Country.

"Lonee, Boodroog, and Luchan, too, were ceded by the Rajah of Sattara in 1842, but have never been brought under the Regulations. They are not included in Schedule A. any more than Ashte and 3 others, life grants to Rughoonathrow Saheb Muntree, which formed part of the Sattara Territory, but are situated in the Southern Maratha Country, and are consequently placed in Schedule B.

"The death of Gopalrow Sabele Merelehkur in 1842, of Wamonrow Saheb Soneekur in 1845-46, of Purushram Punt Bhow Tasgaomkur in 1848, of the Chief of Kagwar, Rao Saheb Putwurdhun in 1857, brought a number of villages under this Government, which, together with the confiscated Jagheer or the Nurgoondkur, it was necessary to bring under the Regulations and Acts. Advantage would also be taken to include Bhimleh and Tambveh, received from Scindia in 1829, and which ought to have been brought some years ago under the Regulations, and also to bring Tudwaleh, Unkulgee, Areshunker, Wudwudgee, and Arwundee, which had lapsed from the Neepaneekur in 1839, but were by oversight omitted from Act VI. of 1842, under the present laws.

"Pandegaom, which lapsed to Government by the death of Chintamonrow Kriswadeekur, one of the Putwurdhuns of Koorundwar, will also be included. The whole Purgunnas of Nowlgoond and Badamee and Turf Sholapoor and Turf Nedee were brought under the Regulations by Act VII. of 1830. Two villages in each of the former and one in each of the latter are entered in Schedule B ; it might be unnecessary to include them, but it will be a subject for the consideration of the Committee whether they should be retained or not. It will be observed that the arrangement of names is different in Schedules A and B. The former is the one that I prefer, but I was obliged to adopt the latter, because in the Neeldroog Purgunna, in Sholapoor, for instance,

the greater number of the villages are in foreign Territory, the difficulty of enumerating the excepted village would be extreme. Again, parts of some of these divisions were brought under the former Regulations, and sometimes they are repealed in the Schedule. I wished to have had them so arranged as to have referred to them once only, but for much the same reason, part of the Purgunna or Turf being in one Zillah, part in other, and, perhaps, a part in foreign Territory, I found the re-arrangement would be most difficult, if not impossible.

“The Council will perceive that in the Bill the Sattara State is called a Province. It will, I think, be preferable when referring to its former state to designate it generally as the Territory, and when referring to it since it came into British possession, to call it, as it really is, the Collectorate of Sattara.

“In other parts of Khandeish, the Deccan, and Southern Maratha Country, in fact in all our more recent acquisitions, certain suits against Government and on other subjects are exempted from the jurisdiction of the Civil Courts, and there are also certain privileged persons who are exempted from the ordinary jurisdiction of the Civil Courts. I am not an advocate for the extension of these privileges, but it will lead to very great confusion if these excepted suits and privileged persons are made subject to the ordinary jurisdiction in these villages or districts while they enjoy exemption in the adjoining one. I shall therefore propose in Committee to insert the usual Clauses providing for their exemption.

“The Council may have some idea of the difficulties I have had to contend with in preparing the Schedules annexed to this Bill, from the numerous corrections the Deputy Secretary has sent to them since the Bill was first printed.

“For these corrections and much assistance in every way I am indebted to the Collectors of the several Zillahs in or near where these villages are placed; and I hope we shall have the names further corrected if the Collectors see mistakes in them—for what with difference of spelling and misprints, the small schedule attached to our first Act of this year is not correct; the Sub-Collector of Broach, Mr. Moriarty, having brought it to my notice that the village of Sansrode is there called Tasrode—a mistake of which if the correction is necessary, it can only be done by a new Act.”

Mr. FRERE concluded by moving that the Bill be read a first time, and referred to a Select Committee consisting of

The Honorable Mr. TRISTRAM,
The Honorable Mr. ROBERTSON,
The Honorable Mr. MADHOWROW VITTUL VINCHOORKUR, and
The MOVER,

with instructions to report at the first Meeting of Council. The Report to be translated into Marathi and Canarese.

Carried.

The Bill was then read a first time.

Bill for the Summary Settlement of Claims to exemption from the payment of Government Land Revenue, &c. in those parts of the Bombay Presidency which are not subject to the operation of Act XI. of 1852 of the Council of India.
First Reading.

On the next order of the day being read, "A Bill for the Summary Settlement of Claims to exemption from the payment of Government Land Revenue, and for regulating the terms upon which such exemption shall be recognised in future in those parts of the Bombay Presidency which are not subject to the operation of Act XI. of 1852 of the Council of India," the PRESIDENT said that as the Bill had not been published in the *Government Gazette*, it would be necessary to suspend Rules 12 and 17, in order to allow the Bill to be read a first time; and as it was very desirable that the Bill should be passed this year, he declared Rules 12 and 17 suspended.

Mr. ROBERTSON in introducing the Bill said:—

"In introducing the Summary Settlement Bill which I did a fortnight ago, I explained that the Bill for the Summary Settlement of Inamdars' holdings, which went up to the Government of India eighteen months ago, was intended to apply to the whole of the districts of this Presidency, which were under two separate laws for the trial and adjudication of the right to exemption from the payment of land revenue. I also explained that in one portion, *i. e.* in the districts of the Deccan and Southern Maratha Country, the law for the adjudication of claims was considered such as to render it unnecessary before proceeding to carry out the proposed settlement to await the passing of the Bill before the Government of India, and that in consequence of the Settlement having been introduced into those districts, it has now become necessary to submit two Bills to this Council, the object of the one being to legalize what had already been done, and the object of the other being to extend a similar settlement to the districts of Guzerat and the Concans. The Bill which I have now the honour to introduce is this last-mentioned Bill; it differs in some essential points from the Bill already before the Council. The principle of these differences is that the amount of compromise which it has been decided to demand from the holders of lands exempt from the payment of land revenue in the districts to which this Bill applies, has been fixed at two annas only in each Rupee of assessment; the reasons which have induced the Government to make this difference, I cannot better explain than by quoting from the letter of the Revenue Commissioner, N. D., with which he submitted the draft of the Bill to Government:—

"In the Deccan and Southern Maratha Country the interests of the State in regard to alienated lands were from the first acquisition of that part of the Presidency watched with some care, and for the last ten years inquiries under Act XI. of 1852 have been rigorously prosecuted therein, while on the other hand, in Guzerat, the same vigilance has not been displayed by the local authorities. The tenures there are also more complicated, and the law has been a Regulation of 1827 which at the time it was framed was well adapted to provide for proper inquiry, but which on being referred to now when many of its provisions have for years been in abeyance, only causes much doubt and difficulty in rendering a final and satisfactory decision on any question almost impossible. It is obvious therefore that a district

where the action of Government in regard to alienated lands has been rigorous, and where the provisions of the law are not only astringent but clear, a summary settlement was likely to be acceptable on terms very different from those which would find favour in a district where for many years the rights of Government had been but feebly pressed."

"Another point on which there is a difference between the Deccan and the present Bill is that there is no separate provision made in this one for the payment of Nuzzerana in consideration of which a transferable right is conferred upon the Deccan holders; and it is intended by this Bill to extend to the Guzerat holders by the single payment of two annas on each Rupee of assessment all the advantages conferred by the double payment of a Chowtae and Nuzzerana on the Deccan holders. In the Deccan, adjudicated claims can come under the settlement by the payment of the one anna Nuzzerana, but here those claims are allowed this option on the payment of the full amount only.

"The provisions of Regulation XVII. of 1827,* which is the law applicable to the trial and adjudication of claims to exemption in the districts to which the present Bill refers, have many of them as above stated been for years in abeyance; it has therefore been considered desirable in preparing this Bill to repeal Chapters 9 and 10 of that Regulation and Regulation VI. of 1833, and to re-enact their provisions, substituting a procedure based on those enactments, but adapted to the circumstances under which inquiry will, in the event of its being demanded, take place.

"In section 42 of Regulation XVII. of 1827 reference is made to a notice which was issued in the Zillahs of Surat, Broach, Kaira, Ahmedabad, and the Concans in accordance with Regulation III. of 1814, wherein the holders of land exempt from the payment of public revenue under Sunnuds were required to register their Sunnuds within one year of the publication of the said notice, and it is at the same time declared in the above-quoted Section of Regulation XVII. of 1827, that no Sunnud which had not been so registered shall be held to preclude an assessment being imposed on the land. In the 16th Section of the present Bill this has however been modified so as to extend the period of Registration, rendering Sunnuds admissible as evidence of title up to one year after the date on which the Code of 1827 came into force.

"Again, by Section 19 of the new Bill, the decision of the Collector or other trying authority, if in favour of the continuance of exemption, is to be final, whereas under Section 45 of Regulation XVII. of 1827 such decision required the confirmation of Government. If the decision be against the claimant, however, appeal is allowed or under the previous law to the Zillah Courts, provided the annual value of the exemption decided against be upwards of Rupees fifty. These modifications have been made in the new law as compared with the old one with the view of expediting the final disposal of cases into which inquiry into title may be claimed.

“Under the former Regulations service lands were declared to be resumable at the pleasure of Government under general rules to be framed from time to time; but the manner in which this provision was introduced into Regulation VI. of 1833 is so expressed as to have raised doubts as to the force and meaning of the words. As it is however reasonable that Government should have control over its servants, provision to give them control over service lands has been made in the present Bill.

“In Section 17, and again in Section 18, Clause 2, the provisions of the Stamp Law are declared to be applicable to all proceedings of inquiry into title held under this Act, but as the office of the trying authority has been declared to be for the purposes of inquiry a Court of Civil Judicature, I think it was unnecessary to introduce this provision into the Bill, and shall hereafter propose the omission of it.

Read a first time
and referred to a
Select Committee.

“With these observations, I beg to propose the First Reading of the Bill, and that it be referred to a Select Committee consisting of

The Honorable Mr. INVERARITY.

The Honorable Mr. TRISTRAM.

The Honorable Mr. JUGONNATH SUNKERSETT.

The Honorable Mr. MADHOWROW VITTUL VINCHOORKUR,

And the MOYER.

“The Report to be translated into Marathi and Guzerathi.”

The Bill was then read a first time, and referred to a Select Committee as above named.

Cotton Frauds
Bill, Mr. Scott's in-
tentions regarding.

Mr. SCOTT said he had promised at the last meeting to state what course he would pursue with reference to the suggestion of His Excellency the Commander-in-Chief to appoint a Select Committee to take evidence on the subject of Cotton Frauds. He now intimated that he did not think the course suggested practicable, and that probably the Council would agree with him that the object would be better gained by requesting the Executive Government to appoint a Commission for the purpose, composed partly of their own experienced officers, and partly of experienced merchants. The Chamber of Commerce, he might add, was about to address Government on the subject.

Remarks of His
Excellency the
Commander-in-
Chief on the
amendment that
day proposed by
Mr. Tristram.

His Excellency the COMMANDER-IN-CHIEF stated that before the Council rose, he wished to make a few remarks with reference to the amendment proposed by Mr. TRISTRAM. He had been completely taken by surprise by the amendment which had been carried by the Honorable Member, the same having been brought forward without any previous notice whatever. The Clause on which the amendment was so unexpectedly moved had received very careful consideration in Committee and much compromise had taken place, the result being an unanimous signature including that of the Honorable Gentleman. The only protest made to the general report came on another point from the Honorable Mr. Jugonnath Sunkersett, who had very fairly stated the course he intended to pursue. His Excellency felt there was a moral pressure placed on him in this case. From public motives he did not

wish to delay the passage of the Bill as he might have done, but he submitted that the proceeding he had described was irregular and rendered the transaction of business difficult and uncertain. It was quite without precedent in other Legislative assemblies. He believed that with more time for consideration the Council might have arrived at a different conclusion, notwithstanding the ability with which the Honorable Member had supported his amendment.

Mr. TRISTRAM explained he should be sorry if after what had fallen from His Excellency the Council should consider there had been a traitor in the camp of the Select Committee. Possibly it had escaped the recollection of His Excellency that at the conclusion of one of the protracted sittings of the Committee, he (Mr. TRISTRAM) had suggested this very amendment in the Clause; but another important alteration having just then been brought under discussion, the alteration unfortunately escaped his (Mr. TRISTRAM'S) attention, until the amended Bill had been printed and circulated. His objection to the Clause as it stood recurred to him, but it was then too late to give the required three days' notice of amendment; but he so strongly felt the necessity there was to prevent the possibility of doubt as to the meaning of the Clause, that at the risk of irregularity in the proceeding he had taken the only opportunity which would present itself to urge consideration of the point in full Council. Mr. Tristram regretted having taken His Excellency by surprise, but trusted the explanation now given would be considered satisfactory.

The PRESIDENT explained that according to the rules by which the business of the Council was conducted, any member had a right at any stage of the proceedings, before a Bill was passed, to make any suggestions that he might think necessary for amending the Bill.

The PRESIDENT in adjourning the Council, said:—

He was glad to find that the state of business before the Council was such that he was able to release them from further attendance by adjourning the Session.

The President's address in adjourning the Session.

The number of Bills passed during the Session was not more than six, but some of them were valuable and important measures: especially the Bill for enlarging the jurisdiction of the Court of Small Causes which had been passed at that Meeting.

Other most important Bills had been advanced as far as time would allow, and were now awaiting the period fixed for the next stage of proceeding before they could be finally disposed of.

To some of them the Committees had devoted a great deal of time, trouble, and attention, sitting daily, sometimes for many hours a day. The best thanks of Government were due on this account to their colleagues, some of whom had attended to the business before the Council at a great sacrifice of their own valuable time and leisure. One Bill only had been withdrawn, *i. e.*, that relating to the abolition of the office of Law Officer of the Zillah Courts in the Mofussil, as it seemed likely that the object might be attained without recourse to legislation.

At the opening of the present Session he (the PRESIDENT) expressed a hope that during its course he might be able to bring in a Bill to give legal

effect to the Resolution of the Government of India, dated the 17th October last, on the subject of the Sale of Waste Lands and the Redemption of Land Tax.

He was not at that time aware of the course which Her Majesty's Government proposed to follow with regard to that Resolution, and he spoke with reference mainly to the duty imposed on the local Governments by the last paragraph of the Resolution, in preparing the Drafts of such laws as might be needed to give legal effect to the provisions of the Resolution so as to secure for all grantees under the Resolution a Legislative title to their property.

He (the PRESIDENT) had carefully read everything which had been published in the shape of criticism of the Resolution, and must confess that nothing he had read or heard had in any way altered the opinion he then expressed of the provisions of the Resolution, or induced him to doubt the justice and sound policy of its provisions.

It is true that many for whose opinions on such subjects he (the PRESIDENT) had the highest respect did not agree with him ; but he felt so confident in the soundness of the principles on which the Resolution is founded, that he would be well content to trust to time and discussion; assured that any of us who may be living 10 years hence will find a very general agreement as to the wisdom and justice, if not the necessity, of the main provisions of the Resolution.

But whatever may be our individual opinions, we have in the mean time received very detailed and definite instructions from Her Majesty's Government as to the course to be pursued in dealing with Waste Lands and the Land Tax. The measures directed in the Secretary of State's despatch of the 9th of July last, which has been published in the *Calcutta Government Gazette*, do not go so far as the Resolution of the 17th of last October, but there can be no doubt they will prove of very great value to all interests connected with the land which is liable to Government assessment ; and if carried out in the same spirit in which they are conceived, will do much to remove present uncertainties of tenure and assessment, and to afford to labour and capital devoted to the improvement of land great security against over-taxation of such improvements.

It will be the earnest desire of the Bombay Government to secure these benefits to all interested in the land, but the necessary measures will differ materially from those he (the PRESIDENT) contemplated when previously alluding to this subject, and cannot possibly be introduced this Session.

It might, perhaps, be found necessary to have an extra Session before the usual period, say, in October, but he hoped not.

The Council was then adjourned to the 15th December 1862.

By order of His Excellency the Governor in Council,

L. H. BAYLEY,

Deputy Secretary to Government.

Bombay, 21st October 1862.

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