THE

Bombay Government Gazette.

Published by Authority.

THURSDAY, 22ND MAY 1890.

☞ *Separate paging is given to this Part, in order that it may be filed as a separate compilation.*

PART V.

PROCEEDINGS OF THE LEGISLATIVE DEPARTMENT, BOMBAY.

The following Extract from the Proceedings of the Governor of Bombay in the Legislative Department is published for general information:—

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 19th March 1890, at 3-30 P.M.

PRESENT.

His Excellency the Right Honourable Lord REAY, LL.D., G.C.I.E., Governor of Bombay, *Presiding.*

His Excellency Lieut.-General the Honourable Sir GEORGE R. GREAVES, K.C.B., K.C.M.G., Commander-in-Chief.

The Honourable Sir R. WEST, K.C.I.E.

The Honourable J. G. MOORE.

The Honourable the ADVOCATE GENERAL.

The Honourable RAHIMTULA MAHAMED SAYANI, M.A., LL.B.

The Honourable NAVROJI NASARVANJI WADIA, C.I.E.

The Honourable T. D. LITTLE, M.I.C.E.

The Honourable A. F. BEAUFORT.

The Honourable Ráo Bahádur MAHADEO GOVIND RANADE, M.A., LL.B., C.I.E.

The Honourable JAVERILAL UMIASHANKAR YAJNIK.

Papers presented to the Council.

The following papers were presented to the Council and were taken as read:—

(1) Report of the Select Committee appointed to consider and report on the Bill to amend the Prevention of Gambling Act (Bombay IV of 1887).

(2) Report of the Select Committee appointed to consider and report on the Bill to amend the Law for the regulation of the District Police in the Presidency of Bombay.

THE GAMBLING BILL.

Sir Raymond West moves the second reading of the Gambling Bill.

The Honourable Sir RAYMOND WEST:—I will now, your Excellency, with the consent of the honourable members, move the second reading of the Bill to amend the Prevention of Gambling Act (Bombay IV of 1887), as it has been amended by the Select Committee. On looking carefully through the provisions of the Gambling Act as it was originally drafted, the Committee considered that if they varied the definition of gambling so that it should include wagering, everything that was necessary would be accomplished, for the Act makes effectual provisions to suppress gaming in all those cases in which it can be regarded as a common nuisance, such as where a man sets up a house for the purpose and makes gain out of it. It will be in the recollection of Council how the Gambling Act was evaded on the ground that wagering did not fall within the range or meaning of gambling in the legal sense, and immediately wagering on a large scale, and of the most injurious shape, was introduced, and spread its evil effects throughout Bombay. The Bill to amend the Gambling Act was introduced to suppress that nuisance, and the means to carry that out is to make gambling include wagering. There has been a good deal of discussion on the fragmentary character of the provisions of the Bill, but it is the same in all Bills of this kind which have to deal with what may be called slight violations of morality, tending to serious general mischief in practice. The evil that the present Bill aims at is a considerable violation of public convenience, and a remedy for the particular case has been felt by society to be necessary, and recognised as necessary by all interested in our general welfare. The Act does not attempt to go beyond that, and we trust it may be effective. If anything further is necessary later on, some other fragment of a large subject may be taken up. It is better not to interfere with the people's liberty and convenience further than the actual necessities of the case warrant us in doing, although law generally means an interference with liberty, and is not objectionable therefore because it imposes a new restraint. I will now move the second reading of the Bill.

Bill read a second time.

The Bill was read a second time.

Standing orders suspended and Bill read a third time and passed.

On the motion of the Honourable Sir Raymond West, His Excellency the President suspended the standing orders, and the Bill was read a third time and passed.

THE SALT BILL.

Consideration in detail of the Salt Bill resumed.

The Honourable Sir RAYMOND WEST proposed the following amendment in the Salt Bill (No. 2 of 1888):—

"Substitute the following Section for Section 61:—

61. (1). No person shall be liable to any penalty or to payment of damages on account of any act done or order made in good faith, in pursuance or intended pursuance of any duty imposed or any authority conferred on him by this Act, or by any rule, order or direction made or appearing to have been made under the provisions hereof by a person having or appearing to have authority in that behalf.

No person to be liable to penalty or damages for act done in good faith in pursuance of duty.

(2). In the case of an alleged offence or wrong on the part of any person by any act done under colour or in excess of any such duty or authority as aforesaid, or wherein it shall appear to the Court that the offence if committed or the wrong if done was of the character aforesaid, the prosecution or suit shall not be entertained, or shall be dismissed if instituted more than six months after the act complained of.

No suit or prosecution in respect of an act done under colour of duty as aforesaid shall be entertained, or shall be dismissed, if not instituted within six months.

(3). In the case of an intended suit on account of such a wrong as aforesaid, the person intending to sue shall be bound to give to the alleged wrong-doer one month's notice at least of the intended suit with a sufficient description of the wrong complained of, failing which such suit shall be dismissed.

In suits as aforesaid one month's notice of suits to be given and sufficient description of wrong complained of.

(4). The plaint shall set forth that a notice as aforesaid has been served on the defendant and the date of such service, and shall state whether any and if any what tender of amends has been made by the defendant. A copy of the said notice shall be annexed to the plaint endorsed or accompanied with a declaration by the plaintiff of the time and manner of service thereof."

Plaint to set forth service of notice and tender of amends.

In proposing this amendment the Honourable Sir RAYMOND WEST said:—It will be within the recollection of the honourable members of Council that when we last discussed the Bill, I undertook, on the suggestion of the Honourable the Advocate-General, to recast the section, which applied to the possibility of officers falling into mistakes, in carrying out the provision of the Act; that is section 61. The honourable members will see, on comparing it with the existing section, that it is somewhat more reasonable in the provisions it makes for imposing terms on the persons prosecuting officers and in freeing the officers themselves from the responsibility they would incur than was the section as originally drafted. It does not speak of the action being dismissed in so many cases. It leaves the matter more to the Court. The section thus establishes a fair balance between public and private needs, and I hope it will be adopted, so that wherever Government officers are likely to fall into mistakes which make them responsible before the law, those who have been injured by these errors may not be without a remedy for wrong, and yet the officers will not be unfairly held liable. The first provision is that no person shall be liable to penalty or damages for acts done in good faith in pursuance of duty; and the second is that no suit or prosecution instituted in respect of an act done under colour of duty as aforesaid shall be entertained, or shall be dismissed, if not instituted within six months. This gives protection in a case of process before the Court, when a person has acted from a mistaken view, and yet there is reasonable ground for his supposing that he was acting within his authority, and also requires that he may have notice in order that he may have an opportunity to produce evidence that he has acted within his power, or else may make amends. It is desirable at the same time that a suit of that kind should be instituted within a short time. Six months is the time allowed. In the section as first framed four months were given. In sub-section 3, one month's notice of suits is to be given, and sufficient description of the wrong done is to be given. The necessity of that is quite obvious. If a man is going to sue an inspecting officer or any officer of the Government for excess of his duty, he ought to let him know what he complains of, for what appears to be excess of duty to the one may be considered quite within his powers by the other. The dividing line between legal authority and excess may be a fine one, and the officer whose conduct is impugned ought to have time to consider the matter from all sides, and, if need be, to take advice. Clause 4 carries out the same principle in requiring the plaintiff to set forth that notice has been served, and if any tender has been made, to set forth what tender has been made, and that a copy of the notice is to be attached to the plaint, with a statement of the manner in which it had been served. By this means the Court will know exactly what has been done, and what the plaintiff has had to complain of, and what demands are made. We may then, having made such provisions, leave it fairly in the hands of the Court. These alterations have received the concurrence of the Honourable the Advocate-General. I trust, therefore, the Council will accept this amendment, and accept the Bill as it is now amended.

The amendment was accepted.

Sir Raymond West moves the third reading of the Bill.

The Honourable Sir RAYMOND WEST:—Your Excellency, this amendment having been adopted, and the several clauses having been gone over *seriatim*, I move that the Bill be read the third time.

Bill read a third time and passed.

The Bill was accordingly read a third time and passed.

THE DISTRICT POLICE BILL.

Sir Raymond West moves the second reading of the Bill.

The Honourable Sir RAYMOND WEST in moving the second reading of Bill No. 3 of 1889, a Bill to amend the law for the regulation of the District Police in the Presidency of Bombay, said:—In introducing the Bill I gave a general sketch of the historical circumstances and of the necessities which arose for

appointing an executive head of the police force, and of the changes in legislation which were necessary in order to give him a definite and distinct position in our administrative system. The Bill was received, and passed the first reading unanimously. It was referred to a Select Committee which was of a widely representative character. We had the benefit and the assistance of the Honourable Mr. Richey, who is specially acquainted with the subjects embraced in the Bill, from his experience as a district officer, and having dealt with the subject for years as Secretary to Government and as a Member of Government. Besides the Honourable Mr. Richey there was the Honourable Sir Frank Forbes Adam, who devoted, as he always did on such occasions, a great deal of personal care to the discussion of the provisions of the Bill. By the Honourable Mr. Sayani and the Honourable Mr. Behecherdas the Bill was thoroughly discussed in the Select Committee, and various papers, which were put before the Committee, were considered by it very deliberately. The Bill was gone through very carefully, section by section and line by line. The honourable members will find in the Bill, as it comes before the Council now, that some considerable variations have been made on the original draft, which variations originated to some extent on suggestions which came before the Select Committee from various quarters; and the Bill comes to the Council recommended by the unanimous assent of all the members of the Select Committee. It thus has claims to adoption quite different and much stronger than what it had when it was first introduced simply on the authority and recommendation of the Executive Government, having now been considered by an independent body, and when, having been so considered, it now comes forward with a unanimous recommendation in its present shape. The suggestions which have been received from various quarters have been carefully weighed and you will observe, from the list of amendments which I have to lay before the Council, that every word of the proposed Act has been carefully gone over, sifted again and again, and wherever a change seemed desirable, or wherever any expression or suggestion seemed practicable, it has been acted upon. I may say I had some conversation on my proposed amendments with the Honourable Mr. Richey before he left, and in two or three cases they did not meet with his approval, I struck them out. Why I took the advice of Mr. Richey and submitted them for his approval was, because, as I said before, he has given so much special attention to the subject for so many years. At the suggestion of the Honourable Mr. Moore also I have made one or two other slight alterations which to my mind, while being from his point of view improvements, do not alter the effect of the Bill. It was obviously right to provide for these small changes which the Honourable Mr. Moore thought were desirable. These alterations I will ask His Excellency the Governor to sanction as we go through the clauses *seriatim* should we arrive at that stage to-day; and I believe if they are accepted by His Excellency the Governor there will be no difficulty offered by the honourable members of Council to the reading of the Bill, as it will stand as amended. We have had a good many criticisms and suggestions passed upon this Bill by gentlemen who have been good enough to devote some time and attention to its provisions. Those gentlemen will, some of them, find indeed that it has been impossible to acknowledge all the communications that have come to us, but I do not wish them to think we have not carefully considered them; they will find that where those criticisms were applicable they have been accepted and acted upon. Everything that could be gathered while the Select Committee was discussing the Bill was carefully considered by the Select Committee, and weighed in its different aspects, and one or two criticisms which have reached us since have also been made use of, so that I trust the gentlemen who have been good enough to favour us with those criticisms and suggestions will take it, without any special mention of their names, that where practicable their counsels have been given effect to, and that even if their suggestions have not been admitted, as in some cases they have not, it is not through want of attention, but because Government did not find it expedient or possible in connection with the general provisions of the Bill to adopt those particular suggestions. The criticisms I may divide into two classes. The first are those which approving directly or indirectly the general principles of the Bill have objected to particular provisions or phrases. These have been by far the more numerous, and they have supplied corrections and suggestions in several instances which we have considered practicable, and have availed ourselves of. The other class are those which objected to the general principles of the Bill. These have been very few, but as censure is often more instructive than approval, they have been closely studied. They did not produce any hesitation in the minds of the Select Committee as to the soundness of the principles on which the Bill

is founded. Some of the criticisms assert that the Bill has not been considered long enough, that there has not been sufficient deliberation over its provisions. The answer to that is that the materials of this Bill have been before the official world—and it is only from the official world these particular objections have come to Government—certainly for a period of five years. Although I went into the history of the subject at pretty considerable length on the last occasion, it may be desirable, in view of the objections which have been raised, that I should inform the Council somewhat more fully of the more recent history of the police reform, or at any rate the changes which have taken place of late years.

We may go back to the year 1881. In that year Sir James Fergusson, who was then Governor of Bombay and who was rather new in his office at that period, had been very much struck with the laxness in the police administration of this Presidency as compared with what he had seen in other parts of the world in his manifold experience; and he, looking over the discussions which had taken place since the year 1849 or 1850, came to the conclusion that some definite official head of the police, as an organized body, was necessary for its efficient government. With the consent of the Council I will read one or two short extracts from the remarks he made on that occasion, referring to his proposal that there should be an Inspector General. His Excellency urged:—"I have not proposed this appointment without considerable acquaintance with the management of police in counties and towns as well as in the metropolis in Great Britain, in British colonies, and lately having had occasion to see the irregular and uncertain administration in this Presidency. The opinion of Sir George Clerk during both his terms of government here are in accordance with mine, and the opinion of Colonel Bruce, Inspector General of Police in India, amply confirms them. Sir Seymour FitzGerald in his closing minute considered that, as a general rule, no Government of Bombay would be able to maintain the police of the Presidency in a state of efficiency without an officer analogous to the Inspector General of Police provided in Act V, and this view he abundantly supports and establishes. There are in the papers many arguments against having Deputy Inspectors General for divisions, and Government decided against this in 1869. They would not procure uniformity of system, while they would, in my opinion, be better than leaving all Superintendents to themselves. I do not see the risk of friction, because an officer would be responsible for organization, inspection, and reports. The police would be equally at the disposal of the Magistracy. With all respect for the high authority of Sir Barrow Ellis, I think that if we find all the other Governments of India, Great Britain, and notably Ireland, all British colonies with which I am acquainted, in which the police is generally of a very high class, adopting the system of Inspector General, it is extraordinary that a totally different system in Bombay should be in theory and practice better." Now that was the conclusion at which Sir James Fergusson arrived after very careful consideration of the matter. The care and mastery of the subject manifested in every word of that minute are remarkable. Then he says later on:—"The multifarious duties of Revenue officers, who are also Magistrates and often Political Agents, render it impossible that they can adequately superintend or watch the details of police work. The Commissioners also have duties which must engage them, and I fancy that these are, from various causes, heavier than formerly,—the facilities of communication bringing much more frequent references from Government and their own subordinates." Those views of Sir James Fergusson in 1881 were not adopted by Government. The Honourable Mr. Ashburner, who had long been a district officer and had been a Commissioner for some years, and who could not be denied authority on the subject, was opposed to the change suggested by Sir James Fergusson. Mr. Ravenscroft at the same time adopted the Honourable Mr. Ashburner's views, and opposed any change. The matter was then laid by,—Sir James Fergusson acting on the principle, I suppose, that time would tell. In the course of three years, after some further experience, he, in the year 1884, brought forward his views again, fresh experience having satisfied him that some distinct departmental chief or head was necessary, and the police could not be effectively managed in any other manner than he had proposed. Accordingly in 1884 he brought up the subject again. I will, with the consent of the Council, read from a minute by Sir James Fergusson dated 11th February 1884. He said:—"I have paid a good deal of attention to the police administration. I will observe (1) that it is a force from its constitution and peculiarities requiring the supervision of a special officer." Then again he says:—"I feel a constant want of information about the individual and comparative merits of the officers * * * * * * Without one advising officer it is impossible to judge whether the distribution of the force is

satisfactory;" and he goes on to say that for many years there had been no distribution of the force in different sections of the Presidency, some places being overmanned and others overworked, except when force of circumstances demanded a reinforcement in some particular part of the Presidency. Then His Excellency says further:—"Why should not the police require special supervision as well as jails, schools, hospitals? We rightly require the district officers to visit these, and to report upon them through the Commissioners; but we do not dispense with special and skilled visitors. Yet there is as much need for skilled supervision of the police in point of discipline, conduct and practice as of jail officials and prisoners. There have not been wanting cases in which Government have felt it necessary to overrule the treatment of police officers by Superintendents and Commissioners with great difficulty in judging of the merits of the cases. Such difficulties would have been greatly lessened had an Inspector General been available to investigate them with full knowledge of the individuals concerned and of police work generally. The plan I would propose is this: not to revive the Police Commissioner, but to create an Inspector General. I would choose him ordinarily from the more experienced Superintendents, but not bind Government to do so. I would in no way alter present powers and relations to the police of the District Magistrate. The relative functions of the Magistrate and the Inspector General are as distinct here as they are in England or in Bengal. But I would relieve the Commissioners altogether of their duties in respect of the police. I would take their present police establishment as far as they are required for, or as far as they would be useful to the Inspector General." This was the view of Sir James Fergusson, after three years' further consideration of the subject, which three years, you will perceive, had not been wasted. It was a subject in which Sir James Fergusson had been interested, which he had paid particular attention to, and which naturally engaged his attention very closely here. And those three years had had a certain effect on the other members of Government. The Honourable Mr. Ashburner had left the Government; but the three years had produced this effect on Mr. Ravenscroft. In 1881 he had agreed with Mr. Ashburner. In 1884 he says, "When the question was under consideration in 1881, I had not much knowledge of the working of the police in this Presidency, as when I was in the Secretariat I had charge of the Revenue and Financial Departments; and when I became a member of the Government, Mr. Ashburner had, until his departure in 1882, charge of the Police Department. I have now, for upwards of a year, had charge of the Police Department, and have done my best to master its system of work. The result of this experience is to convince me that a change is necessary. At present the Commissioners are quite unable to exercise anything more than a nominal supervision over the Police Superintendents and their actions. The consequence is that the police officers are left too much to their own devices, and repeated instances have occurred showing that some special and direct supervision is necessary. I do not wish it to be inferred from this that I am finding fault generally with the Commissioners, because they cannot exercise that amount of supervision over police matters which the state of the case demands. Even under such an able officer as Sir B. Ellis very much was left to Police Superintendents as I can speak from my personal knowledge as a Magistrate; and in his day as Commissioner, the duties were not so onerous as they are now. There are some objections to the removal of powers from the Commissioners to the officer whom it is proposed to appoint; but these, I think, have been over-estimated and I need not enlarge on them. I shall therefore be glad to support His Excellency's proposal." The Honourable Mr. Peile on February 13th, 1884, minuted that his own personal experience was extremely limited, but he could easily understand that the police required the supervision of one officer as Inspector General with regard to discipline, efficiency, distribution, &c., and that the supervision by three Commissioners in the Presidency and one in Sind was wanting in the necessary unity. These were the views of the Government in 1884, and they were forwarded to the Government of India for consideration; but the Government of India was not disposed to go so far as the Government of Bombay of that day were disposed to go. Of course the Government of Bombay at that time were disposed to keep the Commissioner out of the range of the police executive altogether, leaving police arrangements to be made solely by the Superintendents under the Inspector General, subject, of course, to the control of Government, and leaving all matters of employment of the police to be disposed of by the District Magistrate. There was a reason for that which I need not dwell upon at this moment; but for reasons contained in the Criminal Procedure Code, which did not recognize Commissioners as being answerable for the

administration of the criminal law, it seemed to the Government of Bombay that the same officers ought not to have control of the police. That of course would have involved an entirely new system. The Government of India were not disposed for any sweeping change such as had commended itself to the Government of Bombay, and probably their reason was that such a change would be premature, and in the then existing state of things it would have been extremely undesirable to adopt anything of a revolutionary character. In replying on 21st July 1884, after the matter had been referred to them, the Home Department, Government of India, stated: "In reply I am to say that, in the judgment of the Governor General in Council, the Government of Bombay have made a good case for relieving Commissioners, to some extent, of their police duties, and for appointing a special officer who, as Inspector General, may have the direct supervision of the discipline of the force. His Excellency in Council is however of opinion that the entire elimination of the Divisional Commissioners from a place in the police system is neither necessary nor desirable. The Government of India," they further added, "are of opinion that the relative position, powers and duties of the Inspector General of Police and of the Divisional Commissioners and District Magistrates might be regulated more on the lines of the system in operation in the Bengal Presidency. This will be a matter for the further consideration of the Government of Bombay when amending the Police Act (Bombay Act VII of 1867)." Well, this was the decision laid down by the Government of India, and the Government of Bombay was bound in loyalty to their wishes and desires, in making further changes to confine itself to this. It had to preserve the Commissioner within the police system, to keep him as an efficient element of the system, but had to adopt the plan of a special officer as head of the police force. That has been the basis upon which the Government of Bombay has worked in deference to the Government of India, or if in one or two instances they have deviated from the course, it was after further consideration of proposals laid before the Government of India, and which were considered appropriate. The matter having gone as far as this in 1884, a Committee was appointed consisting of the Joint Commissioners of the Northern, Central and Southern Divisions, and also of Colonel Wise, and of Majors Portman and Babington, all of them police officers of some distinction, for the purpose of drawing up rules for the Inspector General. These rules were drawn up and were carefully considered, but before they reached Government, there was a notice sent, on the part of the Commissioner of the Northern Division, Mr. Sheppard, who says:—"I am quite willing to admit that some distinct advantage, besides that of uniformity, may be secured by placing the details of the internal economy of the entire police force of the Presidency under a single officer. In such matters the Magistrate of the district now takes no share, and they may very safely be entrusted to a senior police officer, without in any way weakening the position, or interfering with the authority of the Magistrate." Mr. Erskine, the Commissioner of Sind, also took this view, and their opinions came before Government and were very carefully considered. The Chief Secretary, who was then the Honourable Mr. Richey, wrote at considerable length on the proposals, which note was also carefully considered by the Government, and the result was that, although one Commissioner out of the three in the Presidency, and also the Commissioner of Sind opposed the rules, they were adopted by the Government after some slight verbal modifications. Sir James Fergusson, to whom this was always a subject of great interest, minuted upon it on 7th January 1888 at considerable length, and one or two extracts may be interesting to the Council. He says:—"I don't know why we should have sent the draft rules to the Commissioner in Sind if the Inspector General was not to have jurisdiction there. Mr. Erskine, following Mr. Sheppard, dislikes the change, but there is no district in which the need of it has seemed to me to be more illustrated than in the Northern Division. * * * * Neither should the Inspector General have the direction or control of the investigation of crime or subsequent procedure. The copies of diaries to be sent to the Inspector General are to enable him to judge of the energy and conduct of the officers. But I think the cognisance by the Inspector General of promotions, suspensions, reductions, fines, &c., is of first importance. I want that it should no longer be possible for hasty young officers to drop heavily upon old native officers without their proceedings being at once reviewed by the Inspector General or for a Superintendent to get a dismissal or a reduction passed by the Magistrate and continued by the Commissioner without the review of the Inspector General. It is just in such cases that I have seen the want of a professional control." The draft rules, as drawn up by the three Commissioners, with the dissent of Mr. Sheppard, and by the three officers of police

were adopted by Government, and they were circulated, before being finally approved, to the Commissioners, and to the Inspector General of Police again for any remarks they might have to make. This was in March 1885, but meanwhile Colonel Wise had become Inspector General of Police. The next point to come under the consideration of Government was what changes in the Police Law were rendered absolutely necessary by the appointment of an Inspector General, and then the present Bombay District Police Act was referred to the consideration of the Commissioners of the Northern, Central and Southern Divisions and of the newly appointed Inspector General of Police in order that they might consider what changes were necessary. They sent in their report, but in the meanwhile there came in many suggestions from different districts, as to the necessity, arising from the experience in the trial arising from the murder of Mr. Prescott of Broach, for the revision of the system of roll-calls. A very considerable time was spent in considering this system of roll-calls, and so time passed. Eventually a Bill was presented to Government by the Legal Remembrancer, the Honourable Mr. Naylor, in which he endeavoured to combine the police regulations for the City of Bombay with the police regulations for the Mofussil. Meanwhile this roll-call system which had come so strongly to the front, had been considered by the Bombay Government and in great measure approved by it. The Bill presented by Mr. Naylor was sent for the opinion of the principal officers under Government and also to the Courts. It was sent to the Judges of the High Court, and being then a Judge of the High Court myself, I spent a considerable part of my scanty leisure in going through that Bill most carefully and sending in an elaborate minute on it. Replies having come in, it was found that the combination of the regulations for Bombay and the Mofussil was not a scheme which would work well. There were so many clauses in it which would suit Bombay alone that it was considered the police regulations for each must be separate. The Bill itself after all this consideration was laid aside; but in the meanwhile the main question was still present, because the Inspector General having been appointed, it became necessary to work the police system under his control as to matters of discipline and so on. It was at this stage of the proceedings in 1887 that I became a member of His Excellency's Government. The whole Bill had been abandoned, but the needs it was intended to meet remained and demanded satisfaction.

An application, after considerable discussion, was made to the Government of India to allow us the benefit of consultation with some officer who had particular and special police experience in some other portion of India. The request was complied with; Colonel Lane was sent from Berár, and a consultation was held at Mahábaleshvar in 1888. Our whole scheme was gone over in consultation with him, his suggestions were carefully considered and the Honourable Mr. Richey and myself having agreed with His Excellency as to the principles of a reform, or rather of the extent to which this new element should be made to agree with the old, the Legal Remembrancer was asked to draft a new Bill. At that stage I left India for some time and on my return I found that the Bill had been drafted and had been generally approved by Government. One of the first steps after my return was to send out the police regulations embodied in the Bill to every District Magistrate in the Presidency for his opinion. These opinions came in, they were put against the different sections and were considered, and the results were in a great measure brought before the public. The Bill as then drafted was submitted to the Government of India. The Government of India did not like the provisions as to roll-call, although these had been strongly pressed upon us by many officers and we abandoned the sections relating to roll-call. With that exception the Bill was approved by the Government of India, and it was then brought before the public in 1889. The Bill had then been for a year before all the Magistrates of the Presidency, besides other gentlemen whom it was thought desirable to consult. The Bill was then published, as honourable members will recollect, early in December last, the translations at the beginning of the present year. The Commissioners were all invited to give their opinions on the Bill, and those opinions we have received, and we have had the advantage of considering them, and in some instances of adopting the suggestions which were made. The opinions sent in are generally in approval of the Bill, nine out of ten belonging to that first class which accepted the Bill generally, but disapproved of certain details. Of the second class the Commissioner of the Northern Division may be considered a representative. His letter, as the Honourable Mr. Sayani will recollect, was laid before the Select Committee and was considered by them along with some observations in which I commented upon it. Mr. James's arguments were also considered, and it was felt that the Bill as it stood

was better than it would be if these suggestions were carried out. In fact it was considered impossible to have an Inspector General of Police who would be only a dummy or a mere subordinate. The views expressed by the Commissioners of the other divisions were less extreme. Several suggestions were made by the Honourable Mr. Moore as Commissioner of the Central Division, which were taken advantage of by the Select Committee and were embodied in the changes they made. This is the present position of the Bill. Besides the official views to which I have referred we have also had opinions sent in by several other persons who have taken the trouble to go through the provisions of the Act, which they will find have not been overlooked. Two or three of the provisions of the Select Committee are based on these suggestions. If after this it can be said that there has not been a due amount of deliberation, I should like to know where you do come to a stage at which you have deliberated enough. If we compare our mode of procedure with that of the British Government on important matters, you will find that the amount of deliberation on our part exceeds by fifty times that of Parliament. If you compare our Bill with the Factories Bill, which affects a great portion of the population, you will find that the rate of progress has been enormously slower with the Government of Bombay. But it has not been slow through pigeon-holing, the measure has been under the mental view of the Government all along. That is the first and most important ground of objection taken. In dealing with this objection I have also dealt to some slight extent with the other main objection which has been taken to the Bill—the supposed exclusion of the Commissioners. Now the view of the Government of Bombay and the unanimous opinion of the Committee in 1884 was that Commissioners might be excluded from any responsibility for the technique and discipline of the police. It was also considered that District Magistrates should be so excluded. Our Criminal Procedure Code is an Act of the Government of India which forms a base of general administration with which we cannot meddle. We must take that as the central point from which we may radiate but from which we must never quite depart. The centre of the whole system of jurisdiction is the Magistrate of the district. By being able to call up cases and revise them and give orders for further enquiry, &c., the Magistrate has the whole magisterial administration of the district in his hands, and it is his duty to exercise that power in an active and efficient way. He also is, in a special degree, responsible for the peace of the district, and being so he is of course responsible for calling out the police and using them as occasion may dictate in guarding the lives and property of Her Majesty's subjects. This is his central and important position, and that being so he is naturally the point also in which police administration of his district in the determination as to what the police have to do—must more or less centre. The Magistrate occupies that position and the Commissioner is immediately over him. Supposing that the Magistrate himself interferes with the details of police distribution and the government of the police in the minutest details—he issues rules about such matters and finds fault with this or that point of police management and then a case comes before a Magistrate and he finds fault with the preliminary conduct of the case, then the police would fall back upon the orders of the Magistrate of the district. In this case the proceedings would be called for, and what would be the position of a District Magistrate when the proceedings come before him where the police had in fact been carrying out his orders? It can hardly be said that a Magistrate in that case stands in a proper position. It is not in fact consistent with the duties that he has to perform as magisterial head of the district to be engaged in looking after the minute details of police work. He cannot well be the executive source of regulation as to small details which he is as Chief Magistrate bound to criticize, perhaps to censure, in a completely impartial spirit. On the other hand, in cases of urgency he should direct where the police should be sent, and have in fact full power to say where and how and in what force they are to be used. Well, if you pass from the Magistrate of the district to the Commissioner who administratively has control of the Magistrate, but by law has none, then we may have this arise, if the Commissioner has the giving of orders in minute police arrangements, that the Magistrate of the district might find fault with the police for carrying out orders which the Commissioner gave them. So that you will have a superior brought to book by a subordinate and the Commissioner will have to remain dumb unless he sends a querulous note to Government complaining of the offence to his dignity arising from the criticism. Therefore if it is undesirable that the details should be in the hands of the Magistrate of the district, which would engage him in a responsibility which might clash with his higher duties, much more is it the case with regard to the

Commissioner. Yet, as I said, although this minute interference is undesirable, at the same time when you rise to that higher sphere in which broad views have to be taken and plans devised for the protection of Her Majesty's subjects, and as to whether the police as a body are efficient, then you come to a sphere where the Commissioner can move with advantage. It is far from the policy of Government then to deprive the Commissioners of the authority to which they are properly entitled. It will be indispensable under the provisions of the Bill, to say nothing of the rules that will be framed under it, for the Inspector General as the head of a detective and preventive force to govern the force so as to give due effect to the wishes and commands of the Commissioner within his proper sphere; but in all that comes within that inner sphere assigned to the Inspector General himself in the consideration of questions of drill, arms, &c., that is a sphere which belongs to the regulating disciplinary head, *viz.*, the Inspector General. Some have thought that the two systems could not work without clashing; but Sir James Fergusson has pointed out that in our colonies and in Ireland and Great Britain the system works well. Then why should it not work well in Bombay? We are not so imbecile and so prone to disagree, nor is the Government so weak as to allow this. It is quite strong enough to deal with any possible disputes. But this clashing is not to be apprehended where every point is so clearly defined. It would be a vain endeavour to fix every little point by legislation. As Lord Bacon says, the subtility of things exceeds the subtility of words and the guiding formula of to-day may become the embarrassment of to-morrow. Writers on legislation recognize that when a law relates to the administration of large bodies of men in relation to other public servants, it is well to leave a great deal to the discretion of the Government. That is what the Bill as it is now before the Council demands to-day. In three or four places where there was some doubt as to the functions of the Commissioner being preserved, I have made verbal changes which will prevent any ambiguity from arising. If you make hard-and-fast rules you embed yourselves as in marble or chunam. There is an intention in this Bill to give the police force a life of its own, and for a body to have life it must have a head. It is necessary to infuse into the police an *esprit de corps* which will make it more efficient for its purpose. This is most important. Before the Police Acts were passed in England the police were in some places the curse of the country. Police misconduct has not been quite unknown in India and in this Presidency. It was most desirable therefore that there should be a high *esprit de corps* in the police—that they should feel themselves elevated by their position and their functions and pride themselves on their courage, intelligence, probity and on their readiness to submit to superior command, which could only arise from high discipline and respect to their superior. We should have them mindful of their duty, and ready to maintain the honour of the body to which they belong. Those are the principles on which the Bill now stands, and I trust it will commend itself to the approval of the Council.

The Honourable Mr. LITTLE:—It appears to me that if you reduce the Commissioner's power and give him only the position of a critic you impair his authority, influence and usefulness generally. I will read extracts from various authorities dealing with the subject:

Sir Barrow Ellis, 1865:—I would by no means counsel the acceptance of an Inspector General. The appointment would be an administrative error.

Sir Bartle Frere, 1867:—In every province the general management of the police should, I think, be superintended by one officer subordinate to and taking his orders from the Commissioner. He should in fact be the Commissioner's right hand man as far as his police duties are concerned.

The Honourable Mr. Ashburner, 1881:—I agree with Sir Barrow Ellis in thinking that the appointment of an Inspector General would be an administrative error.

Mr. Erskine, 1884, was opposed to the creation of a separate appointment of Inspector General of Police.

It was evidently the opinion of the authorities quoted that the Commissioner should remain responsible for police administration generally and should be something more than a critic. One of the main objections that I see to this Bill is that the District and Village Police which have hitherto been linked together will no longer be under one control. A police district will often consist of several villages scattered over twenty-five square miles of country and at the station there may be only four to six men. But the

Village Police who aid them are much more numerous, and I believe that in any important change in the Police this village agency will form the most important factor. The Village Police are at present under the Commissioners and I presume that they will remain so, for they have to look after certain important revenue duties, and if this should be so, the bulk of the force, *viz.*, the village policemen, will remain under the Commissioners, whereas the stipendiary police will be under the Inspector General. Another objection that I see to this Bill is that there are so many changes in the *personnel* of the district officers that it is necessary to have some central controlling authority in order to prevent undue influence by the permanent subordinate establishments and to secure a continuity of policy. However much Government may try to prevent it there must be a great many changes in the district administration and I can speak from my own experience in this matter. In two districts in the Northern Division there have been no less than five changes of District Magistrate in two and a half years, giving an average of six months to each, and in the six Collectorates of the division referred to there have been more than twenty changes in the same period. It takes a District Magistrate some time to know his district and during the time he is new to it he is greatly dependent on his subordinates; and just as he begins to know something about his charge he may be moved. A Commissioner would, as a rule, remain in one division for a considerable time and would know something about all the districts in his charge and his supervision should be most useful. The Commissioners will still remain, but the question is whether with their authority and responsibility weakened they will still be able usefully and efficiently to continue their duties of inspection. One Inspector General for the whole Presidency will be absolutely unable to do anything really useful as regards detailed táluka inspection. We have had officers of ability and energy in the appointment of Inspector General now for some years and from a return of their tours it will, I think, be found that very little táluka inspection has been found practicable. I hold that this Bill is against the weight of the opinion of experienced district officers and I have seen and spoken to many on the subject. I think District Magistrates should be asked to report on the matter in detail and ample time should be given them. I prefer the Act of 1867 to the proposed Act, and this being my view, I must give my vote against the second reading.

The Honourable Mr. MOORE:—I wish to correct a misapprehension under which the Honourable Sir Raymond West is apparently labouring, as he states that the opinions of the Commissioners are generally in approval of the Bill. The three Commissioners, in a joint report submitted to Government, objected to the appointment of an Inspector General of Police altogether, and in submitting my comments on the provisions of the Bill, I expressly stated that they in no way affected the opinion which was expressed in that joint letter. I concur in what the Honourable Mr. Little has said regarding the relations of the Village and District Police. What I desire is that the Inspector-General of Police shall be subordinate to the Commissioners of Divisions. The foundation of our administration is to have one officer responsible for everything in a district, and that as the Collector and District Magistrate is the head of his district, so the Commissioner shall be head of his division; but as the Honourable Sir Raymond West promised me this morning that in framing the rules care would be taken to give the Commissioner his proper position, I withdraw my objection to the Bill.

The Honourable Ráo Bahádur RANADE:—With regard to this question of police reform, there can be no doubt that a great deal of deliberation has been exercised, but at the same time I think the way in which the succesive drafts have been prepared on different principles has not allowed district officers and Commissioners a proper opportunity of giving their opinions on the final draft now before the Council. Two of these officers, Mr. Propert and Mr. James, have expressly complained that the Government has to some extent committed itself to this final draft without allowing them sufficient time to express their opinions. The difficulty of giving an opinion on it at short notice will be readily appreciated when it is seen that even after the Select Committee had settled their report, the honourable mover has found it necessary to give notice of amendments to many of the sections. Of course these new amendments have been made on suggestions sent in by the public and by official experts; but there is a legitimate cause for complaint that the public have not had time to give sufficient consideration to this matter, and the Council will do well not to furnish by its proceedings any ground of complaint in that particular, and it should not allow it to be said that the Bill was passed independently of what the officials most concerned had to say in the matter. There are, moreover, certain

important sections in the Bill which propose to invest the District Magistrate with certain powers and responsibilities in certain cases, and it is possible that these might clash with certain special functions entrusted to Municipalities in large towns. In a matter like that, and considering that this is the final draft, I think it would be desirable that there should be no hurry. Steps should also be taken to ascertain how far the Municipalities which have been exercising these particular functions will be affected by the provisions of the Bill. In short, although the Bill has taken nearly ten years to prepare, yet the final draft had really not been properly shaped down to the first week of this year, and from that point of view I think the contention that there has been no time to consider the matter properly is correct. Strong differences of opinion may reasonably be expected in a matter of this sort and in fact the history of the Bill which the honourable mover has just given us shows that there has been a great difference of opinion on the subject. It has been shown that the original Bill was not approved by the Government of India, and the Government of Bombay had to make certain alterations and additions to meet the views of the Supreme Government. If the second reading of the Bill settles the principle and leaves only the details to be discussed hereafter I would not be in favour of the second reading being gone on with now, though I cannot support the proposal to throw out the Bill altogether. In a matter of this sort the law and practice of other Presidencies cannot carry very much weight. Bombay for one reason or another has been administered in quite a different manner to other parts of India, the District Magistrate in Bengal is not what the District Magistrate is here. The village system is unknown there, and the revenue system which obtains here is absent in Northern and Eastern India, and therefore what they do in those parts can scarcely be of much help in guiding the course of this discussion. The honourable mover has given very good reasons in support of the Bill and has shown the necessity for having a special officer to look after the police. The consideration of the desirability of the appointment of such an officer is not therefore the question before us; the question is what are to be the relations of this officer with the Commissioners and their subordinates, and what distribution of power and work will cause the least friction between him and the authority of these officers. If we take up the second reading now, and come to any definite decision at once upon the principle of the Bill it would give people reason to complain that sufficient time had not been allowed for the full consideration of the final draft of the Bill. What I would suggest therefore is that the discussion of the principle of the Bill should be postponed till such time as the Commissioners, District Magistrates and Municipal Boards have had time to consider the final draft. On that point I believe there ought to be no difference of opinion. I would therefore suggest that consideration of the Bill should be taken up after two months, or such other time as may be deemed convenient.

The Honourable Mr. YAJNIK:—I would suggest that the various papers which have been received by the honourable mover might be circulated amongst the members. The Council had before it the recorded opinions of Messrs. Propert and James, and these stated most distinctly that the time allowed for consideration of this measure was so short that it was quite impossible to do justice to so important a subject and that the writers have been able to offer only hasty suggestions. The Municipalities might be asked if any of their interests are involved. For instance, there were certain provisions under Section 37 of the Bill which related mainly to municipal matters. My other reason is that the translations of the amended Bill were published only ten days ago and I hardly think that the Municipalities and the public have had sufficient time to consider the matter; and if there is nothing lost by more time being given, I am in favour of such time being given.

The Honourable the ADVOCATE GENERAL:—I had the honour of being a member of the Select Committee; and if, as I am afraid, my attention was devoted not so much to the general as to the legal points, I yet abide by that report. Still I think there is a great deal to be said in favour of the opinions we have heard that we should not at once proceed with the measure, although I am in favour of it as it stands. If there is a doubt, as the Honourable Mr. Moore seems to imply and as is said by Mr. Little who is well acquainted with the working of police administration in the districts, existing in the minds of district officers as to the efficiency of the Bill, even although we are of opinion that ample consideration has been given to it, we can yet delay the discussion of the details until we get further opinions. I think therefore we might agree to the wishes of several honourable members of Council and not proceed with it immediately.

The Honourable Sir RAYMOND WEST:—I am quite alive to the advantage there is in the long consideration of matters of this kind, but there is also a certain disadvantage in it, and I have found as a matter of experience that if there is a very long period allowed for deliberation the matter is simply put by, and at the very last moment a number of crude opinions are sent in. The opinions of officials have been gathered on all particulars and on the principles of the Bill over and over again. In fact, this has been done so often that when we are asked for further delay I am reminded of what Léroy Beaulieu says in his book on the administration of Russia. The writer says that it might be imagined from the smallness of the legislative body that legislative work is done very rapidly, but that there is no greater mistake than that. Mr. Wallace too says the same thing in a sarcastic way. He says that when any one through jealousy or obstructiveness wants to retard any particular measure he has it referred to a Committee, when it either dies a natural death or it comes up for consideration long after those interested in it are dead or have ceased to belong to the Council. This is the way in which though the Council is small, legislation takes longer in Russia than in any other country. My opinion is that once you have got what the opinion of the people is on the principle of a Bill, it is simply a frittering away of time to go on asking them again and again for their opinions. Every improvement, every concession creates some further demand or some new opposition. Once the thrashing has been done no good arises from beating vacant chaff. The opinions of officials have been taken over and over again. Some think that the functions of the Commissioners should not be interfered with in any way; others think that an Inspector General would be useful and that the law proposed would be a distinct improvement on that which exists. I have only referred in my former speech to those who hold adverse opinions, hardly to those who are in accordance with us. Those adverse opinions were placed before the Select Committee, and were rejected. Then there is another class of rules in the Bill to which those remarks may not apply, namely those called police regulations, but those have been referred to officials and others for a year and a half, and if in a year and a half they cannot make up their minds, they would hardly do it in ten years. The remarks of the Honourable Mr. Yajnik as to Municipalities being overridden must have been made without his seeing the clause in Section 67 which expressly guards the powers of Municipalities. He will find there that the District Magistrate cannot make any of these rules apply, except subject to such orders as may have been made by the Municipality. The final draft of the Bill certainly has not been before the public for a long time, but the principle of it has been before it for years, and the police regulations which bear more immediately on the point were specially sent out for opinions fifteen or sixteen months ago, so that we are not at a loss for materials in framing this draft, and we shall get nothing by sending the matter to the same people again. When postponement begins in matters of this sort, you do not know where it will end. Perpetual dallying with a question is a sign of weakness rather than prudence; and here we have a practical need to provide for. There is nothing about the Village Police in the Bill. The subject is under investigation and when materials are before Government that matter can be taken up. The opinion that has been quoted of Sir Bartle Frere is only alternative; he says elsewhere in the same paper from which this opinion has been taken that he did not know how in any part of India there could be an efficient police force unless there was an efficient head such as an Inspector General. I do not wish to go into these details. I prefer that the second reading of the Bill be taken now and the discussion of the details gone on with afterwards. If there is an opinion in the Council that the Bill should be postponed, I have no objection. But you must remember that if it is, we shall not have our present Governor, who has become familiar with the subject; we shall have a new Governor here who will have to work up the whole subject, and if we do not have the second reading now, we shall not have it for some months to come; for you have seen that the going through this Bill is ground that is not gone over quickly. It will be then said that the matter should be sent to a Committee, and then it will have to be again published, fresh opinions taken and the whole process of circumlocution gone through again. I should recommend the Council to adopt the principle of the Bill, which was accepted by my late colleague, Mr. Richey, and which I understand was accepted by the Honourable Mr. Moore. I should therefore ask the Council to accept the second reading, after which they can go on as fully as they please into the consideration of details.

His Excellency the PRESIDENT:—The Council may rest assured that no Bill has ever been so carefully considered by the Executive Council who are responsible for its intro-

duction. We had the benefit, in the first instance, of the opinion of the Honourable Mr. Pritchard; afterwards of the Honourable Mr. Richey, whose great experience of district administration gave additional weight to his co-operation; of the opinions of the Commissioners and many district officers, who suggested several important modifications which were accepted. If the Honourable Mr. Richey were present, he would certainly not object to the second reading. The measure has further been carefully considered by a remarkably strong and representative Select Committee. The views which the Honourable Mr. Little has expressed may very fairly be held. An organization of the police in which each Commissioner is supreme in his own division, with a military expert as his assistant, is conceivable. But Sir James Fergusson, whose knowledge of the matter is entitled to the greatest respect, as it was acquired at the Home Office, thought it necessary to appoint an Inspector General of Police. As the Inspector General of Police has been introduced, the question is no longer whether such an officer should be appointed or not, but what authority he should exercise. His authority could not survive for one day if he were placed under the orders of four Commissioners What we have to regulate is a *modus vivendi* by which we can secure the most efficient services of the Inspector General in the supervision of the force, and on the other hand preserve the general control of the Commissioners with regard to the police in their own divisions. My testimony may be taken as friendly to the authority of the Revenue officers. During the past five years my object has always been to strengthen their hands in relation to special departments, such as forests, jails, excise, survey and settlement, sanitation. Specific questions or technical details belong to the officers having special knowledge, but administrative harmony is kept intact by the officers who are responsible for the general conduct of the administration. The Honourable Mr. Ranade has very properly laid stress on this feature of the Bombay administration. Such general control of special departments is much needed. But the police have no less need of a specialist at their head than other departments, to secure unity of control and the interests of the *personnel* of the force as a corps. If I had found any traces in this Bill of a wish to curtail the legitimate general authority of the Commissioners, I could not have given to the Bill the support which I give ungrudgingly, convinced as I am that the Bill will place the police on a proper footing. With regard to the District Magistrate, it is absolutely impossible to find words more distinct than those stating that the District Magistrate is supreme in his district. From the very inception of the Bill it has been the central principle. Having become so familiar with the Bill it is natural that we should look on it in quite a different light from honourable members who have not had the same opportunity of mastering its contents. It is by no means a revolutionary measure; it is simply a measure which gives a legal, natural and much-needed expansion to the existing situation. As honourable members seem to think that outside opinion has not had sufficient time to make itself heard, and as nothing can be further removed from the wishes of Government than that this Bill should not have the further benefit of the criticism of experts, I propose that we should only proceed with the second reading. The details of the Bill can be considered at a subsequent meeting of Council after honourable members have become thoroughly conversant with them and ascertained that they are in accordance with the principles I have set forth as underlying the measure.

Bill read a second time.

The Honourable Sir RAYMOND WEST's motion for the second reading of the Bill was then put to the vote and carried. The Bill was accordingly read a second time.

THE BOMBAY MUNICIPAL SERVANTS BILL.

Sir Raymond West moves the first reading of the Bill.

The Honourable Sir RAYMOND WEST, in moving the first reading of Bill No. 1 of 1890, the Bombay Municipal Servants Bill, said:—The circumstances under which the present Bill was brought forward are that an earnest appeal was made to Government owing to the strike which was threatened and took place in Bombay among a very useful and indispensable class of servants. In the ranks of these, and amongst others who exist and have to be dealt with in considerable numbers, through the exigencies of civilization, there is much power to inflict mischief and to endanger the welfare and health of the community, and so it is thought expedient that some more severe measures should be taken than was thought necessary at an earlier date. In early Europe and in this country, too, it was long considered that a man was not free absolutely in the exercise

of his calling, but that he exercised his calling not merely for his own private good, but for the good of the community at large. I believe one of the latest instances in the Courts was that of a farrier being bound to shoe a man's horse if he was required to do so. There are other familiar cases, as that of public carriers, &c. So that the principle of enforcing municipal servants' duties by a sanction is not in itself a new one. There are two opinions as to the extent to which we can go: we have the argument in favour of liberty, and we have the argument in favour of order and regularity. However, when we are obliged to take up particular matters as they arise, we must make the needs of the situation and expediency as the governing motives and the occasions of our legislation. That is what has been done in the present Bill, as in the Gambling Bill. The principle applies that in order to protect the property and lives of men, and even to protect freedom itself, you must to a certain extent interfere with freedom, and the extent to which you must go must be governed by practical considerations. If we go beyond that, we get into a field of theory where debate is endless. If a Bill of this sort is not passed, it is apprehended with apparent reason that we may sometimes live in substantial terror of diseases and death being brought among us. These are the general considerations in support of the Bill, and it has been strongly recommended to Government by the Municipal Commissioner. I therefore recommend the Bill for the first reading.

The Honourable Mr. YAJNIK:—I find from the statement of objects and reasons that the defunct bye-law No. 9, under the old Bombay Act III of 1872, upon which the present legislation is founded, provided that a person who shall resign the service of the Municipality or withdraw himself from it without leave or notice shall be liable to forfeit all arrears of pay due to him. Halalkhors, biggaries or other labourers, in addition to forfeiture of pay, shall be liable on conviction before a Magistrate to a fine not exceeding Rs. 20. Thus forfeiture of pay and a fine of Rs. 20 formed the highest penalty under the old Act. The Bill now before the Council provides for a penalty which besides forfeiture of arrears of pay amounts to imprisonment which may extend to three months or to fine or to both imprisonment and fine. I consider the penalty to be too severe. I admit that in a large city like Bombay it would not do for labourers to leave off their work whenever they liked, and I remember the times when the city has suffered very much from these people having struck under one excuse or the other; but the question that presents itself to me is how far it would be desirable to deal criminally in a matter of this kind. The Municipal Commissioner has expressed an opinion in favour of the Bill; but I think that before the first reading it would be desirable to obtain the views of the Corporation and of the Standing Committee on it. I remember having read in to-day's telegrams about a strike of twenty thousand labourers in some docks in England. Such cases have of late become very frequent in England, but I have seen no attempt being made to deal criminally with such people: therefore before the Council proceeds with the first reading it would be desirable to obtain the views of the Corporation.

The Honourable Mr. SAYANI:—I cannot agree with the observations that have fallen from the Honourable Mr. Yajnik. It was not necessary to put this Bill before the Corporation, and I fully agree with the honourable mover that the Bill should be read.

The Honourable Ráo Bahádur RANADE:—The best course to pursue in such cases is to follow closely the precedents set by the Legislature in dealing with similar matters. There is an Act of 1859 which is intended to deal criminally with differences between master and servant. That Act makes the breach of service on the part of certain servants, who have taken advances from their employers and refuse to perform stipulated services, criminal. They have either to perform the service or return the money. In the present case it is only a question of master and servant. The Municipality have great resources. Even on occasions much more trying than the one referred to by the honourable mover the Municipality has been able to get over the difficulty caused by combination without any great trouble. The Legislature having laid down their lines, every care should be taken that this principle is not transgressed simply because a combination of poor people comes down upon the Municipality as a surprise. The Municipal Commissioner has apparently appealed for help to the Government without having brought the matter to the notice of the Corporation or Standing Committee. I think no action should be taken on such a requisition till the opinion of these bodies is ascertained.

The Honourable Mr. YAJNIK:—I might explain that the only objection I have to this is that the punishment is too severe.

The Honourable Sir RAYMOND WEST:—I think the best time to send this to the Corporation would be after a first reading, because it is only a proposal—a thing of thin air—until that is done. As to the Honourable Mr. Ranade's contention that the matter should have been referred to the Corporation, the reason of the Commissioner's action is obvious. The Municipal Commissioner being in such a strait, and with all these people in a fevered state of feeling, he did not want to make an unnecessary display of his intentions, which would bring about the very result that he wished to avoid. On another point I quite accept the contention that what the Legislature has done already need not be repeated. He says that the only Act dealing with this is Act XIII of 1859, but that is not the only instance, for if he looks at the Calcutta Municipal Act he will find that the servants are punished by fine and imprisonment for refusal to do their work; so that we have a pattern before us. The same may be found in all Police Acts. What I would propose is that the honourable gentlemen should attempt to improve the Bill by becoming members of the Select Committee. At any rate I think there is a case made out for a first reading.

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

The Bill was then read a first time; and on the motion of the Honourable Sir Raymond West was referred to a Select Committee consisting of the Honourable the Advocate General, the Honourable Messrs. Beaufort, Yájnik, Wadia, and Sayani, and the honourable the mover.

His Excellency the PRESIDENT then adjourned the Council.

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

J. J. HEATON,
Secretary to the Council of His Excellency the Governor of Bombay for making Laws and Regulations.

Bombay, 19th March 1890.

BOMBAY: PRINTED AT THE GOVERNMENT CENTRAL PRESS.