

12

PROCEEDINGS

OF THE

COUNCIL OF THE GOVERNOR OF BOMBAY

ASSEMBLED FOR THE PURPOSE OF

MAKING LAWS AND REGULATIONS.

1883.

VOLUME XXII.

---

Published by the Authority of His Excellency the Governor.

---

Bombay:  
PRINTED AT THE GOVERNMENT CENTRAL PRESS.

1883.

## CONTENTS.

### PROCEEDINGS OF THE 31ST JANUARY 1883.

	PAGE
Paper presented to the Council ... ..	1
Mr. Peile moves the first reading of the Karáchi Tramways Bill, No. 10 of 1882 ... ..	<i>ib.</i>
Bill read a first time... ..	2
Standing orders suspended ... ..	3
Bill read a second time and considered in detail ... ..	<i>ib.</i>
Bill read a third time and passed ... ..	<i>ib.</i>
Major-General Merriman moves the second reading of the Highway Bill .	<i>ib.</i>
Bill read a second time ... ..	7
Bill considered in detail ... ..	8
Bill read a third time and passed ... ..	9
Mr. Ravenscroft moves the second reading of the Bombay Port Trust Act Amendment Bill ... ..	<i>ib.</i>
Bill read a second time, considered in detail, and read a third time and passed ... ..	10
Extension of time for the Select Committee to report on the Pharmacy Bill ... ..	<i>ib.</i>
Mr. Ravenscroft moves that Rules 14, 15 and 25 of the Rules for the conduct of business of the Legislative Council of the Governor of Bombay be amended ... ..	<i>ib.</i>
Rules amended ... ..	13

### PROCEEDINGS OF THE 25TH AUGUST 1883.

Papers presented to the Council ... ..	14
Mr. Ravenscroft moves the first reading of the Bill to further amend the Bombay Port Trust Act, 1879 ... ..	15
Bill read a first time ... ..	<i>ib.</i>
Standing orders suspended and the Bill read a second time, considered in detail, and read a third time and passed ... ..	<i>ib.</i>
Mr. Ravenscroft moves the first reading of the Bill to amend the law concerning the confinement of Civil prisoners liable to imprisonment under the Criminal Procedure Code ... ..	<i>ib.</i>
Bill read a first time ... ..	16
Standing orders suspended and the Bill read a second time, considered in detail, and read a third time and passed ... ..	<i>ib.</i>
Mr. Ravenscroft moves the first reading of the Bill to enable Government to prescribe the official seals of Sessions Judges, Magistrates and other public authorities ... ..	<i>ib.</i>
Bill read a first time ... ..	<i>ib.</i>

## CONTENTS.

	PAGE
Standing orders suspended and the Bill read a second time, considered in detail, and read a third time and passed ... ..	16
Mr. Peile moves the first reading of the Local Self-Government Bills, viz., the Bombay Local Boards Bill and the Bombay District Municipal Act Amendment Bill ... ..	<i>ib.</i>
The Bombay Local Boards Bill read a first time and referred to a Select Committee ... ..	52
The Bombay District Municipal Act Amendment Bill read a first time and referred to a Select Committee ... ..	<i>ib.</i>
Time for presenting the Report of the Select Committee on the Pharmacy Bill extended ... ..	53

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

Volume XXII.

ACTS—	PAGE
OF THE GOVERNMENT OF INDIA :—	
No. X of 1872.— <i>See Seals Bill.</i>	
No. III of 1880.— <i>See Bombay Highway Bill.</i>	
OF THE GOVERNMENT OF BENGAL :—	
No. 1 of 1880.— <i>See Karachi Tramways Bill.</i>	
OF THE GOVERNMENT OF BOMBAY :—	
No. VIII. of 1865.— <i>See Local Boards Bill.</i>	
No. III. of 1869.— <i>Do. do.</i>	
No. VI. of 1873.— <i>See Bombay Highway Bill.</i>	
No. I. of 1874.— <i>See Karachi Tramways Bill.</i>	
No. II. of 1874.— <i>See Jails Act Amendment Bill.</i>	
No. III. of 1875.— <i>See Bombay Highway Bill.</i>	
ADJOURNMENTS — <i>See Council.</i>	
BADRUDIN TYABJI, The Honourable Mr.—	
Appointed to Select Committees     ...     ...     ...     ...     ...	52
BILLS—	
Bill No. 7 of 1882.—A Bill to provide Funds for the purpose of maintaining Provincial Roads used for local purposes.— <i>See Bombay Highway Bill.</i>	
Bill No. 8 of 1882.—A Bill to regulate the sale of Poisons and Drugs.— <i>See Bombay Pharmacy Bill.</i>	
Bill No. 9 of 1882.—A Bill to further amend the Bombay Port Trust Act, 1879.— <i>See Port Trust Act Amendment Bill.</i>	
Bill No. 10 of 1882.—A Bill to authorise the making and to regulate the working of Street Tramways in Karachi.— <i>See Karachi Tramways Bill.</i>	
Bill No. 1 of 1883.—A Bill to further amend the Bombay Port Trust Act, 1879. — <i>See Port Trust Act Amendment Bill.</i>	

	PAGE
Bill No. 2 of 1883.—A Bill to amend the law concerning the confinement of civil prisoners liable to imprisonment under the Criminal Procedure Code.— <i>See Jails Act Amendment Bill.</i>	
Bill No. 3 of 1883.—A Bill to make better provision for the Administration of Local Funds in the Presidency of Bombay.— <i>See Local Boards Bill.</i>	
Bill No. 4 of 1883.—A Bill to amend the Bombay District Municipal Act.— <i>See Municipal Act Amendment Bill.</i>	
Bill No. 5 of 1883.—A Bill to enable Government to prescribe the official seals of Sessions Judges, Magistrates, and other public authorities.— <i>See Seals Bill.</i>	
BOMBAY DISTRICT MUNICIPAL ACT AMENDMENT BILL.— <i>See Municipal Act Amendment Bill.</i>	
BOMBAY HIGHWAY BILL (No. 7 OF 1882)—	
Motion for the second reading of the Bill ... ..	3
Bill read a second time ... ..	7
Bill considered in detail ... ..	8
Bill read a third time and passed ... ..	9
BOMBAY LOCAL BOARDS.— <i>See Local Boards Bill.</i>	
BOMBAY PHARMACY BILL (No. 8 OF 1882)—	
Time extended for presenting the Report of the Select Committee on the Bill ... ..	10, 53
BOMBAY PORT TRUST.— <i>See Port Trust Act Amendment Bill.</i>	
COUNCIL—	
Adjournment of ... ..	13, 54
Meetings of ... ..	1—14
COUNCIL RULES—	
Motion for the amendment of Rules 14, 15 and 25 of the Rules for the conduct of business of the Legislative Council of the Governor of Bombay ... ..	10
Rules amended ... ..	13
JAILS ACT AMENDMENT BILL (No. 2 OF 1883)—	
Motion for the first reading of the Bill ... ..	15
Bill read a first time ... ..	16
Standing orders suspended, and the Bill read a second time, considered in detail, and read a third time and passed ... ..	<i>ib.</i>
KARA'CHI TRAMWAYS BILL (No. 10 OF 1882)—	
Motion for the first reading of the Bill ... ..	1
Bill read a first time ... ..	2
Standing orders suspended, and the Bill read a second time and considered in detail ... ..	3
Bill read a third time and passed ... ..	<i>ib.</i>
LOCAL BOARDS BILL (No. 3 OF 1884)—	
Motion for the first reading of the Bill ... ..	16
Bill read a first time and referred to a Select Committee ... ..	52

INDEX TO THE PROCEEDINGS.

3

	PAGE
MANDLIK, The Honourable Ráo Sáheb V. N.—	
Appointed to Select Committees ... ..	52
MEETINGS OF COUNCIL.— <i>See Council.</i>	
MERRIMAN, The Honourable Major-General C. J.—	
Appointed to Select Committees ... ..	<i>ib.</i>
MUNICIPAL ACT AMENDMENT BILL (No. 4 OF 1882)—	
Motion for the first reading of the Bill ... ..	16
Bill read a first time and referred to a Select Committee ... ..	52
PAPERS PRESENTED TO THE COUNCIL ... ..	1, 14
PEILE, The Honourable J. B.—	
Appointed to Select Committees ... ..	52
POISONS.— <i>See Bombay Pharmacy Bill.</i>	
PORT TRUST ACT AMENDMENT BILL (No. 9 OF 1882)—	
Motion for the second reading of the Bill ... ..	9
Bill read a second time, considered in detail, and read a third time and passed... ..	10
PORT TRUST ACT AMENDMENT BILL (No. 1 OF 1883)—	
Motion for the first reading of the Bill ... ..	15
Bill read a first time ... ..	<i>ib.</i>
Standing orders suspended, and the Bill read a second time, con- sidered in detail, and read a third time and passed ... ..	<i>ib.</i>
RASTE, The Honourable Ráo Bahádur K. V.—	
Appointed to Select Committees ... ..	52
REGULATIONS :—	
Bombay Regulation XIII of 1827.— <i>See Seals Bill.</i>	
Bombay Regulation XXII of 1827.— <i>See Karáchi Tramways Bill.</i>	
SEALS BILL (No. 5 OF 1883)—	
Motion for the first reading of the Bill ... ..	16
Bill read a first time ... ..	<i>ib.</i>
Standing orders suspended, and the Bill read a second time, con- sidered in detail, and read a third time and passed ... ..	<i>ib.</i>
SELECT COMMITTEES—	
On the Bombay Highway Bill... ..	1
On the Bombay District Municipal Act Amendment Bill ... ..	52
On the Bombay Local Boards Bill ... ..	<i>ib.</i>
Time for presenting report on Pharmacy Bill extended ... ..	10, 53
TRAMWAYS.— <i>See Karáchi Tramways Bill.</i>	

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

---

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

The Council met at Bombay on Wednesday, the 31st January 1883, at 3 P.M.

**P R E S E N T :**

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

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

The Honourable J. B. PEILE, C.S.I.

The Honourable the ADVOCATE-GENERAL.

The Honourable Major-General C. J. MERRIMAN, C.S.I., R.E.

The Honourable Sir JAMSETJEE JEEJEEBHAY, Bart.

The Honourable SOLOMON DAVID SASSOON.

The Honourable C. GONNE.

The Honourable W. M. MACAULAY.

The Honourable BUDRUDIN TYABJI.

The Honourable Ráo Bahádur KHUNDERAO VISHVANATH RASTE.

Paper presented to the Council.

The following Paper was presented to the Council :—

Report of the Select Committee appointed to consider Bill No. 7 of 1882—A Bill to provide Funds for maintaining Provincial Roads used for local purposes.

The Honourable Mr. PEILE moved the first reading of Bill No. 10 of 1882 (A Bill

Mr. Peile moves the first reading of the Karachi Tramways Bill, No. 10 of 1882.

to authorise the making and to regulate the working of Street Tramways in Karachi). He said: Your Excellency.—This Bill resembles in form and purpose Bombay Act No. I. of 1874, under which tramways are now worked in this city,

and more particularly Bengal Act I. of 1880, under which street tramways are worked in Calcutta. The schedule embodies an agreement entered into between the Municipal

Commissioners of the Karáchi District and a civil engineer and contractor in England for the construction and maintenance of these tramways. The tramways are to run from two places in the Native Town to the Native Jetty and to Keamari. Persons who are familiar with the long causeway which leads from the Native Town to Keamari will understand what a great advantage the tramways will be to the trade of Karáchi and to foot-passengers. The Bill contains provisions of law to secure the grantee in the exercise of his rights under the concession, and also to protect the public from any annoyance. There is only one point which requires special notice, and it is the question of motive power to be employed. In the agreement as executed by the Municipality with the grantee, Clause 6 runs as follows:—"The cars and carriages of the grantee on the tracks of the said tramway shall be worked with such power, animal or mechanical, as the grantee may think suitable", with a proviso merely that the Municipality might regulate the rate of speed, number of passengers and mode of use of the said power. This was considered not to be satisfactory, because it would leave it entirely to the discretion of the grantee whether he would use steam-power or not. It was, therefore, determined to adopt in the Bill the section of the Bombay Act:—"The cars and carriages of the grantee on the lines of the tramways shall, unless with the consent of the Municipality and sanction of Government, be worked with horse-power or other animal power only." But it has been represented by the Municipality and the grantee that it is essential to the success of the project that steam-power should be used as the ordinary motive power. There will be a great amount of goods traffic at certain times of the year, *i. e.*, in the export season, and a reserve power is necessary at that time, which cannot be economically provided by the use of horses. One object, moreover, is to have very low rates for the passenger traffic, which consists mostly of poor people; and this also can be effected only by the use of steam. It has been further represented by the grantee that locomotives for use on tramways are now constructed free from noise, free from smoke, and free from any escape of steam, in which the fire is not visible, and which can be stopped very quickly. The grantee's engineers have stated that they propose to use locomotives of the most approved construction; and the grantee is quite prepared to submit to any regulations that may be imposed upon him by Government and the Municipality for the public safety and convenience. It seems fair that the intention of Government as to the motive power should be stated. It is, that the grantee should be held to the engagements above described, but if he is able to fulfil his engagements, that Government will not veto the use of steam under suitable regulations for the safety of the public. This being so, it has been thought that the section of the Bengal Act, or one like it, will be more appropriate than the section of the Bombay Act. The section of the Bengal Act is as follows:—"The cars and carriages of the grantees on the lines of the tramways shall be worked with such power, animal or mechanical, as the grantees may think suitable: provided that no steam carriages shall be used without the special consent of the Corporation, to be obtained in special general meeting of the Commissioners, and without the sanction of the Lieutenant Governor." At the proper time I shall move an amendment in that sense. I think that is all I need say on the subject of the Bill, and I now move that the Bill be read a first time.

Bill read a first time.

The Bill was read a first time.

The Honourable Mr. PELLE:—Sir, the Municipality is very anxious that the Bill should be passed as quickly as possible, in order that the grantee may commence the work of construction. I will, therefore, if Your Excellency has no objection, ask that the standing orders may be suspended, in order that the Bill may be proceeded with now.



His Excellency the PRESIDENT :—This Bill has a purely local application, it has been drawn up at the desire of the Municipality, it has been the subject of considerable correspondence with Government, and all parties on the spot are well acquainted with its provisions. I think, therefore, that this is a case in which we might suspend the Standing Orders.

The Honourable the ADVOCATE-GENERAL :—There is a slight difficulty, and that is, that the Bill, as now proposed, seems to vary the contract entered into between the grantee and the Municipality. Of course, if you vary that contract you cannot force the grantee to take up the contract upon the varied terms.

The Honourable Mr. PEILE said that the contract was not varied. The agreement had been altered in printing the schedule, but had already been reprinted correctly.

The Honourable the ADVOCATE-GENERAL :—The difficulty is removed then ?

The Honourable Mr. PEILE :—Yes ; I now move that the Bill be read a second time, and considered in detail.

Bill read a second time and considered in detail.

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

On the motion of the Honourable MOVER, Section 3 was amended by the insertion in line 3, after the word "agreement", of the words "so far as the same is not inconsistent with anything in this Act". The Honourable Mover said the object of this amendment was to cover the case of anything contained in the agreement to which the Legislature was unable to assent.

On the motion of the Honourable MOVER, the following new section was substituted for Section 7 of the Bill :—

"7. The cars and carriages of the grantee on the lines of the tramways shall be worked with such power, animal or mechanical, as the grantee may think suitable: provided that no steam carriages shall be used without the special consent of the Municipality, to be obtained in special general meeting of the Commissioners, and without the sanction of the Governor of Bombay in Council."

Bill read a third time and passed.

On the motion of the Honourable Mr. PEILE, the Bill was read a third time and passed.

The Honourable Major-General MERRIMAN :—Your Excellency, in moving the second reading of Bill No. 7 of 1882—A Bill to provide Funds for the purpose of maintaining Provincial Roads used for local purposes—I do not propose to go over the same ground that I have already traversed when the Bill was introduced and read a first time, but will confine my remarks to the report of the Select Committee and the dissent of the Honourable Ráo Sáheb V. N. Mandlik. The report of the Select Committee has been already published and circulated. The report is very brief on account of the simplicity of the measure with which it deals. The only amendments of any importance proposed by the Select Committee are in Section 6 and the addition of a new Section 7. It was brought to notice that, as Section 6 stood originally, it was possible for two taxes to be levied in the same Municipality or Cantonment under different Acts; and it was, therefore, deemed desirable to make express provision that the tax leviable under Section 3 of this Bill should not be assessed and recovered in a Municipality or Cantonment where a tax on vehicles and animals is already collected. Section 6 has accordingly been modified with this view. A new

Major-General Merriman moves the second reading of the Highway Bill.

Section 7 has been added in order to make it quite clear that the tax under the Bombay Tolls Act III. of 1875 shall not be levied in these local areas also. The only other alterations are necessitated by these modifications, or are simply verbal. The dissent of the Honourable Ráo Sáheb next calls for remark. The Honourable Member states that he considers the Bill to be quite unnecessary (in paragraph 1 of his dissent), because what it seeks to do can be accomplished by the laws now in force; and he further adds that he considers those laws will do it much better than it can possibly be done by this Bill. The existing laws upon this subject are,—*first*, the District Municipal Act of 1873; *second*, the Tolls Act of 1875; and, *third*, the Cantonment Act of 1880. As regards the Tolls Act, the Ráo Sáheb is silent throughout his dissent, and it may, therefore, be inferred that he agrees with the other members of the Select Committee that it would be extremely difficult, if not impossible, to arrange for a system of toll-bars near large Cities and Cantonments. In paragraphs 2, 3 and 4, and in the last clause of paragraph 5 of his dissent the Honourable Member relies upon the District Municipal Act VI. of 1873. Now, without questioning or cavilling as to the legality of his proposals, I may state that the objection to making the existing Municipalities take the local areas in question into their limits, is that under Section 16, Clause 2, of Bombay Act VI. of 1873 this can only be done by Government on the representation of the Municipality concerned. Now, these words are very important—“on the representation of the Municipality concerned.” No such representation has ever yet been made, nor, I should think, is likely to be made, because the extension of their limits would, under the circumstances, be ruinous to the Municipalities,—the construction, maintenance, and lighting of streets, and consequently roads, within their limits being one of their principal duties. I may mention that not very long ago a case was put to the test, and the Municipality of Poona were invited to take a small part—a very small part—of the Civil limits under their control. This area embraced not more than four miles out of the 31 miles of Provincial roads about Poona to which this Highway Bill refers. The Municipality nevertheless declined altogether to have anything to do with it, unless they were relieved of the maintenance of the roads within that area. Then, the objections to making the local areas in question into independent municipal districts, such as the Honourable Member refers to in the last clause of paragraph 5 of his dissent, are as follows,—*first*, it would be extremely inexpedient to add a third to the two independent local bodies already existing side by side; *second*, the extreme inconvenience the public would suffer if each of these three bodies enforced a different system of taxation or municipal government; *third*, the difficulty which would most probably arise in such areas, where the better class of residents are always migratory, in obtaining a suitable body of Commissioners; and, *fourth*, that such a Municipality must soon become bankrupt from the extent of roads it would have to maintain and the fewness of tax-payers within its limits. In paragraph 5 the Honourable Member alludes to Cantonments; but he appears to have abandoned the argument, because he says that they could not be formed into Municipalities unless they could secure a certain amount of private property for the purposes of taxation. Now, the objections to placing these local areas under Cantonments are, *first*, that Cantonments exist, *primâ facie*, for purely military purposes, and only considerations of military convenience ought to guide the authorities in fixing their limits; *second*, because of Section 21, Clause 1, of Regulation No. 22 of 1827, which runs as follows:—“All military stations situated within the territories subordinate to the Presidency of Bombay, the limits of Cantonments or bázárs shall, when directed by the Governor in Council, be marked by the Local Magistrate and Commanding Officer in conjunction, subject to approval by the Governor in Council, in which limits private property is

not to be included." So that, before these local areas could be handed over to Cantonments, Government would have to buy out private rights in such areas, and the cost of this step would be found to be prohibitory. The Honourable Member would appear to be mistaken in holding, as he does in paragraph 4 of his dissent, that Government could overrule the objection of the Poona Commissioners, or of any other Commissioners, to extending their limits as he suggests. He has apparently overlooked Section 16, Clause 2, of the Act, which is the one that states that it cannot be done by Government except on the representation of the Municipality concerned. But, even supposing that Government had the power to overrule such an objection, it is hardly likely that they would do so in the face of the unquestionable fact that the possible sources of new revenue within the area would be wholly incommensurate with the additional charges imposed upon them. In paragraph 6 of his dissent the Honourable Member states that the classification of roads is very imperfect and arbitrary. I cannot follow him there. I do not know what he is alluding to, and unfortunately he is not present to-day to explain. All I have to say as to the classification is that it is perfectly simple. It consists of Imperial Military roads and Provincial Civil roads; and, as far as expenditure is concerned, Rs. 20,000 annually are spent on the Imperial Military and Rs. 20,000 annually on the Provincial Civil roads. The classification has remained as it is for a great number of years, and I am not aware that it is imperfect or that it could be better arranged. The Honourable Ráo Sáheb then proceeds to say that, if the divisions are properly made, the whole work ought to be done by the Cantonment and the City Municipalities, Government contributing a fair share. The work outside their limits could not be done by them, for reasons already stated. The Honourable Member then proceeds to submit that in the case of Poona at least five-eighths of the expenditure should be borne by Government. I do not know where the Honourable Member got these figures from, but as a matter of fact they are very fairly correct. He, therefore, admits that the other three-eighths should be contributed by somebody. At present Government pays the whole. This Bill is intended to obtain the balance, whatever it may be, from those residents who enjoy the benefit of all these good roads and at present do not contribute anything to their maintenance. In paragraph 7 the Honourable Member, having made this admission, seems to go back again, and says he "would rather that a few thousands were sacrificed, than help to pass new laws to raise them." He then states that the new law will involve the formation of "new departments and organisations." In this particular case I see no reason whatever for any increase of establishment. If the work is handed over to the Collector, Executive Engineer, or Local Fund Boards, when they are constituted, I don't think they will have to entertain any extra establishment at all worth speaking of, at any rate. The Bill has been criticised by a few of the newspapers; but as far as I can gather, and I have endeavoured to give attention to what every body had to say, they are more in favour of the Bill than against it. One writer describes the Bill as driving the thin end of the wedge into Municipal or Cantonment Funds to swell the provincial treasury in anticipation of the local self-government scheme. Another objects to the funds being wholly at the discretion of the Government as inconsistent with the policy of local self-government. The answer is that the Bill provides, in Section 5, that "the proceeds of tax in each area where such tax has been lawfully imposed under the provisions of this Act, shall be credited to Provincial or Local Funds as the Governor in Council shall direct." There is, therefore, distinct provision made in that section for handing over these funds to Local Fund Committees or Boards, when they are formed under the local self-government scheme, should they wish to

undertake the work. I think I can now commend the Bill in its present form to the Council, believing it to be a very just and fair measure, having for its object the transference of a burden from the shoulders of the people to whom it does not belong, to the shoulders of those to whom it properly belongs, and who are perfectly able, and I believe willing, to bear it.

The Honourable Mr. BUDRUDIN TYABJI :—Although the Honourable Ráo Sáheb has recorded a dissent, he does not dispute the principle on which the Bill proceeds. The principle which pervades the Bill, is that those who make use of the roads should, as far as possible, pay for their maintenance. That in itself is a very fair principle on which to proceed, and, although Ráo Sáheb has attacked the Bill on other points, I do not see that he in any way objects to the gentlemen who use the roads being called upon to pay for them. It would have been an important matter for discussion if he had contended that those who were made liable in the Bill to pay should not be called upon to pay ; but that being admitted, the only question now to be considered is, in what manner are they to be called upon to pay, and what machinery is to be provided for collecting the taxes which, it is admitted, are just in themselves. Various ways are pointed out by the Honourable Ráo Sáheb as to the manner in which the amount might be collected. I have referred to the various Acts which he mentions in his dissent, and after having gone over those Acts I do not myself see that this object could be attained in a better manner than has been provided for in this Bill. It would be very difficult, indeed, to put into operation the provisions of the Tolls Act in regard to those roads which are quite contiguous to the principal stations. Then, as regards erecting these different areas into independent Municipalities, as has been already pointed out, it would be almost impossible to do that ; and for this reason, that these Municipalities would have control of nothing more than the roads. So far as I can make out, there are very few bungalows along the roads with which this Bill is meant to deal. I do not, therefore, see that it would be any advantage to have a barren Municipality without any revenue, but a Municipality erected merely for the purpose of spending money on these roads. Where would there be any body of people, whether under the local self-government scheme or otherwise, who would be willing to constitute themselves into a Municipality for this purpose ? There were certain objections to the Bill as it was originally framed. One of them was that some gentlemen might be called on to pay twice over, because they happened to live within the limits of a certain Municipality, whose limits formed a portion of the local area under this Bill. That has been corrected, and it has been made perfectly clear that no person will be liable to pay the same amount twice over. Therefore, it seems to me the only valid objections against the Bill have been removed ; and the principle being admitted, so far as I can make out, it appears to me that the Bill ought to be passed by this Council.

The Honourable Sir JAMSETJEE JEEJEEHOY :—May it please Your Excellency, a few words seem called for from me by way of explanation as to why I am now prepared to vote in favour of this Bill. When this Bill was first introduced into the Council I took occasion to express my views against its principle. I was of opinion then that the roads intended to be provided for might well be taken charge of by Municipalities and Cantonment Committees ; that the limits of municipal towns and of Cantonments might be so enlarged as to include the local areas containing those roads. Fresh information was, however, laid before us in the Select Committee, and a memorandum was also circulated, framed by the Legal Remembrancer to Government, showing the state of the law

as regards Cantonments. It appears that whilst, on the one hand, Municipalities may decline the extension of their limits, Cantonment Committees, on the other, cannot take charge of local areas containing private property. The Poona Municipality, for instance, deliberately refuses to take charge of these areas; and perhaps not without some show of reason, for it is not merely the charge of these new roads that will devolve upon it, but the whole burden of the conservancy, lighting, &c., of these outlying local areas, whilst the income from these areas will be scarcely commensurate with the burden so cast upon it. I have to note, too, that the voice of the public has not been raised against this measure. No distinctly adverse criticism in the press has come under my observation, though I have been anxious to gauge public opinion upon it. No petition or memorial has been received from any quarter—not even from the residents in the local areas intended to be affected by this Bill, and more especially the residents round about Poona. No representation of any kind has come from any municipal body or Cantonment Committee, as one might expect if this measure were harsh or oppressive. I always desire to trust to the sense of the public before finally making up my mind on such measures. In such circumstances I have been compelled to alter my views concerning this Bill, though it is not without some hesitation. Some of the more objectionable provisions of the Bill have been so modified as to bear lightly on the residents of the local areas to be affected by it.

The Honourable Mr. SASSOON:—Your Excellency: I assent to the principle of this Bill. It is only reasonable that those residing beyond Cantonment and military limits at Poona and other stations in the Presidency should contribute their quota towards the maintenance of roads provided for them out of Provincial Funds. But I see no reason for special legislation. It appears to me that the Tolls Act might be made applicable to residents beyond Cantonment and municipal limits, who could then compound for a monthly payment equivalent to the rates proposed in the present Bill. A similar arrangement was in force at Bándora, near Bombay, a few years ago. Those residents using the road from the railway station to the hill were permitted to pay a monthly rate in lieu of a daily toll. Looking to the benefit which traders and others derive from the presence of visitors at Poona during the season, I should be disposed to limit the application of the tax to those whose stay exceeds a fortnight. But this is a matter of detail which I will not press.

His Excellency the PRESIDENT:—One objection occurs to me, as regards the raising of the revenue required by tolls. If you attempt to raise this revenue—which, it appears to be admitted on all hands, ought to be raised from those who use the roads—by means of tolls the difficulty will be to make any tolls to catch the traffic. Where there is a net-work of roads to be provided for, you would have to place check bars so numerous that the expense would render the scheme impossible. Take the road between Poona City and the railway station, for instance, which has to be renewed every year. If a toll-bar were put across the road, people would go half a mile round to avoid it; and there is a net-work of roads to be provided for which you could hardly overtake by any toll. It is just in such an area as this where it seems impossible to raise a revenue by tolls. As no objection has been raised to the principle of the Bill, I will not trouble the Council with any further remarks. The question is that the Bill be now read a second time.

Bill read a second time.

The motion was carried unanimously, and the Bill was then read a second time.

His Excellency the PRESIDENT:—I think the Bill has been so widely circulated and discussed, we might proceed to consider it in detail.

The Honourable Major-General MERRIMAN moved that the Bill be considered in detail. The Council then proceeded to consider the Bill in detail.

On the motion of the Honourable Sir JAMSETJEE JEEJEEBHOY the word "fifteen" was substituted for the word "seven" in lines 20 and 39 of Section 3.

The Honourable Mr. BUDRUDIN TYABJI said he did not quite clearly see the object of Clause (c), Section 3, which provided "that no tax shall be leviable in respect of any vehicle or animal as aforesaid which shall not have been in use for the whole period contained in any quarter, on due notice in writing being given by the owner, in accordance with the rules of assessment hereinafter provided for in Section 4 of this Act."

The Honourable Mr. PEILE:—It means that they are to be entirely out of use for the whole quarter.

His Excellency the PRESIDENT:—The section apparently means that, though a gentleman may possess a horse or carriage, he shall be exempt from payment of tax for it, if it is not in use throughout *a whole quarter*. His horse might be thrown up, or he might be absent and his horse standing; and if his animal or vehicle was not used during the whole quarter he would not have to pay for them.

The Honourable Mr. BUDRUDIN TYABJI proposed that the clause should be amended so as to provide that if any vehicle or animal had not been in use for more than fifteen days in any quarter, then, on due notice being given by the owner in accordance with the rules herein provided, the tax shall be remitted.

The Honourable Mr. RAVENSROFT:—On reference to an analogous provision in the Bombay Municipal Act, Clause c of Section 3 is, I think, quite plain as it stands at present. It means that a horse or carriage shall not be taxed that has been out of use for the whole period of any quarter.

On the motion of the Honourable Mr. TYABJI it was resolved that the word "not" in line 3 of the clause should be omitted, and the words "out of" substituted for the word "in" between the words "been" and "use" in the same line.

The Honourable Major-General MERRIMAN moved that the following words be added to Section 5:—"Provided always that the proceeds of such tax levied within or contributed by any Cantonment as defined by Act III. of 1880 shall only be applied in conformity with Section 23 of that Act." The object of this amendment, the Honourable Mover explained, was to meet a section in the Act of the Government of India which specifies that "the proceeds of all taxes levied in any Cantonment shall, after defraying therefrom the cost of assessing and collecting the same, be applied in such Cantonment under the directions of the Local Government, to the maintenance of the Police force and the carrying out of measures under the rules made under the Act."

His Excellency the PRESIDENT:—It will be easy to adjust that as a matter of account, so that the tax levied in a Cantonment shall be applied only in the Cantonment. The basis of the calculation will be the average expenditure per mile. It will be advisable, I think, to transpose Sections 5 and 6, so that 6 will become 5, and 5 will become 6.

Section 5 was amended as proposed, and the sections were transposed.

In Section 5 (as transposed) the word "hereinbefore" in line 25 was omitted.

The Honourable Major-General MERRIMAN proposed that the whole of the concluding portion of Section 7 after the word "Act", in the fifth line, be omitted. There would be a great deal of trouble in arranging for exemptions; and it would simplify the matter very much if this amendment were adopted. It would then be impossible to double rate in any form or shape.

His Excellency the PRESIDENT:—To put on a wheel tax and exempt those paying it from the toll, would be very inconvenient. A person would have to be constantly showing his ticket at toll-bars as evidence that he was exempt under the Act. It would be much better not to have any tolls at all in these areas. Where you have a wheel tax you should have no tolls.

The amendment was adopted.

The Honourable Major-General MERRIMAN proposed to change the figure 8 in Clause 2 of the schedule to 6, to bring it more into conformity with the Bombay rate for two-wheeled vehicles on springs.

The amendment was carried.

The Honourable Mr. SASSOON thought that the figures in Clause 3, relating to hackeries drawn by bullocks, and Clause 4, relating to horses or ponies of 12 hands or upwards, should be reduced in the same proportion.

The Honourable Major-General MERRIMAN:—I object, because these rates are already considerably below the Bombay rates. The Bombay rate is Rs. 7-8 in each case, and in this Bill we have only Rs. 5 for a horse and Rs. 6 for a hackery. They are maximum rates, and are not obliged to be levied to the full extent. The other rates in the schedule are generally in accordance with the Bombay scale. The Bombay rate for a pair-horse carriage is Rs. 21, and here we have Rs. 20, both being maximum rates.

The Honourable Mr. SASSOON said he had merely suggested the change to bring Clauses 3 and 4 into conformity with Clause 2 as amended.

The Honourable Major-General MERRIMAN:—Clause 2 was amended to bring it more into conformity with the other clauses and with the Bombay scale of rates.

His Excellency the PRESIDENT:—It is quite true that a cart or hackery drawn by bullocks is taxable, but it will be observed that provision is made in the body of the Bill for the carts of what may be called working people to be exempt. That meets the objection taken in some of the newspaper articles. I have all the newspaper articles here; and the *Bombay Samachar* says this Bill is a fresh blow aimed at the poor rayat.

Bill read a third time and passed.

On the motion of the Honourable Major-General MERRIMAN the Bill was then read a third time and passed.

The Honourable Mr. RAVENSCROFT moved that Bill No. 9 of 1882—"A Bill to further amend the Bombay Port Trust Act of 1879"—be read a second time. He said:—This is a mere formal Bill which I explained when the first reading took place. It is so simple that I contemplated asking the Council to suspend the Standing Rules after the first reading and pass it at once. There was one small point, however, about which I had some little doubt, and I thought, before the Bill was passed by the Council, I might clear it up. That I have

Mr. Ravenscroft moves the second reading of the Port Trust Act Amendment Bill.

done now, and the Port Trustees are anxious that the Bill should be passed as soon as possible.

Bill read a second time, considered in detail, and read a third time and passed.

The Bill was then read a second time, considered in detail, and read a third time and passed.

The Honourable Mr. RAVENSCROFT moved for an extension of the time allowed to the Select Committee on the Pharmacy Bill. He said that the report of the Select Committee on the Pharmacy Bill was due, I believe, on the 20th instant, but we found in considering this measure that it is rather more important than we at first anticipated. The Honourable Ráo Sáheb Mandlik, who takes a great interest in the subject, has hitherto not been able to attend any of our meetings, and I am sorry to say he has now been obliged to go to Calcutta for a time. I understand, however, that he will return in a week or a fortnight. I propose not to continue our sittings until he returns, as he has some points to urge on the question, and I have, therefore, to ask that the time allowed for the presentation of the report may be extended to the 28th February.

The motion was carried.

The Honourable Mr. RAVENSCROFT:—The Council are probably aware that it is the desire of the Government that greater publicity should be given to measures under consideration of the Legislature than has hitherto been the case, and that the public should also have every opportunity of considering those measures carefully and expressing an opinion upon them before they are passed into law and are entered on the Statute Book. With the view of furthering this object the first point to which the attention of Government has been turned, is the character of the Statement of Objects and Reasons which at present is attached to every Bill when it is published. In future it will be the endeavour of those who draw up the Bills to make these statements fuller than they have hitherto been, and also to enter with more detail, than has hitherto been the practice, into the reasons which have rendered the measure necessary, and the data on which such necessity has arisen; and further to explain, rather more in detail than has hitherto been done, the effect that the measure is likely to have on the Government policy and on the public generally. The next point of importance relates to the subject of translation of all Bills and reports of Select Committees, and the necessity of these translations being as perfect, as full, and as widely circulated as possible. Of course, in a country like India to obtain wide publicity is a difficult matter. Care has always been taken, under the rules as they stand at present, to provide the people with translations in their own languages of all legislative measures by which they may be affected; and this object has, it is believed, been very fairly attained. But it was thought that it would be expedient and quite possible to move further in this direction, and, therefore, a few alterations in Sections 14, 15 and 25 of the Rules for the Conduct of Business in the Council of the Governor of Bombay are now proposed to be introduced. These alterations will, I trust, afford to the public generally, and especially to that, in Bombay, large and important section, which takes an interest in legislative measures, an opportunity of fully considering all those laws, and of giving Government, and those in whose hands the making of the laws rests, the benefit of their advice and assistance on the measures proposed. With these remarks I beg to move



that the Rules 14, 15 and 25 of the *Rules for the Conduct of Business at Meetings of the Council of the Governor of Bombay held for the purpose of making Laws and Regulations under the Provisions of the Indian Councils' Act, 1861*, be amended.

The Honourable Mr. BUDRUDIN TYABI :—May it please Your Excellency :—The introduction of these rules marks such an important epoch in the history of this country that I think I should not be discharging my duty as a representative of the people if I did not take this the earliest opportunity of publicly thanking His Excellency the Viceroy for enunciating the generous policy with which his name will be for ever associated. Your Excellency is at this moment, no doubt, deeply and anxiously engaged in devising a scheme for giving effect to that policy in this Presidency, and of which these rules form but the prelude. The scheme of local self-government which has been so happily inaugurated by our present Viceroy is but the outcome—the natural result of the circumstances, the necessities and the exigencies of India. It proves the great success which has been achieved by the British policy in India during the last fifty years; it testifies to the progress which has been made by the Natives of this country, and it recognizes the loyalty and devotion of the people to the Crown; it means that the educational system which has been in vogue during the last fifty years has produced a number of enlightened citizens on whom the Government can place reliance—that the vast chasm which has hitherto divided the official from the non-official classes is about to be bridged—and that mistrust and suspicion must now give way to confidence and generous sympathy. Whatever difference of opinion there may be with regard to the ultimate success or failure of this momentous scheme which is about to be tried, I think there can be very little doubt that it will, at all events, tend to bring together in closer harmony the European and Native elements, and finally prove the death knell of that suspicion and distrust which was the hideous offspring of the unhappy events of 1857. Your Excellency may rest perfectly assured that the enlightened portion of the Native community will regard this scheme as a generous and a noble gift—as a realization in some measure of their legitimate aspirations, and as a fulfilment on the part of Her Majesty's Government of the gracious pledges which have been so often given and repeated by successive Ministers and Viceroys. The highest aim of the Government's policy in this country must surely be to produce a perfect unity of feeling and sentiment on the part of the rulers and the ruled; but so long as the barrier which now divides the European from the Native, and the officials from the public, continues, that is impossible. Any scheme, therefore, which tends to bring about this desirable end must in itself be a blessing. When once the people are taken into the confidence of the Government—when once they are associated in the management of their own affairs—their interests at once become identical with those of the Government. For what room will there be left for any misapprehension or misunderstanding as to the policy or motives of the measures of the Government when those measures have been fully submitted to the criticism and judgment of the public, and that judgment not only tolerated, but, as under these rules actually, invited, by the Government. It seems to me, therefore, that the policy which has given rise to these rules is not only the most benignant, but at the same time the wisest. Under the fostering care of the British Government, the Native populations of this country have passed through the stage of their infancy, they have acquired some lessons at least in the art of government, and they are approaching, so to speak, the period of their majority; and it is but fair that they should be gradually trained to take a more active and more intelligent part in the admi-

nistration of their own affairs. Nobly has the Viceroy conceived and interpreted his duty towards this country, and generously will he be rewarded. For what reward can be greater or sweeter than the heartfelt gratitude of the millions under his sway? Does not the very mention of Lord Ripon's name already send a thrill of enthusiasm throughout the length and breadth of this vast and varied Empire? With the scheme of local self-government in operation throughout the various provinces of India, with the public taken into the confidence of the Government, with a wide opening for the exercise of the talents and the disinterested and patriotic efforts of the enlightened Natives of this country, what room will there be left for treason, or disaffection, or disloyalty? Such resolutions as have recently been passed by the Government of India are surely far more effectual in consolidating the British power, in tranquillising the people, in attaching them to the throne of Her Majesty, and in suppressing rebellion, than any number of the most stringent Acts for gagging the press or disarming the population. The scheme of local self-government will, I believe—firmly believe—prove a blessing no less to the Government than to the people themselves. Much has been said with regard to the fitness or the unfitness—

His Excellency the PRESIDENT :—I would most readily listen to my honourable friend's identification of the present proposals with the general tenour of the liberal measures proposed by the Government of India; but, strictly speaking, we should be going a little beyond the question at present before the Council were we to enter into a discussion of the scheme of local self-government in detail, because these proposals are simply to give full publicity to measures of the Legislative Council. I am happy to hear him identify the proposals with the general scheme, but I think he will see he is going a little too far in discussing in any detail a question that is not before us to-day in any shape.

The Honourable Mr. BUDHUN TYABJI :—I bow to Your Excellency's ruling on that point. I was merely going to say that this was not a proper time to discuss that great and intricate question; but that, at all events, these rules, which are a prelude to the scheme of local self-government, cannot possibly be objected to, and that they have met with very hearty response from the people of Bombay. I have no particular observations to offer in regard to these special rules, but I take them as a part of the scheme under contemplation, and they have my hearty support.

His Excellency the PRESIDENT :—I would have said, if I had not thought it necessary to interpose, that I am very glad the Honourable Member recognises that the present proposals were introduced at the request of the Government of India, and with a view to making the scope of legislative measures more fully known and understood than they have hitherto been, in order that public criticism may be fully expressed and brought to the knowledge of Government. I may say for myself that nothing can appear to me more desirable than that the objects and reasons of Bills should be made as widely known as possible, because I think that we have ourselves suffered from our objects and reasons not being stated more clearly and fully. Some measures that we have introduced have been misunderstood and misrepresented, merely because they have not been fully explained. And in a country in which, at all events at present, there are no representative elements in the Legislature, but only members appointed whom Government thinks are the most representative, it is extremely desirable that the usual organs of public opinion should be enabled to discuss our measures with full knowledge of them. Therefore, I am sure, I may

say for my colleagues as for myself, that we responded to the invitation of the Government of India with the most complete concurrence ; and these rules, we may hope, will make our proceedings better understood and perhaps more cordially accepted. I am glad that my honourable friend had the opportunity of expressing that he feels, I have no doubt in common with a vast number of other persons, gratitude to the Viceroy and the Government of India, who have desired to bring the people into greater harmony with the general governing body ; and it will be, no doubt, satisfactory that one representative of a very important section of the community expresses what is probably the unanimous feeling.

Rules amended.

The amended rules were passed unanimously.

His Excellency the President then adjourned the Council *sine die*.

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

H. F. ASTON,

Acting Under Secretary to Government.

*Bombay Castle, 31st January 1883.*

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

The Council met at Poona on Saturday, the 25th August 1883, at 10-30 A.M.

*PRESENT:*

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

His Excellency General the Honourable A. E. HARDINGE, C.B.

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

The Honourable J. B. PEILE, C.S.I.

The Honourable the ADVOCATE-GENERAL.

The Honourable Major-General C. J. MERRIMAN, C.S.I., R.E.

The Honourable Sir JAMSETJEE JEEJEEBHOY, Bart.

The Honourable Ráo Sáheb VISHVANATH NARAYAN MANDLIK, C.S.I.

The Honourable C. GONNE.

The Honourable W. M. MACAULAY.

The Honourable BUDRUDIN TYABJI.

The Honourable Ráo Bahádur KHUNDERAO VISHVANATH RASTE.

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

1. Letter from the Secretary to the Government of India, Legislative Department, No. 509, dated 30th March 1883, returning, with the assent of His Excellency the Viceroy and Governor General signified thereon, the authentic copy of the "Bill to provide funds for maintaining Provincial Roads used for local purposes."
2. Letter from the Secretary to the Government of India, Legislative Department, No. 510, dated 30th March 1883, returning, with the assent of His Excellency the Viceroy and Governor General signified thereon, the authentic copy of the "Bill to authorize the making and to regulate the working of Street Tramways in Karáchi."
3. Letter from the Secretary to the Government of India, Legislative Department, No. 599, dated 23rd April 1883, returning, with the assent of His Excellency the Viceroy and Governor General signified thereon, the authentic copy of the "Bill to further amend the Bombay Port Trust Act, 1879."
4. Letter from the Secretaries of the Poona Sarvajanik Sabha, No. 156, dated 18th August 1883, submitting the observations of the Committee of the Poona Sarvajanik Sabha on the Bombay Local Boards Bill No. 3 of 1883, and the Bombay District Municipal Act Amendment Bill No. 4 of 1883.
5. Memorial of the Sind Sabha, submitting their views in respect of the Bombay Local Boards and District Municipal Act Amendment Bills, 1883.

6. Letter from the Secretaries of the Sâtára Sarvajanic Sabha, No. 7, dated 21st August 1883, submitting the observations of the Committee of the Sabha on the Bombay District Municipal Act Amendment Bill No. 4 of 1883.
7. Report of the Sub-Committee of the Poona Municipality on the Bombay District Municipal Act Amendment Bill No. 4 of 1883.
8. Memorial from the Mahomedan inhabitants of the City of Poona, submitting their observations with reference to the Bombay District Municipal Act Amendment Bill No. 4 of 1883.
9. Memorial from the inhabitants of Pandharpur, submitting their observations on the Bombay District Municipal Act Amendment Bill No. 4 of 1883.
10. Letter from the Secretaries of the Sâtára Sarvajanic Sabha, submitting the observations of the Sabha on the Bombay Local Boards Bill No. 3 of 1883.

The Honourable Mr. RAVENSCROFT moved the first reading of Bill No. 1 of 1883,—(a Bill to further amend the Bombay Port Trust Act, 1879).

Mr. Ravenscroft moves the first reading of the Bill to further amend the Bombay Port Trust Act, 1879.

The Honourable Mover said the Bill consisted of only one section, and was merely to provide for the extension of the power of lien at present possessed by the Port Trustees on goods stored "on any wharf, dock, or pier" to any land or building belonging to the Trust outside the limits specified in the Act as it at present stands.

Bill read a first time.

Standing orders suspended, and the Bill read a second time, considered in detail, and read a third time and passed.

The Bill was read a first time, and the standing orders having been suspended, the Bill was read a second time, considered in detail, and read a third time and passed.

The Honourable Mr. RAVENSCROFT moved the first reading of Bill No. 2 of 1883

Mr. Ravenscroft moves the first reading of the Bill to amend the law concerning the confinement of civil prisoners liable to imprisonment under the Criminal Procedure Code.

(a Bill to amend the law concerning the confinement of civil prisoners liable to imprisonment under the Criminal Procedure Code). In moving the first reading of the Bill Mr. Ravenscroft said it was not a very important measure. A difficulty had arisen in Bombay, as elsewhere, regarding persons confined in civil jails against whom it was found necessary to take proceedings under any section of the Criminal Procedure Code. Under Section 541 of that Code the Local Government can direct in what place any person liable to be imprisoned, or committed to custody thereunder, shall be confined, but this power can only be exercised if it is not "otherwise provided by any law for the time being in force." Act II of 1874 requires that civil jails shall be used exclusively for civil prisoners, and that persons in custody under the criminal law must be confined in a criminal jail. But in the case of criminal proceedings being instituted against a person already confined in a civil jail, it was desirable that the keeper of the civil jail should be responsible for his safe custody to the Criminal Court before which such proceedings may be held, as well as to the Civil Court, so long as the person is detained simultaneously under the orders of both Courts; and if the warrant of the Civil Court for such person's detention expires before he is released from custody by the Criminal Court, the keeper of the civil jail, instead of setting him free, should have power to forward him for safe custody to a criminal jail. The object of this Bill was to enable the Governor in Council to pass orders to this effect, under Section 541 of the Criminal Procedure Code, whenever

it might be considered expedient. The Bill consisted of only one section of two paragraphs; and the Honourable Mover did not think there would be any objection to the standing orders being suspended, so that it could be passed through the Council at once.

Bill read a first time.

Standing orders suspended, and the Bill read a second time, considered in detail, and read a third time and passed.

The Bill was read a first time, and the standing orders having been suspended it was also read a second time, considered in detail, and read a third time and passed.

The Honourable Mr. RAVENSCROFT moved that Bill No. 5 of 1883—(a Bill to enable Government to prescribe the official seals of Sessions Judges, Magistrates, and other public authorities) be read a first time. The Honourable Mover said that Section 7, Clause 3, of Regulation XIII of 1827, prescribed the seal to be used by Zilla Criminal Courts; but this section was repealed by Act X of 1872, and since then no legal provision had existed for determining what seal should be used by those Courts, or rather by Sessions Courts which had, since the passing of the first Criminal Procedure Code, taken the place of the Zilla Criminal Courts. The present Bill had been drawn up for the purpose of supplying this deficiency; and the opportunity had also been taken, in Section 4, to amend the law, so that no difficulty might occur hereafter about the seal of any other Court not otherwise provided for. As the questions involved were mere matters of form, the Honourable Mover suggested that the standing orders should be suspended, and the Bill read a second and third time.

Bill read a first time.

Standing orders suspended, and the Bill read a second time, considered in detail, and read a third time and passed.

The Bill was then read a first time, and the standing orders having been suspended, the Bill was read a second time, considered in detail, and read a third time and passed.

The Honourable Mr. PEILE moves the first reading of the two Bills—Bill No. 3 of 1883—“to make better provision for the administration of local funds in the Presidency of Bombay,” and Bill No. 4 of 1883—“to amend the Bombay District Municipal Act.”

Mr. Peile said:—Your Excellency,—In moving that the two Bills, of which the short titles are “the Bombay Local Boards Bill” and “the Bombay District Municipal Act Amendment Bill” be read the first time, I ask leave to take these two Bills together, because, as the Council is well aware, their objects are identical, though the first deals with rural, and the second with urban, or municipal, boards. The official correspon-

Mr. Peile moves the first reading of the local self-government Bills, viz., the Bombay Local Boards Bill and the Bombay District Municipal Act Amendment Bill.

dence which preceded the framing of these Bills has been so long before the public, and the main principles and details of the subject have been so fully examined and criticized in every kind of way and in all parts of India, that I seem rather to be summing up the results of an exhaustive debate, than preparing to explain the scope and reasons for new legislation for the first time to the Council. I may, therefore, be brief while I remind Honourable Members that in September, 1881, the Government of India invited renewed attention to the views enunciated by Lord Mayo's Government in 1870; that the development of local self-government and the strengthening of municipal institutions are among the greatest and widest objects connected with the decentralization of Imperial finance,

and desired that the Provincial Governments, while being largely endowed from Imperial sources, should "in their turn hand over to local self-government considerable revenues at present kept in their own hands, but similar in kind to many which have long been locally managed with success by committees partly composed of non-official members and subject only to a general remedial control reserved to the State by the Legislature," adding that "the existing local bodies of greatest importance are the municipalities and district committees, and the Governor General in Council will be glad if, in any proposals which the Governor in Council makes, advantage be taken, as far as possible, of the existence of these bodies, their powers being, where necessary, extended by means of legislation." Your Excellency's Government responded in the first instance by directing the appointment by election (as is lawful under a long dormant section of the Bombay District Municipal Act of 1873) of one-half of the municipal commissioners in the ten city municipalities then existing under that Act. Later in the year (October, 1882) it was decided to raise fourteen of the principal town municipalities to the status of city municipalities, that they might be admitted to the same privilege of election. Rules were framed and qualifications for the franchise settled, and in twenty-three municipalities elections were held in March and April of this year. In the larger municipalities, where the electors are numerous, generally more than half of them recorded their votes; in the smaller municipalities the proportion of electors who voted was generally considerably more than half. No difficulties were experienced, and the results of this experiment in popular representation in our country towns were so far satisfactory. Again, in March 1882, it was resolved to offer to certain selected municipalities the management of elementary education within municipal limits, the Government preferring to proceed tentatively, but with the declared intention of extending the offer to all the important municipalities if their proposals should be met with alacrity. The transfer of the management of primary schools will, when the second of these Bills passes into law, be extended to all municipalities, and the plan will be that all local receipts, such as fees and donations, will be placed to the credit of the municipal school board, together with a grant from provincial revenues which will be fixed for a term of years and then open to review. The present distribution of the provincial grant to primary instruction, and the question what this Government can now afford, and may ultimately undertake to give to the municipalities under this head are now being carefully examined, so that the subject may be dealt with as soon as the new Municipal Act is in force. With regard to the other heads of expenditure which were named by the Government of India as suitable for transfer to local management, *viz.*, medical services and local public works, the Government grants to dispensaries, which are already of the nature of grants-in-aid, are under review in the same way as the grants to primary instruction. And a committee is sitting to consider the terms and conditions of the transfer of provincial roads, with the provincial grants attached to them, to the district local boards.

There is one other change which the Government has been able to introduce without recourse to new legislation. Honourable Members are aware that the Bombay Local Funds Act of 1869 and the corresponding Sind Act of 1865 are general in their language, as giving legal form to a new experiment, and say little or nothing about the rights or powers of district committees, while they omit all mention of taluka committees. It was, however, the intention of the promoters of those measures that the tax-payers should have an influential voice in the disposal of the local funds. The rules framed under the Act of 1869 were accordingly careful of the independence of the committees. The district committee was

to ascertain and provide for the requirements of the district; it was to initiate all expenditure from local funds. The executive engineer was to be its professional adviser, and to carry out the proposals which the committee might initiate, the principle being borne in mind that the financial control of the local funds is vested solely in the local-fund committees. Táluka committees were created by another rule to ascertain the requirements of the táluka, to assist the district committee by advice, and to supervise such works as the district committees should depute to them. For some years the local funds were administered more or less in this spirit, but in 1877 there occurred what amounted to a considerable change of system seriously affecting the independent vitality of the local committees. The object of this change of system was to prevent waste of public money, and to provide the country speedily with those improved communications which are of vital importance for the carriage of its exports. Much useful work has been accomplished under these orders, and it may be contended that an application of local funds which opens up remote and isolated localities by roads may well take precedence for a time of an application which promotes their political knowledge. But this at least is clear, that if local self-government is chiefly desirable as an instrument of political and popular education, then the administration of our local funds in the past few years has certainly not fulfilled that object, for it has not coincided with that extension of the powers of local committees which was contemplated by the promoters of the local-fund system in 1868-69, or been favourable to the acquisition of administrative skill by the people. The time has come when our original policy must be resumed. Orders were accordingly issued, some months ago, to revert to the more liberal provisions of the rules which I have quoted, so as to bring the practice into accord with the views of Government as set forth in the Resolution of September 19, 1882, and the much larger powers over expenditure assured to local boards under the first of these Bills.

This is how we stand at present, and Honourable Members will perceive that the Government concurred in the opinion of the Government of India that action might be taken in various directions on the lines of policy laid down by Lord Mayo's Government, and gave effect to this view by executive orders. District and táluka and municipal committees we had, and our course seemed to be to popularize the latter as far as the law permitted, to restore to the former their independent control over local funds, and to give to both more local work to do.

Shortly after the commencement of the measures which I have thus briefly described, we received from the Government of India in May of last year the now well-known Resolution of May 18, in which the Viceroy in Council reviewed, partly modified, and greatly enlarged his previous instructions. This Resolution laid down certain fundamental principles which must be universally followed, first, as to the mode in which local boards, whether municipal or district, should be constituted; and, secondly, as to the degree of control which the Government should retain over them. Our elementary local-fund acts are inadequate for the regulation of local self-government as here elaborated, and these Bills have been prepared to deal with the subject in its now more advanced stage.

Before commenting on their provisions I shall say a few words in explanation of the general view which this Government has taken on the subject of the present extension of local self-government. It will be remembered that the subject has come before us in connection with the decentralization of some of the duties of Government. In other words, this means a division of labour between the Central Government and local committees.



In this division of labour I need hardly say that the portion of the public business which falls to local committees is not the higher duties of Government, such as the control of Imperial taxation and expenditure, but that great mass of local public business the management of which is uncongenial to central authority, which imposes a heavy and needless burthen on central authority, and which it would be contrary to sound policy to retain in the hands of central authority a single day after it can be safely transferred to the local agencies which are most concerned that it shall be well transacted. The principles and methods applicable to local affairs are just the same in India as they are in England or in any other country. It is as true of India as of any other country that it is more in the public interest and more economical of public money that local affairs should be managed locally by those most interested in them than by the Central Government. It is as true of India as of any other country that local administrative institutions are the chief instrument in the political education of citizens. There is nothing in the conditions of English rule in India to prevent us from acting on these principles as they are acted on in England or in any other country. Rather to act upon them is the complement of our general policy. For it would be strangely inconsistent if the Government, which acts as a constitutional or national Government in applying the public revenues for the common interest to such objects as the administration of equal justice, to education, to railways, and other agents of a sure, even, and intelligent prosperity, should at the same time deny to the people the use of the largest and freest school of practice for the exercise of those capacities for which the Government is at such pains to provide nourishment. It can then be nothing but a satisfaction to the Central Government to be able to withdraw, as regards local affairs, from the demoralizing position of a despotic power which attempts to do everything for the people. It is also a sound view, and supported by great authority, that in local affairs, the administration of which carries political education down into the masses, and which do not touch such important interests as the higher departments of State, the development of public spirit and intelligence may be regarded as an object at least as important as the quality of the work done by the local boards. Again, we think that no objection need be made to the introduction of the elective system which has special advantages in the case of local bodies. A people may very well choose representatives for the management of their local affairs who have not the qualities which would fit them for representative government as a nation. We are not proposing to sanction the election of representatives to a Parliament which should deal with Imperial questions, but simply arranging that the people shall be invited to manage the local affairs in which they are personally interested through representatives to be chosen by themselves. If the voters through ignorance or indifference make a mistake in the selection of their first representatives, the local mischief which may ensue to their interests will be their best instructor to be more careful in their choice on a second occasion. With suitable provision for control no evil consequences need be apprehended from the election of local bodies, and the advantage in stimulation of popular interest in local public business is great.

These are the familiar doctrines of the political economist applicable to the matter in hand. Since the first establishment of a local-fund system in this Presidency the Government has never hesitated to accept them as applicable to the administration of public business subject to the necessity for gradual progress which is imposed by the existing conditions of native social life. The elementary system of local-fund administration which was introduced here on a sound basis some twenty years ago was well suited to the time, but we do

not say that it is sufficient for all time. The creators of that system did not intend it to be stereotyped for ever, neither is native society entirely unprogressive. I have adverted, moreover, to a temporary re-action which has intervened from local towards centralized control, causing an interruption in the proposed development of local committees towards greater independence. It sometimes happens that under stress of circumstances one side of a policy attains more prominence than another side, and here the executive function of local administration has been emphasized rather than the educational function, the end has been regarded rather than the process. Now that attention has been revived to local administration as a means of political training, it may be found that the policy of the Government as a policy of progress has been outrun a little by the extension of political knowledge and the capacity for forming political judgments at least among a large class. However that may be, the Government has given assurance in the statement of policy made in last September of its intention to strengthen the position of the local authorities. Action has already been taken accordingly by the executive orders which I have described, and now we propose to guarantee the continuity of this policy by legislation. These Bills guarantee much for the present and much more for the future. They confirm to the rural boards the independent control of their works and funds. They no longer impose *ex-officio* presidents invested with summary powers of interference with the business of the boards. They provide for the general introduction of a large measure of representation and for its future extension. They abandon much of the interference hitherto exercised by authority higher than the local authority. They have the merit of abolishing lines of division or exclusion. They remove disabilities, so that when the time comes for local boards to stand entirely by themselves, there will be no impediment in these acts. For a perusal of them will show that they are elastic enough to meet the case of local boards which shall be entirely unofficial, manned and officered solely by private citizens, the district officer assisting from without as a friendly allied power. This is briefly the scope of these Bills as regards the present and future enlargement of the independence of local boards.

I must now turn to another side of the subject, to which a responsible Government must also give its attention, and that is the duty of making provision that those who are entrusted with public money shall spend it in the true interests of the localities to which it belongs and of the whole community. It is not to be supposed, as some critics of these Bills would have it supposed, that local self-government means the complete emancipation of local boards from all supervision and regulation by the Central Government. It could not be tolerated that a local board should dissociate itself from the policy of the Central Government, or fall back from the level of civilization which that Government endeavours to maintain. If it is true of England, it is still more forcibly true of India that the central authority should keep up a perpetual communication with the local boards, giving advice, and enforcing obedience to general regulations which the Legislature should prescribe for the management of local business. Now certainly it cannot be contended that Indian local boards are less in need of authoritative instruction than English local boards; that there is less ground for apprehension that a local board in India, if allowed its own way in sanitary matters, may repudiate the system of sanitation approved by central authority: if invested with too wide a discretion in the management of public money and public property, or in raising funds by taxation, may use its powers, not in the common interest, but in the interest of caste, or race, or faction. If the local

boards should waste their strength or money on party strife and jealousy, they would neither carry forward their political education, nor maintain the necessary continuity and unity of purpose with which the whole administrative system, central and local together, ought to be engaged in advancing the welfare of the country.

I am here referring, of course, to the portion of these Bills which deals with the question of control, a part of the subject which I might have dismissed with briefer notice, if it had not been selected for an expression of dissatisfaction by persons who apparently have not acquainted themselves with the first principles of local government accepted by all civilized nations. It would appear that many readers of the Resolution of May 18 have given all their attention to what is said about the independence of local bodies, and overlooked the principle of their association with the Government. But there is no intention of breaking the public administration into two pieces, and leaving the local portion to follow its own devices. The Resolution carefully defines the proper nature of control, and, moreover, by its reference to failures which may discourage exaggerated hopes and even cast discredit upon the practice of self-government, it assumes that there is a standard of accomplishment to which the local bodies must try to rise, and that standard is, of course, the uniform, impartial and progressive policy of the Government. The question discussed as to control was not whether control should exist, but whether it should be exercised from without or from within. And here occurred the question whether the Collectors should continue to preside over the local boards, or should withdraw from them, and guide them from without. Either plan is consistent with the theory that the central authority should supply principles, and the local authority work out details. But the matter had to be considered in the light of existing facts,—what degree of disestablishment local boards are immediately ready to bear. This Government finally decided not to bind itself by law either to limit the appointment of president to any office or class, or to exclude any office or class from it. Any member of a board may under these Bills be its president, and the president may be either appointed or elected. But applying this elastic provision to present possibilities, the Government thinks that new and inexperienced rural boards and the municipal boards of the smaller towns could not all at once dispense with the personal and present aid of the district officers' knowledge and experience. The Collector is not a mere Government inspector devoid of local information. He is himself a local authority, with exceptional opportunities of learning the local wants of his district. When he is president he will have an elected vice-president who will be under instruction and training in the duties of president. The vice-president may exercise any of the powers of a president, and it will be in our instructions to official presidents to leave the duty of presiding at meetings as far as possible to the elected vice-presidents. But it has to be considered that the new rural boards will have to put their untrained hand at once to the projection of schemes of works, the selection of the best means for executing them, and many details of business to which they are quite unaccustomed. The habitual official leading seems indispensable for a time while business experience is being had, and the best men are showing themselves above the mass. It should be remarked that while municipal boards have developed a fair amount of public spirit, the rural boards have not made a similar advance, and yet a district officer has been *ex-officio* president of both. There is something else, then, which has been unfavourable to the increase of independence in the districts, and I find the causes to be two :—first, the interference of authority higher than local authority with the local plans of works, and, secondly, the backwardness of rural as

compared with urban communities. The first impediment has now been removed by the Government; the second can only be removed by time. For we cannot create a strong, self-reliant people, master of its own affairs, by an act of the Legislature. We can only remove all obstructions out of the way of the growth of public spirit. In the meantime we must supplement the strength of the popular bodies by lending the assistance of our local executive as long as it is needed. There are two sides to the subject—first, there is the regulation of administrative principles which will always be exercised by the Government through its local executive, and may certainly be exercised from without; secondly, there is the actual performance of local work subject to those principles, which properly belongs to the local communities, or their representatives, but which in their present elementary status they are not able to undertake without assistance. The Government can assist them only through its local officials, and we think it more judicious not to begin by drawing a line of division between the Government officers and the local agencies, but rather to let the withdrawal of the former from personal participation in the local business respond to a growing pressure from the conscious strength and independence of the non-official section of the boards. There is, of course, a right and a wrong way of exercising official guidance, and it has been proved by instances under the present law; among which I may mention the administration of the Surat Municipality under my honourable friend Mr. Hope, that it is quite possible, even with *ex-officio* presidents, to teach unofficial sub-committees to work freely and independently. I feel confident that, when the desire of the Government is correctly understood, district officers will order their participation in the business of local boards in a way to encourage the growth of local liberties, and not to discourage or repress them. I should say more on this subject if I did not know that those who have earned the right to be regarded as the best exponents of native opinion upon it hold the same views as the Government as to official presidents. We should not be justified in forcing upon native communities a new and serious responsibility which their political leaders are not now prepared to accept. But the reservations which must at present be made in the case of the rural boards and the municipal boards of the smaller towns are not equally necessary in the case of the larger municipalities. They already exercise a larger measure of independence, and it is to be expected that there will be found in them non-official gentlemen with the necessary capacity and public spirit to undertake the office of president at once. Elsewhere the future will depend on the people themselves, but the intention of the Government is to open the way to non-official presidents as soon as the public interest will allow it.

Having thus stated the views of the Government on the more important questions of policy involved, I will now proceed to notice more particularly some of the principal provisions of the Bills. They will come into force from a date to be notified for each district and town by the Governor in Council. This will give time for subsidiary arrangements, but the acts will be put into operation generally without delay. The constitutional sections, however, will not be at once applied to talukás and municipalities which are at present too backward to do what is required to fulfil their purposes. The enlarged independence which the Bills assure to local boards consists first in their more popular constitution, with a minimum of one-half elected members and either an unofficial president or an elected vice-president; secondly, in the transfer to the district boards of the power to sanction estimates. This is really a most important point, because the Local Funds' Act of 1869 enacted that the district committee was to act under the

control and general supervision of the Revenue Commissioner, and that all the proceedings of the committee were subject to the review and control and final decision of Government, whereas in the Local Boards' Bill the local board is empowered to consider and approve the estimates yearly placed before it, and no power is reserved to Government to interfere with them, except anything contained in them is likely to cause injury or annoyance to the public, or lead to a breach of the peace. The rural boards are in this respect placed on an equality with the municipal boards. The rural boards will employ their own subordinate establishments, and the services of the Government executive engineer are given to them free of cost. They are not compelled to use his agency; but as his gratuitous services are equivalent to a grant from the provincial revenues, they will not be wise if they refuse them. City municipalities, which already enjoy freedom as to their estimates, will be relieved of the power of suspending their resolutions now exercisable by the *ex-officio* president, and the town municipalities will be promoted to the independence of city municipalities, the distinction between the two being virtually removed. With regard to the constituencies, in the Local Boards' Bill the qualifications of the electors and candidates are set forth. In Sind they are, as the Bill now stands, the persons whose names are entered on a list of representative landholders and headmen. The qualification in the Presidency is a mixed tax-payers and property qualification, the local cess-payers forming the bulk of the voters. The electors in each village will be the principal landholders or ryots, and their patels or village headmen, together with the persons who pay license-tax, or some similar contribution to the public revenues, and the few other persons who have local interests as owners of a fair amount of immoveable property other than qualifying land. The villages are combined into groups, and each group elects its member to the taluka board, while each taluka board elects its delegate to the district board. The smaller municipal and other towns are included in the groups. Each municipal town of the middle class elects its member to the board of its taluka, and each municipal town of the first class elects its member to the district board. We have obtained returns of the voters in the village groups as far as this can be done at present, and find that the qualifications in the Bill give a sufficient number of voters, with a reasonable preponderance of local cess-payers and their village headmen. In the Municipal Bill the qualifications of the voters and candidates are left to be settled by rules. It would be preferable to define them in the Act if this were a simple matter, but it is not; and the Bill would be swollen to huge proportions if every possible variation of franchise were set forth in it. On the other hand, a too vague and general definition is of no practical use. It must be remembered, however, that for the purposes of the elections held in March and April the Government sanctioned a schedule of voters' qualifications which was taken from the Resolution of September 19, 1882, and which worked very well. There can, therefore, be no doubt what the intentions of Government are; but, if it is any satisfaction to the public to have the municipal franchise assured by law to certain classes, such as rate-payers, graduates, pleaders, jurors, honorary magistrates and the like, this may be done by adding a section to the Bill. But power must be reserved to vary the franchise otherwise to suit the various circumstances of different towns.

Thus far as regards the elected members, who are to be not less than half, and may be any larger proportion of the board. The nomination of the residuum is supplementary to the elective system. The intention is, of course, to secure through a simple expedient

the representation of minorities by nominating to seats on the boards either well-qualified persons who have been unwilling to canvass, or members of sects and classes which have not succeeded in returning a representative or sufficient representatives by election. The proportion of nominees is subjected to a maximum limit, and the power of nomination may be exercised less and less as Government thinks proper, and finally disused when representation attains a more perfect development.

I have now, Sir, I think, said enough as to the scope of those Bills before moving that they be read the first time. I have endeavoured to show that the independence of local boards is a conditional and not an absolute independence; that they must always be subjected to authoritative control, so that administrative principles may be upheld; that, on the other hand, they should be allowed all the freedom for which they are fit in the exercise of local power over local affairs; that Government has no interest and no desire to participate in the exercise of local power by local bodies after it has been proved that they can stand and walk alone; that, in the judgment of the leaders of native public opinion, that time has not yet come, except in the largest cities; that the re-organization of local administration in these Bills will facilitate the advance of the local boards to this consummation. I believe that in these measures we offer to the country a fair amount of guaranteed independence; that the minimum guaranteed is a great advance on the independence hitherto enjoyed by local boards, and that the maximum opened to them is as much independence as local boards can reasonably ask for any where. It is matter for speculation how these concessions will be used, but in the circumstances of India it is necessary for the Government to hazard experiments, and to apply to the people a pressure in favour of popular institutions which in other countries the people more commonly apply to the Government. This, however, need not prevent us from heartily desiring that the experiment may succeed. It is often said that Government officers dislike local self-government, because they are unwilling to part with power; but what is taken for unwillingness to part with power is, I believe, the impatience felt by overworked officials for any methods, except the shortest, which are also the most rigid and mechanical, for getting public business done. The teaching and training of local committees appear to waste time and money. But every thoughtful officer must confess that this is not fair to the people, nor possible after a certain stage of their social history. Though the process of education is tedious, it is one to which we must not deny patience and sympathy; and if it leads to success, I cannot imagine how success can be regarded otherwise than as a gain all round. I can only say for myself after some twenty-seven laborious years in India, of which much has been spent in doing work which might have better been done by those more personally concerned in it, I can imagine no more cheerful discovery than that we have ready at hand the material of local boards fully competent and equipped to take all local business on their own shoulders, and that we have only to organize and employ them. But we have not arrived at that yet, and much has to be learnt before there can be a really popular movement to occupy the ground which is opened out by these measures. In reaching that consummation we shall now transfer some of our responsibility to the men of "the party of progress and reform", and they must decentralize as well as the Government. We should not be satisfied if political education were to stop short at a small class marked out by special circumstances from the masses. We have that form of polity already in the Native States, where the local administration is quite indigenuous, but in no way popular or representative, and, therefore, generally very far from progressive. To

reproduce that position in our districts would be a very partial success, which would go a very little way towards the establishment of free institutions. Private and party motives would dominate the local councils, and the popular indifference and aversion to municipal regulations would be aggravated. While, therefore, we are glad to have with us those who have taken an intelligent lead in welcoming these measures, we look to them to ensure their success by exerting themselves with singleness of mind to set before their fellow-countrymen an example of disinterested and enlightened local administration by private citizens. It may not seem a very lofty employment to teach the people of villages and country towns how to manage local conservancy, primary schools and dispensaries, but it is the underlying growth of social organization which is really important, and I think that it is not unworthy of the best abilities and the highest ambition to build up among one's own people, with unpretentious and patient assiduity, the first foundations of a national spirit.

I desire to add that I have received a large number of useful suggestions relating to the details of the Bills, which will properly come under consideration when the Bills are referred to select committees.

His Excellency the PRESIDENT :—The Honourable Mr. Peile's motion will be that Bill No. 3 be read a first time. It is impossible, in form, to advance the Bills simultaneously; but Honourable Members may, I think, according to their convenience, follow the example of the Honourable Mover and speak to both Bills at once, though in strict form we can only have one before us. The question is that Bill No. 3 be now read a first time.

The Honourable Mr. BUDRUDIN TYABJI :—May it please your Excellency, although I do not consider this to be a proper occasion to make any lengthy observations upon the historical aspect of this great question, I yet think it my duty to offer a few remarks on the more important principles upon which these Bills appear to have been framed. I need scarcely say that the principle of local self-government which has been so earnestly and forcibly enunciated by His Excellency the Viceroy has my most hearty concurrence. Indeed, I believe that no measure has ever been introduced by any Indian Government which has been received with so much enthusiasm throughout the length and breadth of this great Empire as has been evoked by Lord Ripon's proposals to confer the boon of local self-government upon the people of this country. The advantages and benefits of this great scheme, both to the people and to the State, seem to my mind to be so perfectly obvious, and they have been so universally acknowledged, that I think it would be almost a waste of time for me to dilate upon them on this occasion. No one, I think, will venture to deny that it will tend to stimulate public spirit and independence, that it will raise the people in political education, that it will foster a healthy spirit of manliness and self-reliance, of competition and rivalry in the discharge of civic duties—that it will bring the official and non-official classes, the European and native elements, into closer contact—that it will create an interest in the minds of the people in regard to the improvement of the localities with which they are more immediately concerned—and, above all, that it will make the burden of taxation feel lighter by conferring upon the tax-payers themselves the power of administering the funds. But if these are the advantages to be reaped by the people, how shall we estimate the enormous gain that will also accrue to the State? How shall we put a price upon the invaluable services of the thousands of able, upright, and experienced gentlemen whose services will be placed at the disposal of the State from no other motive than the honour of serving their country, and for no other recompense than

the satisfaction of a desire which seems not only common but natural to all civilized mankind. Consider what an enormous and almost inexhaustible amount of intelligent and competent agency in the Bombay Presidency is at present allowed to remain dormant and unutilized. And it is quite clear that in proportion as that agency is utilized, in the same proportion the present highly paid agency can either be entirely dispensed with, or else directed to something more important, something more worthy of its highly trained energies, than the building of a country road, a tank, or a dharmshála. But while the advantages and benefits, both to the people and the State, of this measure are perfectly obvious, I yet think it is our duty to bear carefully in mind that certain drawbacks and possible difficulties are more or less inherent in a system of election, especially when applied to a people somewhat slow and apathetic, disposed to rely more on Providence than their own exertions, and who have been for ages accustomed to lean upon Government and the official classes. In discussing the merits of a scheme of local self-government for this country we must remember that this is a somewhat novel and tentative measure; that some portion at least of the people upon whom the franchise will be conferred will have received little more than superficial education; that many of them will hardly appreciate, at first at least, the full importance of choosing the best and ablest men for their representatives, and that even some of the boards may at times fail to appreciate the great power which, for good or for evil, these Bills will place in their hands. It is, no doubt, from a consideration of these possible dangers and difficulties that the Government have thought it expedient to retain in their hands those powers of check, supervision, and control which in more advanced circumstances might be entirely useless or even perhaps mischievous. However much, therefore, I regret the existing circumstances which necessitate those strong provisions of the Bills—which may well be called their “bludgeon clauses”—I cannot help admitting them to be more or less necessary; but I would fain hope that no local boards will ever neglect their duties or disgrace themselves to such an extent as to compel the Government to put any of those bludgeon clauses into operation. For I take it for granted that it would be no less painful to Government to suspend or suppress or even interfere with local boards than it would be to the condemned boards themselves. While therefore I fully approve of the two cardinal principles upon which every sound system of local self-government in this country ought to rest, namely, full and ample power to local boards to administer their own local affairs, and sufficient power of supervision, check and control to the Government to prevent any flagrant maladministration, I am not yet satisfied that these Bills as they at present stand, and without some important modifications, will achieve the great object which the Viceroy has in view, or satisfy the legitimate aspirations of the people of this Presidency. The general machinery for local self-government which is provided by the Bill,—the division of districts into talukás, and talukás into groups of villages for electoral purposes, the institution of taluka local boards and of district local boards, and the relative functions, duties and positions allotted to each,—have my general approval. But the constitution of these local boards, the numbers of which they ought to be respectively composed, the proportions of elective members to the Government nominees, the qualifications and disqualifications of the voters and of members, the appointment and removal of the presidents and vice-presidents, the duties to be imposed on local boards, and the degree of subordination under which they ought to stand towards Government,—these are matters of such extreme importance that I desire to say a few words upon them. First, as to the constitution of the local boards. The Bill leaves this important matter



entirely in the discretion of Government, providing only not less than one-half shall be elective members and not more than one-half Government nominees. Now, I confess that the proportion of Government nominees as here contemplated seems to me to be somewhat high. Unless a decisive majority is given to the elective members, I fear that the Bill will be practically worse than useless; it will be mischievous. The real power will still continue to belong to the local authorities, and the present measure will merely continue and practically perpetuate the present system under the high-sounding name of local self-government. It seems to me that the people will have gained little more than a bare responsibility for the administration of funds and of affairs over which they will have no real control. On all important occasions the independent members will be liable to be completely swamped by the Government nominees, who will ordinarily be the mere creatures of the Collectors——

The Honourable Mr. PEILE :—No.

The Honourable Mr. TYABJI :—They can hardly be expected to vote in opposition to the wishes of the authority to whom they owe their nomination. The real object and scope of nomination by Government ought, I submit, to be nothing more than to correct and adjust any accidental defects in the composition of the local boards, and to secure a due and impartial representation of the different classes of the people; and this, I think, would be sufficiently provided for if power were reserved to Government to nominate, say, not more than one-third of the total number of members of the táluka committees, and say not more than one-fourth of the total number for district local boards. I mention a smaller proportion for the district local boards, because they will be selected from among the members of the táluka committees, who will themselves be picked and selected men. We must remember that some portion, at least, of the elected members will, in all probability, consist of Government servants and Government pensioners, and, therefore, the necessity for Government interference in this matter will not be really so great as it might at first sight appear. Then, again, with regard to the number of members for the district and táluka local boards, while, no doubt, on the one hand, it is extremely desirable that they should be sufficiently large to fully represent the different classes of the people, on the other hand I think they ought not to be so large as to become unwieldy or to impair the sense of responsibility which ought to rest upon each individual member. The Bill leaves this important matter entirely in the discretion of Government. It seems to me that 16 would not be a bad minimum number for táluka local boards and 32 for district local boards. The next important matter is in regard to the qualification of voters and of members. The Bill makes an entire exception of Sind in this matter, and confines the right of electing, as well as of being elected, members of the local boards in that province to jághírdárs, arbabs, waderos, neckwards, dehvars, pariomars, mukhis and other headmen, and elders of the communities who may from time to time be declared eligible by the Collector. Now, I confess that I cannot see any reason why the property and other tests which have been applied to the rest of the Presidency should not be equally applicable to Sind. It would seem that property, intelligence, or contribution to the State funds, which in other parts of the Presidency are held to be proper tests, are entirely to be discarded in Sind, where apparently nothing is to be regarded but titles. Many of the titles mentioned are extremely vague and indefinite in their character, most of which have long lost their original significance, and are capable of being assumed at will by unscrupulous persons, and incapable of being defined, except by the arbitrary will

of the Collectors themselves. Men who possess every qualification which would entitle them to be called elders, or headmen, of their communities in the true sense of the word, would be excluded if their forefathers did not call themselves such, or if their own modesty prevented their assuming that pretentious title for themselves; while men who either never possessed, or have lost every vestige of right to be neckmards, or pariomars, or waderos, or arbabs, would come forth as the representatives of the people on the strength, not of any virtues of their own, but because, forsooth, their ancestors were—to translate those titles into English—good men, or old men, or great men, or lords, or masters. Surely there can be no valid reason for introducing such a system as this even into Sind. That province may be comparatively backward; but still education, intelligence, wealth and public spirit ought to have no less fair play in Sind than in other parts of the Presidency. There is power given to Government to exclude backward districts unfit for local self-government in other parts of the Presidency, and it seems to me unfair to exclude the whole of Sind from the general scheme. I would submit that Sind ought not to be excluded in that way, but that if there are any local areas unfit in that province, they should be excluded like any backward local areas in the rest of the Presidency. Then, for the rest of the Presidency the qualification laid down is the payment of Rs. 48 per annum of land revenue, or Rs. 500 general income. In the case of voters, at least, it seems to me that these qualifications might be reduced to Rs. 32 for land revenue and Rs. 300 general income. There are in the Mofussil, comparatively speaking, few people who earn more than Rs. 300 and as our object is to give the franchise to all people who may possess the necessary qualification of intelligence, I think that object can be sufficiently achieved by making the limit Rs. 300 per annum. However that may be, I think the Bills are certainly defective, as has already been mentioned by the Honourable Mover, in not laying down distinctly, in the Bills themselves, an educational or professional test. I think few people will dispute that the graduates of our different Universities and professional gentlemen—barristers, solicitors, pleaders, doctors, school-masters, engineers, &c.—are perfectly competent to take a part in the conduct of local business; and I think their qualifications ought to be laid down in the Bills themselves in clear and explicit terms. Then, I think the mere fact that a person has been sentenced to imprisonment by a criminal court ought not—without reference to the nature of the offence—to disqualify him for ever from taking part in public affairs. Who, for instance, could be more competent than the editor of an able and well-conducted newspaper? And yet this provision would disqualify him, if he had the misfortune to be sentenced to imprisonment, say for a defamatory article. The proper principle is to exclude a person convicted in a way that must necessarily affect his character, and I think this object would be sufficiently achieved by providing that the sentence of imprisonment must have been passed in respect of a non-compoundable offence. I now come to the clauses affecting presidents and vice-presidents, and I confess I entertain a very strong conviction that the success or failure of the system of self-government will very much depend on the manner in which this problem is solved. I would earnestly deprecate, as a general rule, the appointment of Collectors to be the presidents of the local boards. I am satisfied that their presence, as a rule, will be sufficient to crush the independence of the members, and I feel convinced that their presence, or even their active influence, would be quite enough to cause either an unseemly and undignified wrangle at every meeting of the board, or complete submission to the behests of the local authorities. I submit, therefore, that, as a general rule, at least the

presidents of the local boards should be non-official gentlemen; and I go further, and say that these presidents should, as a rule, be permitted to be elected by the local boards themselves, subject only to the approval of Government. I cannot see any reason for supposing that the local boards would be unable to discharge this duty properly; but if they did go wrong in any particular instance, the Government would have power to set them right. Then, again, I think the boards ought equally to have the power of removing the presidents, and I would suggest that the presidents should be liable to be removed on a resolution passed, say by a majority of two-thirds, at a special meeting expressly convened for the purpose. In regard to the duties to be imposed on local boards, I think the establishment and maintenance of model farms, the acclimatization of exotics, the importation and distribution of various kinds of seeds, the improvement of the breed of horses and of cattle, the introduction and preservation of fish, the establishment and maintenance of relief works in times of famine or scarcity,—these are matters which ought not to be made, as provided by Clauses (e) and (g) of Section 30, compulsory upon local boards at all. They ought to be, I submit, left entirely to the option and discretion of the local boards. They are matters in their nature rather Imperial than local, and considering the slender funds at the disposal of the local boards I think it would be extremely unfair to compel them to undertake duties which would be more properly performed out of Provincial or Imperial revenues. In regard to the subordination of local boards, in some respects at least, to the Central Government, I have already said I think that more or less necessary, for reasons already stated by the Honourable Mover. It seems to me there ought to be general supervision, especially in matters where it is necessary that there should be a continuity of policy, as in education and other matters which might easily be enumerated. But I think any interference in petty matters ought to be carefully avoided: such, for instance, as requiring the sanction of the Commissioner to a lease for more than three years. Surely that is a matter in which the local boards might well have been trusted. Then, I would give to the local boards the power of appealing to the Governor in Council in every case of interference with their duties or functions. And, further, I think it cannot be too strongly impressed upon the local authorities that although these powers of supervision, check and control are necessary as a precautionary measure in the abstract, still they ought not to be put into operation except in extremely emergent cases, and even then not without due regard to the wishes and feelings of the local boards themselves. I now come to a part of the Bill which is not only of extreme importance in regard to this particular scheme of local self-government, but which seems to me to involve a vital principle respecting the duties, functions and responsibilities of this Council, as well as the mode of legislation in this Presidency generally. I refer to those sections of the Bills which confer wide discretionary powers on the Government for making rules in regard to matters which have been expressly left open and undecided by the Bills. Now I do not deny that it is often desirable, and sometimes even necessary, to confer some such limited power on the Executive Government; but such power ought always to be carefully defined, and limited either to minute matters of detail which are constantly fluctuating in their nature, or else to matters connected, not so much with legislation, as with carrying a legislative measure into execution. It is the duty of the Council, I submit, to try and make its own legislative measures as perfect and complete in themselves as possible, and it ought not to abdicate its functions in favour of any other authority, especially when questions, not

merely of detail, but of principles, are involved. True, the Governor in Council is often in a far better position, than individual members of this Council can be expected to be, to decide points which require careful and minute investigation of local circumstances ; but nevertheless I think the advantages of a free, open and public discussion in this Council are so great that all important matters, whether of principle or of details, ought to be discussed and decided here as far as possible. These general observations seem to me to apply with special force to the measures under discussion. Such wide, absolute and almost unlimited powers of making rules are given in these Bills that it would be possible, by means of the rules which Government are empowered to frame, to render the Bills perfectly nugatory. Take, for instance, Section 8 of the Local Boards' Bill. That section gives to the Governor in Council absolute power to exclude from the benefits of local self-government such portions of the Presidency as he may deem necessary. Now, of course, I do not deny that there may be, and probably are, certain local areas unfit for self-government ; nor do I for a moment suggest that His Excellency is at all likely to exclude advanced districts, such as Poona, Ahmedabad, or Surat. Yet there is nothing in the Bill itself to prevent his doing so. With the profoundest respect, therefore, for His Excellency in Council, and the utmost confidence in His Excellency's enlightened administration and undoubted sympathy for the people, with firm conviction that His Excellency is determined to give fair play to the scheme of local self-government in this Presidency, I must yet strongly oppose the insertion of such a clause as that, because I think it is radically wrong in principle. His Excellency's views on the subject we know and can trust, but there is no guarantee as to who his successor may be, or what views he might entertain. And the point is of far too vital interest to the people to be thus left in doubt or suspense. It seems to me to be the clear duty of this Council, however arduous and unpleasant, to try to make its measures as complete as possible in this respect, and not to shrink from the responsibility of deciding what are the backward districts which ought to be excluded from the benefits of local self-government. I think there ought to be a schedule annexed to the Bill giving the names of backward districts, and at the same time power should be given to the Governor in Council to extend the scheme to even those backward districts as may from time to time prove themselves worthy of enjoying the privileges of local self-government.

Mr. PEILE :—There is that power.

Mr. TYABJI :—This, I think, would have the advantage of calling the attention of the public to the matter, and would give an opportunity to the condemned districts themselves to make such representations to the Government as they might think necessary. The same observations, I think, apply with equal force to Clause 3 of Section 18, which confers upon the Government the power to declare who are the persons to whom the franchise ought to be extended. This does not seem to me to be a matter of detail at all, but one of principle ; and, as I have already said, I think the educational and professional tests, as well as any other property tests that might be considered desirable or necessary, ought to be distinctly laid down in the Bill. Then, I strongly object to clause (a) of Section 66, which gives to the Governor in Council absolute power to prescribe the number of members for district and taluka local boards, and the proportion of elective members and of Government nominees for each. I think that these are probably the most essential and vital parts of the whole scheme. The success or failure of the scheme must entirely depend on the manner in which the local boards are constituted and presided over ;

and I submit that these are the very points, above all others, which ought to be discussed by this Council, and ought to be decided here. If they are left to the decision of the Governor in Council they will be decided without hearing what the public have to say, and without the benefit of any public discussion at all. I have now touched on what are the most important features of the Bills. There are, no doubt, many other minor points of more or less importance which will be required to be discussed by the Select Committee. I will say nothing more upon them at present, but will merely conclude by expressing a hope that these Bills, which to my mind possess all the essential elements of really great, wise and generous measures, may be so enlarged and improved by wise and timely concessions on the part of your Excellency's Government as to make them a lasting monument of your wisdom, and a permanent blessing to the people of this Presidency.

The Honourable Ráo Bahádur K. V. RASTE :—Your Excellency, my sympathies are entirely with the principles underlying the several provisions of the Bill—the Bombay District Local Board and Municipal Act. It proposes to give to the people a moderate share of power in the administration of their municipal and local affairs, and enables the local Government to extend it when the growing intelligence of the masses and the advanced and enlightened administrative capacity of the leading few, make such an extension possible. In the Presidency of Bombay, as in every part of India, some cities and towns are ahead of others in education, enlightened public spirit, and general appreciative intelligence, and might be safely entrusted with the administration of their own municipal and local-fund affairs within reasonable limits; while there are some towns, it may not be an exaggeration to say, which have just emerged from a state of primitive barbarism. Between these two extremes, lie places varying in education and enlightenment in different degrees. To make a uniform law which will adapt itself to different scales of advanced political and social capacity on the part of the people is almost next to impossible. To provide for such a gradation of society is the object of the present measure, which has my entire approval. The scheme of local self-government conceived by our present Viceroy, the Marquis of Ripon, with his characteristic liberality of views and generosity of sentiments, and carried out by our worthy President in his capacity as Governor of this Presidency with an anxious desire to do good to the people, tempered as it is by prudence and foresightedness, is in its initial and experimental stage. It may prove a success or a failure. The anxious thoughts of all well-wishers of our country are directed towards it. In the case of some cities it may be affirmed that it will not fail; but in the case of others there are grave misgivings whether it will not be a grievous failure, and thus afford some ground to the anti-local self-government party. It has opened up a new school of political education to the aspiring youths of India, who must, to be proficient, begin with a primer in that branch of education. After having mastered the first rudiments, they can then hope to rise to the study of higher branches of that science. The proposed measure may be looked upon as a code of rules intended to regulate the constitution and procedure of this school of politics. It no doubt begins with the primer, as it ought to do, and holds out a hope to the advancing students of that school a greater accession of power and a wider and higher field for study. This measure is elastic enough to provide, by reserving extensive powers to the local Government, for all possible contingencies, and thus obviates the necessity of fresh legislation every five or ten years, and lessens the chances of failure and consequent discredit to us,

the natives of India. Power correlates responsibility; larger power means larger responsibility. Are we capable of undertaking large responsibilities attendant upon extensive local powers? I humbly believe we are not. Why should we aspire to higher powers without being able to take upon ourselves, and to discharge satisfactorily, its correlative? Local self-government is a young plant. I would rejoice to see it grow gradually, steadily and surely, and strike its roots deep into the soil, rather than see it grow rapidly and a weakly plant to be blown down by the first gush of an adverse wind. In order to bring the whole measure in harmony with the local self-government scheme already inaugurated, and in order to make it a consistent whole, I humbly think that some emendations are necessary which are fit to be considered when the Bill comes to be discussed in a Select Committee to which it will have to be referred for consideration and report. On the present occasion I record my unqualified approval of the principle and general scope of the Bill.

The Honourable Ráo Sáheb V. N. MANDLIK:—I divide my observations into two sections,—first, on the papers that have been published; and next, on what has now been stated by the Honourable Member in charge of the Bills. I congratulate the Honourable Member in charge of these Bills on the advance he proposes to make beyond what could be discerned from the published statement of objects and reasons. I propose to make a few remarks on two portions of this Bill on this occasion, *viz.*, the chapter on the constitution of the local boards, and that on the subject of control. The present is the first attempt to amend the law as laid down by Bombay Act III. of 1869, and to better the position of the local boards for the exercise of their responsible functions. Looked at in this light, the constitutional sections, with certain exceptions, make a concession in favour of the more or less general demand for popular representation. But I fear that this progress is somewhat neutralized by those sections which relate to control, and which will stifle the growth of a self-denying and self-working spirit on the part of the people of Western India. To use a homely illustration adapted from one of the classical English writers, it would be the making of a defence at one gate, and letting in the foe at the other. The essence of self-government, I take it, consists in the practical exercise of people's intellectual and moral energies in the free working of their own internal affairs, consistently with the general administration of the country in other official departments. A scheme to secure such a Government ought to be based on a maximum development of a popular administrative organization, with a minimum of pure official control. And it occurs to me that a great deal of the present arrangements, as suggested in this Bill, are probably due to a misapprehension of our position. To clear the matter more fully I shall therefore take a brief survey of the question as it seems to me to have been consistently treated by the Government of India for at least twenty-two years; so that although this Council may now have been asked to proceed upon the lines of the Government of India's Resolutions of 1881 and 1882, I venture to think that those Resolutions themselves are in reality describing, consolidating and amending the work of their predecessors. Thus it is said in the Statement of Objects and Reasons, para. 4:—“The administration of local funds under the above enactments and orders has been, upon the whole, highly successful. The time has, however, now come when, in harmony with the wishes and orders of His Excellency the Governor General in Council as to the extension of local self-government throughout India, the law regulating the constitution and the powers and duties of the local committees should be amended so as to secure to those bodies greater independence in administering the funds placed at their disposal for local purposes. It is for this purpose that the Bombay Local Boards'

Bill has been drawn." As regards the first part of this statement, I rejoice to see a recognition of the people's labours under difficulties, because, as I hope to show further on, all our local bodies have been too closely fettered by the rules and regulations made in pursuance of the Act of 1869; and their efforts to do their best are, therefore, a pursuit after success under difficulties. Whether their trials will now be reduced or increased will be seen further on. The second statement in the above paragraph is also one which, standing as it does, does not, I apprehend, correctly represent our position and that of the Government of India, as it has dealt with us in matters of local self-government or local control. Much misapprehension has been already caused by a confusion of ideas on this subject. It is supposed that, in 1883, the Government of India and the Government of Bombay are now to be called upon suddenly to lift up their subjects from an unfathomable abyss and place them on the pinnacles of local self-government. However fascinating the idea, its mere statement must, in the view of all practical politicians, carry its condemnation on the very face of it. Equally unfounded is the reasoning of those who assume the unfitness of the people for self-government in the limited form in which it is now to be developed. Those who assume such incapacity on the part of the people betray, it seems to me, a complete ignorance of the past history of India in general, and of Western and Southern India in particular. I am prepared to admit that the disuse of particular powers of mind or body may cause a partial atrophy of that portion of the organization; but under careful tending I feel quite sure that there is more ground for hope and less for despair in that direction. Students of history know of nations, as of individuals, that it is by the constant application and exercise of the human faculties in the administration of affairs that their moral growth is strengthened and accelerated. Readers of current literature may be referred to an excellent paper by an Italian senator and a nobleman in the last May number of the *Fortnightly Review*, which furnishes an apt illustration as regards the modern kingdom of Italy and the best Italians. While, therefore, I am prepared to meet with failures, I do not despond either as to the quality of the material or to the propriety of working with it in furthering the advance of local self-government. I shall now return to the history of this question as treated by Government. Thus, soon after the creation of the Legislative Councils of the minor Presidencies and the Lower Provinces of Bengal, the Honourable Mr. Laing, the Financial Member of the Viceroy's Council, in his statement for 1861-62, spoke of this subject as follows:—"As regards public works, it was intended that £500,000 should be transferred to local budgets, and provided for by local taxation. This intention has not been carried out for a very obvious reason, *viz.*, that new constitutions having been given to the three Presidencies, it would have been manifestly improper to anticipate the action of the local Legislative Councils in a matter which is so peculiarly their province." Again, says he, "I am as strongly as ever in favour of the principle of local taxation for local objects. In fact, if this great Empire is ever to have the roads, the schools, the local police, and other instruments of civilization which a flourishing country ought to possess, it is simply impossible that the Imperial Government can find either the money or the management. The mere repair of the roads, where anything like a sufficiency of good roads has been made, is a matter altogether beyond the reach of any central *bureau*. It is of the first importance to break through the habit of keeping everything in dependence on Calcutta, and to teach people not to look to the Government for things which they can do far better themselves." The above passage is quoted and affirmed in an important Resolution of the Government of India in 1864. [See the

*Gazette of India Extraordinary* on Municipal Police, September 14, 1864. Circular letter No. 2246, dated 31st August, 1864, from the Secretary to the Government of India, Financial Department, to all local Governments and Administrations; forwarding a Resolution of the Government of India in the Financial Department, No. 2245 of the same date.] This Resolution reviews the history of the *mohtarfa* and other like taxes in India, and runs thus:—"One of the advantages of this mode of providing for the police of towns is, that it renders necessary the creation of a municipality and a municipal fund; and that although the application of the municipal fund is obligatory to the extent of the cost of the police, beyond that limit its appropriation to conservancy improvement, education, &c., is at the discretion of the municipal authorities. Great public benefit is to be expected from the firm establishment of a system of municipal administration in India. Neither the Central Government nor the local Governments are capable of providing either the funds or the executive agency for making the improvements of various kinds, in all the cities and towns of India, which are demanded by the rapidly developing wealth of the country. The Imperial revenue barely suffices for the increasing demands upon it for objects of general interest; and the practical alternative is a large addition to Imperial taxation, in order to meet the wants of the town populations under a centralized system, or a transfer both of the duty and the charge to those populations. Not only will the local requirements be more promptly and fully provided for under the municipal system than they could be by any Government agency, but when the people see that they have the management of their own affairs in their own hands, they will feel confidence to do things which they would not have accepted from the Government. The appointment of wardens by popular election in the south of India has already introduced a new feeling of liberality into the administration of the religious endowments. Where the field is open, the more advanced members of the community naturally take the lead. The people of this country are perfectly capable of administering their own local affairs. The municipal feeling is deeply rooted in them. The village communities, each of which is a little republic, are the most abiding of Indian institutions. They maintained the framework of society while successive swarms of invaders swept over the country. In the cities, also, the people cluster in their wards, trade guilds, and *pancháyats*, and show much capacity for corporate action. In making the more important improvements they will have the aid of many intelligent Europeans who are settled at the principal places of trade in the interior. If an improved municipal administration were not required for police, it would soon be wanted as a basis for the more enlarged and effectual measures of conservancy called for by the present state of public opinion. The Government is totally incapable of furnishing either the funds or the executive agency necessary for such purposes in all the cities and towns throughout the wide realm of British India. Holding the position we do in India, every view of duty and policy should induce us to leave as much as possible of the business of the country to be done by the people by means of funds raised by themselves and to confine ourselves to doing those things which must be done by the Government, and to influencing and directing, in a general way, all the movements of the social machine. This policy has been shown to be in accordance with that of Lord W. Bentinck's and Lord Auckland's Governments. Lord Canning's Government attempted to give practical effect to it, by transferring the charge for roads and other local public works, to the extent of £500,000 per annum, from the Imperial Budget to Local Budgets. Reasons for this are given in detail in Mr. Laing's Financial Statement for 1861-62; and in his Statement for 1862-63 he explained why the arrange-



ment had not taken effect." Nobody, whether official or non-official, could have written more strongly than those who framed the above. And who were they? The Viceroy, Sir John (afterwards Lord) Lawrence. Members of Council, the Honourable Sir Robert (afterwards Lord) Napier of Magdala, the Honourable H. B. Harrington, the Honourable H. S. Maine, the Honourable Sir Charles Trevelyan, and the Honourable W. Grey. I think the above names are a sufficient guarantee that the whole scheme was thoroughly discussed and well thought out. It was, one may say, the continuation of a policy of widening the foundations of British rule in India, by entrusting to the people, as far as possible, the management of their own internal municipal affairs. The above resolution, from which I have already quoted several paragraphs, concludes thus:—

"The policy of the measures now proposed is identical with that of 1861-62; but the principle of local self-government is more easily applicable to populations collected in towns than to those which are scattered over the country; and, in fact, municipal administration has already made considerable progress in India." Next, in chronological order, comes our Bill for local funds taxation passed as Bombay Act III., 1869. When the Bill was before the Council, Mr. (now Sir) Barrow Ellis, after giving a short history of the origin of the enactment, stated that that Act itself was rendered necessary "by the spirit of opposition" or "of independence"; that is, according to his showing, because people declined to pay a rupee more than they were compelled to pay by law. But he said that one of the principal features of the Bill then before the Council was the formation of local committees, so that the people might become accustomed to take an interest in the administration of their own affairs, and give that assistance of which the Government stood so much in need in regulating and providing for local requirements and improvements. Another object was that people should be made to pay for new benefits which were to be conferred, and which, but for the payment, they would not receive at all. The two objects then placed before the Legislature as those attainable by the employment of this new agency were public works and education. When the Bill was finally passed, Sir Barrow Ellis said that the taluka committees would be recognized by rules to be made after the passing of the Act; but that the appropriation and distribution of the funds was to be made by the district committees. Although a definite fund was thus raised, the scheme of local boards did not make its proper mark in the country's history until the policy to which it owed its next advance was definitively emphasized by the Government of Lord Mayo in 1871. In that year the declarations of Mr. Laing in 1861-62 as to the local budgets and local self-help and self-guidance were re-affirmed at a meeting of the Council held on 18th March, 1871. At the next meeting of that body the Lieutenant-Governor of the North-West Provinces spoke as follows:—"And why, my Lord, should there not be a local Legislative Council also? We have all the elements for it here. Besides official members, there are many independent native gentlemen well fitted to aid in such a Council. It is true that, compared with the Presidency towns, the non-official European element is small; but even from these, worthy representatives might, no doubt, be found."

His Excellency the PRESIDENT :—The Honourable Member is reading an extract regarding a representative Legislative Council. Is not that rather straying from the point? There is no question relating to a representative Legislative Council before us. I think that is going rather beyond the scope of the measures under consideration; and our discussion may be amplified indefinitely unless we keep strictly to the matter in hand.

The Honourable RAO SÁHEB :—With submission, I do not wish to raise any outside question for a single minute. In the papers from Bombay which have been submitted to this Government and to the Viceroy it has been stated that we are ahead of the rest of India in all these matters; and from the Bills which have been, or are now being, published in the *Gazette of India*, it seems that we are being placed behind such provinces as the Lieutenant-Governor speaks of here as ready for local self-government. The reason why I read these extracts is to show that these parts of India were considered at that period (twelve years ago) to be so advanced; and if we are now more advanced in this Presidency than these parts were at that time, we may perhaps hope that when these Bills are placed before the Select Committees they will find that they can give us a larger and more liberal scheme of local self-government than is proposed.

His Excellency the PRESIDENT :—I deprecate the introduction of any discussion of the possibility of having representative Legislative Councils.

The Honourable RA'ó SA'HEB having disclaimed any idea of entering upon such a discussion cited the following remarks of Lord Mayo on that occasion :—“I will only add one word more, and that is to express my great satisfaction at the opinions enunciated by the Lieutenant-Governor in regard to local committees; that is to say, with regard to the assistance they may receive from the natives of the country as to the management of their affairs. I had the satisfaction of mentioning the other day how the Lieutenant-Governor of a neighbouring province had pushed on that good work. I believe the Lieutenant-Governor of the North-West has done no less than Sir Donald McLeod in this respect; and I believe that no man can devote his time or his labour to a work that will be so certain to effect a more immediate result than the development of those institutions which have always, and in every country, formed the germ of good government.” Since the above date our administration reports and the reports showing the moral and material progress of India bear witness to the silent and steady working of our machinery as far as the springs which set it in motion have left it room to move and work. Thus, wherever our Collector-presidents availed themselves of the people's assistance, that has not been withheld. Where the people have been sat upon, they have done nothing, for the very best reason that they could do nothing. When, in 1875, the Government imposed the seven-years' budget system in the administration of local funds, the very nominal existence of the taluka committees was brought to an end. People saw the fruits of their local rates carried off to open up Imperial communications, to build provincial and interprovincial roads, and to waste local resources on comparatively non-local projects. Thus, in the Blue-Book on the Moral and Material Progress of India for 1871-72 occurs the following statement :—“The general habit of self-government is thus being gradually diffused throughout India. In some parts its development is more rapid and complete than in others; but everywhere it is beginning to have an effect upon the people. The privilege of electing their own managers of their local affairs from among their neighbours has been extended, in several instances, to the inhabitants of large towns in the North-West Provinces and in Sind. There is a provision in the Madras Act with the same object, but it does not appear to what extent it has been put into operation. In the Punjab the privilege of election has been very sparingly applied. But where there is no election, there is local government through *panchdyats* or boards composed of the inhabitants, so that throughout India the habit of self-government engendered by municipal institutions may be expected in course of time to have a marked effect on the inhabitants of towns, and through them on the mass of the people. The

levy of rates for local purposes is quite in accordance with ancient usages. These town dues were called *chunghi* or 'handful,' implying that all merchandize that passed had to pay a small contribution." I shall not trouble the Council with statements for subsequent years, as they will have to be drawn upon more copiously on another occasion, and because I have not seen the above description to have been changed, so far as the capacity of the people is concerned, in subsequent years. How, then, has the aforesaid system been actually worked in this Presidency? For this I must draw on another source of information, *viz.*, an official compilation, Part II., Appendix, being copies of, or extracts from, correspondence between the Secretary of State for India in Council, the Government of India, and the various local Governments, on the proposed measures for the extension of local government in India, published by order of the House of Commons in March, 1883. Looking at the reports of the local officers, a curious admixture of assertions and theories is observable, mixed up with some valuable reports. Thus the Commissioner in Sind observes that there are many intelligent men, who only want encouragement to take an active part in the management of affairs of their native place. But he says that under the system introduced by Government, by which these seven-years' forecast of expenditure is to be proposed at one time, there is little left for taluka committees to do. Again, he says that the management of municipalities and also of district local funds is far too much in the hands of officials; and, as public institutions, they are, with the exception of some city municipalities, little better than shams. (Pages 16-17). Coming lower down, the Collector of Ahmedabad holds that there are people in some parts of the Presidency capable of giving valuable advice. He thinks that their association with public officers is likely to attract public co-operation in the furtherance of the interests entrusted to them. (Page 3). The Collector of Surat (page 9) holds that it is hopeless to expect any people to put themselves to trouble in reference to educational matters upon the present terms; and he considers that not an atom of real power is conferred on the committees, and hence they seldom go near the schools, except under some official pressure. He holds that it would be essential to the success of this attempt that there should be no half confidence. The committees should be treated as administrators, with a certain assignment of local revenue, and strictly but fairly treated. Coming lower down, the Collector of Kolaba (page 6) quotes instances of the ill effects of not consulting the people of the country on questions affecting the expenditure of large sums of public money, and cites examples of the two ports of Waghota in Southern Konkan and Karwar in North Kanara, both of which examples have become proverbial among the community for the waste of money they have occasioned. How the system of over-control has stifled public spirit may be further learned from examples with which this compilation abounds. The Collector of Nasik says as to local funds: "I am respectfully of opinion that more power might well be left with the district local-fund committees. They may approve the budget, and may be quite unanimous as to the real wants of the districts. But the ultimate disposal lies in higher hands, and the local bodies have simply to obey orders and submit." When making some further remarks he says that "if real power be given to these committees they will become in reality district road boards, analogous to those existing in England and Scotland, responsible for the due maintenance of the roads and the proper expenditure of money entrusted to them." So that after all what is wanted is conferring more power upon the people (page 26). The Collector of Satara (page 33) says that these "committees are merely allowed to sanction a certain statement of expenditure that is put before them every year. Everything is cut and dried before it comes to them, and they have

nothing to do but to acquiesce." Again, he says we had five-years' budget, and now we all have seven-years' budget. "The committees have no power to even remonstrate; that matter is settled before opinion is asked for." The táluka committees have literally nothing to do, says the Collector, and the district committee is little better. This officer, however, appears to be inconsistent in his own statement. After stating the above, he says he wants no extension of power for these bodies, which have not yet shown what they can do. Who prevented their exercise of power, and why that was prevented, is a matter which, like other unpleasant things, this gentleman will not stop to analyze. One of his assistants (Mr. Lee-Warner) considers that the Government of India are now embarking on a distinct experiment, and he considers that "if the object of Government is correctly stated, it is essential that the fact should be grasped that an entire change of attitude on the part of the Government of Bombay towards these local bodies in Sátára should be adopted." He then shows how the táluka committees and villages have been stifled in favour of large schemes, and how local works of utility are laid aside. In regard to the suggestions invited by the Government of India in order to ensure better local self-government, he holds (p. 35)—"It is essential that the independence of municipal institutions should be fostered, and their powers guarded against arbitrary interference, even when gilded with the name of reform. The táluka local-fund committees must be rescued from destruction by really entrusting to them some definite responsibility, and some regular share (no matter how small) of the district local revenue. I have no hesitation in saying that the Assistant Collectors of Sátára have all of them, for some years past, allowed the privileges of táluka committees to lapse, to the great injury of local self-government; and I trust that the Resolution of the Government of India will force this subject upon the attention of Government. I do not think that fresh legislation is required. The present law is amply sufficient, if its provisions are duly enforced." The Collector of Khándesh, evidently writing from the recesses of his charge, is surprised at the tremendous character of the changes proposed by the Government of India. His idea evidently is that persons in official position know more about the people of India than any other class, including, I suppose, the natives themselves. I do not stop to criticize the opinion of particular individuals in this compilation, for there is no time; but the following views meet the eye under different garbs in various places, and from the official position of the parties they may do mischief. The Collector holds—"the Government of India, in paragraph 6 of the Resolution, lays great stress upon the fact that as education advances there is rapidly growing up all over the country an intelligent class of public-spirited men, whom it is not only bad policy, but sheer waste of power, to fail to utilize. Such men, however, I confidently assert, have as yet not shed the light over our purely agricultural districts. The last thing an educated native thinks of, or takes to, is farming or agriculture. He first tries for employment under Government, and if he fails in obtaining a place, he becomes a vakil, mukhtyár, or clerk, and seeks employment in our large cities. He does not cultivate, nor does he settle down in rural districts; and for this reason I say that it will be very difficult to secure the services of educated and public-spirited men on the proposed sub-local boards; in fact, the class of men particularly referred to by the Government of India is just the very one we shall fail to find." If the Collector had thought a little, he would have found the reply. Leaving Khándesh and coming down to the Southern Konkan, the Acting Collector of Ratnágiri distinctly says—"To enlist the

interest of members we must make them largely independent of the officials. If they find themselves dummies, as they largely are at present, the whole thing will fail." An Assistant Collector of this district says (p. 79) of the taluka committees as follows :—" All the work that there is, is done by the mámlatdár, the other members rarely doing more than suggest some petty scheme for the advantage of their own particular villages. And, lastly, the committee has at present no authority to do anything. In fact, after recommending works for execution for several years, and finding them still unsanctioned, the Assistant Collector is often positively ashamed to call the members together." And again :—" In the constitution of municipal committees a greater difficulty presents itself. The best men are often not willing to undertake the duties. At present the municipal committee does not at all represent the population of the town. The chief cause of this is, no doubt, as stated by the Government of India, that the best men have no sufficient inducement to give up time and attention to the transaction of public business. It is not unlikely that if we can make it fully understood that 'real power is placed in their hands, and that they have real responsibilities to discharge,' the best men may be willing to come forward." This is the key to the whole secret. So long as official dictation does not cramp the energies of the people, they are ready to progress according to their lights. Not that there will be no failures, some failures must occur, but there must be the real power in the hands of the people to manage their own affairs. In 1876, says the Collector of Belgaum, the Government of Bombay laid down the following principle in one of their Resolutions (p. 74) :—" It is the fixed policy of Government that the local wants of the people should be attended to, in the expenditure of the one-anna cess, before projects for the general development of the resources of the country, such as long roads, are taken in hand." Yet he shows that two great provincial roads were recently sanctioned, for which Belgaum local funds had to contribute more than five lákhs of rupees. Therefore he correctly represents that, under such administration, local self-government cannot at present be more than nominal. Again he says :—" I doubt if I have made a single camp without hearing the universal cry for wells and repairs to tanks," and yet under this system he has not been able to meet their wants. This Collector holds that initiation of all expenditure should rest solely with the local boards. In a previous part of his report he says in his letter to the Commissioner :—" I observe that in your letter No. 1254 of the 3rd April last, you reported to Government that the Collectors and presidents of district local funds and municipal committees might be said to be unanimously opposed to any present extension of existing self-government in respect of local funds and municipalites. I would, however, submit that this does not altogether represent my views. I have not by me, as I write, the letter which I addressed to you on the subject; but I remember that the general purport of it was that, as regards local-fund administration, it was so official that local self-government in this branch could not be said to have an existence, and was not, therefore, open to extension. With the utmost respect I would here add, in allusion to your remark, that 'we are, in fact, in this Presidency already far in advance of most other parts of India'; that, whatever may be done in other provinces, we are, though in possession of a good law for local-fund administration by local boards, as backward in practice as though neither boards nor cess-payers had a voice in the matter. For all practical purposes the representatives of the cess-payers are non-existent; and the whole administration of the funds devolves on the officials who meet at the district committees, and who have to carry out any orders that Government may be pleased to pass respecting

the assignment of funds towards certain objects or for the advancement of schemes which Government have directed shall be considered with a view to their being carried out. Practically, the Commissioner of the Division has been given by Government the entire control of the local funds. The 'control and general supervision' over the proceedings of the district committee, which is by Bombay Act III. of 1869 given to the Commissioner, has been, by Government Resolution No. 341 A-588 of the 23rd December, 1873, interpreted so as to compel the committee 'to omit, or to insert, any particular work or item of expenditure,' as they may be instructed by the Commissioner. The committee have certainly a right to appeal to Government, but if the Commissioner should be acting in accordance with the expressed views of Government in insisting on funds being provided for particular projects, an appeal to Government would exhibit the president of the committee, who is the Collector of the district, in opposition to the Commissioners and to Government, who expect him to carry their views through the committee." Again (25), "the local-fund budget, Rule 3, lays down that the local-fund committee shall initiate all expenditure from local funds;" but this sole right of initiation of expenditure is completely nullified by the above-mentioned Resolution, which obliges the committee to "insert any particular work or item of expenditure which may be initiated by the Commissioner." The above extracts not only give the history of the working of the local funds, but also supply an answer to the sceptics of our aptitude for self-government. Those who say we are yet to have a trial in the matter, appear to forget that they are speaking, not of Kaffiristan or the country of the Hottentots, but of the inhabitants of a country with a long history reaching even beyond hoary antiquity, with definite forms of government, with an extensive and varied literature, and with comprehensive systems of philosophy and ethics, of religion and morals, of a large body of natural science, of mathematics up to astronomy, of architecture and engineering as evidenced by splendid public works and monuments, and of the fine arts. Elective government was not only not unknown, but so late as the 14th century a large tract of country on the coast in Western India was actually governed by a council of four senators with a president elected by the people every three years. Circumstances had occurred to interfere with the progress of this ancient people, and the happy advent of British power has providentially supplied a lever (in comparison to which no physical measures would have been of any avail) to act on this mass. But even under such auspices we must have a hard continual training. Are we likely to receive it under the present Bill? I do not agree with those bodies who take a too sanguine view of the situation. There is no royal road to self-government any more than to any other species of government; it must be established firmly, and worked patiently and perseveringly. From the days of the Delphic oracle in Greece, or of the Aryan sages in the tract between the Ganges and the Jumna, the problem of self-government has always been the most difficult one, and no people has worked at it so hard and in such various shapes as the Aryans of India. I use the term in an illustrative and extensive sense, for notwithstanding several expressions to the contrary that are to be found here and there in reports presented to the British Parliament, even the Mahomedans of India are not that fanatic class which they have often been represented to be, but from several able works I have received from Northern India they are able and prepared to co-operate with other sections of the community. But it requires regular continuous work, continuous even as the working of natural forces in the universe. Can it be said that there is no evidence before us which would support us in asking that we should be tried by a more liberal

measure than that we have now before us? This is a local question in one sense, but a great national question in another sense. It is local inasmuch as the Bills before us are limited to the Bombay Presidency. But it is national in so far as their effects will bear largely on our sister Presidencies in India. I do not, therefore, rest on evidence in reference to Bombay alone, which I have quoted above; for even the worst reports in Bombay admit that we are much in advance of the rest of India. Our Bill quotes provisions from the laws of some backward provinces—I say it without offence. It quotes several provisions of the Central Provinces' Bill. Now, while the Central Provinces' local funds only date from 1881, and their mukádamas, as they are termed, are a recent creation, while our hereditary classes, such as desáís, nadgowdas, deshmukhs, náíks, patels, &c., &c., are older even than the last Marátha Government, which existed for more than one hundred and fifty years, and older even than some of the Mahomedan Governments which preceded it. Now, then, again coming to the provisions of the Bills now placed before us, the Government of Madras are prepared to affirm that the president ought not to be, as a rule, official. In the North-Western Provinces (although the Bill has not yet been passed), the boards are left to elect their own presidents, and the number of non-officials on those boards is "not exceeding three-fourths." Speaking, therefore, in regard to local boards elsewhere, and on the authority of many of our well-informed local officials, I think it is a question whether the presidents ought to be Government officials at all, and I concur with my honourable friend, Mr. Budrudin, in saying that if freedom of action in such matters as the working of the local boards is to be at all evoked, and the people educated to a sense of their duties, it would certainly be advisable that the proposal to appoint high officials in their own districts as Collector-presidents ought to be abandoned. This will be necessary if the experiment is to succeed. And if there are local areas which are considered too backward for the introduction of the scheme of local self-government, as perhaps the Thar and Párkar, or the Eastern Nára in Sind or the districts near the north-eastern borders of Sind or the Panch Maháls in Gujarát, or may be certain outlying tálukás of Kaládgi, they might be scheduled, and power reserved to the local Government to extend the measures to such provinces whenever it may appear advisable to do so. In that respect the Council would have the example of certainly two of the local Government Acts in Great Britain. We have been told, in reference to the municipalities in particular, that Government have already extended the power of a popular constitution to certain municipalities. I have no doubt that the evidence before the Government fully warranted their taking such steps, and they are to be thanked for what has been done. But I cannot allow this to reconcile me to the next step, and that is the levelling down of the city municipalities to the status of town municipalities, rather than lifting up the latter bodies to the position of city municipalities. I cannot understand the logic of the signatories to one document which appears on to-day's statement of the papers laid on the table. I have not read it closely yet, but a cursory perusal shows that the Sarvajanic Sabha of Poona are of opinion that a great extension of privileges has been accorded by these Bills. I trust they will have read the Bills of other presidencies dealing with similar matters when they again address the Council. Certainly, the Bill for the North-West Provinces is much more liberal on the point of constitution of the local boards; and our own Act of 1873 was much more liberal in regard to the elective members of city municipalities. If cutting down the numbers of elective members from two-thirds to one-half is liberalizing the constitution of city municipalities, then I am wrong; but I cannot take it that such is the case, nor can I take it that it can be said that our local-fund boards are also much more

liberally constituted when compared with such a backward part of India as the North-West Provinces. As I said before, the presidents there are chosen by the boards; and I see no reason why the same provision should not be inserted in this Bill. Turning next to the sections of control, it is said in the Statement of Objects and Reasons that in the matter of control we are proceeding on the analogy of the English Public Health Act. The original English Public Health Act, I take it, is here referred to, namely, the Act of 1848. That is the main Health Act; and Section 121 of that Act defines the control of managing inspectors to carry out certain provisions of the law as laid down. In the case of the Municipality of Bombay we have two sections which used to be called the "bludgeon clauses" of the Act—Sections 40 and 41—by which certain powers of control were reserved to the local Government, and distinctly defined as "the procedure of Government upon complaint of default in carrying out this Act." The Council will remember that the Municipal Act of Bombay is a much more complicated piece of legislation, confers very much larger powers on the Municipality, provides for the sanitation and various other wants of a community as large as perhaps the second city in the British dominions—its population being nearly 800,000—and yet this Section 40 defines the subject of control as belonging to the enforcement of the provisions of certain sections which are distinctly laid down. In our Act we no doubt proceed upon the basis of the Resolution of the Government of India of May, 1882, but the Government of India do not say what particular subjects are there indicated in the 2nd section of para. 17 of their Resolution; and although certain powers must be reserved to the Government, whether in England or out here, I submit that those powers, under an Act like this, ought to be distinctly defined. If they are not defined, the Act itself ought to be only introduced in those municipalities in particular which are supposed to be advanced to the rank of city municipalities able to manage their own affairs. A municipality, unless it works out its own scheme of government, is, I submit, a misnomer. It has no more right to arrogate to itself the title of a municipality than a village panch, or the kulkarni, or pátels, who are not very powerful personages, as far as I can see. The Collector of Shikárpur truly represents the character of many of these people, who will do almost anything to please the authorities. Then, again, the Local Government Board in England is one of the departments of the State which was formerly represented by a Secretary of State, but which is now represented by the president of the Local Government Board. That Minister has to render an account annually to the British Parliament, and from the proceedings which come out to this country, in common with all parts of the British Empire, we know how very jealous a control is really exercised over the very smallest instance of improper or illegal working of all such acts in Great Britain. But are we justified, by denying knowledge of the analogy of the English Public Health Act, in insisting on such indefinite provisions as are included in this chapter of control in reference to such backward places as these Bills have reference to? The scheme of local government for towns and cities in Great Britain was enlarged by the Act of 1858, and by another Act in 1872, which, again, has been amended as far as I have been able to discover, certainly not in the direction indicated in these Bills. The character of the business which has to be dealt with by the municipalities and local boards in England is necessarily complicated; but is it the same here? How artificial the legislation there has become, is familiar to all the legal members of this Council and to the Honourable Member in charge of the Bill better than most of us. I will only quote a few of the heads of some of the Acts which come under the cognizance of the Local Board. There are the Labouring Classes' Lodging-houses Acts, the La-



bouring Classes' Dwelling-houses Acts, Artisans' and Labourers' Dwellings Acts, Baking-house Acts, Bath and Washing-houses Acts, Nuisances Removal Acts, Sewage Utilization Acts, and a great variety of Acts in reference to sanitation, burial and other matters. If the power of the English Local Government Board, centralized as it is, and amenable to such checks as exist in England, is clearly defined by law and made applicable to specific objects, it is surely necessary here, that in order that we may proceed upon some common admitted principle which must alike govern the development of man in all varieties and in all climates, we must reserve certain subjects from interference, subjects on which there can be no room for debate, and subjects which will not affect the internal peace or stability of any single department of the Empire outside these local boards. At present what can the local boards have to do beyond repairing roads, building dharmshálas or serais, repairing tanks, and looking perhaps at schools or paying school-masters. Now, I submit that interference in the administration of these affairs either by the Collectors, or by the Commissioners, ought not to exist, or if it exists it ought to be so strictly defined that people may not complain that they have been simply sent from the frying-pan into the fire. The papers before Government, and which have been submitted to the House of Commons, contain abundant evidence of complaints from our own Collectors that there is really no free scope of action for the people. By all means let them be guided in the simple work that they have to perform, but let them not be so heavily weighted that their free motion itself may be endangered. Now, some of the provisions of these Bills not only provide for the interference of Collectors, but empower them to depute other officers to interfere. Then they can interfere with the employment of establishments, which I think cannot be correct. They can interfere with ordinary work. Now, unless some scope of action is left to these committees, I, for one, venture to think, seeing the example of Poona, which I have watched, I may say, since 1851, and Bombay, which I have known for at least twenty years, I do not think there will be much chance of indigenious improvement so marked as to compel itself on the attention of the local or of the Central Government, and enforce its will, or try to enforce it, against the will of the constituted authorities. I think any fear of their transgressing could safely be provided for by law, and where it cannot be so provided for, I would rather erect no municipality at all, and keep to merely semi-municipalities, which may be promoted to the rank of genuine municipalities when Government sees fit to grant them a certain measure of independence. In reference to rules, again, objection has been taken more than once in this Council that, except on questions of mere administrative detail, every question of principle ought to be debated here, and settled by this Council, which, as I take it, is only the highest department of Government, where its legislative will is stamped on the history and progress of the country by means of those Acts which it passes. There is another point which occurs to me. I trust the Select Committee will see their way to making some provisions in regard to publicity. In Great Britain, as I said before, the president of the Local Government Board has to submit to the House of Commons an annual report of his administration. I think the best corrective to errors of commission and omission on the part of our local boards, as well as on the part of the municipalities, would be to insist on the publication of their proceedings, their submission regularly to Government, and their publication through the press. It may be that a portion of their revenues would be so spent; but I maintain that there is no check, or that there is hardly any check, in reference to the Mofussil bodies, which will be so effective as the regular publication of

their proceedings. Anybody who felt aggrieved might then present his complaint in the proper quarter and seek to have his grievance redressed. There is one more subject which was commented upon by my friend, Mr. Budrudin, and to which I wish again to draw the attention of the Council—that is, in regard to the qualifications specified in the Bill. I must confess I do not like to go down all of a sudden, and bring the franchise to those who may not seem qualified, either by their educational claims or their social position, or by property qualification, to thoroughly realize their responsibility, for this is not a matter in which this Council ought to proceed lightly. And having defined certain large classes, if the lower classes then are not properly represented, sufficient scope is left in the nominative members—whose proportion, I trust, the Council may yet see their way to reduce—and out of these nominative members adequate representation for these classes may be found. But in reference to the individual qualifications, the rule, as at present drawn, seems to me to proceed upon no recognized principle. In Bengal the commission of a non-cognizable offence is made the ground for exclusion of a person from the franchise. If we do not like to accept that, the one which my learned friend, Mr. Budrudin, presents to the Council, of a distinction between a compoundable and a non-compoundable offence, might be taken. But what I would ask the Council to bear in mind is that the test of exclusion ought to depend upon some offence involving moral turpitude. Anything which does not involve moral turpitude ought not to deprive a man of the capacity for the performance of the duties of a citizen and a man. At present, even a man who in the heat of the moment might box his neighbour's ears and be sent by the police patel for twenty-four hours to the lock-up, would be debarred. There is only one more suggestion that I have to make, namely, that I think these Bills, although from their size they may appear small measures, involve very great principles for evil or for good, and they ought to be placed before the public for a sufficiently long time, and should be considered by the Select Committee with very great deliberation, and also at sufficient intervals to allow of their being most fully and thoroughly discussed. With these remarks I shall have very great pleasure in assenting to the first reading of the Bills.

The Honourable Mr. MACAULAY :—Your Excellency, I have great pleasure in giving my approval to the principle involved in the Bills now before the Council. I think the time has arrived when it is expedient to permit the residents in various districts to have the privilege of taking an active part in the management of the public affairs of the localities in which they reside. But while I approve of the principle of the Bills, I cannot extend my approval to the whole of their provisions. The objections I entertain are pretty much in the direction indicated by my friend, Mr. Tyabji, and I need not take up the time of the Council by going over these at any great length. I fear the success of this scheme will be imperilled by the stringent character of the control which the local district officers will have the power of exercising. It is not only the Collectors who have the power to interfere, but they may delegate to their subordinates the power of interference. This, I think, will have the effect of harassing the members of the boards unnecessarily. I am not surprised to learn, from the reports published lately, the opinions entertained by various district officials as to the want of success which has attended the formation of district committees; but I think that want of success has been caused to a very great extent by the members being made to feel that they have no real power. I have myself been a member of a municipality, in Karáchi, for a considerable period, and I must confess that as it was carried on then it was little less than a sham.

The number of non-official members was small in comparison to the official members, and the official members voted always with the Collector. I cannot recollect any instance when it was otherwise. This had the effect of disheartening all the non-official members, because they found that all their efforts to carry what they considered to be desirable resolutions were frustrated. There are, no doubt, in the Civil Service many officers whom it would be quite safe to entrust with the carrying out of any rules, however stringent. These officers have the good of the country at heart, and I am quite certain that they would not interfere unnecessarily; but there are others—and it is no disparagement to a large service like the Indian Civil Service to say so—who are differently constituted. Men are not all alike; some have great faith in their own views, and do not defer to the views of others, and consequently such men are likely to deal in a high-handed manner with the members of a board subjected to their control. This might have the effect, as I know it had at Karáchi, of causing all the non-official members to withdraw in a body. I think it is a pity that the Bill does not indicate which districts are to be considered so backward as to be unfitted to have the power of self-government given to them. It seems to me that it would be an easy matter for Government to ascertain from the various district officers, who, I have no doubt, have made up their minds already, which districts they intend to include in this class, and these districts might be specified in a schedule attached to the Bill. It would also, I think, be possible to define in the Bills the number of members which are to form the several boards. I cannot conceive that the difference between the districts is so great as to render any marked difference in the number of members necessary in one locality as compared to another. The numbers named by Mr. Tyabji, I think, would be fair and reasonable. I have seen it suggested that the members of what are called the managing committees appointed for carrying out all the details might be paid some small fee. This principle has been found to work well in Bombay, where the members of the Town Council are paid, and I do not hesitate to think that it has the effect of causing a more regular attendance. I do not think I have ever noticed, from the newspaper reports, that a meeting of the Town Council has had to be adjourned for want of a quorum, although it very often happens in the Corporation. With regard to the qualification, during my residency in Sind I had a certain amount of acquaintance with the people, for over two years at one period, and I cannot recognize the necessity for any difference being made in the qualification. I should think the property qualification is as applicable to Sind as to any other part of the Presidency. The last point on which I will detain the Council is the question of framing rules. I hope your Excellency and Honourable Members of the Executive Council will believe that it is from no disrespect, and from no want of confidence, that I do not agree to the clauses which provide for leaving so much power in the hands of the Executive Council. It is true that this power is limited by the clause providing that the rules shall be within the limits of the Act; but I think it would be possible to find rules that have been passed by the Executive Council under other Acts giving them similar power which have gone somewhat beyond the powers contemplated by these Acts. Supposing this to be the case it may be said that any persons who found themselves aggrieved by the rules would have the power of taking action to set them aside; but private citizens, as a rule, have not the time, nor have they the means, to enter into expensive litigation with Government; and I think that on principle, as far as possible, the power to frame rules by the Executive Council should be restricted. With these remarks I beg to concur in the first reading of the Bills.

The Honourable Sir JAMSETJEE JEJEEBHOY:—May it please your Excellency. To the general provisions of the Bill before us no one really interested in the development of local self-government can take exception. It may at first sight appear that more extensive powers and greater freedom from control might be allowed to the local district and taluka boards, but it is much better to proceed cautiously. I am not prepared to assert that some of the sections might not be reconsidered with benefit, and perhaps amended in some of the details, as so well suggested by the Sabha, but this is a matter for the Select Committee and future discussion. I may observe that it is, so far as I can see, as yet unexplained what roads and works are to be handed over to the new boards. Are they to have all roads, provincial as well as local-fund roads, vested in them under Sections 39 and 40, which, under Section 30, they will be bound to maintain, or are they to have only the existing local-fund roads made over to them? Upon the settlement of this question must depend in a great measure the question of the establishments they are to entertain. In the one case they would probably require the whole Public Works Department establishment; in the other only a small portion of it will suffice. I think it will be found that the best native opinion is opposed to saddle the new district boards with the execution and maintenance of provincial roads and works at first, until they have had time to settle down to their work. Again, as to control of expenditure and audit. I am sure the general wish is that it should not be less strict than it is at present. There seems to be an important omission in the Bill. While Section 30 enumerates the duties of the local boards, the Bill itself nowhere, in terms, states that the funds heretofore administered by Government in respect of roads and other works to be handed over to the local boards will be placed at their disposal for expenditure. This should, I think, be explicitly stated in the Bill. Again, as to education, ignorant as I am, and as I fancy all of us are, as to what may be the result of the Education Commission, I am inclined to think that the duties of the local boards as described in Clause (d) of Section 30 are far too onerous. “The development and extension of education generally” is an exceedingly comprehensive statement, and I am humbly of opinion that the local boards should devote their energies to preliminary education only. There are a good many other points which will arise for discussion during the progress of the Bill through the Council. For the present I will content myself with stating that I regard this Bill as a sincere effort on the part of the Executive Government to develop local self-government; and no one can doubt that it is conceived in a spirit of liberality, and is much in advance of measures yet launched in other parts of India. As both the Bills are being discussed together, I will now proceed to make a few remarks on the Municipalities’ Bill. The few general remarks I have made on the subject of the Local Boards’ Bill are equally applicable to this Bill. The introduction of local self-government as regards the local boards furnishes an occasion for initiating a similar principle in the constitution of municipal bodies. I note that the intention of the Bill is to provide that not more than one-half of the nominee members of the municipality may be the salaried servants of Government. I think this proportion, which practically introduces the official element to the extent of one-fourth, is perhaps larger than may be advisable. Not that I think that the official element should be driven out of the municipality—far from it; I am convinced that the control, supervision, and guidance hitherto exercised by the highly enlightened and experienced officers of Government, or by Government itself, have been greatly instrumental in securing good civic government. But we may be sure that the people themselves will elect Government servants, and they frequently do; but what I

conceive is that the reservation, by Government, of the power to appoint the nominee commissioners to the extent of one-fourth is liable to misconstruction. A smaller proportion than one-fourth may perhaps be deemed desirable. I must say that this Bill, like its twin, the Local Boards' Bill, is conceived in a spirit of liberality. I have observations to make as regards special sections; but these, I think, should be held back at this first stage of the Bill. I am convinced that the inhabitants of the Western Presidency have to be sincerely thankful to the Executive Government for the manner in which this Bill has been framed.

His Excellency the PRESIDENT:—Before the Honourable Member in charge makes his reply, I should like to say a few words, although in the first place the Honourable Mr. Peile has covered the scope of the Bill very completely, though concisely, in the remarks that he has made, and I would rather leave reference to details to him, being in charge of the measure, more especially as every clause will be carefully examined in the Select Committee, and afterwards in the Council. I would say that for my own part, and I am sure I may say so for my honourable colleagues also, we are greatly indebted to the Honourable Mr. Peile for the very great trouble he has taken in the preparation and introduction of these measures. As Secretary to Government he took much pains in the early examination of the question, and it is no disparagement to the other Secretaries and their share in this business to say that from the time the Honourable Mr. Peile became a member of the Government, and was able to take charge of the measure with more authority than he had in the former capacity, he has been of the greatest possible service to us. I think it will be in a very large degree owing to him if these measures pass into law with credit to the Government to which he belongs. Now, I wish to say a word upon the time which has been taken up by the proceedings preliminary to the introduction of these measures. To some, I have no doubt, it may have appeared that there has been undue delay. About two years have elapsed since our attention was called to the subject by the Government of India, during which correspondence has been passing in reference to it. Of course the early proceedings were not completed as rapidly as if those who had charge of them had had nothing else to do. It must not be forgotten that those who have to prepare for introduction these very large and important measures are at the same time occupied in their ordinary duties, which engross, ordinarily, the whole of their time, and often actually injure their health by the amount of labour which has to be performed. So that it should never be forgotten that officers of Government, when called upon to perform some new duty, have to do so in addition to their ordinary duties. But nevertheless I am prepared to say that no unnecessary delay has taken place in the consideration and preparation of these measures. Correspondence had to pass in the first place between this Government and the Government of India. We had to await their replies to our proposals, and when in their replies they suggested a wider extension of what we had at first proposed, that necessarily involved further consideration, consultation with our officers in various parts of the country, and, in short, produced a considerable delay. Then, again, even when we had prepared our measures, we had to obtain the consent of the Government of India; and I may say that we endeavoured to meet the views of the Government of India and virtually recast our measures for the purpose. Then, again, the Bills had to go to the Secretary of State. So that altogether, considering how wide is the extent of the measures now in hand, the work of preparation has not occupied an undue time. And certainly it would be much better that a year's or two years' delay should take place, than that there should be anything like

hurried legislation on a matter so largely concerning the welfare of the country. Now, Sir, it has been stated by the Honourable Ráo Sáheb, who has sharply criticised these measures, that we are not building on a fresh field in legislating for local self-government. You know, further, that local self-government is not a plant of new growth here; but for many years there has been a machinery of local self-government in this Presidency, which has made these measures of reform rather than initiation. In fact, I may go so far as to say that in other provinces, where they are legislating in this direction, they will not be much further advanced when their measures are passed than we were at commencing. Contrasts have been drawn between measures now before us and those which have been passed, or are now being introduced, in other provinces. If you wish to compare those measures you must compare them as a whole, and not take isolated portions and compare them. With regard to the Honourable Member who said we are now proposing that the elective members shall form at least one-half of the municipal councils and district committees, and contrasted that with a provision in another measure elsewhere, which admits of the election of not more than two-thirds, I venture to think that we do not lose much by that comparison, for if we insist upon at least one-half being elective members, and they limit the proportion to two-thirds, I think it is quite evident our measures are in principle equally liberal. I think I am not wrong in saying that in the North-West Provinces, which the Honourable Ráo Sáheb selected for favourable comparison, the electors are to be virtually nominated by the Government, which is very different from the wide and liberal franchise, going down to a comparatively low scale of rate-payers, such as we propose here. But I do not wish to raise a comparison. We have considered these measures according to the circumstances of this Presidency. The circumstances of the Punjáb, the North-West Provinces and Bengal may be very different; but we have framed these measures with a full knowledge of the circumstances of this Presidency, desiring to go as far as we safely could in the first place, and, as my honourable friend and colleague has said, leaving ample room for expansion in the future. Now, it is certain, as the Honourable Ráo Sáheb has said, that many district officers have made reports to Government in which they show that there is great need for reform in the administration of local affairs. He has quoted a great many passages in which he pointed out that local government was hardly self-government, and that virtually the members of the local councils sat for very little else than to register their opinions. Well, that is justification for these measures, but you must not quote those opinions as if they had reference to the measures now introduced. These measures are introduced to remedy these defects, to give extension to the principle of local self-government, and to give the members of these committees a really substantial voice in the management of local affairs. I cannot for a moment pretend to discuss the opinions of every gentleman who has reported on the subject; but I take leave to say that the very gentlemen the Ráo Sáheb quoted, particularly the Commissioner in Sind, Mr. Erskine, and the talented First Assistant of Sátára, Mr. Lee-Warner, as recommending that greater powers should be given to local committees, were among the most firm in maintaining the necessity for official control. I think Mr. Lee-Warner is the author of that phrase about the "official shepherd", and protesting against his being withdrawn at present from the protection of his flock. I will say this, that I do not believe that even for the sake of rhetorical effect the Collector may be with propriety represented as a wolf looking in at the back door, against whom it should be shut. There is from one end of this Presidency to the other no insensibility of the zeal with which the members of the Civil Service have

endeavoured to perform their important duties. I believe that not only honourable gentlemen sitting at this table, but the public in every part of the Presidency are aware that measures which are justly called liberal owe their inception and their maintenance to the Civil Service, who have had to face a great deal of opposition in the prejudices of the people, from which I do think they are becoming emancipated. I do believe that in such cities as Poona there has been no retrogression from the good measures that have been instituted, that there is no desire to fall back upon faulty systems of sanitation, and so forth, and that if the members of the local governing body are convinced that further extension is required they will be ready to put their hands to it. But nevertheless the officers of Government have had much to contend with in the prejudices of the people, and even now I know that if it were not for the official control the district officers exercise, many useful measures that are adopted would be rejected. It is not surprising that gentlemen who justly take their seats here as representatives of the people should claim the widest possible share in local government we can afford them. It is praiseworthy, and I would be the last person to take objection to that. But at the same time the Executive Government, with a full sense of responsibility, and with a full desire to give the widest effect to the impulses of the Government of India, must take care not to put its foot firmly down till we know the ground is firm under our tread. The Sarvajanic Sabha in their report, I think, do themselves very much honour by the moderate tone they have adopted, by the generous recognition they have given to the intentions of Government; and I am sure the suggestions they have made will be candidly considered by Government, and also I may say, having read their memorial very carefully, that many of them will be well worth adopting. Now, gentlemen, I cannot pass by without noticing an expression with which the Honourable Ráo Sáheb began his speech, and in which he quoted an English saying about defending one gate while letting enemies in at another. If I thought that such a view was taken of the position of the Government, that they were actually opposed to local government, and that with reference to any measure that should be passed it was desirable, or the wish of the people, that their officers should be excluded from participation in the work, I should say the introduction of these measures was premature.

The Honourable Ráo Sáheb V. N. MANDLIK :—I beg your Excellency's pardon; I never thought of the officers of Government in reference to that remark. I was simply speaking of two chapters of the Bill.

His Excellency the PRESIDENT :—Just so, those chapters being the ones that reserve official control. In fact, it could hardly be read in any other way than that you had your friends coming in at one gate and your enemies coming in at the other, the enemies to local self-government being the officials who are to exercise the control. Now I say that if it is at all the view the people of this Presidency take of the position of the Government and their officers as regards their interests, I mean to say they have not come to that condition when such measures as these can be safely introduced. I do not admit that it is so for a moment. I have been, since I assumed the Government of Bombay, almost every day impressed with the cordiality and mutual confidence with which I see Europeans working with natives. I do not think there is the slightest foundation for the view I have referred to, and I feel sure the Honourable Member could have used the illustration only for the sake of rhetorical effect, and perhaps to help to point the arguments which were to follow. It may also be that those who

speak and write in a language which is not their own may not perceive the full force of expressions which otherwise would be offensive. I have often been inclined to be indulgent of expressions used by native members of the service, and by influential persons addressing Government. But let me say this, that I believe such a feeling of enmity, hostility, or jealousy towards officers of Government is not present in the minds of the people of the Presidency. Now I confess that while I look forward with my honourable colleague to an extension of the elective principle, while I hope it will be the pleasure of my successor—though it can hardly be mine—to see a wider scope given to this principle, I cannot think that in this measure we have adopted too great precautions. We are introducing an entirely new experiment upon untried soil. I recognize, and have done it officially with great pleasure, the working of elective municipal institutions in Bombay. I have said and written that I think the proceedings of the Municipal Corporation of Bombay will bear favourable comparison with similar assemblies in any other country. But at the same time in the Mofussil the principle is untried. And, again, when we hear it said that we are reserving too much power to Government to nominate these assemblies, I would ask you whether the most useful members of the Municipality of Bombay are not the nominated members—either those nominated by Government, or those whom the restrictive constituency called the Bench of Justices of the Peace elect. I think it must be perceived that, at any rate for a long time, it will be necessary in this country to retain in the hands of Government the power of filling up the complement of municipal bodies beyond those elected by the people, in order that representatives of considerable sections of the people who are in a minority, or gentlemen who have attained to an eminent position, and are plainly calculated to lend weight to the deliberations of such bodies, shall not be left out. There are many accidents that happen in elections; it is astonishing how, by a little smart canvassing, inferior men may succeed, and then all regret to see better men passed over. Well, that does not much matter in the House of Commons; a large assembly like that is at present, and I hope always will be, able to make up for a few objectionable and useless men. But in a small municipality, elected only for three years, great harm might be done to local interests where there are not means of making up for an error or oversight of the electors. We shall see, at all events, how this plan works for a few years. We have endeavoured to give you an experiment by framing the rules for the late elections of city municipalities as nearly as possible after the provisions of these Bills. I am told the elections which have taken place have been satisfactory, not only to the local communities, but to the Government officials, and that the representation is good, while by the system of nomination gentlemen have been introduced who have lent weight to those elected. At any rate, you will be able, before the close of this year, and before it will be possible to bring these measures into play, to judge of the result of the experiment. It is said by the Honourable Mr. Budrudin Tyabji that these nominated members will not be independent, that it will be in the power of Government to crush out all feeling of independence. Now, I ask the nominated members of this Council who sit here, how that argument applies. I fancy the nominated members of this Council are as independent as if they were elected by universal suffrage. I do not think my honourable friend, the Honourable Mr. Macaulay, is too much an abject slave of Government, or the Honourable Budrudin or the Honourable Ráo Sáheb himself; and I have found that nominated members, taken as representatives of the community, are just as independent as if they were elected. I have seen that in British



colonies. Every British colony established under the Crown has begun by this mixed system of nomination and election, and I know from experience, and from what I have learned from others, that there is really no distinction between nominated and elected members of these assemblies. I fancy that unless the Collector, or president, whoever he is, falls in with the real public opinion, he will have great difficulty in securing a majority, even with the aid of nominated members. At all events, as I have said, this is a beginning, and I hope it is a beginning which will lead to permanent benefit. And I think the good feeling of those who are the leaders of native society, as manifested in a very gratifying manner in the discussion of these measures, will lead to the spread of a good sound public opinion among the municipalities which we are about to call into being. I will not, I say, go farther into particulars; I would rather leave them for my honourable colleague, Mr. Peile, and for the Select Committees; but I would ask one thing. I think I may claim for these measures a liberal construction of their intention. It is often thought that official people have something to conceal; that the reasons they put forward are not their true reasons. I would ask this for my colleagues and myself, that we may be believed to have made all proposals that we think safe and judicious in the first place. I think that the opinions by which we are supported—the opinions of those who have administered the country for many years—are really deserving of more respect than is sometimes given to official opinion; and while we are making a large step in the direction of local self-government, we may at least have the credit of having desired to go as far as, in our opinion, public safety will permit us. I should deeply regret if by earning popularity, which no official is insensible of, and which would deeply gratify myself—I should heartily regret that I had gone one step farther than was safe. I would far rather leave India as unpopular a man as ever left these shores than sacrifice one point or principle which I believe to be essential. In conclusion, I think the discussion has been worthy of the Council, and on the whole I do not wish to complain of any criticism that has been made.

The Honourable Mr. PEILE:—As the debate has been so prolonged, and as your Excellency has dealt with the principal points that have been brought under criticism, I think it would be better that I should not detain the Council now by going point by point over the discussion. I shall hope to do so carefully on a future occasion, when I have considered the matter more fully. Some of the suggestions, no doubt, we shall be quite prepared to act upon and adopt, as that referring to the disqualification on account of imprisonment. Again, there are other matters, such as the qualifications for the franchise in Sind, which will require further consideration before the Select Committee. There is only one point which I will here refer to, namely, the opinion expressed by the Ráo Sáheb, that instead of there being any extension of the powers of city municipalities they have been levelled down to the position of town municipalities. He appears to base that opinion upon the fact that, under the District Municipal Act of 1873, two-thirds of the commissioners are to be non-officials, who may be either elected or nominated, as the Governor in Council may think fit, whereas in the present Bill the provision is that the number of elective members shall be not less than one-half of the whole board. The Ráo Sáheb considers that to be a reduction of the number of elected members from two-thirds to one-half; but I remark that while under the Act of 1873 the election is entirely permissive, and the section has remained dormant until your Excellency used it this year, it cannot be said that election in the new Bill is permissive. These Bills are partly

permissive and partly not permissive. They are not permissive in the sense that a minimum of independence is guaranteed by them at once; they are permissive in the sense that there is an extension of the maximum of independence in the discretion of the Governor in Council to be granted as the boards show themselves fit for it. The only other point I have to notice is Mr. Macaulay's remark about the Karáchi Municipality. I think he is under a misapprehension in saying that the number of non-official members of the Karáchi Municipality is smaller than the number of official. As the Karáchi Municipality is a city municipality, the number of non-official members must have been double that of the official.

The Honourable Mr. MACAULAY:—Not ten years ago.

The Honourable Mr. PEILE:—Since 1873.

The Honourable Mr. MACAULAY:—It was before 1873 that I spoke of. I left Karáchi in 1872.

The Local Boards' Bill read a first time.

His Excellency the PRESIDENT put the motion that Bill No. 3 of 1883 be read a first time, which was carried and the Bill was read the first time.

The Honourable Mr. PEILE:—I beg now to move that the Bills be referred to a Select Committee consisting of the Honourable Major-General Merriman, the Honourable Ráo Sáheb V. N. Mandlik, the Honourable Budrudin Tyabji, the Honourable Ráo Bahádur K. V. Raste, and the Mover. The proposal is that the Bills should be referred to two Committees each consisting of the same members.

It was resolved that Bill No. 3 of 1883 be referred to the Select Committee named above.

The Bombay District Municipal Act Amendment Bill read a first time and referred to Select Committee.

On the motion of the Honourable Mr. PEILE, Bill No. 4 of 1883 was also read a first time and referred to the Select Committee.

The Honourable Mr. PEILE:—With regard to the date when the Select Committees should report, I think, considering that a large number of reports have yet to come in—in fact very few have yet been received—it would not be possible to report within one month.

The Honourable Mr. BUDRUDIN TYABJI:—I would submit that a much longer time should be allowed than one month. The people in the Mofussil should be allowed time to become acquainted with the Bills. And I think the Bills should be translated into all the principal vernaculars.

His Excellency the PRESIDENT:—The Bills have been translated and widely circulated. We waited six weeks after publishing them before introducing them, in order that they might become generally known, and there is no doubt that they have been widely circulated in every vernacular. But I would put this to the Council: the Committee will have a very laborious duty, they will have to consider both these Bills in every detail, and I think that possibly they might not be able to report within one month. If they do not report while the Government is at Poona, however, we shall not consider the Bills in

Council, when we shall have to go through them in detail, till we meet at Bombay in the cold weather. We might give six weeks; perhaps that would be long enough.

The Honourable Mr. BUDRUDIN TYABJI:—My fear is that, so far as I am concerned, I could hardly attend any of the meetings before the October vacation of the High Court. I should be very glad to devote the whole of the vacation to the work, and to go wherever would suit the other members of the Committee. The vacation will not begin till the 15th October and will end on the 17th November. Perhaps the time before that might be given by members to digesting the reports and measures. If that meets the approval of the Honourable Mover, I would suggest that the time should be extended beyond what he proposed, and that the Committee should seriously set to work in the October vacation.

His Excellency the PRESIDENT suggested on these grounds that the 1st December would be a convenient date to fix.

The Honourable Mr. PEILE:—I see no serious objection; I suggested a short date in deference to the popular wish that the Bills should be passed as quickly as possible. No doubt they are important measures, and require very careful consideration.

The Honourable Mr. BUDRUDIN TYABJI:—Every body will be glad that they should be thoroughly discussed; and I do not think any one would regret that they should not be passed before December.

The Honourable RA'O SA'HEB:—Whatever may be the enthusiasm of the public, I think the Council ought to take its own time and thoroughly thresh out the Bills.

The Select Committee was accordingly directed to report by the 1st December.

The Honourable Mr. RAVENSCROFT moved for a further extension of the time for receiving the report of the Select Committee on the Bombay Pharmacy Bill, No. 8 of 1882. The Honourable Member said that the question was raised rather suddenly in March last whether it was advisable that Section 13, which would exempt native *hakims* from the operation of this law, should hold good. From the vernacular newspapers it appeared that these *hakims* did write prescriptions and have them made up; and if that were the case it would be absurd to exempt them from the operation of the law. The Committee, therefore, asked Sir Frank Souter, the Commissioner of Police at Bombay, if he would be good enough to ascertain whether these people did write prescriptions, and dispense them. His reply was that it was not generally done, but might, possibly, be done occasionally. There the matter had rested. The Government not being in Bombay could not take it up; but the Committee had received further communications from people in Bombay, and had been given to understand that the practice was general. Under these circumstances it was thought advisable to examine some members of that large class which more than any other required supervision. He, therefore, proposed that the time for presenting the Committee's report should be extended till after they returned to Bombay, and had an opportunity of examining some of the gentlemen who kept these shops, and ascertaining whether they really did write prescriptions and make them up or not. In case they did so, it would be necessary to exclude Section 13 from the Bill and make its provisions apply to them as well as to other dispensers of medicines in Bombay. He proposed that the same day that had been fixed for the presentation of the report on

Time for presenting the Report of the Select Committee on the Pharmacy Bill extended.

the local self-government measures should be fixed also for the Select Committee on the Pharmacy Bill to report—namely, the 1st December.

The motion was adopted, and His Excellency the PRESIDENT then adjourned the Council *sine die*.

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

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

*Poona, 25th August 1883.*

PROCEEDINGS

OF THE

COUNCIL OF THE GOVERNOR OF BOMBAY

ASSEMBLED FOR THE PURPOSE OF

MAKING LAWS AND REGULATIONS.

1882.

VOLUME XXI.

---

Published by the Authority of His Excellency the Governor.

---

Bombay:

PRINTED AT THE GOVERNMENT CENTRAL PRESS.

1883.

# CONTENTS.

## PROCEEDINGS OF THE 20TH FEBRUARY 1882.

	PAGE
Papers presented to the Council ... ..	1
Mr. Ashburner moves the second reading of the Bill to amend Act XLVIII of 1860 ... ..	2
Bill read a second time ... ..	<i>ib.</i>
Bill considered in detail ... ..	<i>ib.</i>
Bill read a third time and passed ... ..	3
Mr. Ravenscroft moves the first reading of the Bill for the repeal of Bombay Act No. VII of 1878 ... ..	<i>ib.</i>
Bill read a first time... ..	4
Standing orders suspended, and the Bill read a second time and considered in detail and read a third time and passed ... ..	<i>ib.</i>
Mr. Ashburner moves the first reading of the Bill to amend the Bombay and Karáchi Vaccination Acts ... ..	<i>ib.</i>
Bill read a first time, and the standing orders having been suspended, it was read a second time, considered in detail, and read a third time and passed ... ..	5
Mr. Ashburner moves the first reading of the Bill to amend Bombay Act II of 1874 ... ..	<i>ib.</i>
Bill read a first time ... ..	<i>ib.</i>
Standing orders suspended and the Bill read a second time and considered in detail ... ..	<i>ib.</i>
Bill read a third time and passed ... ..	<i>ib.</i>

## PROCEEDINGS OF THE 21ST JUNE 1882.

Papers presented to the Council ... ..	6
Mr. Ashburner moves the first reading of Bill No. 3 of 1882 ... ..	<i>ib.</i>
Bill read a first time ... ..	13

## PROCEEDINGS OF THE 28TH JUNE 1882.

Papers presented to the Council ... ..	14
His Excellency the President moves the second reading of Bill No. 3 of 1882 ... ..	<i>ib.</i>
Bill read a second time and considered in detail ... ..	31
Power to make Rules regulating or prohibiting collection, sale, &c. of mhowra flowers ... ..	82
Act to be deemed part of Bombay A'bkári Act ... ..	34
His Excellency the President moves the suspension of the standing orders in order that the Bill be read a third time ... ..	<i>ib.</i>
Bill read a third time and passed ... ..	<i>ib.</i>

	PAGE
Mr. Ravenscroft moves the first reading of Bill No. 4 of 1882 ... ..	34
Bill read a first time and orders having been suspended, the Bill was read a second time, considered in detail, and read a third time and passed ... ..	<i>ib.</i>

---

PROCEEDINGS OF THE 1ST SEPTEMBER 1882.

Papers presented to the Council ... ..	35
Mr. Ashburner moves the first reading of Bill No. 5 of 1882 ... ..	<i>ib.</i>
Bill read a first time ... ..	<i>ib.</i>
Standing orders suspended, and the Bill read a second time and considered in detail ... ..	36
Mr. Ravenscroft moves the first reading of Bill No. 6 of 1882 ... ..	38
Bill read a first time ... ..	39
Standing orders suspended and the Bill read a second time ... ..	<i>ib.</i>
Bill considered in detail ... ..	<i>ib.</i>
Bill read a third time and passed ... ..	40

---

PROCEEDINGS OF THE 27TH NOVEMBER 1882.

Papers presented to the Council ... ..	41
Major General Merriman moves the first reading of Bill No. 7 of 1882 (A Bill to provide funds for maintaining Provincial Roads used for local purposes) ... ..	41
The Bill read a first time and referred to a Select Committee ... ..	46
Mr. Ravenscroft moves the first reading of Bill No. 8 of 1882 ... ..	<i>ib.</i>
The Bill read a first time and referred to a Select Committee ... ..	51
Mr. Ravenscroft moves the first reading of Bill No. 9 of 1882 ... ..	<i>ib.</i>
Bill read a first time ... ..	51

# INDEX

TO THE

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

Volume XXI.

PAGE

**ACTS—**

**OF THE GOVERNMENT OF BOMBAY :—**

- No. XLVIII. of 1860.—*See Weights and Measures Bill.*
- No. VII. of 1873.—*See Salt Bill.*
- No. II. of 1874.—*See Jails Act Amendment Bill.*
- No. V. of 1878.—*See A'bkári Bill.*
- No. VII. of 1878.—*See Cotton Frauds Bill.*

**ADJOURNMENTS—(See Council.)**

**A'BKÁ'RI ACT AMENDMENT BILL (No. 3 of 1882)—**

Motion for the first reading of the Bill	6
Bill read a first time	13
Motion for the second reading of the Bill	14
Bill read a second time and considered in detail	31
Motion for the third reading of the Bill	34
Bill read a third time and passed	ib.

**ADVOCATE GENERAL, The Honourable the—**

Appointed to Select Committee	51
-------------------------------	----

**BILLS—**

- Bill No. 7 of 1881.—A Bill to amend Act XLVIII of 1860.—*See Weights and Measures.*
- Bill No. 9 of 1881.—A Bill for the repeal of the Cotton Frauds Act, 1878.—*See Cotton Frauds Bill.*
- Bill No. 1 of 1882.—A Bill to amend the Bombay Jails Act of 1879.—*See Jails Bill.*
- Bill No. 2 of 1882.—A Bill to amend Bombay and Karáchi Vaccination Acts.—*See Vaccination Bill.*
- Bill No. 3 of 1882.—A Bill to amend the Bombay A'bkári Act, 1878.—*See A'bkári Bill.*
- Bill No. 4 of 1882.—A Bill to amend the Bombay Salt Act of 1873.—*See Salt Bill.*
- Bill No. 5 of 1882.—A Bill to provide for the levy of fees for the use of Public Landing Places.—*See Landing and Wharfage Fees Bill.*



Bill No. 6 of 1882.—A Bill to amend the Bombay Municipal Acts of 1872 and 1878.— <i>See Municipal Bill.</i>	
Bill No. 7 of 1882.—A Bill to provide funds for maintaining Provincial Roads used for local purposes.— <i>See Bombay Highway Bill.</i>	
Bill No. 8 of 1882.—A Bill to regulate the sale of Poisons and Drugs.— <i>See Bombay Pharmacy Bill.</i>	
Bill No. 9 of 1882.—A Bill to further amend the Bombay Port Trust Act, 1879.— <i>See Port Trust Bill.</i>	
<b>BOMBAY HIGHWAY BILL (No. 7 of 1882)—</b>	
Motion for the first reading of the Bill	41
Bill read a first time and referred to a Select Committee	46
<b>BOMBAY PHARMACY BILL (No. 8 of 1882)—</b>	
Motion for the first reading of the Bill	46
Bill read a first time and referred to a Select Committee	47
<b>BOMBAY MUNICIPAL ACT AMENDMENT BILL.—<i>See Municipality Bill.</i></b>	
<b>BOMBAY PORT TRUST.—<i>See Port Trust.</i></b>	
<b>BUDRUDIN TYABJEE, The Honourable Mr.—</b>	
Appointed to Select Committee	51
<b>COTTON FRAUDS BILL (No. 9 of 1881)—</b>	
Motion for the first reading of the Bill	3
Bill read a first time	4
Standing orders suspended and the Bill read a second time and considered in detail and read a third time and passed	<i>ib.</i>
<b>COUNCIL—</b>	
Adjournments of	5, 13, 34, 40, 51
Meetings of	1, 6, 14, 35, 41
<b>DRUGS.—<i>See Pharmacy Bill.</i></b>	
<b>JAILS ACT AMENDMENT BILL (No. 1 of 1882)—</b>	
Motion for the first reading of the Bill	5
Bill read a first time	<i>ib.</i>
Standing orders suspended and the Bill read a second time and considered in detail	<i>ib.</i>
Bill read a third time and passed	<i>ib.</i>
<b>JAMSETJI JEEJEEBHOY, The Honourable Sir—</b>	
Appointed to Select Committee	46, 51
<b>LANDING AND WHARFAGE FEES BILL (No. 5 of 1882)—</b>	
Motion for the first reading of the Bill	35
Bill read a first time	<i>ib.</i>
Standing orders suspended and the Bill read a second time and considered in detail	36
Bill read a third time and passed	38
<b>MEETINGS OF COUNCIL.—<i>See Council.</i></b>	

INDEX TO THE PROCEEDINGS.

3

	PAGE
MACAULAY, The Honourable W. M.—	
Appointed to Select Committee ... ..	51
MERRIMAN, The Honourable Major-General C. J.—	
Appointed to Select Committee ... ..	46
MUNICIPALITY BILL (No. 6 of 1882)—	
Motion for the first reading of the Bill... ..	38
Bill read a first time ... ..	39
Standing orders suspended and the Bill read a second time	ib.
Bill considered in detail... ..	ib.
Bill read a third time and passed ... ..	40
MUNDLIK, The Honourable Ráo Sáheb—	
Appointed to Select Committee ... ..	46, 51
PAPERS presented to the Council ... ..	1, 6, 14, 35, 41
POISONS.— <i>See Pharmacy Bill.</i>	
PORT TRUST BILL (No. 9 of 1882)—	
Motion for the first reading of the Bill ... ..	51
Bill read a first time ... ..	ib.
RAVENSCROFT, The Honourable E. W.—	
Appointed to Select Committee ... ..	46, 51
REPORTS OF SELECT COMMITTEE.— <i>See Select Committee.</i>	
SALT ACT AMENDMENT BILL (No. 4 of 1882)—	
Motion for the first reading of the Bill ... ..	34
Bill read a first time ... ..	ib.
Standing orders suspended and the Bill read a second time and con- sidered in detail ... ..	ib.
Bill read a third time and passed ... ..	ib.
SELECT COMMITTEE—	
On the Bombay Highway Bill ... ..	
On the Bombay Pharmacy Bill... ..	
VACCINATION BILL (No. 2 of 1882)—	
Motion for the first reading of the Bombay and Karáchi Vaccination Bill ... ..	4
Bill read a first time ... ..	5
Standing orders suspended and the Bill read a second time and con- sidered in detail ... ..	ib.
Bill read a third time and passed ... ..	ib.
WEIGHTS AND MEASURES BILL (No. 7 of 1881)—	
Motion for the second reading of the Bill ... ..	2
Bill read a second time and considered in detail ... ..	ib.
Bill read a third time and passed ... ..	3

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

---

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

The Council met at Bombay on Monday the 20th February 1882, at 12-30 P.M.

*P R E S E N T :*

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

His Excellency the Honourable Lieutenant-General A. E. HARDINGE, C.B.

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

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

The Honourable the ADVOCATE-GENERAL.

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

The Honourable Sir JAMSETJEE JEEJEEBHOY, Bart.

The Honourable JAMES N. GRAHAM.

The Honourable SOLOMON DAVID SASSOON.

The Honourable Ráo Bahádur GOPALRAO HARI DESHMUKH.

The Honourable J. B. PEILE, M.A., C.S.I.

The following papers were presented to the Council :—

Letter from the Officiating Secretary to the Government of India (Legislative Department), No. 716, dated the 20th August 1881, returning, with the assent of His Excellency the Viceroy and Governor General signified thereon, the authentic copy of the " Bill to further amend the Bombay Port Trust Act, 1879."

Letter from the Officiating Secretary to the Government of India (Legislative Department), No. 902, dated the 14th October 1881, returning, with the assent of His Excellency the Viceroy and Governor General signified thereon, the authentic copy of the " Bill to amend the Law relating to Tolls on Roads and Bridges in the Presidency of Bombay."

The Honourable Mr. ASHBURNER, in moving the second reading of Bill No. 7 of 1880 (a Bill to amend Act XLVIII of 1860), said :—Your

Mr. Ashburner moves the second reading of the Bill to amend Act XLVIII of 1860.

Excellency will remember that on the last occasion this Council met at Poona, Bill No. 7 of 1880 was read a first time. The object of this Bill is to deal with the fraudulent possession and use by wholesale dealers of false weights and measures. At present the Act enables us to deal with fraudulent weights and measures used by or found in the possession of retail dealers only, but this is insufficient inasmuch as it makes no provision for wholesale dealers. This Bill was drafted with a view to meet that difficulty. It has been read a first time, and I now move that it be read a second time.

Bill read a second time.

The Bill was accordingly read a second time.

The Honourable Mr. ASHBURNER :—I now beg to move that the Bill be considered in detail. I have an amendment to suggest at the eighteenth

Bill considered in detail. line. It will be observed that the words “ instruments for weighing ” occur, and I propose after the word “ weighing ” in the eighteenth line to introduce the words “ and measuring,” that is to say, that instruments used for measuring as well as weighing shall be included. That will also occur in the twenty-second and twenty-fifth lines and on both occasions after the word “ weighing.”

The amendment was agreed to.

His Excellency the PRESIDENT said that he remembered that Ráo Sáheb V. N. Mandlik took objection to that part of the Bill which gave power to any officer of police above the rank of constable to enter shops for the purpose of inspecting, &c., weights and measures.

The Honourable Mr. ASHBURNER :—Yes ; he objected to the power being given to the police in that way, but in working the A'bkári and other similar laws the police are invested with similar powers. It would paralyse the Executive entirely if we were to require an officer of higher rank to take cognizance of these matters. It is the duty of the police to take cognizance of fraudulent weights and measures.

His Excellency the PRESIDENT :—If it were “ by order of the Commissioner or Superintendent ” it might prevent a subordinate officer of police going into a merchant's warehouse on his own responsibility.

The Honourable Mr. ASHBURNER :—I have no objection to the insertion of words to that effect.

The Honourable the ADVOCATE GENERAL :—Does the Honourable Mover desire such entrance to be effected without a warrant ?

The Honourable Mr. ASHBURNER :—Yes.

The Honourable the ADVOCATE GENERAL :—In that case the words “ without a warrant ” should be inserted.

The Honourable Mr. ASHBURNER :—I have not the slightest objection to that.

The insertion of the words was agreed to.

His Excellency the PRESIDENT :—We might insert in clause 18 of the Bill the words providing that only certain officers of police should be allowed to act, and that they should be appointed by the Commissioner. The Commissioner of Police would select men

on whom he could rely. I propose that the words "deputed to that duty by the Commissioner of Police" be substituted for the words "above the rank of constable" in clause 18.

After discussion the proposition to insert the words "deputed to that duty by the Commissioner of Police" in place of the words "above the rank of constable" was then carried.

The following amendments were also made in the Bill :—

The words :—"whenever he has reason to believe that there are in such shop or premises any weights, measures or instruments for weighing which are false" in lines 19 to 22 of sub-section 18 were omitted.

The following words were, on the motion of the Honourable the ADVOCATE GENERAL, inserted in the Bill after the word "jurisdiction" in line 28, so as to make the measure more effectual :—"and if such weights, measures or instruments shall be found by the Magistrate to be false, they shall be destroyed."

The Honourable Mr. ASHBURNER :—May I ask the Honourable the ADVOCATE GENERAL if it is his opinion that section 18, as now amended, will require an officer to be deputed in each case ?

The Honourable the ADVOCATE GENERAL :—Each officer must be specially deputed, but not in respect of each occasion on which he exercises his powers.

The Honourable Mr. ASHBURNER :—Would it not be wise to make that clear ? The words "generally or specially" may be inserted before the word "deputed."

Bill read a third time and passed. This was agreed to, and on the motion of the Honourable Mr. Ashburner, the Bill was read a third time and passed.

The Honourable Mr. RAVENSCROFT, in moving the first reading of Bill No. 9 of 1881 (a Bill for the repeal of the Cotton Frauds Act, 1878) said :—It has been determined to do away with all special legislation on the subject of the cotton frauds, and in accordance with instructions received, no action has been taken for some months on Bombay Act VII of 1878. In that law is combined all the special legislation which at the present moment exists with reference to the cotton frauds. It is proposed by a short Act of half a dozen words to cancel that Act, and I beg therefore to move that Act VII of 1878, which comprises in itself all the special legislation on the subject of the cotton frauds, be repealed.

Mr. Ravenscroft moves the first reading of the Bill for the repeal of Bombay Act No. VII of 1878.

The Honourable Mr. ASHBURNER :—I shall vote for this Bill on the first reading, not because I consider it judicious to dispense with the Cotton Frauds Act, but because I believe that the evils arising from cotton frauds will become so apparent when the special legislation is removed, that public opinion will then demand a really workable Act. At present the Act is not workable, and it never has been. Its only efficacy has been due to the influence of local officers, but of late years it had been inoperative, because the local officers would not take on themselves the responsibility of employing their influence in keeping down of fraudulent practices. I believe that directly the Act is repealed, the abuses in regard to the dealing in cotton will be so scandalous and will lead to such serious evils in the destruction of trade in cotton that we shall be called on by public opinion and by the merchants to pass an Act, in order to protect them, and to protect the staple from

deterioration. Though I strongly object to the repeal of the Act, I shall vote for it in order that the abuse may be thoroughly understood, and we shall then get a workable Act.

Bill read a first time.

The Bill was read a first time.

The Honourable Mr. RAVENSCROFT :—I propose that the standing orders be suspended in order that the Bill be read a second time.

The Honourable Mr. ASHBURNER :—I think it would be injudicious to push it through without allowing the public to express an opinion on the matter. There is already a very strong party objecting to the repeal of the Bill. Though we are acting in this matter under authority, still those members of the mercantile community who disapprove of the repeal of the Cotton Frauds Act, should be allowed to state their opinions. There is no immediate hurry for this measure ; if it was a matter of emergency, I should be glad to suspend the rules and push it through at one meeting. It is a serious matter not only affecting the welfare of the people, but the power of the cultivators to pay assessment. This question may have to be met when Indian cotton is so discredited in the European markets by fraudulent practices that it is unable to compete with the cotton of America.

His Excellency the PRESIDENT :—I caused a note to be circulated in the newspapers, more than two months ago, to the effect that instructions had been received from the Secretary of State to repeal the Bill. I did so in order to draw forth an expression of public opinion on the subject, but I am not aware that any such opinion has been expressed.

The Honourable Mr. ASHBURNER :—It is proposed to us to hurry through the Bill at one sitting when there is no real occasion for hurry.

His Excellency the PRESIDENT :—I think this matter has been fully considered in Bombay, and the public have had ample opportunity of expressing an opinion upon the subject.

The Honourable Mr. GRAHAM :—It is really of little consequence whether the second reading of this Bill is postponed or not. At present the Act is quite inoperative and notwithstanding this fact Indian cotton is, I understand, more popular in Liverpool than for some years past, and the Liverpool market is of all others the most fastidious.

His Excellency the PRESIDENT :—It was about the 26th November I sent the Secretary of State's letter to the newspapers.

The Honourable Mr. RAVENSCROFT :—The question has been fought out for the last ten or fifteen years, and the public have known for at least two months that the Bill was to be repealed.

His Excellency the PRESIDENT :—I think it is hardly worth while causing the Council to meet again on this account.

Standing orders suspended, and the Bill read a second time and considered in detail, and read a third time and passed.

The standing orders were then suspended, and the Bill was read a second time, considered in detail, and then read a third time and passed.

The Honourable Mr. ASHBURNER, in moving the first reading of Bill No. 2 of 1882

Mr. Ashburner moves the first reading of the Bill to amend the Bombay and Karachi Vaccination Acts.

(a Bill to amend the Bombay and Karachi Vaccination Acts) said :—The present Vaccination Acts for Bombay and Karachi provide that on the eighth day after vaccination the child should be brought before the vaccination officer for inspection, in order that examination may be made as to whether vaccination has been

efficiently conducted. But it so happens that if on the eighth day the child is certified to be sick, or is by some other unavoidable reason unable to be produced before the officer, there is no power in the Act to compel it to be produced at any subsequent date. The amendment provides that the child should be produced before the vaccinating officer at any earlier or later date than the eighth day. I beg to move that the Bill be read a first time.

Bill read a first time, and the standing orders having been suspended, it was read a second time, considered in detail, and read a third time and passed.

The Bill was read a first time, and the standing orders having been suspended, it was read a second time, considered in detail, and then read a third time and passed.

The Honourable Mr. ASHBURNER, in moving the first reading of Bill No. 1 of 1882 (a Bill to amend the Jail Act of 1874) said:—Your Excellency

Mr. Ashburner moves the first reading of the Bill to amend Bombay Act II of 1874.

will remember that by this Act II of 1874, the Civil Jail Fund is provided out of the balance of subsistence money for civil prisoners for debtors. That fund is expended for various useful purposes in jails, such as providing hospital comforts for prisoners, cremation, and so on. Under the instructions of the Government of India that fund has been abolished, and it is now proposed that the balance of the subsistence money for civil prisoners shall be returned to the persons who advanced it after a certain time. The Bill provided against abuse of what was in effect private funds being devoted to objects for which they were not originally intended by the persons who paid them. I beg to move that the Bill be read a first time.

Bill read a first time.

Standing orders suspended, and the Bill read a second time and considered in detail.

The Bill was read a first time, and the standing orders having been suspended, it was read a second time and considered in detail.

His Excellency the PRESIDENT:—The words “at the expense of Government” in Section 1 seem superfluous, as this is provided for in the next section, and might be omitted.—*Carried.*

The Honourable the ADVOCATE GENERAL proposed the following amendment:—That in section 2 of the Bill the words in lines 12 to 24 be omitted, and the following words substituted at the end of line 11:—

“Notice shall be forthwith given to the party paying the same, and the balance so remaining unexpended shall be returned to such party or his representatives, provided that he or they claim payment thereof within three months from the date of such notice, failing which such balance shall become the property of Government.”

Bill read a third time and passed.

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

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

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

H. F. ASTON,

Acting Under Secretary to Government.

*Bombay Castle, 20th February 1882.*

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

The Council met at Poona on Wednesday the 21st June 1882, at 12-30 p.m.

*P R E S E N T :*

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

His Excellency the Honourable Lieutenant-General A. E. HARDINGE, C.B.

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

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

The Honourable the Acting ADVOCATE-GENERAL.

The Honourable Major-General C. J. MERRIMAN, C.S.I., R.E.

The Honourable Sir JAMSETJEE JEEJEEBHOY, Bart.

The Honourable SOLOMON DAVID SASSOON.

The Honourable Ráo Bahádur GOPALRAO HARI DESHMUKH.

The Honourable Ráo Sáheb VISHVANATH NARAYAN MANDLIK, C.S.I.

The Honourable C. GONNE.

The Honourable W. M. MACAULAY.

Papers presented to the Council.

The following papers were presented to the Council:—

Letter from the Officiating Secretary to the Government of India, Legislative Department, No. 31C, dated 18th March 1882, returning, with the assent of His Excellency the Viceroy and Governor General signified thereon, the authentic copy of the "Bill for the repeal of Bombay Act No. VII of 1878" (The Cotton Frauds Act).

Letter from the Officiating Secretary to the Government of India, Legislative Department, No. 22, dated 18th March 1882, returning, with the assent of His Excellency the Viceroy and Governor General signified thereon, the authentic copy of the "Bill to amend Bombay Act No. II of 1874" (The Jail Act).

Letter from the Officiating Secretary to the Government of India, Legislative Department, No. 29C, dated 18th March 1882, returning, with the assent of His Excellency the Viceroy and Governor General signified thereon, the authentic copy of the "Bill to amend the Bombay and Karáchi Vaccination Acts."

Letter from the Secretary to the Government of India, Legislative Department, No. 558, dated 29th April 1882, returning, with the assent of His Excellency the Viceroy and Governor General signified thereon, the authentic copy of the "Bill to amend Act XLVIII of 1860."

The Honourable Mr. ASHBURNER moved the first reading of Bill No. 3 of 1882 (a Bill to amend the Bombay A'bkári Act of 1878). He said:—  
Your Excellency,—When the A'bkári Act of 1878 was introduced, some officers represented that it would be necessary to regulate and control the transit and trade of mhowra flowers from which

Mr. Ashburner moves the first reading of Bill No. 3 of 1882.



spirits are distilled, but this would render necessary some interference with the Bheels and other wild tribes whose business it was to collect this substance. I among others objected, because these people are so ignorant and rude that it is very difficult to make any rules applicable to them which are not liable to abuse, and it was hoped therefore that we might work the A'bkári Act without making any rules with reference to mhowra. At any rate it was determined to give the Act a trial, and it has been tried now for three years, but the hope that we could dispense with such rules had not been realised. Smuggling is very prevalent, and the police are constantly in collusion with the smugglers. On a late occasion a serious affray, which resulted in loss of life, occurred in the Thána District, and the subject has now become very serious, not only in regard to loss of revenue, but also in regard to the demoralization of the people and the frequent breaches of the peace that occur. The present Bill has been drafted with the view of giving the Government the power of framing rules to regulate the trade and traffic in mhowra; and at the same time a few alterations—unimportant alterations—have been made in the A'bkári Act to render it more effective and less oppressive to the people. I may as well, perhaps, anticipate some of the objections which will probably be made to the Bill. One is, that it bears on an article which is an important article of the food of the people. But I reply to that that it is not an important article of food. It is as true to say that it is an article of food as to say that in England the lower orders live on blackberries, or that out here people live on carinda or other jungle fruits. A Bheel may eat a handful of mhowra, but as to its being an article of food it is nothing of the kind, and if it were so, as we are permitted to regulate the trade in spirits, which are far more important than the raw material, it would be our duty to face the difficulty and take care that our rules are so framed as not to interfere unnecessarily with an article of so much importance. The rules will, of course, be framed with a great deal of care to meet the necessities of each case. With that view I have made a slight verbal amendment to enable the Government to vary the rules according to the varying circumstances of different localities. Those which would be appropriate in Gujarát and Khándesh would not be suitable to the Konkan or at least to its coast districts where little mhowra is produced. The other amendments of the A'bkári Act are comparatively unimportant. One is to enable Magistrates of the third class to deal with the infringements of the A'bkári Act, for it has been found that the majority of cases tried by the Magistrates are very trivial, and it is a great hardship to the people to send them long distances to be tried by the second class Magistrates when there are Magistrates on the spot quite competent to dispose of their cases. In section seven you will find it provided that any Commissioner or Collector or other A'bkári officer duly empowered in this behalf may inquire into and deal with a case. In many of the cases brought to notice it turns out on enquiry that no offence has been committed, and people are put to unnecessary trouble by being sent to the nearest police station for a police enquiry.

His Excellency the PRESIDENT :—Is it the intention of section seven to prevent the accused people being taken a great distance before a Magistrate by making a preliminary investigation by the police?

The Honourable Mr. ASHBURNER :—No, but any Commissioner, Collector or A'bkári officer may make a preliminary enquiry in the same way as a Police Officer would have done, and then, if necessary, forward the case for disposal to the Magistrate. These officers have hitherto had no power to make such an enquiry. Perhaps after people have

travelled 30 or 40 miles, it has turned out that no offence has been committed. All these amendments are in mitigation of the severity of the Act. 47-A regulates the possession of any quantity of illicit liquor. The possession of illicit distilled liquor in any quantity is penal. With these remarks I move the first reading of the Bill.

The Honourable Ráo Sáheb VISHWANATH NARAYAN MANDLIK :—I regret I must oppose the first reading of this Bill. It is based entirely on a wrong principle. The Elphinstone Code left pure *toddy* untouched. The last A'bkári Act erred exceedingly in selecting for taxation an innocent article of food which does not inebriate people and which in its unfermented state should never have been taxed. We are now asked to add to that error. For as regards the mhowra flowers I may mention that it is not the Bheels and other wild tribes alone that use them, but they are used as common vegetable food by others, and chiefly the poorer classes. They are also used as fodder for cattle. It may be that liquor is made from mhowra as it is made from the date fruit or from the juice of the sugarcane or any other plant, but if you place mhowra flower under the penal law, you may do so with perhaps equal propriety with many other articles of food. I should be glad if I could concur with the statement that many poor people do not live on fruits like *karindá*, but such is not the case, for thousands are obliged to live on fruits like these and also on mhowra.

His Excellency the PRESIDENT :—It is a berry, is it not, the carinda ?

The Honourable Mr. ASHBURNER :—Yes, caranda is, but mhowra is the flower of the *Bassia latifolia*.

The Honourable Ráo Sáheb VISHWANATH NARAYAN MANDLIK :—*Karanda* or *karavunda* is one, *karinda* is different : the latter has two varieties, one sweet and one species is bitter, and the bitter are boiled with tamarind and used by thousands. I have seen many poor people in the district actually using them as an article of food. I think the present Act, as it is, is very severe. It has sought to do more than is necessary by making an inroad on the ordinary articles of diet. The Statement of Objects and Reasons speaks of officers wishing to guard against mhowra when the last Act was passed. I saw no paper then before me when discussing that Act. It is the severity of the present Act that is at fault. The Honourable Mr. Ashburner has alluded to affrays. I may tell the Council it is the Act, and the system of working it, that are probably the cause of these affrays. Some time ago a large number of the liquor-contractor's men with lighted torches came at night and aroused a whole village of mine, to find out I suppose some illicit distillation. The matter was brought to the notice of the divisional authorities, but I have not yet heard anything about it. My tenants used to pay me formerly annas 4 per tree per year and use the fruit as an article of food with their rice, but they cannot do that now unless they pay Rs. 9 as a tax per tree, and in some cases I believe they pay 11, and that for a large number of trees, fifty and upwards, at a time, so that the law as it is prevents a large number of people who live altogether from hand to mouth using what is to them an ordinary article of food and compels them to resort to drinks of a very questionable tendency. Every effort should be made by those in authority in this country to limit as far as possible the consumption of spirituous liquors. The tendency of the undue severity of the A'bkári laws is to increase the consumption of spirituous liquors and decrease the consumption of those that are comparatively harmless. The Government of India have laid down in a despatch to the Secretary of State for India that when special or heavier assessment is placed on a plantation or lands growing valuable produce (such

as cocoanut trees and other similar trees), no extra taxation should as far as possible be levied on the fruits of those trees. Whilst the excise laws must always be maintained with proper severity, it ought still, I think, to be the object of the Legislature, as far as possible, not to deal severely with ordinary articles of food, and also to restrict the use of spirituous liquors. If we are now to go to mhowra, we may next go to dry dates and sugar juice and other such articles. It seems to me as if the A'bkári Department having exhausted its pills wants us now to swallow the box, and for my part I decline to do so. I shall therefore vote against the first reading.

The Honourable Sir JAMSETJEE JEEJEEBHOY :—Your Excellency,—At this preliminary stage of this Bill, the only observation that I would consider it advisable to make is, that the principle of the Bill is somewhat open to question, and that, unless a case of urgent necessity were made out, a measure calculated to interfere with the freedom of trade, such as this is, ought not to be resorted to. I am sure the honourable member in charge of the Bill is as alive to the importance of preserving the freedom of our trade as any of us; but I desire to be satisfied of the extreme necessity for a restraint on the trade in mhowra flowers before I can see my way to vote in favour of the principle of the Bill. I am aware that in the first place all A'bkári laws are already in restraint of the manufacture or sale of spirituous liquors; and if the flagrant and widespread violation of those laws renders it absolutely necessary that further check should be placed on the trade in mhowra flowers, why, there is no resource but to submit to that necessity. At the same time, it is useful for the executive authorities to consider why the practice of illicit distillation should become so prevalent and rampant; why a hitherto law-abiding people should become lawless, notwithstanding all the preventive measures and all the inspectorial establishments instituted by Government, and all the watchfulness of the A'bkári farmers themselves, and, more than all, the legal and penal sanctions and magisterial terrors of the law that are being daily enforced. There is great reason to fear that the manufacture and sale of spirits is exceedingly over-taxed and that this over-taxation has moreover been introduced all too suddenly. The lawlessness and loss of revenue complained of in the Statement of Objects and Reasons are due, I fear, to this inordinate taxation. If any relief from this excessive taxation were afforded to the people, there would scarcely be any occasion for the resort to such an extremely coercive measure, and one destructive of free trade, as has now been brought forward before the Council. The restriction of all dealing with mhowra flowers may become the means of exercising much oppression upon the ryots; and the Council is asked to affirm the principle that the control of this dealing shall be vested exclusively in the Executive Government of Bombay. Unless an indispensable necessity be clearly made out we must take extreme caution lest the liberties of the people in the matter of trade are needlessly interfered with.

The Honourable Mr. MACAULAY :—Your Excellency,—I regret that I am unable to support the Bill in its entirety. It is no doubt very desirable that illicit traffic should be stopped, but I consider the A'bkári Act of 1878 is sufficient for that purpose. The confession that the practice of illicit distillation is prevalent does not of itself prove that the existing law requires amendment; it rather suggests inefficiency in carrying out the Act. Act V. provides that no toddy shall be drawn from any tree, but section three of the present Act goes considerably beyond that, as it proposes that no toddy-producing tree shall be tapped without a license. Now, I understand that if this becomes law it will entail hardship and loss on the owners and lessees of toddy trees, as it is impossible to ascertain if a tree will

yield toddy until it has first been tapped, and it is manifestly unfair to impose a tax on trees which are unproductive. The proposal does not affect Europeans, nor does it affect the wealthy Native; it is the very poor alone who will be the sufferers. Fresh toddy is largely consumed by the poor agriculturists, who are not represented here: and it is on their behalf I appeal to you not to carry this amendment. Instead of making more stringent laws a relaxation of the laws now in force is loudly called for. There is no doubt that they are vexatious and oppressive, and it must not be thought because the people endure them quietly that they are not oppressive. It seems to me the A'bkári Act of 1878 and the Bill now before us have been framed with the one object of increasing revenue. It is possible to be over-zealous in that direction, and the desire to make a department pay should not justify fresh legislation. If the Act be passed in its present form, and the result should be to bring some extra rupees into the treasury, they will be dearly purchased if they are extracted from the pockets of the poor ryots who are too ignorant to understand the necessity for new regulations such as the Act contemplates. Your Excellency and your counsellors must, of course, depend for your information regarding matters of this nature on the reports of subordinates. These reports may be reliable enough, but they may be biassed, and are after all only opinions from an official point of view. The great multitude of the population is left unconsulted. I am satisfied that your Excellency's earnest desire and the desire of any member of this Council is to do justice to the people and that the last thing you would do willingly is to support a measure which is calculated to oppress the people. I therefore urge you to cause enquiry to be made, not from officials only but from native gentlemen of position throughout the land, and I believe they will bear me out that the A'bkári laws are oppressive and ought to be modified. Fresh toddy is largely consumed in Gujarát and other localities. In an unfermented state it is harmless and ought no more to be taxed than the fruit of the vine or the orchard. As regards the application of the Act to mhowra flowers, all I need say is that such a proposal is uncalled-for. At times, especially in seasons of scarcity, mhowra roots are eaten by the people in Gujarát. I should say that it would be quite enough if the illicit distilling of liquor from mhowra flowers were prohibited.

The Honourable SOLOMON DAVID SASSOON :—Your Excellency,—At this stage of the Bill I remain neutral, but I should like to ask for information: First, whether it is not a fact that the mhowra tree grows extensively in many districts of Gujarát and in the Konkan, and that the predatory tribes inhabiting those districts use the mhowra flowers and berries as food, and if they have not actually obtained subsistence from them during periods of scarcity.

The Honourable Mr. ASHBURNER :—I can reply to that at once. It is quite true that mhowra trees grow extensively in a wild state almost throughout the country, more in Khándesh and Gujarát than the Konkan. Mhowra is occasionally used as an article of food as other berries are, as I have already explained.

His Excellency the PRESIDENT :—Perhaps it will be as well to reply on the whole.

The Honourable SOLOMON DAVID SASSOON :—Can any statistical information be furnished showing to what extent illicit distillation has caused lawless conduct on the part of villagers and in what districts such lawless conduct has prevailed. Thirdly, whether the Act can be safely extended and applied to districts in which, owing to their wildness, very little European supervision can be exercised. Fourth, whether, in fact, the class of officers employed in carrying out the provisions of the A'bkári laws can be safely entrusted

to exercise the powers which will be vested in them by the Act, without that degree of European supervision which the Police administration supplies.

The Honourable Ráo Bahádur GOPALRAO HARI DESHMUKH :—Your Excellency,—The principal object of this Bill is to place restriction on the trade in mhowra flowers, but I am of opinion that the restrictions contemplated will press very hard on the poor and wild tribes who are generally engaged in the collection of mhowra flowers. These flowers are used as food for men and fodder for cattle, and also as medicine. Wild tribes—Bheels, Kolis, Katkaris, Warlis, Dublays, Thakars, &c.,—rise at midnight and go to their fields to collect the flowers which fall on the ground. These they sell to Banias for grain or money, keeping a share for themselves. The Banias sell them to those merchants who deal in mhowra flowers on a large scale, or convey to distilleries and other places. There are many other materials from which liquor is made, such as dates, gool, rice, &c. If there is no provision against the sale of these, I do not see why mhowra flowers alone should be subjected to restrictions. If illicit manufacture of liquor escapes the vigilance of the Police and A'bkári officers, the collection of flowers also may. The A'bkári Act, as it is, presses very hard on the people, and no more restrictions should I think be placed on the flowers. I, therefore, concur with the Honourable Ráo Sáheb Mandlik.

The Honourable Mr. ASHBURNER :—With regard to the objections raised by the Honourable Ráo Sáheb Mandlik I have to say that the honourable member is mistaken as to the extent mhowra is used as food for either men or cattle. It may be occasionally eaten, just as blackberries and bilberries are in England, by the lower classes, but as to its being an extensive article of food it is not the case. If food for cattle it is not food for man, and though cattle do eat it occasionally it is very unwholesome for them, and is said to produce blindness, so that any objections made on this account are certainly not tenable. The Honourable Ráo Sáheb argues that it is important to encourage the use of toddy as a harmless spirit. That is the very object of the Bill, *viz.*, to discourage the use of mhowra, and regulate its use as much as possible, while we leave toddy as little interfered with as we can. The honourable members may object to the A'bkári Act so far as it applies to toddy, but that is apart from the present question, which deals with mhowra, not toddy. The only section which treats of toddy is a purely verbal amendment. The present Act provides that no toddy shall be drawn from a tree, but certain persons who have a talent for hair-splitting have argued that the tapping of a tree for the purpose of drawing toddy is not an offence. The A'bkári officers find trees tapped, but unless they find the pots full of toddy the Magistrates will not convict and the law is thus evaded. The amendment does not put any further restriction on the use of toddy than already exists.

His Excellency the PRESIDENT :—Then what is the object of it ?

The Honourable Mr. ASHBURNER :—Because, Sir, it has been argued that though a tree may be tapped, unless the toddy be actually collected in a vessel no offence has been committed. The toddy juice is illicitly collected during the night, and unless the A'bkári officers pay midnight visits to the gardens they of course cannot find the pots full of toddy. The object of the amendment is as I have said to prevent an evasion of the law. The honourable member has argued that if we interfere with trade and traffic in mhowra, why not also interfere in that of dates and other such things from which spirits are distilled. I reply that spirit distilled from those substances are already dealt with under the A'bkári Act, and as soon as the trade in the raw material is exposed to the same abuse as mhowra we shall interfere with and regulate that also. With regard to the objections raised by Mr.

Macaulay, I would begin by explaining that mhowra is not a root but the flower of a tree. His objections are that already the A'bkári laws are too severe and that therefore we cannot increase their severity. This Bill does not increase the severity of the law, but rather the contrary. Many of the provisions of this Bill are in mitigation of the severity of the law. With regard to the remarks of the Honourable Mr. Sassoon, I reply that mhowra trees do no doubt grow wild throughout the country. There are no statistics that I am aware of in regard to the quantity of spirit smuggled, but all officers having to deal with the matter are unanimous in describing smuggling as very extensive. At the next meeting of the Council I shall be prepared with statistics. With regard to the doubt, whether it would be safe to entrust the working of the A'bkári rules to natives, I reply the same objection applies to the whole occupation of the police. All regulations and rules are liable to abuse, but they are not more liable to abuse in regard to mhowra than in regard to toddy. Are we, because rules are liable to abuse, to repeal the A'bkári law? We can safely trust this power to the natives, as they are generally supervised by Europeans, and every abuse of power is severely dealt with. If we refrain from passing an Act because it is liable to abuse we shall land ourselves in all sorts of absurdities.

His Excellency the PRESIDENT:—I desire to point out that it is a very exceptional course to take a division on the first reading of a Bill. The Bill is read a first time in order that it may be circulated, but it is very seldom in this or any other assembly of a like nature to negative the introduction of a Bill. I do not say it is not highly desirable that honourable members opposed to the principles of the Bill should state their opinions. Perhaps this discussion may be of some value, as honourable members who have spoken have expressed themselves very clearly, naturally regarding themselves as representing the public against undue exactions which they consider are to be found in the A'bkári Acts. The public naturally dislike taxation; all people dislike it, and many fancy it is unnecessary. We cannot help having sympathy with the poor classes of the population on whom taxes such as those now under notice exceptionally bear. Of course Europeans are very indifferent to taxation on toddy and mhowra spirit, because they do not use those spirits. At the same time I would like to ask the Council to remember on what principle these A'bkári taxations are levied. The policy of modern legislation which has of late been strongly recognised by the Government of India is to tax very few articles indeed and to tax necessities as lightly as possible. Taxing salt is probably the only way by which the mass of the people could be taxed at all, but it has been recognised as objectionable in principle and it has lately been made much lighter, and I hope to see it still more light, for it would be a happy thing if we could do without it altogether. Taxes are levied on luxuries, and the tax on spirits is one which has been recognised everywhere as highly legitimate, because it both raises money for public purposes from luxuries and tends to check habits that everybody knows to be demoralising. The Honourable Ráo Sáheb himself said that he thought the excessive use of ardent spirits or their use at all should be discouraged, but I could not quite follow his line of argument. He said, I believe, that the increased tax upon the materials of spirits had increased their consumption, but the result everywhere of levying such a tax where it has not been unduly large has been to reduce consumption. Thus taxation and reduction have gone on together; as taxation increased the use diminished. If, however, the taxation is very large the temptation to smuggle is very great, but that has not been reached yet, because the revenue has increased, whilst the use of spirits has diminished. It is evident,

therefore, that we have not got to the point of taxation of spirits where the increase is an evil. Honourable members have directed their observations rather against the principle of the A'bkári laws than against the present proposal. Within the short time I have been in India I think a decided diminution in the use of spirits has been established, while an enhanced revenue has been raised which is applied in the highest degree to the advantage of the people. Money is spent in improving communications, increasing the funds available for education and improving the position of the people in every branch of life. That is gained by taxing a luxury. I hope the Council are satisfied that the amendments to the Act generally, apart from the special taxation of the mhowra spirit, are intended to lighten the pressure of the A'bkári Act and diminish the hardship to the people except in clause three to which the Honourable Mr. Macaulay referred. One clause is, as the Honourable Mr. Ashburner pointed out, intended to prevent a tree from which a good deal of toddy may be drawn being passed free of taxation. It is customary to leave a tree tapped some time before toddy is drawn off into a vessel fixed to it, and by prolonging this period toddy may be removed from time to time surreptitiously and so this clause is intended to prevent a certain evasion. The only part of this Bill to which the observations of the honourable members who deprecate any increased restriction can apply is that relating to the possession of mhowra flowers. There was certainly entertained by Government in their preliminary consideration of this measure an objection that the food of the people and the food of cattle might be diminished; but the best advice Government could obtain showed there was no reason for such fear. The cattle may browse on the mhowra flowers and the people may use them if they please for food. But what this Bill will prevent is the collection and use of the flowers for illegal purposes. It has been found that the collection of mhowra flowers and the distillation of spirits from them has considerably affected the revenue, and enabled many persons to use very cheap ardent spirits, avoid the A'bkári tax, and so defraud Government. Surely, in so far extending the law as to prevent such illicit distillation Government may fairly present the measure to the Council and the public as one framed with the same beneficent intention as the A'bkári Act itself, namely, to prevent the injurious and immoral use of spirits on the one hand and to prevent Government from being defrauded of a portion of its revenue on the other. This Bill has been submitted to the Government of India, who are always very watchful indeed against any measure pressing unduly on the people and increasing the burden of taxation. They after full consideration entertain no such objections as have been stated here to-day. I therefore think that these objections are rather theoretical. It is quite right that these objections have been stated, but I think enough has been said to show that they are not so formidable or well founded as might be supposed.

Bill read a first time.

The motion that the Bill be read a first time being carried,  
the Bill was accordingly read a first time.

His Excellency the PRESIDENT then adjourned the Council till Wednesday the 28th June.

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

H. F. ASTON,

Acting Under Secretary to Government.

Poona, 21st June 1882.

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

The Council met at Poona on Wednesday the 28th June 1882, at 3-30 P.M.

*PRESENT:*

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

His Excellency Lieutenant-General the Honourable A. E. HARDINGE, C.B.

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

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

The Honourable the Acting ADVOCATE-GENERAL.

The Honourable Major-General C. J. MERRIMAN, C.S.I., R.E.

The Honourable Sir JAMSETJEE JEJEEBHoy, Bart.

The Honourable SOLOMON DAVID SASSOON.

The Honourable Ráo Bahádur GOPALRAO HARI DESHMUKH.

The Honourable Ráo Sáheb VISHWANATH NARAYAN MANDLIK, C.S.I.

The Honourable C. GONNE.

The Honourable W. M. MACAULAY.

A petition dated 26th June 1882 from Peroshaw Rustomji Dalal, and others, inhabit-  
Paper presented to the Council of Broach, regarding the Ábkári Act Amendment Bill  
Council. (No. 3 of 1882) was presented to the Council.

Bill No. 3 of 1862 (a Bill to amend Bombay Act V of 1878), second reading.

His Excellency the PRESIDENT:—I propose myself to move that the Bill be now read  
a second time. After the expression of opinion by the five  
His Excellency the Presi- independent members of the Council in the debate on the first  
dent moves the second read- reading, and the very extended discussion of the measure which  
ing of Bill No. 3 of 1882. has taken place in the public press, a very precise statement of  
their reasons is called for on the part of Government in regard to the introduction of the  
Bill. It would have been a very hasty and, I may say, foolish action had the Government  
attempted to interfere very closely with the interests of a large number of the poorer  
classes without having duly considered the measure and without having the fullest warrant  
for that which they proposed. I may say, in the first place, that it is with a feeling of some  
disappointment that I see a measure like this encountered at its introduction with hostility  
which did not wait to hear fully described the reasons for introducing the measure,  
because gentlemen came here prepared to discredit it without really being in possession  
of any statement. Now, in saying this, I must distinctly deprecate the idea that I object  
to such remarks as were made by the Honourable Sir Jamsetjee Jejeebhoy, who, with his  
usual fairness, only asked for a full statement of the grounds, and I think the same with  
regard to the Honourable Mr. Macaulay and the Honourable Mr. Sassoon. But when so  
much has been said about the hardship to the poorer classes, and the interference



with their honest industry, I must say there is another side to the question; and when gentlemen preface their opposition to this measure by wholesale attack on the Ábkári Act, I think they might look a little deeper into the matter. No doubt the value of some properties has been diminished by a portion of that Act. The great increase of taxation on the tapping of trees no doubt diminished the receipts of the landowners from that source, and I certainly suspect that a large part of the opposition to this proposed amendment of the Act proceeds, not from the poorer classes, but from the owners of property. Then, again, the distillers are inconvenienced by any interference with the material for their trade. No doubt they could get large quantities of raw material extremely cheap, and it is very distasteful to them that anything should be done to enhance the price of that raw material. These things ought to be considered by the public; and it should not be supposed that the poorer classes alone are interested in this matter. I beg to say at the outset that I am convinced that the poorer classes, so far as honest dealing goes, will not be injured in the smallest degree by this measure. No man who is living honestly and seeks to gather mhowra flowers will, for example, be injured at all under the regulations which the Government impose; on the contrary, I believe there will spring up a very profitable industry which, in the wilder districts for which our compassion has been asked, will greatly increase the profits of the people. That I will show further on. I would beg leave to call attention to several points in regard to which misapprehension exists and misrepresentation has been made. There is no idea of prohibiting the gathering and use of mhowra flowers; what is proposed is that Government shall have power to regulate, if necessary, the collection and exportation of the articles. Nor is it intended that these rules should be of general application; it is proposed to apply them within a very limited area; in the first place only in particular districts where the collection of these mhowra flowers has been used entirely for purposes of distillation. It was known in 1879—and is proved by the document before me—that these mhowra flowers were being hawked about, particularly in the Collectorate of Thána, for the purpose of distillation. Then the Collector proposed to prohibit this, and to bring the sale of the flowers under the operation of the Ábkári Act, because they were the raw material for distillation. That, as Mr. Ashburner told you, was objected to by the Commissioner and by Government as being in excess of the powers under the Act, and it was accordingly set aside for a time. It is because this practice has resulted in an immense amount of unlawful action and in a large loss of revenue to the Government,—that is to say, to the public and to honest tax-payers,—that Government have been compelled to introduce this measure. Well, then, neither is it proposed that during the whole year the trade and industry in this article shall be prevented, but only in such seasons as are necessary. I may say that during the season when the mhowra flower is gathered,—that is to say, from the 1st February to the 15th May,—there will be no such restrictions but during the time that these dried flowers are carried away for the purposes of distillation. It has been said that it is proposed to put a fresh tax on the industry. The Bill does not propose to put on any tax whatever; it only proposes to regulate the collection and sale of this article, which it has been found is so largely used for distillation. This point was referred to the other day with regard to the taxation of toddy trees or tapping of toddy trees. The only other restrictive clause in the Bill was introduced to remedy a misapprehension that caused frequent uncertainty in the minor Courts. Now, let us clear up the point whether mhowra is, reasonably speaking, an article of food. You see in the public press, and we have certainly heard here, the most contradictory statements on the point. Mhowra is not used in any way as an article

of food in the districts of Thána and Kolába, in which we propose this Act should be immediately applied. I believe they have a superstition there that it causes blindness. But it is certainly the fact that it is not so used in that district. Among the Bhils in Khándesh it is occasionally extensively used as an article of food, and I am told that a Bhil would never think of eating mhowra with flour except when flour is scarce. Then the mhowra is prepared in a particular way with flour and is used. The profit he obtains from it is not in the shape of bread but in its exchange for other articles by which he lives. He and his family gather these flowers and exchange them with the Banias for other things which he and his family want, and he makes as good a bargain as he can. Now, some people say that when Government make a statement of this kind they only get information from subordinates. Well, no single member of the Council can be ubiquitous, but there are members of the Council who have had large experience. Of course every Government must obtain its information from its officers, and its officers are among the most intelligent people that can be found, and certainly if it cannot rely upon their statements, Government would be at an end. I hold it to be a particularly idle objection that the Government are dependent in this way. Respecting the use of mhowra by the Bhils in Khándesh. This does not immediately concern us, because the Government do not immediately propose to introduce these rules into Khándesh. I shall, however, show you that they do hope to introduce in Khándesh a very profitable industry in this way. I will read to you, if you please, a letter written by Major Probyn, the Bhil Agent, who is certainly in a position, on account of his large acquaintance with the people, to give a reliable opinion, and I think the Bhils themselves acknowledge no better friend unless it be the Honourable Mr. Ashburner. Major Probyn says: "The chief value of the mhowra flower to the Bhils is its collection free of forest tax and its sale or barter to the Banias. The mhowra flower can hardly be looked upon as an article of food of daily consumption. The Bhils may be said to use the mhowra as an article of food only when they are hard-pressed, and then they eat all kinds of roots and other jungle produce as well. So long as a Bhil can procure flour of any kind he will only occasionally partake of the mhowra flower. The flower is dried on a *towa*, then reduced to flour, made into cakes, and eaten with a little *goor* or mixed with rice. The mhowra is chiefly so used in the Akram pargana. In disposing of the mhowra flower to the Banias, the Bhils of course do not receive the full value of what they have collected. If the flower could be purchased direct from the Bhils departmentally, and then sold to the liquor contractor, the Bhils would be further benefited." Now, I should like to tell you what has been done in this way in other parts of the Presidency in developing a similar petty industry—the collection of the hirda nut or myrobalan. In the Administration Report of the Forest Department for 1877-78 (I go so far back because the principle is here clearly stated), the right to collect myrobalans had been sold by auction in the Southern Division for seven years previously, and in 1878 the Conservator, Lieut.-Colonel Peyton, an officer very skilful and judicious in his dealings with the natives of all classes, writes (para. 88): "The hill people of this *táluka* (Bidi of Belgaum), like as in Kánara, showed the greatest goodwill, and expressed themselves very gratefully for the introduction of a system that they had been asking for," *viz.*, the departmental collection of myrobalans.

Again, in para. 96: "The very liberal scale of payments providing for the collection of myrobalans enables men and women to earn an average wage of from 4 to 6 annas and children from 2 to 4 annas daily, about their own and neighbouring village lands from

November to May every year, and therefore draws the hill people and the other classes that formerly preyed on the forest by chopping and collecting firewood towards the department in a manner so touching their own interests and to make them readily reconciled towards our own." In the report for 1879-80 of the Collector of Sátára is quoted as follows (para. 217): "The departmental collection of the hirda nut has met with the success which the Collector predicted. It is only astonishing that after the success the measure obtained in the Southern Division there was any delay in introducing it into this district. The hill villagers now find a legitimate occupation which puts a little money in their pockets, &c." This system has now been widely extended in the Northern Forest Division. In 1880-81 "the hirda collected in the Poona District was all used for sowing in the Singhar range and elsewhere with the view to introduce this most valuable tree where it does not exist at present, &c." (para. 104), and in the Southern Division the estimated revenue from this industry in the year just closed was not far from 2 lákhs of rupees, a considerable sum if we consider how widely it is distributed and how much more remunerative the industry which earns it must be to the poor than when they had no market but by barter with the shop-keeper or middleman. This shows how by well-regulated industry there may actually be a very large sum of money brought into the pockets of the people, and so far such a measure as this, enabling the Government to make rules for regulating an industry, is productive of good and not hardship to the people. The system under which it is proposed to work the rules in those wild districts is precisely that which is calculated to benefit the wild tribes, but the object particularly is to make the possession of mhowra flowers, without a license, an offence in the tracts in which clandestine distillation prevails, and, where the flower grows, to regulate the collection and to see that the whole surplus crop shall be exported outside those districts when the season is over, any people collecting being paid for all they bring a certain rate fixed by Government. Then, again, in tracts in which mhowra flowers are used as food, the possession of limited quantities will be allowed. I think I may claim for the Government at least credit for administering the Act with consideration for the people. I think I said before that it is intended to introduce the rules, to begin with, in the Thána and Kolába District. Now, an important point to be established is the general statement made the other day, and which was not accepted as sufficient to show what is the need for rules. We have stated that the experience of two years had shown that the unrestricted collection and possession of mhowra flowers encouraged illicit manufacture to a large extent in the Thána and Kolába Districts and interfered with the revenue from lawful sale; and that it was impossible to cope with such practices owing to there being no power to check the traffic in mhowra flowers, though well known to be designed for an unlawful purpose. The prevalence of illicit practices is shown by the number of offences brought to trial. Well in 1880-81 (the last year for which returns are available) 690 cases of offences against the Abkári Act were brought to trial in the Thána District. Of these cases 612 were of illicit manufacture, and 578 of that number occurred in the inland tálukas, 34 only in the coast tálukas. It is said by one of the oldest of writers in the world, "Oh, that my enemy would write a book!" and in relation to this matter it may be pointed out that the case of the opponents of this measure was very fully stated in a leading article in the *Bombay Gazette*, containing so much special knowledge that I do not think it could have come out of the able Editor's own brain. The writer relies greatly on the increase of revenue in the Thána District as showing there could not be any substantial reason for this measure. The writer was good enough to refer to a remark of mine, that where the tax was not unduly raised the revenue increased and drinking

diminished. But I will give you some figures in respect of the increase of revenue. In the coast *tálukas* the average of five years to 1876-77 was Rs. 1,29,874; 1880-81, Rs. 2,13,166; estimated revenue for 1881-82, Rs. 3,05,121. In six inland *tálukas* the average for five years to 1876-77 was Rs. 1,33,040; 1880-81, Rs. 1,20,170; ten months of 1881-82, Rs. 76,105, or at the rate of, per annum, Rs. 92,096. It was stated in the article in the *Bombay Gazette* that if the revenue had increased by a *lák*h-and-a-half in the Thána District in three years, there could not be much wrong in the matter of smuggling. Either the person who wrote that had not looked closely into the figures, or he made a statement not quite ingenuous, because if you separate the coast from the inland *tálukas* you will see a remarkable difference. It is quite true that in the coast districts, where there were only 34 cases of breach of the laws, the revenue has increased from an average of Rs. 1,29,000 to Rs. 3,05,000. But in the inland *tálukas*, where the illegal use of mhowra flowers is so extensive, the average of the 5 years ending 1876-77 was Rs. 1,33,000, but in the year 1881, the year following that in which it was reported illegal distillation of mhowra had become prevalent, it sunk to Rs. 1,20,000, and in the year 1881-82 it sunk in ten months to Rs. 76,000, and had so been reduced by about 40 per cent. in those three years. That argument is therefore disposed of. I may mention another thing, and that is that the falling off of revenue was so great that the contractor was called on to make up the deficiency of Rs. 10,000 on his farming. There is another very important point. The Honourable Mr. Ashburner stated that the amount of drunkenness was very great where illegal distillation and drinking prevail, and we are not without a good deal of evidence on this point. Going back for some time, we find that drinking was so serious in the Thána Collectorate that Sir Barrow Ellis, when Commissioner of the Northern Division, reported to Government that it was absolutely necessary strong measures should be taken. He proposed that all the brab trees on Government lands should be cut down as the use of the liquor derived from them was so demoralizing. What has been the result of the stricter system now well established, the high duty on tree-tapping and the limitation of the number of stills and liquor shops? This is an extract from the report of Mr. Mulock, Collector of Thána, for 1879-80. He says: "The advantages of this system are that it secures to Government as a minimum as high a figure as they have ever obtained; makes us quite independent of the Bhandáris; and prevents all possibility of establishing their abominable stills in remote corners of the *tálukas* where Government supervision was practically impossible. Nothing would induce me to recommend the permitting of Bhandáris to distil again. Most of them have now taken to cultivating land and other occupations. I have the last few months been in the sea coast districts that I have known for over ten years, and I would not ask you to credit the difference I notice in the people, and more especially in the jungly parts, since liquor has been raised in price and the toddy trees remained untapped. Those who formerly spent their last farthing in liquor have now, they tell me, all a little balance to spend in some little comfort or another; and although they grumble, as they did to His Excellency the Governor when at Bassein, at the difficulty about buying liquor, they themselves are the first to admit how beneficial their more or less compulsory abstention has been to them and their families. Ask any large landowner or employer of labour in the collectorate, and he will tell you that he now gets a fair day's labour for the day's wages, where formerly he never could succeed in doing so. He will tell you that he now can count on the daily attendance of his labourers, where formerly the second day they were absent, drunk on the proceeds of the first day. All I ask is, let this continue, and Thána will no more be noted for its hard drinking

and crime than any other part of the Presidency." Again, the same officer, in recommending the continuance of the single farm system in the coast tálukas, and its extension to the Sálsette and Panvel Tálukas during the current year, wrote as follows in April 1880: "And now, leaving on one side the pecuniary part of the question, I must mention the benefits resulting to the people under the new system and from the enhancement of the price of liquor. My assistants, mámlatdárs, patels, talátis, &c., are unanimous in their praises of it, and having been some time in the sea coast tálukas, I can corroborate their opinions in every respect. One no longer sees the general drunkenness of former years. And the reason is very clear: it now requires four annas to get drunk, while three years ago it only required one anna. Even the ryots themselves, while grumbling at its being hard on them that they cannot get the cheap liquor they formerly got, will admit that they are happier without it, and that the 'zor,' as they call the influence of the liquor-vendor, is now gone, and no more land is mortgaged to him in liquidation of his bills." Mr. Mulock, in his report on the administration of Thána A'bkári for 1880-81, said: "The new A'bkári system, along with largely increasing the revenue of the State, has tended to raise the price of liquor and to prevent illicit distillation and tapping, thus largely discouraging the excessive drinking for which this collectorate was so noted. We cannot of course expect those who acquired the taste for strong drinks under our demoralising former cheap liquor system to at once leave off the bad habit of overdrinking and indulge only moderately. Still I believe that many who drank before to excess can no longer afford to do so, and those who would have acquired the taste if liquor had remained at the former low price will now eschew it as an expensive luxury, and thus never acquire the habit of over-indulgence." But look at the picture on the other side, that of the inland tálukas, where we fail to check private distillation, and where the people still enjoy the halcyon days of free drinking which we are asked to preserve. Mr. Mulock remarked: "During the year 1880-81 there was a large amount of illicit distillation. After their evening meal the lower caste families, Koli, Agri, Bhandáris, &c., with their copper cooking utensils construct a miniature still, and turn out a couple of bottles of strong liquor from the mhowra berry, to be found in quantities in the inland tálukas, before they retire to rest. The whole village is concerned in concealment of the offence, and its detection consequently is most difficult. The European Inspectors have had a hard year of it, having been roughly handled and obliged to make good their escape." We have been told that we have not made our case good, and I would refer to the allegation that there have been no outrages. I have before me the report of one. On the 6th of March, the Superintendent of the A'bkári Police, reports: A constable of the A'bkári Police set out for Panvel to serve a summons on a resident in whose boat a cargo of mhowra flower had been seized. On the way a still was discovered by accident, and the patel was informed of the discovery and the still was seized. It was given to the Mhár to carry, and as the party was passing through a cutting in the road it was knocked off the carrier's head. The constable gave chase, and other villagers appearing, a fight ensued. The constable of another village happened to pass, and seeing that a policeman was being roughly handled, went to his assistance, but was set on by the villagers and had to fly. He reported the matter to the head constable at the Oolva post, and policemen and villagers were called out and proceeded to Wahal. As the men were entering the village two or three men armed with bludgeons obstructed their way. The head constable was felled to the ground, and one of the crowd, taking up his musket, stabbed him with the bayonet and killed him. The body was afterwards

greatly mutilated. The rest of the police effected their escape, all more or less injured. This shows the state of lawlessness which exists in some parts, engendered by unrestricted drinking. But let us turn once more to the results of the contrary system as testified by responsible officers. The Commissioner for the Northern Division writes: "I have every confidence that under the new A'bkári arrangements crime in this district will soon show a sensible decrease. The decrease of murders and dacoities in Thána is very remarkable, and I cannot but attribute it in some degree to the new A'bkári arrangements already alluded to, by which the price of country-liquor has been considerably increased, as drunkenness decreases as well as many forms of crime, and homicides especially." And I may also refer to independent evidence in an article in the *Bombay Gazette* last February, put into my hands yesterday: "In so far as Bombay is concerned we are happy to bear testimony to the growing sobriety of the urban populations of India. We have not before us any later returns than those for 1880; but from the police return of that year we learn that the cases of drunkenness had decreased from the numbers of the preceding year by the substantial figure of 657. Under the head of 'Disorderly and indecent behaviour in the public streets,' a class of offences which has close relations with drunkenness, we have the enormous falling-off of 1,289 from a total in 1879 of 4,175. The number of persons charged with assaulting the police fell from 51 to 24; and petty thefts, also a variety of crime generally associated with drunkenness, decreased from 4,075 in 1879 to 2,558 in 1880, showing a decrease of no less than 1,517. In all classes of crime there was a decrease of no less than 5,274 persons charged. We cite these facts, which, if analysed, would corroborate our arguments in detail, to support the claim for increasing sobriety." I now wish to ask your attention to one other incident in the working of this A'bkári Act which has been so much objected to. It has been said, not in Council, but elsewhere, that Government are carrying on a liquor traffic, and a comparison has been made with the Russian Government in regard to the manner in which the liquor traffic is stimulated for the benefit of the revenue. Let me show you what has been the policy of the A'bkári Act in Thána, and how this great diminution in drunkenness in the coast tálukas has been caused. I ask your attention to a table showing the number of retail shops in successive years from 1877 to 1880-81. The number of retail shops in Thána fell from 971 to 397, and the number of stills in these four years was as follows: first year, 3,525; second, 139; third, 59; fourth, 14. In Kolába the number of retail shops remained about the same, but the number of stills has been reduced from 941 to 18. The stills are now, for the most part, concentrated at Uran. In the article in the *Bombay Gazette* it is pointed out that the fact is that in Uran the revenue in 1880-81 was over 13 lákhs against 12½ lákhs in 1878-79, showing that in this district there was no illicit distillation. That is so, but by the concentration of trade in one place, and regulating it by the restrictive number of liquor-shops, you can exercise that control which supplies liquor to people who insist on having it, and at the same time prevent that wholesale and constant drinking which invariably demoralises the population. I think I have dealt with all the principal points objected to in this measure; but of the summing up of the article to which I refer,—I cannot take up your time in reading it,—I would say that if every assertion made had been made in the negative, it would have been true. It says that it has been shown that there is no extensive prevalence of smuggling. I have shown you that it is existing. They say that in the localities in which the Government distilleries are situated mhowra does not grow. That is near enough

to the truth to be very untrue. Mhowra does grow in the inland talukas of Thána, but it is not used licitly there; where it is used is at Uran, which is not a long way off. Then it is said that the poorer classes, either in the producing or distilling districts, can hardly venture on defrauding the revenue. I have shown you that while the revenue has considerably more than doubled in the coast districts, it has been reduced by 40 per cent. in the six inland talukas in which illicit distillation has been proved to prevail largely. The article says: "The injury which the measure now proposed is calculated to inflict, especially on the poorer classes, is so great that wise legislation would not purchase revenue at such a sacrifice. And what is that sacrifice? It is the sacrifice not of mere comfort, but a means of existence of the poor during a most trying season of each year." I have shown you, on the authority of Major Probyn, that that would not be the case, and I have shown also how Government proposes that the industry should be carefully improved and fostered in a legitimate manner, as one very similar has already been. Then this article goes on to say: "Upon the whole it seems to us that a more miserable case was never made out for special legislation." Of that I leave you to judge. I ought, perhaps, to mention what the mhowra districts are. These districts in the Presidency may be divided into three. There is first that district of Thána and Kolába—that is the one we propose to deal with chiefly in the way of restriction; Khándesh and Násik we propose to deal with in the way of stimulating the industry. Upper Gujarát, Kaira, and the Panch Maháls are districts in which rules would be useless, because there is little distillation in the British villages, smugglers taking the material into foreign villages, in which it is distilled. The evil there is of a much less extent, and is hardly worth troubling ourselves about. There are two considerations which I would, in conclusion, ask the Council to consider—one is that by frauds, which I think I have shown to be of a somewhat extensive character, honest people suffer; and secondly, a district is greatly demoralised by the evasion of the law, apart from open indulgence in an injurious commodity. Then I would ask those who have felt the diminished value of their property to remember that it sometimes happens that a large public improvement cannot be carried out without serious loss to some people; but the gain is so great here in the interests of public morality and the public revenue, that the change ought not to be regretted. On the whole, I hope I have shown that this measure was not introduced by Government without just cause, and that the interests of people have not been disregarded. I am only sorry that there should not have been so much confidence felt in the Government as to have freed it from imputations which undoubtedly, if true, would be very injurious.

The Honourable Ráo Sáheb V. N. MANDLIK :—Your Excellency,—The course which the Government have adopted—your Excellency moving the second reading of the Bill on this occasion—compels me to explain my reasons for opposing it at greater length than I should otherwise have done. The reasons which, on the last occasion, led me to suggest that if any amendment of the A'bkári law was desirable, it was so in the interests of both the Government revenue and the cause which the Government have at heart, namely, the promoting the sobriety of the population, that the stronger drinks should be discouraged, and that the milder drinks, such as toddy (which in its unfermented state is not a spirit at all, and in its fermented state is very much less injurious than any kind of distilled liquor) should be rendered free, that is, free to those who own the trees, but not free in its fermented state for the purpose of sale; and that for the sale of all fermented liquor the Government ought to make such rules and restrictions as would be necessary

not only for the protection of the revenue, but for the protection of the people against drunkenness. In that remark there is no interest of any particular class concerned, though I am quite sure your Excellency will agree that the interests of any large class should be also consulted by this Council. The papers your Excellency has now read are being considered by Government, who always wish to promote sobriety and other good qualities in their subjects; but these very papers show that in the coast talukas in which the drinking of toddy was common there has been no great impropriety of behaviour except in some 38 or 40 cases. Therefore whatever distress the people may have suffered from the change in the law, still they have borne all their trouble, if they had any. I submit that in such a case the revenue could only increase by the larger consumption of liquors of a more injurious kind than common toddy. On the last occasion I stated a case by way of illustration; but I have since consulted the Settlement Records of the Government, and they show that in the coast districts the assessment as regards trees has been increased in some instances from eight annas and one rupee to nine and eleven rupees a tree. I am sorry to say that as I am a person who, owing to caste as well as to education, has not touched any kind of liquor, I cannot say what sort of thing toddy is; but I know from our college lectures, and from unimpeachable evidence, that toddy in its pure state is not an injurious drink. It was stated at this Council on the occasion when the last A'bkári Bill was under discussion, I believe by the Honourable Sorabjee Shapurjee Bengali, that toddy was a very healthy drink, and that if there was any smuggling, it was probably due to the very large enhancement of the tax on toddy trees. The history of Great Britain and all other countries shows that if a tax is unnecessarily severe on any particular product or commodity there will be some attempts at smuggling. When a law is passed, I do not sit here or anywhere else to argue that it should not be as severely administered as possible, but when we are thinking here of an amendment of the law, and it is suggested that we should make taxable an article which on all hands is admitted to be as nourishing as toddy, I think I am right in speaking upon the subject. On that point I have nothing more to add than this, that I think if this change of the system of taxation interferes with the system which the revenue settlement has made in regard to trees, I hope the Government will look into their revenue arrangements, and see how far the two systems clash with each other. I now take the subject of mhowra, on which also, I believe, my remarks have been misunderstood. I do not propose to say anything of what has been written *pro* or *con* in the public press. If the public press consider that when I spoke here I had not seen mhowra in travelling through the country, and seen the state of the people for myself, all I can say is, I don't give much credit to their judgment, and must bear their criticism as well as I can. But it was said on the last occasion, I think by the Hon'ble Mr. Ashburner, that mhowra was not very extensively used as an article of food; but the remarks of your Excellency to-day hardly bear out that impression; and I beg leave to say that the reports of the Government itself show that it is very extensively used as food in several collectorates. In Elphinstone's India, Edition 3, page 193, we find the following: "In many parts the berries of the *mahua* tree form an important part of their food." Mr. Harrington Bulkley, in his letter dated 24th November 1863, to the Superintendent of Revenue Survey, Gujarát, para. 6, says: "The poorer class of cultivators have the barest means of subsistence during the hot weather. They contrive to eke out a 'miserable' existence through the instrumentality of mangoes, khimies, and mhowra berries, which frequently for months form their only food." And again the same officer, at page 713



of the same work, puts the Koli heads of families at 6,869, and other castes at 7,708, and of these he again repeats that they live on mangoes, khimies, and mhowra berries. In a letter from the Collector of Kaira, No. 48-A., dated the 31st January 1855, to the address of the Revenue Commissioner, N. D., Appendix to Part II. General Report on the Bombay Presidency Census, 1872, I find the following: "The Kolis are not nearly so industrious as the Kunbis, and the surplus produce of their fields, after paying the Government rental and the Sowkar's dues, is often all consumed by the end of February or March: consequently during the hot season they subsist on the fruit of mhowra trees or some wild growing vegetables, or by collecting and selling firewood. When impelled by want, they sometimes commit thefts and robberies, but the police, and especially the improved existing system, acts as a restraint and bar to their predatory habits. Their ignorance is frequently assigned as the cause of their poverty, and it is a matter of importance to educate this class of our agricultural population, to render them more industrious, and thereby to reclaim their wild habits. The Pátídárs have generally at least a pair of bullocks and all agricultural implements, but many of the Kunbis, and most of the Kolis and other agriculturists, possess only a single bullock and few of the most necessary implements of agriculture. Those who have only a single bullock of their own mutually lend their bullocks to their neighbours or relations, and receive the loan of theirs in return, and thus each in his turn has at his command a pair of bullocks whenever required for working his field. Those who have no bullocks of their own obtain them on hire, in lieu of which (if they are unable to pay the hire in cash) they render manual labour, equal to the amount of hire, to those from whom they may have obtained bullocks; and the same thing is done with respect to implements. Sometimes cultivators obtain the gratuitous use of bullocks and implements from their relations who may be in better circumstances. The majority of cultivators obtain so small a profit from grain cultivation that no surplus is left to enable them to provide themselves with a pair of bullocks and the full complement of agricultural implements. The heavy rates of interest charged by the Sowkars on granting loans would seem also to prevent their borrowing money for the purchase of cattle and their necessary implements. Their wretched condition is to be attributed to the fact that they adopt no agricultural improvements, but still raise the same crops, and in the same manner, which their fathers did; but the abundance of grain and other produce renders it very cheap, and a large portion of the surplus produce, after paying the Government rental, goes to the Banian or money-lender on account of advances in money or grain previously made, especially during the hot season, when the poorer classes have exhausted their monsoon supplies of grain. Their circumstances might be improved—they would be benefited if they raised more exportable produce; but this is often attended with additional expense on a slackness of local demand, which discourages the increase." Again, in the Report of the Indian Famine Commission, Part II., page 81, occurs the following paragraph: "Maize, or Indian-corn (*Zea mays*) does not form so large an element in the food of the people as might have been expected from the fact that it is grown to some extent in almost every part of the country, and can be grown everywhere, and in Southern India at least, at any season in the year. In practice, however, it is commonly only sown in small garden plots, and much of it is consumed by the growers before it ripens, very little coming into the market. It is rarely ground or exposed for sale in the form of meal. Other vegetables, such as spinach, pumpkins, carrots, and potatoes, are also cultivated, for the most part for home consumption; only near large towns are they grown for the market. The

use of them as food is universal, except in the case of those families who do not possess land, and who are not rich enough to buy them. Such persons often supply their wants by wild herbs from the fields and waste lands, which are found by experience to be wholesome and palatable. The leaves of the mustard and rape and the gram (Cicer) plants are also very frequently picked from the fields and cooked for food like spinach. The fruit of the mhowra tree (*Bassia latifolia*) is an important element in the food of the people wherever that tree is abundant, which it is in most parts of Central India and the Central Provinces, and many of the wild tribes in these tracts subsist almost entirely on this and on similar forest products. The mango, plantain, and cocoanut also enter largely into the food of the country." Then, as regards drunkenness the statistics your Excellency laid before us are of course very useful, but although so much has been stated in regard to the lower classes of the people, I am sorry to say that, although there may be no blame attached to the A'bkári Department, there is not the slightest doubt that drunkenness is largely on the increase among the higher orders. The Hon'ble M. Elphinstone, in his report to the Governor-General, dated October 1819, says: "Drunkenness, the peculiar vice of the lower orders, is almost unknown in the Marátha country, which has thence a decided superiority in morals over the old provinces. It arises from the discouragement to the sale of spirituous liquors, and as the revenue from that source is insignificant, we should probably do well to prohibit it altogether. Public opinion, and, above all, the opinion of the caste and the dread of expulsion, are the restraints on vices. These powers are, in the Marátha country, in the hands of the whole caste. In the Carnátic there are regular censors to each caste called Gunnacharies, besides religious Goorcoos, invested with great power; but these institutions are converted into the means of gain, and the morals of the people are there decidedly worse than in the Marátha country. The other vices are not more rare, and drunkenness is common in addition." Now I am sorry to say that even a casual observer who visits Poona must notice that the increase of drunkenness is something appalling. Only a year or two ago, one of the gentlemen practising in the higher Courts of Poona, a Bráhma of the highest class, was found dead from drink in a house of ill-fame. Such a thing twenty years ago would have excited horror, but now such a man's state is looked on with more indifference, the vice has become so common from one cause or another. I think if your Excellency ordered a return in regard to the license shops in the city of Poona, they would tell a tale at which your Excellency would be surprised. I don't say the A'bkári Department is to blame; no doubt it is the people themselves. But when we have had a statement of the reduction in the number of stills, I think the A'bkári Department should set its face against the opening of more shops and issuing of more licenses. That, perhaps, is the most practical mode of checking drinking. Speaking for myself, I feel it to be a most anxious duty that I have to discharge at this Council; and I should not descend to make a statement I was not prepared to prove. We have to sail here between the Scylla of departmental advocacy and the Charybdis of outside public criticism. And there are occasions when, your Excellency will admit, we are entitled to consideration for the difficulties by which we are surrounded. I do not propose to discuss any newspaper remarks here; but if a great deal of the information now placed before the Council had been placed before it at an earlier date, as to the extent and scope of the Bill, the way in which it is to be worked, &c., there might have been saved, not all the remarks which have fallen from me, but a good many of those remarks. His Excellency will perhaps bear with me when I say that in the absence of any data no doubt we may take the Statement of Objects and Reasons itself

to be the justification of the measure. But I should not like to see the work of discussion rendered idle; for my own part, I would sooner have no discussion at all if I could not join in an intelligent criticism and examination of everything that comes before us. In this particular question of the A'bkári laws, the principle is involved whether, after taxing trees, the department may also tax the produce? and if it may do so, on what principle the taxation of the trees ought to be conducted? These are questions that have been several times discussed by the Government of India, and it was on the ground that now there was an opportunity for the discussion of this principle, and also advocating the return if possible from ardent spirits to simpler liquors, such as toddy, that I suggested on the last occasion, and suggest now for the consideration of Government, whether under such restrictions as may be considered necessary by the department and sanctioned by Government, it would not be advisable to make toddy a less costly drink. In the case of the poorer classes it often means a few annas a month, which, if saved, turn the scale. The richer classes can bear their own burdens and can make themselves heard; it is the class that cannot whose case we are now considering.

The Honourable Mr. ASHBURNER:—Your Excellency's remarks have been so full that there is little for me to say. I admit with regret that the Statement of Objects and Reasons and my remarks introducing the Bill were not so full as they might have been, and I take great reproach to myself for not having made them more clear; but the Bill appeared to me so simple and to involve no principle that had not been settled when the A'bkári Act was passed, that I did not think it necessary to take up the time of the Council in going over ground that had been gone over before. I believe the Hon'ble Ráo Sáheb was in the Council, and sat on the Select Committee which passed that Act; therefore I passed somewhat lightly over points which seemed to me not only quite apart from the present Bill, but long since placed beyond the range of controversy. But that affords, however, no excuse for misunderstanding the very simple provisions of the Bill, and it is hardly credible that so simple a Bill should have been so much misunderstood. Even the Ráo Sáheb has, I believe, hardly grasped its scope. He argues that we should discourage the use of the mhowra spirit and encourage the use of toddy; but what is there in this Act, I would ask, that discourages the use of toddy? The only mention of toddy is a mere explanatory provision, and so far from the object of the Bill being as he describes it, it does actually discourage the use of mhowra spirits, for the rules must more or less interfere with the distillation of mhowra. Other misconceptions of the Bill your Excellency has so fully exposed that I need not go over the same ground; but I may explain one of the errors into which the Hon'ble Mr. Macaulay has been led. He says that though the Act allows no toddy to be drawn, yet we go further than that by prohibiting a tree being tapped. He calls that a great grievance, as it is impossible to discover if a toddy tree will yield until it has been tapped. He will perhaps be surprised to hear that any tree which is tapped and does not produce toddy is exempted from payment, a fresh tree being allowed in exchange, exchange being allowed up to 25 per cent. The picture which the Ráo Sáheb has drawn of the prevalence of drunkenness is, no doubt, correct. He advocates the use of this so-called harmless spirit of toddy as a remedy, but he forgets that the shocking state of demoralisation and drunkenness which he describes was produced by the consumption of that mild and harmless drink, toddy. The fact is that toddy is extremely intoxicating in its fermented state, and the spirit which is distilled from it is still more so. The extracts which His Excellency has read shows that the Konkan is

a great centre of drunkenness, and there toddy is almost exclusively used. The use of toddy, so far from being harmless, is very injurious. It is useless to go again over the question whether mhowra is an article of food. It is in one place, and is not so in another. It is not so in the Konkan, but is to some extent in Khándesh. Admitting, for the sake of argument, it is a food, are we to permit such shocking mischief and such demoralising results as those so graphically described by every writer on the subject to go on without regulation? When the results are so disastrous to the peace and morality of the country, it is impossible not to interfere with it, even if it is admitted to be a food. His Excellency remarked that a certain class of landowners have been injured by the A'bkári regulations, but His Excellency omitted to notice that in every case where it has been found that owners of these trees had a right to extract the toddy and sell it, the A'bkári Act provided that they should be amply compensated. A very large amount, some lákhs, has been paid to landowners for this interference with their right. Only those were interfered with, without compensation, who had no right to sell their toddy, and who were making use of this produce of their fields to destroy the morality of the country. Another objection raised to the Bill is that it interferes with the freedom of trade; but when freedom of trade causes the demoralisation of the people, it is necessary Government should interfere. The same objection might be used in regard to the trade in petroleum, poisons, or dynamite. One gentleman objected to the Bill because it would increase A'bkári taxation, which was already excessive; but I would ask him to point out, in this Bill, what provision enables us to increase taxation. There is not a single section in the Bill which deals with taxation. With regard to the objection that the A'bkári Act is sufficient to check smuggling, I reply that experience proves it is not. The statistics which His Excellency read prove that smuggling is very extensive. The Hon'ble Mr. Macaulay has stated that the object of the Bill is merely to increase the revenue. I again ask where are the provisions that tend to increase the revenue? We do not propose to tax the raw mhowra. The Bill, except where its provisions are in mitigation of the A'bkári Act, provides for a very mild interference with the raw material of mhowra, because, as I have already explained, it is impossible otherwise to check drunkenness and immorality and at the same time prevent a serious loss of revenue from illicit distillation.

The Honourable Sir JAMSETJEE JEJEEBHOY :—Your Excellency,—Last week I stated the difficulty I felt in voting in favour of the restriction on the collection of and traffic in mhowra flowers. I consider that unless a case of absolute necessity were made out for the passing of such a measure, the Council would not be justified in imposing those restrictions on free trade. It has not been shown to what extent revenue has suffered; on the contrary, it is conceded that since the passing of Act V. of 1878 the A'bkári revenue has very considerably increased, and is increasing every year more and more. Again, we have been told, but only in general terms, that illicit distillation is very extensively going on in the country, but no statistics and no data of any kind have been laid before the Council to enable it to form its own opinion as to the extent of the lawless traffic or even of its existence. We must bear in mind that the A'bkári Act itself is already extremely stringent in its provisions. It gives large powers, in the first place, to A'bkári Officers and Inspectors, and then makes the magisterial authority the cat's-paw of those officers and inspectors. We have no means of judging whether this Act with all its stringency and whether this army of Officers and Inspectors is wholly inefficient and has failed of its

purpose. I can scarcely believe that wholesale and lawless distillation can be going on so widely as to become an evil. It is hardly conceivable that bold and defiant violation of the law is stalking through the land in broad daylight so as to call for a special check on free trade. I fear Government have not been accurately informed with respect to the extent of the practice. I am persuaded that it is the wail of the farmer of the A'bkári revenue that is resounding in this Council at the present moment. He engages to pay the Government a large sum of money and to work a Sudder Distillery for a whole district. His interest it is to make the best of the bargain he has entered into. He makes loud and incessant complaints to the Collector. The Collector knows the farmer has bid a large amount, and he is urged by the A'bkári Department to support and assist him to the utmost, for he is the back-bone of the A'bkári revenue. The farmer keeps up a body of A'bkári preventives and detectives of his own, and is occasionally assisted, when there is need, with a *posse* of Police by the Collector. These men scour through the villages, and, backed as they are by the strong arm of Government, are quite well able to prevent or bring to punishment any practices of illicit distillation they meet with.

These practices, from the very nature of the case, are so dangerous, and so jealously watched, both by Government officers and the A'bkári farmer's myrmidons, that they cannot be going on extensively with any degree of impunity, or if they are there must be evidence, statistics of cases, punishments, failures to convict for special reasons. None, however, are produced. Vague statements and assertions, by whatever high authority, cannot justify a measure like this in the absence of direct evidence; and your Excellency must admit that the measure cannot be justified by a little evidence, or by isolated cases, but requires a mass of the best and most convincing proofs. Illicit distillation and the like are well known to the villagers to be offences punishable by law and rendering property seized liable to confiscation. Those practices, therefore, must necessarily be carried on with great caution and secrecy, and must, as a natural consequence, be far from a frequent occurrence. But in the eye of the farmer even a single instance of such practice becomes magnified into the precursor of his ruin; and so he makes unceasing complaints, and his appeals for protection are constantly dinned into the ears of the Collector and the A'bkári officers. These complaints and these appeals are in due course communicated to Government. Thus it is that the information which reaches Government is tainted by exaggeration at the very source. There is no falling off, I believe, in the sums realized at the annual auctions. That is the only way in which loss to the revenue could occur or show itself. The farmer, however, fears a loss, or he fears that he may not make so much as he hoped to do, and therefore maintains his cry, as farmers will always do, that he is going to be ruined, and that the all-powerful Sirkar should come to his help; and it is to his rescue that this Council is asked to run, and how? By putting an embargo on mhowra flowers; by checking free trade; by taking away from the mouths of a poor and famished race of people an article that serves them and their cattle for casual if not regular food; and by arming the A'bkári officers, already too powerful, with still more power, which will have the direct effect of oppressing and harassing every man, woman, and child of the very poorest classes of the people. I regret very much indeed that I cannot see any justification whatever for this measure.

The Honourable Mr. MACAULAY:—Your Excellency has enlightened the Council very much as to the reasons, from the Government point of view, of fresh legislation. I do not think, however, that sufficient cause has been made out, according to my view of the ques-

tion, and for this reason, that trade will be interfered with to a certain extent. It cannot fail to be so if the collection of flowers and seeds, which are now exported to Europe in considerable quantities, is to be under the supervision of local officers. The trade is comparatively a new one, yet during last year the declared value of something like four lákhs was exported chiefly to France. This year, up to last week, a declared value of a lák and three-quarters was exported in the same direction. Now, most of that money has found its way, no doubt, into the hands of the people who collected the flowers, and the loss which they will feel will be a severe one, as they are a class of people who have very small incomes, in some cases not exceeding an anna or an anna and a half a day. The people to whom the Act will apply are very ignorant, the most ignorant probably of the whole population of the country; it is therefore all the more necessary that restrictive legislation of this sort should not be carried out. They do not understand the cause of the new laws introduced, and it will only drive them to commit breaches of the laws which they do not understand. With regard to illicit distillation, of course I do not advocate anything which would render the continuance of that practicable; but it seems to me that the severe law which is now in force ought to be sufficient, if properly carried out, for the purpose of suppressing smuggling. It may or may not be through a want of efficiency on the part of the police that so many cases of smuggling have been detected. I did not pick up from the statement of His Excellency the number of trials for smuggling.

His Excellency the PRESIDENT:—Last year (1880-81) there were 690 cases of offences against the A'bkári Act in the Thána District, and of these 612 were of illicit manufacture. I cannot say how many convictions there were. [His Excellency subsequently stated that the convictions were about 90 *per cent*].

The Honourable Mr. MACAULAY:—At the last meeting of the Council the Honourable Mr. Ashburner said a reason for modifying the Act was that a great many people were brought to trial, and on investigation the charge was found to be groundless. It would be well if we were informed how many cases had resulted in conviction. The mere bringing of cases for trial is no evidence of guilt, especially in the face of what the Honourable Mr. Ashburner has said. With regard to the increase in smuggling, I agree with what has fallen from the Honourable Ráo Sáheb, that this may be accounted for, to some extent at least, by the increase in the cost of intoxicating drink. Many of the poor natives who cannot indulge in liquor at a cost of 10 or 12 annas, or whatever is the price of a bottle of mhowra, will gladly consume it if they can manufacture it at a cheap rate; but it does not follow that the consumption of duty-paid spirit will be in the same ratio as the quantity of spirit which has not paid duty amounts to. The inclination to drink probably remains, but the inability to pay the increased rate deters them from drinking. In that way it would of course meet the wishes of Government, in so far as it would put a stop to the consumption of liquor, and possibly have the effect of improving the moral tone of the people. The increase in the duty on toddy has been something like 30 or 40 fold, and that of itself put the duty-paid spirit beyond the reach of a great many who formerly indulged in it and regarded it as one of their regular articles of food. I understood the Honourable Mr. Ashburner to say that large sums had been paid as compensation under the old A'bkári Act, but I have also had information from other reliable sources that many owners of cocoanut trees received no compensation. They have not the permission granted to them by the farmer to draw toddy from their own trees; in some collectorates, I understand, this permission is granted; in others, it is not: everything

rests in the farmer's hands. I quite think there is some ground for the remark made by Sir Jamsetjee Jeejeebhoy, that the introduction of this Act has been helped, to some extent at least, by the cry of the A'bkári farmers, and that being so, this Council ought to be very chary in passing the Bill which is now before it.

The Honourable Ráo Bahádur GOPALRAO HARI DESHMUKH :—I think the present arrangements referred to by Sir Jamsetjee ought to be sufficient to prevent illicit manufacture of liquors. The farmers of liquor invariably employ a large number of detectives to find out illicit manufacture of liquor. These detectives are supported by the Police and Magistrates, and ought to prevent the necessity of imposing restrictions on the freedom of trade, which is very largely carried on between Bombay and Marseilles. The dry flower is sold at Rs. 2-5-0 per hundredweight or 9 annas per maund. This trade will be much interfered with. Hindoo law makes forest, hills, rivers, sacred places, temples, seas and tanks free property of the public. This sentence of Hindoo law may have been written in an age less civilized than the present, but it shows that forest rights exist to a large extent from time immemorial. Interference with these rights should be cautiously considered. I therefore concur with Sir Jamsetjee.

The Honourable Mr. RAVENSCROFT :—This discussion has, I think, embraced a larger area than was intended. The whole A'bkári Act has been brought under consideration, when really all that is to be determined in regard to it, is the modification proposed by the Honourable Mr. Ashburner, which simply regulates the collection and preservation of mhowra. Now, His Excellency has very clearly shown in his statements, that in Gujarát, where people do eat mhowra flowers in the hot season, the regulations are not required, and will not be pressed; and that in Khándesh, where also they eat mhowra flowers, the regulations for their collection and sale, which will be ordered, so far from proving any loss to the Bhils and cultivators, will confer on them a benefit; just as in the Southern Marátha Country and Kánara, regulations made for the picking and storing myrobalsans confer a great benefit on the people there. The only portion of this Presidency where this Act will really have to be put in force is the Thána Collectorate and Kolába; and all honourable members acquainted with that part of the country must know that drunkenness is very rife there; and not only that, but illicit distillation is carried on to such an extent that in one year there were 690 prosecutions under the A'bkári Act. It is certainly necessary under those circumstances that something should be done in those collectorates, for this general drunkenness cannot be allowed to go on without some effort being made to check it. I maintain that this Act, as intended by Mr. Ashburner, will effect that purpose in a satisfactory manner. I must ask honourable members also to bear in mind that they are bound to give Government credit for endeavouring to frame rules which are required by any Acts in such a manner that not only may the law be preserved, but the benefit of the general public secured. The rules which will be framed under this Act will be drawn up on this principle; and I think on perusing them, those honourable members who oppose the measure altogether will see that many of their fears and objections are groundless.

The Honourable Mr. SASSOON :—Your Excellency,—I feel it is no light matter to express any opinion adverse to a measure which has been presented to this Council after due consideration by the Executive. I need hardly point to the tendency of modern

legislation, which has been to remove all restrictions on trade and to interfere as little as possible with that free agency which is brought into play by the daily struggles of life. I cannot help, therefore, viewing with disfavor any repressive enactment such as this Bill embodies, which would place in the hands of ill-paid or inferior instruments a power of harassing the poor dumb ignorant population inhabiting the forest tracts of the country—a population who, as enquiry has shown, are dependent on the mhowra for subsistence for themselves and their cattle, and on its barter for the means of supplying the commonest human needs. I cannot imagine that any increase of the A'bkári revenue would compensate for the injury that would be inflicted on the very poorest classes by depriving them of an article of sale or barter which has been provided for them by the bounty of nature and which they have freely collected from immemorial time. I say that any such increase of revenue would be as a drop in the ocean of Indian finance, and on purely fiscal grounds the cost of collecting it would not be “worth the candle.” For all these reasons I submit that the operation of the proposed enactment, even if confined to regularly defined areas, would at once be harsh and impolitic, and holding this view I regret I am unable to give my assent to the measure.

His Excellency the PRESIDENT :—I must express my regret that after having, I am afraid, wearied the Council by a prolixity of detail in submitting to them an array of facts, the Honourable Sir Jamsetjee Jeejeebhoy should oppose the Bill on the ground that no facts had been stated. I think he must have resolved to say that before he heard my statement. It is certainly a matter of great regret that members of the Council not in an official position should with one consent oppose a Bill the need for which I should have thought was established and almost unanswerable. I must confess I hardly see the strength of the Honourable Mr. Macaulay's argument upon the growing importance of the mhowra flowers to the French. I certainly cannot see why he should submit that as an argument against preventing illicit distillation in the mhowra country. It is our wish to encourage the collection of flowers and increase such lawful trade; but when I am told that this will lead to breach of the laws, I reply that we have had a diminished number of breaches of the law in connection with the A'bkári Act in every other particular. It is because the law does not touch this point that we introduce the measure. Mr. Macaulay, I think, said, “Why do you not use the ordinary agency of the police to put down this?” Why? Because the law will not allow the police to do so—because these mhowra flowers are openly hawked about, and nobody is allowed to touch them until they are found in the process of distillation. In one portion of one district, in one year, nearly 700 breaches of the A'bkári Act have been detected. That is what the police have done; but when you cannot prevent mhowra flowers being hawked about for this purpose, the law is powerless. As to the cry from the farmers influencing the Government in respect of the introduction of this measure, I think that is rather an unworthy imputation. The Government have higher objects than to satisfy the farmers of the A'bkári revenue. But why should they not be protected in their lawful business, which is also the public business? I have read extracts from reports of District Magistrates in favour of the measure; and I have plenty of similar documents; but I did not trouble you by reading them all. But although I have quoted opinions and figures so extensively, I am told by honourable members that no reasons have been given. Well, I suppose we have wasted our breath, and I must say it is most disappointing to me that after the points upon which doubt was thrown by the opponents of the Bill have been established we are challenged with being in want of facts.



The Council divided on the motion of His Excellency the President :—

*Ayes*—7.

His Excellency the PRESIDENT.  
 His Excellency the COMMANDER-IN-CHIEF.  
 The Honourable L. R. ASHBURNER.  
 The Honourable E. W. RAVENSCROFT.  
 The Honourable the ACTING ADVOCATE  
 GENERAL.  
 The Honourable Major General C. J.  
 MERRIMAN.  
 The Honourable C. GONNE.

*Noes*—5.

The Honourable Sir JAMSETJEE JEJEEBHOY.  
 The Honourable S. D. SASSOON.  
 The Honourable Ráo Bahádur GOPALRAO  
 HARI DESHMUKH.  
 The Honourable Ráo Saheb VISHWANATH  
 NARAYAN MANDLIK.  
 The Honourable W. M. MACAULAY.

The motion was therefore carried, and the Bill was accordingly read a second time.  
 Bill read a second time and considered in detail.

The Council then proceeded with the consideration of the Bill in detail.

The Honourable Ráo Sáheb VISHWANATH NARAYAN MANDLIK :—With regard to Section 2 of the Bill I see it is proposed to substitute for the words “A Magistrate of the first or second class” the words “A Magistrate of the first, second or third class.” I suggest that the words “third class” be omitted. This matter was thoroughly discussed when the Act was passed, and it was then decided that we should not go below 2nd class Magistrates. No sufficient case has been made out for a change, and I shall therefore vote against the new section.

The Honourable Mr. ASHBURNER :—The object of inserting those words is that if people charged with an offence under the Act may be taken only before a first or second class Magistrate they will be subjected sometimes to great hardship. A man may be found with a bottle of liquor in his possession, and if tried by a third class Magistrate may be fined four annas and go his way; but if he was to be tried by the other magistrates then he may perhaps have to travel 50 miles before his case can be settled. I do not think any one can raise an objection that a third class Magistrate is not of sufficient standing or experience when he can try and dispose of cases of theft and assault and inflict fine and imprisonment. I strongly oppose the amendment suggested by the honourable member.

The Council divided on the Honourable Ráo Sáheb Mandlik's amendment :—

*Ayes*—5.

The Honourable Sir JAMSETJEE JEJEEBHOY.  
 The Honourable S. D. SASSOON.  
 The Honourable Ráo Bahádur GOPALRAO  
 DESHMUKH.  
 The Honourable Ráo Sáheb VISHWANATH  
 NARAYAN MANDLIK.  
 The Honourable W. M. MACAULAY.

*Noes*—6.

His Excellency the COMMANDER-IN-CHIEF.  
 The Honourable L. R. ASHBURNER.  
 The Honourable E. W. RAVENSCROFT.  
 The Honourable the ACTING ADVOCATE  
 GENERAL.  
 The Honourable Major General C. J.  
 MERRIMAN.  
 The Honourable C. GONNE.

The amendment was lost.

The Honourable Ráo Sáheb VISHWANATH NARAYAN MANDLIK said he should oppose Clause 3 which amended Section 14 of Bombay Act V of 1878 by inserting the words "No toddy-producing tree shall be tapped."

The Honourable Mr. ASHBURNER said this was merely a verbal explanation of the Act. It had been argued by certain clever persons that a tree might be tapped and yet no toddy drawn. The amendment was introduced to make it clear that the offence consisted in tapping the tree.

His Excellency the PRESIDENT said that if a man tapped a tree the A'bkári officer came round to tax it. The man might say, "I have tapped the tree but I have not drawn toddy from it," and it had been said that a tree must be tapped in order to see if it would run. A man might therefore tap a tree and profess it did not run whilst he was really getting toddy from it.

The Honourable Mr. ASHBURNER said that if it were shown that the tree did not yield toddy the A'bkári Department would allow another to be substituted for it.

The Ráo Sáheb VISHWANATH NARAYAN MANDLIK said he would bring to the notice of the Council one case in which the amendment would produce unnecessary hardship. A tree was often tapped, or rather cut, not for toddy but for what formed an important medicine in cases of consumption. The spikes of the tree before they flowered were often cut for this purpose.

His Excellency the PRESIDENT was of opinion that that could hardly be called tapping.

The Honourable Mr. ASHBURNER said it was entirely different. The process of tapping consisted in making a hole in the centre of the tree, whilst cutting the flower or spike was very different. The offence consisted in the intention. It would be an easy point for a man to prove whether he cut the tree for medicine or other purposes.

Clause three was allowed to stand part of the Bill.

The Honourable Mr. ASHBURNER:—Your Excellency, I beg to move the following amendment: That the following section be substituted for Section 14-A in Section 4 of the Bill:

Power to make Rules regulating or prohibiting collection, sale, &c., of mhowra flowers.

"14-A. The Governor of Bombay in Council may from time to time, by notification published in the *Bombay Government Gazette*—

- (a) make rules regulating or prohibiting the collection, sale and possession of mhowra flowers within any defined local area or place, or the import, export or transport thereof into or out of or over any such area or place, and such rules may be different for different areas or places, and
- (b) cancel, modify, or reimpose any such notification."

The object is merely to enable rules to be prepared and passed for different districts, so that they need not necessarily be uniform. The rules applicable to Gujarát and Khán-

desh will be very different to those in the Konkan; therefore the amendment has been worded in this way by the Legal Remembrancer.

On being put to the vote the amendment was carried.

The Honourable Ráo Sáheb VISHWANATH NARAYAN MANDLIK opposed the substitution for Section 41 of Bombay Act V. of 1881 of the following section: "Any Commissioner or Collector or other A'bkári officer duly empowered in this behalf may, when any person has been arrested or thing seized under Sections 36, 37 or 40, inquire into and deal with the case in the manner provided in the Code of Criminal Procedure for the investigation of an offence cognizable by the Police." The prosecution of offences ought to rest with another Department.

The Honourable Mr. ASHBURNER said it had been found to be a great evil that on the slightest complaint a man was sent off to the police when a simple enquiry would have elicited the fact that no offence had been committed. This would be a protection against oppression by lower subordinates of the Department.

The Honourable Ráo Sáheb remarked that a junior officer might be empowered.

His Excellency the PRESIDENT asked what officers were now empowered? They should be men of a certain standing.

The Honourable Mr. ASHBURNER said that at present they had no power whatever. The power was only invested in the Police. The duly empowered officer would only investigate, not try.

The Honourable Ráo Sáheb said the officer would have to try and deal with some cases. Unless he did so every case must be sent to the Police. Every case should be handed over to the Police. No officer ought to have the power of doing that which belongs to another Department.

The Honourable Mr. ASHBURNER said that cases in which no offence had occurred ought to be enquired into on the spot. Why show this distrust of Government officials? Abuses might of course occur, but giving people power and punishing them severely when they abused it was the way to prevent them.

The Honourable Ráo Sáheb VISHWANATH NARAYAN MANDLIK argued that the Prosecuting Department and the Department that prepared the case should be separate. He did not think that a double set of powers should be entrusted to some of the officers.

The Honourable Mr. RAVENSCROFT supposed the Honourable Ráo Sáheb thought the A'bkári officers might have bias.

The Honourable Ráo Sáheb VISHWANATH NARAYAN MANDLIK replied in the affirmative.

His Excellency the PRESIDENT observed that the officers of the Forest Department had much greater powers entrusted than was proposed to be entrusted to the A'bkári officers.

The Honourable Ráo Sáheb VISHWANATH NARAYAN MANDLIK said the principle was a wrong one, and he was sorry such power was allowed.

After some further conversation it was decided to insert the words "duly empowered by the Governor in Council" in place of the words "duly empowered in this behalf."

The following section was added as Section 13 after Section 12 of the Bill:—

Act to be deemed part of Bombay A'bkári Act.

"13. This Act shall be read and taken as part of Bombay Act V. of 1878."

His Excellency the President moves the suspension of the standing orders in order that the Bill be read a third time.

His Excellency the PRESIDENT:—It is no use fighting the battle over again, and I therefore propose to suspend the standing orders that the Bill may be read a third time.

Bill read a third time and passed.

Bill No. 3 of 1882 was then read a third time and passed.

The Honourable Mr. RAVENSCROFT moved the first reading of Bill No. 4 of 1882 (a Bill to amend the Bombay Salt Act of 1873). He said: According to that Act, the Collector of Salt Revenue is the officer authorised for the time being to exercise under Government the chief control in the Department of Salt Revenue. Ever since 1873, however, the Commissioner of Opium, Customs and A'bkári has been the officer who has been departmentally required by Government to superintend the collection of salt revenue, and it is now intended to vest the Commissioner with legal powers of control over the Salt Department, and the Bill has been prepared to enable the Governor in Council to appoint a Commissioner of Salt Revenue who will be intermediate between the Collector and the Government.

Bill read a first time, and orders having been suspended the Bill was read a second time, considered in detail, and read a third time and passed.

The Bill was read a first time, and the standing orders having been suspended, it was read a second time, considered in detail, and read a third time and passed.

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

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

H. F. ASTON,  
Acting Under Secretary to Government.

Poona, 28th June 1882.

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

The Council met at Poona on Friday the 1st September 1882, at 3 P.M.

*PRESENT:*

- His Excellency the Right Honourable Sir JAMES FERGUSSON, Bart., K.C.M.G., C.I.E.,  
Governor of Bombay, *Presiding.*
- His Excellency the Honourable Lieutenant-General A. E. HARDINGE, C.B.
- The Honourable L. R. ASHBURNER, C.S.I.
- The Honourable E. W. RAVENSROFT, C.S.I.
- The Honourable Major-General C. J. MERRIMAN, C.S.I., R.E.
- The Honourable Sir JAMSETJEE JEEJEEBHÖY, Bart.
- The Honourable SOLOMON DAVID SASSOON,
- The Honourable Ráo Sáheb VISHVANATH NABAYAN MANDLIK, C.S.I.
- The Honourable C. GONNE.
- The Honourable W. M. MACAULAY.
- The Honourable Ráo Bahádúr KHUNDERAO VISHVANATH RASTE.

The following paper was presented to the Council :—Letter from the Secretary to the Government of India, Legislative Department, No. 894, dated 20th August 1882, returning, with the assent of His Excellency the Viceroy and Governor General signified thereon, the authentic copy of the Bill (No. 4 of 1882) to amend the Salt Act of 1873.

The Honourable Mr. ASHBURNER moved the first reading of Bill No. 5 of 1882 (a Bill to provide for the levy of Fees for the use of public Landing-places). He said :—Your Excellency is aware that in 1879 a Bill was passed legalising the levy of landing fees at Karáchi. Subsequently the pier at Aden was purchased, and it became necessary to pass a similar Act for that place. It then became apparent that as trade developed similar powers would be required at other ports, and it was proposed that a comprehensive Act should be passed to legalise the levy of fees at any port to which this Act might be extended, by notification in the *Government Gazette*. The object of the present Bill is to provide such an Act. I have to move that it be read a first time this day. I may explain however, that the portion of Section 2 which exempts public, naval or military stores or any vessel, boat, animal, or vehicle belonging to Her Majesty or the Government of India, or employed in their service when conveying stores, or any vessel of war belonging to any foreign Prince or State, is intended to be omitted. Also in Section 4 there will be a trifling amendment.

His Excellency the PRESIDENT observed that the proviso regarding exemption of Government stores, &c., had been inserted in Section 2 of the Bill without previously consulting an important Department; but it had been subsequently ascertained, that the Harbour Trust of Karáchi, having borrowed money under the powers they possessed under Act III. of 1879 on the hypothecation of fees, would be sufferers under this proviso.

Bill read a first time.

The Bill was read a first time.

The Honourable Mr. ASHBURNER then proposed that the Bill be referred to a Select Committee.

His Excellency the PRESIDENT:—I think it will be enough to omit the proviso to Section 2. The question is whether it is necessary to refer it to a Select Committee. There is no opposition or difference of opinion; the only thing is a common wish to do the same thing. It is unfortunate that there has been a misconception, but by merely omitting some words we get all that is necessary. I don't think we need refer the Bill to a Select Committee when it may be settled now by two strokes of the pen. They are slight alterations which any body can understand, and the whole thing can be put right. The Legal Member advises that by simply omitting all those words from line 8 to line 16 in the first clause the whole thing will be done. If the Honourable Mr. Ashburner move that the Bill be read a second time and considered in detail it may be amended while the Bill is under consideration.

Standing orders suspended, and Bill read a second time and considered in detail.

The standing orders having been suspended, the Bill was read a second time, and the Council then proceeded to consider the Bill in detail.

On the motion of the Honourable Mr. ASHBURNER a verbal amendment was made in Clause (b) of Section 2, viz.—in line 3 the word “any” was substituted for the first word “the” and the words “in the Presidency of Bombay” were inserted after the word “ports.”

The proviso to Section 2 beginning from “but” in line 8 to “state” at end was also omitted for the reasons stated at the first reading of the Bill.

With reference to Section 4 the Honourable Mr. ASHBURNER said that it was desirable that besides the Commissioner in Sind and the Resident at Aden the Chief Customs Authority should also be included, because neither the Commissioner in Sind nor the Resident at Aden have authority in any other ports to which this Act may hereafter be extended. The Chief Customs Authority is the term applied in the Customs Act of 1878. After some discussion the word “and” was omitted from line 8 of Section 4, and the words “and the Chief Customs Authority for the Presidency of Bombay” were inserted in line 9 after the word “Aden.”

In Section 9 after the word “charge” in line 4 the following words were inserted:—“and in respect of any other port or ports, to which the provisions of this Act may hereafter be extended, the Chief Customs Authority for the Presidency of Bombay may.”

The Honourable Mr. MACAULAY asked whether Government intended that the present Harbour laws should be continued at Karachi and that the affairs of the Port should be conducted by the Board as now.

His Excellency the PRESIDENT:—No proposal has been made to Government to discontinue the Harbour Board. The Board have loans and operations likely to extend over many years.

The Honourable Mr. MACAULAY having also enquired whether it was contemplated to adopt a method similar to Karachi to administer the Act at Aden, His Excellency said that the Resident was the controlling authority there and that he believed that existing arrangements, so far as they had come under notice, had worked extremely well.

The Honourable Mr. ASHBURNER :—Your Excellency is aware that in the Presidency there are two groups of ports—the northern and the southern groups—and the funds are kept separate; therefore I would propose that the fees which are levied in the northern group of ports be credited to the northern fund and those of the southern group to the southern funds, instead of being, as Section 10 provides, locally credited.

His Excellency the PRESIDENT :—What other ports than Karáchi are included in the northern group?

The Honourable Mr. ASHBURNER :—I don't exactly know the divisions; those north of Bombay are in the northern division and those south in the southern division. The Government has a right to divide ports as they please.

His Excellency the PRESIDENT :—Would it not be better that the fees levied at a port should be employed to improve the conveniences of that port?

The Honourable Mr. ASHBURNER :—There may be a light-house at a small port which serves the whole coasting trade and the fees levied there might be exceedingly small, therefore it must borrow from its neighbour, for the amount may not be sufficient to produce any practical results.

His Excellency the PRESIDENT :—Can the Honourable Mover give us any case in point. It is a pity to take up things that we cannot tell the effect of.

The Honourable Mr. ASHBURNER :—The object of the present system of dividing the ports into groups is not to tie the hands of Government to spend a small sum of Rs. 100 in a port where it is of no use, but to enable a poor one to borrow from its rich neighbour for purposes which are common to all. If you limit this discretionary power, the small ports will be starved and the richer ones will have more than they require.

The Honourable Mr. MACAULAY :—I think the proposal is scarcely fair to the small ports. The trade of one port should not be burdened with the charges of others. It would be scarcely fair to charge Bombay with the improvement of Cutch-Mándvi or Kárwár.

The Honourable Mr. ASHBURNER :—The light-houses serve a great number of ports.

The Honourable Mr. MACAULAY :—Each vessel passing pays certain fees, and each vessel going out of Bombay has to pay for several lights.

The Honourable Mr. ASHBURNER :—Just so, and the amount is credited to the Northern or Southern Fund, as the case may be.

The Honourable Mr. MACAULAY :—Supposing she does not enter a port she pays a certain number of light fees which cover light-houses all round the coast.

His Excellency the PRESIDENT :—I am afraid this would require considerable alteration of the section. I really don't feel at all satisfied with the principle.

The Honourable Ráo Sáheb V. N. MANDLIK :—I think the clause should stand.

His Excellency the PRESIDENT :—I cannot myself say that I think a change desirable. Fees levied in a port should be devoted to the improvement of that port.

The Honourable Mr. ASHBURNER :—The effect would be to starve small ports as I have explained.

His Excellency the PRESIDENT :—Not if the fees levied in the port are taken and applied to no other port.

The Honourable Mr. ASHBURNER :—One port from its great disadvantages may require more than another.

His Excellency the PRESIDENT :—The fees in Bombay and Karáchi are not taken to improve Kárwár.

The Honourable Mr. ASHBURNER :—What is wanted is the general advantage of the coasting trade. A light-house serves all ships that pass it.

His Excellency the PRESIDENT :—That is contrary to the principle of the Bill which has been considered over and over again. I cannot see why we should depart from it, now that it has been before us for so long a time.

The Honourable Mr. ASHBURNER :—I will not press the amendment as the sense of the Council appears opposed to it.

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

The Honourable Mr. RAVENSCROFT moved the first reading of the Bill to amend the Bombay Municipal Acts of 1872 and 1878. He said :—Your Excellency,—Some of the members of Council probably know that the accounts of the Municipality of the City of Bombay are made up for the calendar year, from the 1st of January, whereas in making up the accounts of the District Municipalities and in the management of the Municipal Act generally the financial year commences on the 1st of April. The consequence is that some difficulty is experienced in making up the Municipal accounts of the Presidency, and therefore with a view of obviating these in future, it has been proposed that in the City of Bombay the financial year should be the Municipal year, or in other words, that the practice of the Bombay Municipality should harmonize with that of other Municipalities in the Presidency. In carrying out this object, it will be necessary to make some alterations in the present law, but it is not necessary for me to trouble the Council with these, as they may be seen in the schedule. But there is one other point as regards the constitution of the Municipality, which I should mention. Up to the present time the members of the Corporation have been elected for two years, but it has been found that three years would be more convenient; therefore, one of the sections provides that the period should be three years. Those are all the provisions which it was intended to introduce into the Bill, but a short time ago the Corporation made a request to Government that they would take this opportunity of improving the position of the Secretary of the Town Council, Mr. Barrow, and at the same time they desired that Government would make some arrangements with regard to giving gratuities to the widows and orphans of Municipal employes who died before the expiration of their term of service. You are probably aware that the whole of the Municipal Bill for the City of Bombay is at present under the consideration of Government, and before the Government can undertake the settlement of such a large question some time must elapse; therefore the Corporation have asked us to take up these two questions and include them in the Bill, and the Government agreed to do so: and Sections 10 and 11 carry out those wishes. I had a letter this morning from Mr. Ollivant, the Municipal Commissioner of Bombay, in which he requests me to rather enlarge the scope of the alterations in the Bill; but I have first consulted my friend the Honourable Ráo Sáheb V. N. Mandlik, and he thinks it would be more agreeable to the Corporation if we allow the Bill as introduced to be passed, as

Mr. Ravenscroft moves the first reading of Bill No. 6 of 1882.



up to the present time the views of the Corporation have not been deliberately taken on this proposal of Mr. Ollivant's. Under those circumstances I leave the Bill as it at present stands.

His Excellency the PRESIDENT:—What is the nature of the additional proposal?

The Honourable Mr. RAVENSCROFT:—It was proposed that the Secretary to the Town Council should be called Assistant Commissioner, but what occurred to the Ráo Sáheb and to myself was that in a few months the whole of this question will have to be reconsidered, and the Corporation will then have an opportunity of saying whether they agree to the proposal. I think, therefore, it is better to leave the matter as it is.

Bill read a first time.                      The Bill was read a first time.

His Excellency the PRESIDENT:—This Bill being for the public convenience, and there being no opposition the standing orders may be suspended.

Standing orders suspended  
and Bill read a second time.              The standing orders were suspended and the Bill was read  
a second time.

The Honourable Ráo Sáheb V. N. MANDLIK said with regard to the question of gratuities that widows and orphans had been waiting for them for years and it was necessary that something should be done, as at present the Corporation had their hands tied. With regard to the Secretary to the Town Council, the Corporation had passed resolutions unanimously in favour of improving the position of Mr. Barrow, which his long and meritorious services had well deserved.

Bill considered in detail.                      The Bill was then considered in detail.

The Honourable Mr. MACAULAY:—I beg to propose that the words "and the tax on Fire Assurance Companies" be omitted from Section 8. Your Excellency is aware that a petition was presented to Government some time ago by the agents of the fire offices in Bombay, protesting against this tax. It is quite true that in London the fire offices bear a certain portion of the expense of maintaining the fire brigades; but the tax in Bombay amounts to fully ten times as much as it does in London, whereas the efficiency of Bombay brigade is not to be compared to that of the other.

His Excellency the PRESIDENT:—The fact is that no new tax is imposed.

The Honourable Mr. RAVENSCROFT:—The Honourable Mr. Macaulay seems to fancy the Government are taking this opportunity to slip in a new tax. It is really a tax existing at the present time, and all the Government wish to do is to make provision for the collection of the tax for the three months for which at present there is no provision. The tax must be collected up to the 31st March, whereas under the present Act it can only be collected up to the 31st December.

The Honourable Mr. MACAULAY:—I was aware that the tax was not a new one, as I have had to pay it for some years; but I took the opportunity of expressing my views upon it.

The Honourable Mr. RAVENSCROFT:—When the Municipal Bill is considered three or four months hence, you will be able to make any remarks you may have to offer upon it.

His Excellency the PRESIDENT:—All taxes are objectionable. Mr. Macaulay will see that we are not dealing with any taxes on their merits; we are merely dealing with a tax for the public convenience.

The Honourable Mr. MACAULAY :—I don't press the matter.

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

His Excellency the PRESIDENT then adjourned the Council.

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

H. F. ASTON,

Acting Under Secretary to Government.

*Poona, 1st September 1882.*

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

The Council met at Bombay on Monday the 27th November 1882, at 12-30 P.M.

*PRESENT:*

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

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

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

The Honourable the ADVOCATE-GENERAL.

The Honourable Major-General G. J. MERRIMAN, C.S.I., R.E.

The Honourable Sir JAMSETJEE JEEJEEBHAY, Bart.

The Honourable SOLOMON DAVID SASSOON.

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

The Honourable C. GONNE.

The Honourable W. M. MACAULAY.

The Honourable BUDRUDIN TYABJI.

The Honourable RAO Bahádúr KHUNDERAO VISHVANATH RASTE.

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

Letter from the Secretary to the Government of India, Legislative Department, No. 1214, dated the 13th October 1882, returning, with the assent of His Excellency the Viceroy and Governor-General signified thereon, the authentic copy of the Bill (No. 6 of 1882) to amend the Bombay Municipal Acts of 1872 and 1878.

Letter from the Secretary to the Government of India, Legislative Department, No. 1265, dated the 23rd October 1882, stating that His Excellency the Viceroy and Governor-General has given long and careful consideration to the Bill (No. 3 of 1882) to amend the Bombay Act No. V. of 1878 (Ábkári Act), and has, with much reluctance, come to the conclusion that he would not be justified in according to it his assent.

Letter from the Secretary to the Government of India, Legislative Department, No. 1377, dated the 10th November, 1882, returning, with the assent of His Excellency the Viceroy and Governor-General signified thereon, the authentic copy of the Bill (No. 5 of 1882) to provide for the levy of fees for the use of public landing-places.

The Honourable Major-General MERRIMAN moved the first reading of Bill No. 7 of 1882 (A Bill to provide funds for maintaining Provincial Roads used for local purposes). He said :—Your Excellency, I desire in introducing this Bill to offer a few general remarks explanatory of the necessity for this legislation, and further to render, if possible, the annexure to the Bill rather more clear. In the first place, then, it must be borne in mind that while provincial

Major-General Merriman moves the first reading of Bill No. 7 of 1882 (A Bill to provide funds for maintaining Provincial Roads used for local purposes.)

roads run right through our large civil and military stations, no case can possibly be made out, so far as the ordinary provincial traffic of the country is concerned, for maintaining those roads within the limits of those stations in a higher or better state of efficiency than they are preserved in beyond those limits. It consequently follows that every rupee so spent in excess of such actual requirements is virtually lost to the provincial funds, and many useful and requisite public works properly debitable to provincial funds have either to be deferred for a long period, or, what I regret to say is still more often the case, have to be shelved altogether. I will give a few figures to illustrate more clearly what I mean. In the large civil and military stations of Poona and Kirkee there are 31 miles of such roads, as I shall endeavour to describe. These roads cost annually to maintain, on the average, Rs. 19,900, which gives a mileage rate of Rs. 642. These roads are unquestionably maintained in excellent order, and great credit is due to the Executive Engineer and his establishment for keeping them in that order ; but, at the same time, I am bound to admit there is one very great defect, and that is that the roads are insufficiently watered. It is, however, quite clear that this watering, if properly attended to, would lead to further expenditure, and the provincial funds cannot possibly meet that. The district roads, of which these roads are really the continuation, cost on an average Rs. 274 per mile, and the difference is therefore Rs. 368 per mile, or taken over the 31 miles of road within the limits of Poona and Kirkee the amount comes to Rs. 11,408 per annum. Another case is that of Ahmedabad, where there are six miles of these provincial roads. The expenditure there, including Municipal contribution, is Rs. 8,794 per annum, or at the rate of Rs. 1,466 per mile. This rate struck me as being so very high that I inquired into the circumstances and found that the roads there are watered twice a day, the Municipality contributing half the cost of the water. Now, the district roads in the neighbourhood of Ahmedabad cost about Rs. 298 per mile, so that we have here a difference of Rs. 1,168 per mile, which taken over the six miles amounts to about Rs. 7,000 per annum. There are other cases in which the difference is smaller, but I will not enter into details in reference to them. I wish it to be distinctly understood that these figures appertain solely to provincial lines of road, and not to cantonment roads kept up for military purposes and paid for out of Imperial funds by Imperial grants. The term "local area" in Section 2 of the Bill means those large stations in this Presidency comprising the present defined limits, municipal and cantonment, and also the adjacent area often too extensive for inclusion in those limits. The provincial roads are kept up, for the exclusive benefit of local residents, in a far higher state of excellence than is required for ordinary traffic. These roads as a rule do not traverse municipal limits at all ; some portions traverse the cantonments, and a very considerable mileage lies in the adjacent remaining portion of the entire area and is available for the use of all local residents alike. There are three classes of residents ; those residing within municipal limits, those residing within cantonment limits, and those that reside outside the limits of either. The latter class cannot be brought under the taxation system either of the cantonment or of the municipality, and therefore in respect of them legislation is absolutely essential. But the cantonment residents not only use the provincial roads in their limits without paying any taxation, but use the provincial roads outside ; while a great many well-to-do natives resident within municipal limits also make use of the outside provincial roads. Of course there is a municipal tax for the maintenance of municipal roads, but residents in cantonments should be made to pay like outsiders ; while the municipalities should increase their present rate in consideration of the benefit they receive for the use of these provincial

roads. The municipalities have ample power under the law for imposing the necessary taxation, and it is better that they should exercise it rather than have it exercised for them under a separate enactment, and that they should under District Municipal Act of 1873 take advantage of the contributory power provided for their share of maintaining the roads in their neighbourhood. I understand that a provision of a like nature is to be introduced into the rules under the Cantonment Act, but I am not sure that these rules have been published yet. The object of the proposed Act, then, may be said to be to enable the Government to levy taxation at uniform rates on all residents alike in a constituted local area, for the use particularly of provincial roads, towards the maintenance of which at present they pay nothing. The framers of the Bill have been careful to exclude ryots, agriculturists, petty dealers, and the like, so that the burden will really fall on the wealthy or well-to-do people, on whose shoulders it should fall as it is for their special benefit that the roads are maintained as they are. With these observations I beg to move that the Bill be read a first time.

The Honourable Ráo Sáheb V. N. MANDLIK :—Your Excellency, there are three sets of Acts—the Tolls Act, the District Municipal Act, and the Cantonment and Municipal Act—which bear upon this subject. Although the honourable mover proposes to make some distinction by which the poorer classes may be let off in regard to the payment of such taxation, I think it will be found impracticable to make a satisfactory gradation of those classes in a Bill of the nature of that now before the Council. It would be something like the wheel-tax within the limits of the city of Bombay, and I think, therefore, that the gentlemen of the Select Committee will do well to bear in mind not only the actual incidence of the amount, but the worry and annoyance that would be caused.

The Honourable Sir JAMSEJEE JEEJEBHOY :—May it please your Excellency,—This strikes me as entirely a novel measure, and I must confess I have not been able to acquaint myself with all the circumstances of its application, so as to be in a position to declare myself either in its favour or against it. It proposes to levy what we in Bombay are familiar with as the wheel-tax, and includes, as the wheel-tax does in Bombay, horses and ponies not under twelve hands within its scope. Now, the first question that I desire to be enlightened about is, the necessity for this new and necessarily annoying taxation. Is there any class of persons, at all sufficiently considerable, who use roads maintained out of provincial funds, and who escape taxation which affects other classes of people, or who do not otherwise contribute to the provincial revenue? One object of the measure is to enable Government to receive from a municipality or cantonment contribution to the provincial revenue for roads maintained in a state of efficiency by the latter which are used by the residents of the respective municipality or cantonment. As at present advised, this sounds as a fair demand of the provincial fund upon the municipal or the cantonment fund, and the respective bodies having charge of those funds may be trusted to improvise means by fair taxation, within their limits, to make such contribution to the provincial fund. But we all know that a municipality or a cantonment has, among other things, to keep up roads within their own limits; and we also know that the benefit of these municipal or cantonment roads is perpetually and largely enjoyed by non-residents who, by keeping within the local areas now proposed to be taxed, escape all manner of taxation to the municipal or the cantonment fund. I should like to know whether, in a spirit of justice, the guardians of the provincial fund will permit their charge to be laid under contribution to the municipal or the cantonment fund. I am

sure they would not tolerate the idea, and yet they would subject the inhabitants of a municipal town or a cantonment to pay for their use of the provincial roads. With one exception, I can scarcely call to mind any places or local areas which are out of municipal or cantonment limits, and are permanently inhabited by any considerable number of residents escaping the incidence of the wheel or horse-tax. The only exception I have in my contemplation is that of Poona, where, between the municipal limits of the city proper and those of the cantonment, there may be a few permanent residents who would escape the municipal or the cantonment taxation. I conceive, therefore, in the first place, a general measure providing for taxation all over the Presidency is scarcely called for. If legislation is necessary for such a special place as Poona, it ought, I think, to be localized and limited to such place. But even as respects Poona and any other few and solitary places that might be named, but of which I am not aware, I fear this taxation will prove inexpedient. The Bill defines a "resident" to be a person who makes a stay of more than one week within the taxed area. It may therefore be taken that the intention of the honourable mover is to subject to the tax temporary visitors or guests as well as persons who retreat to the taxed area for a season. It must be remembered that these visitors for the season or for short periods in the course of the season, who might come and depart off and on, are subject to the wheel-tax elsewhere during the very period of their visits: for example in Bombay. They would then be taxed twice over for the same carriage or horse and for the same month or quarter, as the case may be, though, of course, the payment would find its way into different funds. I fear the tax now proposed would provoke more irritation and vexation than is desirable; and the incidence would bear more harshly and oppressively than is justifiable for any tax. The public might, I fear, justly complain of the ungracious and ungenerous feelings of the authorities in charge of provincial funds if they send the tax-gatherer to every visitor for seven days and upwards, who takes with him a horse or a pony over twelve hands, or a carriage (even without a horse or pony, for the matter of that). The grudging of the use of the provincial roads to guests and visitors under such circumstances seems peculiarly liable to complaint. The Statement of Objects and Reasons shows that the evil sought to be remedied by the Bill is that roads in the vicinity of civil and military stations are required to be kept up better than is necessary for the ordinary rural wants of the country. The wheeled traffic, doubtless, of towns and cities does require the thorough maintenance of such roads. Now, the municipalities and the cantonments of such towns and cities have charge of, and provide for, roads within their own limits. It is only the approaches to the towns and cities which are beyond these limits that it is intended by this Bill to provide for. As the town or city is either considerable or inconsiderable, so these approaches are extensive or limited, and are numerically few or many. The inhabitants or visitors of the towns and cities naturally use these approaches either as pleasure drives or for purposes of exit and entry. By far the greater number of these approaches are formed by or out of roads which are or have been what are called trunk roads, and which it is but just and necessary that the Imperial revenue should maintain in an efficient state, even for the ordinary traffic of the country. Let us take, for example, the Southern Road from Poona leading to Mahábaleshwar, Sátára, Belgaum, and the like places. It must be maintained in a thorough state of efficiency as a State road. Why should its becoming an approach and a good evening or morning drive to Poona be made the occasion of a contribution from municipal or cantonment funds, or of a special tax upon inhabitants outside those limits? If there are

any roads which are not trunk roads, and which have to be maintained solely for the benefit of the inhabitants of a municipal town or a cantonment, it may be fair to claim a contribution for them from such a municipality or cantonment, or levy a tax for the maintenance on inhabitants outside municipal or cantonment limits. But the question is are there such roads? and how many? and in the vicinity of which towns and cities? Again, are those roads not already provided for by tolls and such like dues which fall alike on all passers? I can only confess, your Excellency, I feel very doubtful how I should be able to vote in favour of the Bill, unless all such information as is requisite to justify the principle or the necessity of this measure is laid before the Council. At present, I must say, I am in great doubt and difficulty concerning it. I have other objections to urge regarding individual provisions of the Bill, but this it is not my intention at this stage to dwell upon. For example, the maximum rates appear to me to be excessively high; they are higher even than what are levied in Bombay.

The Honourable Mr. ASHBURNER :—Your Excellency, I cordially approve of the principle of the Bill, but I will defer my remarks upon it until it has been considered by the Select Committee and comes again before this Council.

His Excellency the PRESIDENT :—I would remark, with reference to one or two observations that have fallen from the honourable Baronet, that it is just now the case that considerable provincial expenditure is charged to provincial revenues for the benefit of wealthy people. As the honourable mover says, the instances of Poona and Kirkee conspicuously show this Bill to be necessary. The honourable Baronet perhaps forgets what length of road there is between the two cantonments, and what a great amount of traffic there is over it by people who do not contribute a farthing towards its maintenance. There is the road also which passes by Government House, Ganesh Khind, and upon which a large amount of carriage and cart traffic takes place incidentally to my residence. Its maintenance, in proportion to the mileage, is very expensive; and if that road were only intended for the village in my neighbourhood, or for the Botanical Gardens, it would not be necessary to keep it up to anything like the amount now spent upon it. The great Southern Road must be kept up in good condition for the mails and travellers that go over it, but the honourable mover of the Bill has stated what is the ordinary expenditure per mile, and his statement shows that it is greatly increased in the neighbourhood of cantonments and other areas occupied by wealthy residents. It is evident that the distribution of great expense on roads over a limited area is not necessary for the traffic of the country. When we go through the country and see roads used for trade badly kept up owing to a want of funds, we must feel that those who go rolling about in carriages on beautiful smooth roads should not do so at the expense of those who have to use the rougher roads or do without metalled roads altogether. I saw last year a road, over which there is a large traffic, from the Southern Mahratha Country to reach the seaboard in the Dabhol creek, and I was lately surprised to see the difficulty with which carts got over that road. For many miles it had not been metalled or bridged owing to want of funds, and hence no toll could be levied, while a few miles further on where it was metalled the tolls were yielding over Rs. 1,000 a mile. This shows how important was the traffic. I would much rather the Rs. 20,000 which it is proposed to save were spent on such a road as that, I myself paying taxation for the accommodation of my carriages and horses in Poona. When the honourable Baronet talks about the amount of rate proposed to be charged, I ask what is Rs. 10 a quarter? Not As. 2 a day. If there was a toll and it was possible

to levy toll on all these roads used, that toll must be a very small one for a four-wheeled carriage if it only made Rs. 10 a quarter; and be it remembered this is the *maximum* proposed to be legalised. When the honourable Baronet says it is unfair that the same carriage should be taxed in two places, I may remind him that it is because the owner wants two sets of roads kept up for him. If he goes to Mahábaleshvar he has to pay a tax for his carriage to keep up the fine roads there—a charge which it would be monstrous to lay on the general public. The honourable Baronet asked why those who lived for the season at Poona should pay such a tax there, but I would ask why the roads there should be kept up at the expense of other people all over the country who often have to wait for their roads. It seems to me that nothing can be more just than that the people who use the roads should pay for them; that is the principle on which this Bill is based, and never a Bill bore looking into better, or was founded on a more equitable principle. Those who require expensive things should pay for them themselves, and not call upon other people to do so. It is important that the measure should be considered on its merits, and not under any misapprehension, and I have therefore offered these few remarks. I do not know if the honourable mover of the Bill is disposed to give any further information upon the subject.

The Honourable Major-General MERRIMAN :—I will only now say that as regards the Honourable Ráo Sáheb's statement as to the existing Acts bearing on the subject, I do not think any of them would meet the case of people living beyond municipal limits and cantonments.

The Bill was then read a first time. It was resolved, on the motion of the Honourable Major-General Merriman, that the Bill should be referred to a Select Committee consisting of the Honourable Mr. Ravenscroft, the Honourable Ráo Sáheb V. N. Mandlik, the Honourable Sir J. Jeejeebhoy, and the Mover, to report by the 15th proximo, and that the Bill and the Select Committee's report should be translated into Maráthi and Gujaráti.

The Honourable Mr. RAVENSCROFT moved the first reading of Bill No. 8 of 1882 (A Bill to regulate the sale of Poisons and Drugs). He said :—Your Excellency,—The Council are probably aware that mistakes have frequently been made in the town of Bombay in the compounding of poisons and drugs, and these mistakes have, I am sorry to say, in more than one instance led to a loss of life. To obtain adequate information, and to place the matter on a safe and satisfactory basis, the Government ordered a thorough inquiry to be made on the subject, and it was then discovered that the so-called dispensaries existing in the town of Bombay were, as a general rule, kept by persons who, owing to their ignorance and general want of medical training, were entirely unfitted to carry on the important duty of compounding poisons and drugs. In order, therefore, that suitable restrictions should be placed upon a trade of such importance to the public at large, it was judged necessary to make provision for supervision, and this, I think, you will find in the Bill now before you. It was the endeavour of those who prepared the Bill to make it as efficacious as possible, but at the same time to avoid including in the Bill all those restrictions which are applicable in England and on the Continent. It was proposed at first that the Bill should only operate in the town and island of Bombay.

Mr. Ravenscroft moves the first reading of Bill No. 8 of 1882.



but provision was made in one of the sections for the time when the Government should decide that the operations of the Bill should be extended to other places. As I am only now moving the Bill be introduced into the Council and read a first time, and as the principles of the Bill and its minor details will be best considered later on, I shall content myself at present with a brief statement. I have just mentioned that at present we only intend the Bill to be operative in the town and island of Bombay; if we find its operation there tends to the advantage of the public, we shall give it to other places. As regards the town and island of Bombay, what we propose is that from and after the date on which the Act shall come into force it shall be unlawful for any person to sell or keep open shop for retailing, dispensing, or compounding poisons or medicinal drugs, or to assume or use the title chemist and druggist or pharmacist, or to employ any assistant for dispensing or compounding drugs, unless such person shall have passed the first examination (including the subject of materia medica and pharmacy), or be in possession of a medical or surgical diploma or license from a recognised licensing body, and further be registered under the British Pharmacy Act or under the sections of this Act. Chemists and druggists, within the meaning of the Act, will consist of persons who at the time of the coming into force of the Act are carrying on the business of a chemist and druggist in the keeping of open shop, and the assistants of such persons registered as chemists and druggists. There are four classes with whom the Act proposes to deal. Classes one and two are those who are in possession of medical certificates, &c., or those registered under the British Pharmacy Act of 1868. The responsibilities of these are limited. All they have to do is, within thirty days of the Act being passed, to register their names in the list which the Commissioner of Police is bound to keep in his office. Provided this registration takes place within thirty days of the Act coming into operation, no fee is charged; if, however, more than thirty days elapse a fee of Rs. 30 is charged. This disposes of classes 1 and 2; and then we come to those referred to as chemists and druggists within the meaning of this Act. This relates to those persons, who have passed no examination and are not in possession of a medical certificate, and have not been registered under the British Pharmacy Act and are still at this moment carrying on in Bombay the trade of chemists and druggists. The Bill is to regulate the proceedings of people of this class, who, by their ignorance and want of medical training, may cause great injury and loss of life to their neighbours. At the same time, it is felt that stringent regulations made without notice or warning might deprive a large number of people of their means of livelihood, and would be a great hardship as regards these persons. Therefore what we propose to do is this—to appoint a committee consisting of the Medical Storekeeper to Government, the Chemical Analyser to Government, and other suitable persons whom the Government should select. This committee within six months of the Act coming into force is to inspect the shops kept by such chemists and druggists, and make such an examination of these persons as they may deem necessary. Those persons whom the committee find competent to perform their duties as chemists and druggists will have their names registered by the committee on the list which the Police Commissioner is bound to keep. Then, as regards those found absolutely incompetent, they will, if the Surgeon-General of the Government of Bombay concurs with the committee as to their incompetency, be prevented from practising their trade until such time as they pass a certain examination laid down. That refers to those carrying on a trade without a proper knowledge of it. I come now to those who may in future

wish to enter on the trade. As regards them, all that the Act now proposes is that they should undergo a certain examination. On their passing, their names will be entered in the list kept by the Police Commissioner, and they will be allowed to carry on the trade of chemists and druggists. The Council will observe by reference to Section 13 that nothing in this Act shall be considered to apply to the sale of drugs used by practitioners of indigenous medicine, whether these are recognised by the British Pharmacopœia or not, when such drugs are not sold in a shop or place where medicines recognised by such Pharmacopœia are dispensed upon prescription. This you will see limits the operation of the Act within reasonable ground, and I think takes away any objection which may have been formed on a cursory examination of what is proposed. Such is the general outline of the principles which the Government wish to see embodied in the Act and they will, I feel sure, commend themselves to the minds of the Council and the intelligent public. Naturally some dissatisfaction will be felt by the inexperienced practitioners who had been allowed to trifle as they liked with the health or life of their fellow-creatures. They will have in future to pass a tolerably stringent examination ; but a consideration of that sort ought not to weigh against the other considerations which I have spoken of,—the life, comfort, and well-being of the general public. With these few remarks I beg to move that the Bill be now read a first time.

The Honourable Ráo Sáheb V. N. MANDLIK :—I observe that the evidence on which the Bill which the honourable member moves is founded, has not been circulated to the members of this Council, and in the absence of that I think it right to say that though the object of the Bill is commendable, I, for my own part, consider that some of the principles may very fairly be objected to, especially when it is proposed to include in the Bill a provision that it may be extended to the entire Presidency. I am bound to say that a law of this nature should not be so hastily enacted for a whole country larger than some of the kingdoms of Europe. It was only in 1851 that the first graduates of the Grant Medical College began to practice, and there is nothing in this Bill with regard to dispensaries, which are very carefully supervised no doubt, but which are practically under the management of persons who under this Act are not touched at all. Again, there is a very large and a useful class who seem to have been altogether left out. They are the students of the class trained under the auspices of Government at Poona. These people, after they pass their examinations, are placed in charge of public dispensaries. Still they do not get the license from any recognised body, nor are they registered under the English Pharmacy Act. This Bill declares them incompetent to do what they are pronounced fit to do by their examiners after a very careful examination conducted by medical officers of Government. They are now in charge of a very large number of public dispensaries in the Bombay Presidency. Then as regards the general nature of this Bill, the matter contained in Section 13 has been introduced into the corresponding provisions in the Bengal Act, and I find it is strictly a provision worked by the Municipality at Calcutta, but is by no means so stringent as the provisions of this Act. While it (the Bengal Act) exercises a certain superintendence over the vendors of European medicines, it at the same time gives to the Municipality the power of supervising all such dispensaries. I hope the Committee that will have charge of this Bill will be good enough to record such evidence as may be produced. It is very odd that the only case of death which occurred in the city of Bombay, in regard to dispensing drugs, happened two or three years ago owing to an accident in a well-regulated dispensary in the city kept by a European firm. When we

make the necessary provisions, we ought to take into account that nearly all the dispensing of medicine in this country is in the hands of those to whom the honourable mover referred under Section 13 of the Act. Many of these deal in such medicines as datura, and a large number of other poisons not found in the papers connected with this Bill, and which have been dispensed to the masses from a time almost beyond reach of ordinary history. While, therefore, as regards poisons the very greatest stringency may be observed, in regard to drugs generally I think the provisions of this Bill either do not go far enough or do not lay out in sufficient detail those classes which are saved from the operation of the Bill, or which ought to be so, before the Bill becomes law. I throw out these observations for the information of the Select Committee, who will, I trust, attend to them. I trust also that all the Bengal provisions will be consulted, and, if necessary, the Municipality of this city, who are interested in a Bill of this kind, may also be consulted. As regards the proposal to extend the provisions of the Bill to the whole Presidency, I am sorry I cannot give my consent to such a proposal. See what our medical requirements are! In all the large towns, except Poona and Karáchi, the only people who *prescribe* are graduates of the Grant Medical College and officers of Government; but the masses of the people are treated by our own medical men.

The Honourable Mr. BUDRUDIN TYABJEE :—Your Excellency,—The principle of the Bill has my sympathy, for it seems to me right that those people who dispense poisons and drugs should have a competent knowledge of their work. At the same time the Bill would affect such a large number of people, probably 2,000 in Bombay, that it will be desirable to give greater publicity to its provisions and to allow ample time for the public to discuss the matter and offer any objections they may have to urge against the Bill. There is such a large number of Mussalmán practitioners who will be affected by the Act that I think the Bill should be translated into Hindustáni as well as Kánarese, Maráthi and Gujaráti. I quite agree with the Honourable Ráo Sáheb that it will be impossible to suddenly introduce a Bill like this into the Mofussil. Such an attempt might lead to the result that no medicines would be obtainable in many places. I will therefore suggest that the Bill be referred to a Select Committee, and I hope it will be most carefully considered.

The Honourable Sir JAMSETJEE JEEJEHOY :—Your Excellency,—It is impossible not to acknowledge the importance of this measure. Those who set up as dispensers of poisons or drugs to the public ought doubtless to be required to submit to regulation as to their qualification for the practice of their trade. Most other trades, less fraught with danger to the public, are subject to regulation of this nature. As I read the Bill, however, it seems capable of including a class of traders whom I do not think it is the intention of the honourable mover to bring under the operation of the measure. For the purpose of securing this class, I think some emendation of the language of the Bill is necessary; and I trust the honourable mover will see his way, during the progress of the Bill through the Council, to introduce the requisite amendment. The class of persons whom I refer to are commonly known in the native bázár as *ghándhis*. They vend drugs, mostly vegetable, and sometimes such as quinine, sulphur, and the like. They are perfectly well conversant with their trade, and though they sell by retail they do not make up or compound medicines in any sense of the term. They heed not the doses; they get no prescriptions; they care not who want the medicinal drugs, and give or convey no directions as to how they are to be employed; at least they are not supposed to concern themselves with more than the selling of a certain quantity of drugs for a certain price. The customer comes to the shop

stall and verbally asks for this or that drug, gets it if available in the shop, pays for it, and goes away. There is no record of the sale, and it would be impossible, as the *ghándhi* plies his trade, to keep a record of his sales. Of the sales of recognised specific poisons, no doubt, he is required to keep a note or take order with them. No evils have been known to arise from the pursuit of his trade by the *ghándhi*; no serious consequences have occurred by his vending his drugs in his wonted manner. To interfere, therefore, with him will, in my humble opinion, be both uncalled-for and unwise. Native physicians advise verbally the use of certain drugs in a certain manner; and the poorer sort of people, who are the patients of those physicians, resort to these shop-keepers and obtain their medicines by word of mouth, and then turn them into powders, or infusions, or decoctions, &c., at home, as they may have been advised. To expect the *ghándhis* to qualify under this measure is simply impossible; and to bring them under it is to shut up the trade and business of a large class of traders, and to inflict incalculable misery and hardship upon the poorer sort of people, who are their customers. I heartily desire to see an amendment of the Bill in this regard, so as to exclude the *ghándhis*, before I can see my way to vote for the Bill, but for its being too large in its practical operation it has my concurrence.

His Excellency the PRESIDENT:—Would you kindly inform the Council whether Clause 13 does not meet this?

The Honourable Sir JAMSETJEE JEEJEEHOY:—I do not think it does.

His Excellency the PRESIDENT:—Do they sell poisons?

The Honourable Sir JAMSETJEE JEEJEEHOY:—Yes, *datura* and other poisonous drugs.

The Honourable the ADVOCATE GENERAL:—Your Excellency,—It seems to me desirable that this Bill should be amalgamated with the Bill which we have already for the sale of poisons—Act VIII of 1866. I do not think the Bill will have the extensive operation which the Honourable Sir Jamsetjee Jeejeebhoy feared. I also suggest that the Committee take the advice of the practitioners, European and Native, of Bombay.

His Excellency the PRESIDENT:—I happened to be a member of the Select Committee of the House of Commons on the Pharmacy Act of 1866. Some of the doubts and difficulties represented then have been mentioned to-day, but they were all found capable of being surmounted. We wish to pass an Act which will do all that is required without unnecessary hardship to any class. If there is a large class of persons dealing in poisonous drugs, and without sufficient knowledge to ensure safety, and mistakes occur which sometimes prove fatal, I think we must not be deterred by hardship on individuals, but sacrifice something for the general good. The people who confine themselves to simples are not the class on which the law should be hard; but some restriction is necessary when we find ignorant people freely handing poisons across the counters of their shops, the transaction being by word of mouth only. Such facilities are very liable to abuse. The honourable mover, I believe, has in his hands some suggestions which he intends to bring up in Select Committee, and I think these will meet several of the points raised by the Honourable Ráo Sáheb especially, including those relating to students who have obtained a certificate of qualification from a Government medical school. It is impossible that a measure like this can be passed in a hurry. Every possible means will be taken to see that it is made useful without being oppressive; and I am glad to find that as regards the principle of the measure no objection has been taken.

The Honourable Mr. RAVENSCROFT :—Your Excellency,—I felt confident that the general principle of the Bill would be approved by the good sense of the Council. I will only say with reference to the remarks made by members of the Council that in Select Committee the real facts can be ascertained and information will be sought for from every possible source. I hope the honourable members who have spoken on the Bill will be good enough to serve on the Select Committee. No doubt eventually the Bill will work to the benefit of the public. With these remarks I beg to move that the Bill be read a first time.

The Bill was then read a first time. It was resolved on the motion of the Honourable Mr. Ravenscroft that the Bill should be referred to a Select Committee consisting of the Honourable Ráo Sáheb Vishvanath Náráyan Mandlik, the Honourable Budrudeen Tyabjee, the Honourable Mr. Macaulay, the Honourable Sir Jamsetjee Jeejeebhoy, the Honourable the Advocate General, and the Mover, to report by the 20th January 1883, and that the Bill and the Select Committee's Report be translated into Maráthi, Gujaráti, Kánarese, Sindi and Hindustáni languages.

The Honourable Mr. RAVENSCROFT moved the first reading of Bill No. 9 of 1882 (A Bill to further amend the Bombay Port Trust Act, 1879).  
 Mr. Ravenscroft moves the first reading of Bill No. 9 of 1882. He said :—Your Excellency,—This is a Bill that does not require any lengthy explanation; it is simply an amendment of the Bombay Port Trust Act of 1879. At present no power is given to the Trustees to establish a provident fund for the benefit of the officers and servants of the Trust, and the object of the Bill is to empower the Trustees to institute and establish a provident fund for their officers and servants as they may think proper. The present Act exempts artisans, porters and labourers and mukádams of porters and labourers from receiving pensions and sharing in the benefits of a provident fund. With the object of enabling the Trustees to grant pensions and gratuities to these men Section 1 of the Bill has been framed. It is considered that the words "or any of them" in Clause 5 of Section 22 of the Act are not sufficient to empower the Trustees to determine whether all their officers and servants, or any, and if so which of them, are to be entitled on retirement to pensions. It is to make this point clear that Section 2 of the Bill has been framed.

The Honourable W. M. MACAULAY said that as one of the members of the Port Trust he thought it very desirable that the Act should be passed, as the Trustees had very often felt their hands tied and were unable to allow pensions to deserving officers of the Trust. The present Bill would give power to the Trustees, whenever they saw fit, to recompense for long service, and such a measure he thought would have general support.

Bill read a first time. The motion that the Bill be read a first time being carried, the Bill was accordingly read a first time.

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

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

H. F. ASTON,  
 Acting Under Secretary to Government.

*Bombay Castle, 27th November 1882.*

stall and verbally asks for this or that drug, gets it if available in the shop, pays for it, and goes away. There is no record of the sale, and it would be impossible, as the *ghándhi* plies his trade, to keep a record of his sales. Of the sales of recognised specific poisons, no doubt, he is required to keep a note or take order with them. No evils have been known to arise from the pursuit of his trade by the *ghándhi*; no serious consequences have occurred by his vending his drugs in his wonted manner. To interfere, therefore, with him will, in my humble opinion, be both uncalled-for and unwise. Native physicians advise verbally the use of certain drugs in a certain manner; and the poorer sort of people, who are the patients of those physicians, resort to these shop-keepers and obtain their medicines by word of mouth, and then turn them into powders, or infusions, or decoctions, &c., at home, as they may have been advised. To expect the *ghándhis* to qualify under this measure is simply impossible; and to bring them under it is to shut up the trade and business of a large class of traders, and to inflict incalculable misery and hardship upon the poorer sort of people, who are their customers. I heartily desire to see an amendment of the Bill in this regard, so as to exclude the *ghándhis*, before I can see my way to vote for the Bill, but for its being too large in its practical operation it has my concurrence.

His Excellency the PRESIDENT:—Would you kindly inform the Council whether Clause 13 does not meet this?

The Honourable Sir JAMSETJEE JEEJEBHOY:—I do not think it does.

His Excellency the PRESIDENT:—Do they sell poisons?

The Honourable Sir JAMSETJEE JEEJEBHOY:—Yes, *datura* and other poisonous drugs.

The Honourable the ADVOCATE GENERAL:—Your Excellency,—It seems to me desirable that this Bill should be amalgamated with the Bill which we have already for the sale of poisons—Act VIII of 1866. I do not think the Bill will have the extensive operation which the Honourable Sir Jamsetjee Jeejeebhoy feared. I also suggest that the Committee take the advice of the practitioners, European and Native, of Bombay.

His Excellency the PRESIDENT:—I happened to be a member of the Select Committee of the House of Commons on the Pharmacy Act of 1866. Some of the doubts and difficulties represented then have been mentioned to-day, but they were all found capable of being surmounted. We wish to pass an Act which will do all that is required without unnecessary hardship to any class. If there is a large class of persons dealing in poisonous drugs, and without sufficient knowledge to ensure safety, and mistakes occur which sometimes prove fatal, I think we must not be deterred by hardship on individuals, but sacrifice something for the general good. The people who confine themselves to simples are not the class on which the law should be hard; but some restriction is necessary when we find ignorant people freely handing poisons across the counters of their shops, the transaction being by word of mouth only. Such facilities are very liable to abuse. The honourable mover, I believe, has in his hands some suggestions which he intends to bring up in Select Committee, and I think these will meet several of the points raised by the Honourable Ráo Sáheb especially, including those relating to students who have obtained a certificate of qualification from a Government medical school. It is impossible that a measure like this can be passed in a hurry. Every possible means will be taken to see that it is made useful without being oppressive; and I am glad to find that as regards the principle of the measure no objection has been taken.

The Honourable Mr. RAVENSCROFT :—Your Excellency,—I felt confident that the general principle of the Bill would be approved by the good sense of the Council. I will only say with reference to the remarks made by members of the Council that in Select Committee the real facts can be ascertained and information will be sought for from every possible source. I hope the honourable members who have spoken on the Bill will be good enough to serve on the Select Committee. No doubt eventually the Bill will work to the benefit of the public. With these remarks I beg to move that the Bill be read a first time.

The Bill was then read a first time. It was resolved on the motion of the Honourable Mr. Ravenscroft that the Bill should be referred to a Select Committee consisting of the Honourable Bão Sáheb Vishvanath Náráyan Mandlik, the Honourable Budrudeen Tyabjee, the Honourable Mr. Macaulay, the Honourable Sir Jamsetjee Jeejeebhoy, the Honourable the Advocate General, and the Mover, to report by the 20th January 1883, and that the Bill and the Select Committee's Report be translated into Maráthi, Gujaráti, Kánarese, Sindi and Hindustáni languages.

The Honourable Mr. RAVENSCROFT moved the first reading of Bill No. 9 of 1882 (A Bill to further amend the Bombay Port Trust Act, 1879).  
 Mr. Ravenscroft moves the first reading of Bill No. 9 of 1882. He said :—Your Excellency,—This is a Bill that does not require any lengthy explanation; it is simply an amendment of the Bombay Port Trust Act of 1879. At present no power is given to the Trustees to establish a provident fund for the benefit of the officers and servants of the Trust, and the object of the Bill is to empower the Trustees to institute and establish a provident fund for their officers and servants as they may think proper. The present Act exempts artisans, porters and labourers and mukádams of porters and labourers from receiving pensions and sharing in the benefits of a provident fund. With the object of enabling the Trustees to grant pensions and gratuities to these men Section 1 of the Bill has been framed. It is considered that the words "or any of them" in Clause 5 of Section 22 of the Act are not sufficient to empower the Trustees to determine whether all their officers and servants, or any, and if so which of them, are to be entitled on retirement to pensions. It is to make this point clear that Section 2 of the Bill has been framed.

The Honourable W. M. MACAULAY said that as one of the members of the Port Trust he thought it very desirable that the Act should be passed, as the Trustees had very often felt their hands tied and were unable to allow pensions to deserving officers of the Trust. The present Bill would give power to the Trustees, whenever they saw fit, to recompense for long service, and such a measure he thought would have general support.

Bill read a first time.

The motion that the Bill be read a first time being carried, the Bill was accordingly read a first time.

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

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

H. F. ASTON,

Acting Under Secretary to Government.

*Bombay Castle, 27th November 1882.*