

15

PROCEEDINGS

OF THE

COUNCIL OF THE GOVERNOR OF BOMBAY

ASSEMBLED FOR THE PURPOSE OF

MAKING LAWS AND REGULATIONS,

1887.

VOLUME XXV.

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1888.

feelings constitute all that is dear to us. Ever since the direct assumption of the administration of India by Her Majesty the Queen-Empress the people have learnt to feel with the sorrow of the Royal family as though it were their own. The Queen is not only the Empress of India, but she is revered and loved as the Mother, and she herself has always looked upon her Indian subjects as her loving children. This sacred affection moves the nation, and fills the country with one universal sorrow, in that it should have pleased Providence thus to send this great trial on us all. The expressions of condolence and sympathy from all parts of the Empire will not have power to remove the heavy weight of affliction, but they will help us all to submit to it with resignation.

The Council then adjourned till Friday the 22nd, at 3-30 p.m.

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

C. H. A. HILL,

Secretary to the Council of the Governor of Bombay
for making Laws and Regulations only.

Bombay, 19th January 1892.

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

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

The Council met at Bombay on Saturday the 12th February, 1887.

PRESENT:

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

The Honourable M. MELVILL, C.S.I.

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

The Honourable the Acting ADVOCATE-GENERAL.

The Honourable KASHINATH TRIMBAK TELANG, C.I.E.

The Honourable DADABHAI NAVROJI.

The Honourable Ráo Bahádur MAHADEV WASUDEV BARVE, C.I.E.

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. 2076, dated 22nd October 1886, returning, with the assent of His Excellency the Viceroy and Governor-General signified thereon, the authentic copy of the Bill to amend the Bombay Land Revenue Code, 1879.

Letter from the Officiating Secretary to the Government of India, Legislative Department, No. 129, dated 14th January 1887, returning, with the assent of His Excellency the Viceroy and Governor-General signified thereon, the authentic copy of the Bill to amend Bombay Act III. of 1874.

Letter from the Officiating Secretary to the Government of India, Legislative Department, No. 230, dated 24th January 1887, returning, with the assent of His Excellency the Viceroy and Governor-General signified thereon, the authentic copy of the Bill to vest the Port of Karáchi in a Trust.

Report of the Select Committee appointed to consider and report on the Bill to provide for the protection of pilgrims at the Port of Bombay.

Report of the Select Committee appointed to consider and report on the Bill to amend the Law for the periodical inspection and the management by competent engineers of Boilers and Prime Movers in the Presidency of Bombay.

The Honourable Mr. MELVILL moved the second reading of Bill No. 2 of 1886, entitled "A Bill to provide for the protection of pilgrims at the Ports of Bombay and Karáchi." He said:—There has been some delay in presenting the report of the Select Committee on this Bill to the Council, because it was thought necessary first to obtain the sanction of the Government of India to certain penal clauses contained in some new sections which have been introduced into the Bill by the Select Committee. As the Council is aware, there is a rule that no Bill containing penal clauses shall be brought before the Council, until those clauses have received the sanction of the Government of India. That rule does not apply in express terms to penal clauses introduced into a Bill by a Select Committee, but it appeared to the Committee that in principle it was the same thing, and that it was as necessary to obtain the sanction of the Government of India to the penal clauses introduced by the Select Committee as to those contained in the original Bill. The sanction of the Government of India has now been obtained, and the Bill is brought before the Council for the second reading. It has been published in due form for some time, and no objections have been received to it from any quarter. I presume, therefore, that there will be no objection to the second reading of the Bill, and I move accordingly that it be read a second time.

Bill read a second time.

The Bill was read a second time.

Bill considered in detail.

On the Bill being considered in detail, "1887" was on the motion of the Hon'ble Mr. Melvill substituted for "1886" in Section 1.

The Honourable Mr. MELVILL said :—There is one other amendment of which notice has been given to the Council, *viz.* that in Section 4 the words "being Mahomedans and not exceeding in number such limit as shall from time to time be prescribed by Government" occurring in lines 3 to 7, be omitted; and in line 1 the words "subject to the orders of the Governor in Council" be inserted before the word "The." The object of this amendment is to remove from the section the prohibition against the licensing of any person who is not a Mahomedan to be a pilgrim-broker. The reason for the amendment is this. A few days ago we received a telegram from the Government of India as follows :—"Section 2, sub-section 2, read in connection with Sections 3 and 4 of Bill to provide for protection of pilgrims at ports of Bombay and Karáchi will, as they stand, exclude Mr. Cook from the business he proposes to carry on for benefit of pilgrims with the countenance of Government of India, because, as he is not a Mahomedan, he will not be capable of being licensed as a pilgrim-broker. This is undesirable, as arrangements with him are far advanced. The Government of India suggest that words 'being Mahomedans' be struck out of Section 4, and powers be taken by Bombay Government to restrict by executive order issue of licences to such classes as it pleases. This could be effected by insertion of some such words as 'subject to the orders of the Governor in Council' at beginning of Section 4. The Governor General in Council will be glad to learn whether His Excellency in Council sees any objection to the alteration proposed." In reply to that we have telegraphed: "This Government has no objection to the proposed amendment, and the Bill will be amended accordingly." The object of the amendment therefore is to enable Government to appoint other persons than Mahomedans to be brokers. The Council will remember that, when I introduced the Bill, I informed them that Messrs. Cook & Son, the well-known firm, had undertaken to make arrangements with the view of improving the present system of convey-

ing pilgrims to and from Jeddha, and the essence of this arrangement was to be that tickets to Jeddha and back were to be issued on behalf of Messrs. Cook & Son by Government officers in the provinces of India from which pilgrims come, and that Messrs. Cook & Son should arrange with the railway companies in India for the conveyance of the pilgrims to Bombay. One of the members of the firm, who has been travelling during this cold weather in the upper provinces of India, informs me that he has been most favourably received by the Mahomedan communities in the different cities he has visited. His arrangements however are not yet complete. I am not therefore in a position at present to inform the Council whether Messrs. Cook & Son will perform those exact duties which will bring them within the definition of pilgrim-brokers under Section 2. It is however probable that such will be the case. In contemplation of that probability, it is necessary to remove from the Bill any words which would prevent the Government from appointing Messrs. Cook & Son to be pilgrim-brokers, if it is found desirable to do so. That is the only amendment which I have now to propose in the Bill, and, as no objection has been taken to it, I think it may be read a third time, and passed.

The amendments were agreed to.

Bill read a third time and passed.

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

The Honourable Mr. RICHEY, in moving the first reading of Bill No. 7 of 1886, entitled "a Bill to consolidate and amend the Law relating to Toda Girás Allowances," said:—The sum of about Rs. 1,46,000 is paid every year from the treasuries of Gujarát towards toda girás allowances. The holders of these allowances are persons of the Rajput and Koli class, and their origin I may quote from the earliest record we have on the subject. They were given for protection or for exemption from disturbance, and the Collector of Ahmedabad, who reported on them on the 19th January, 1821, describes them as follows:—"The denomination Girássia is generally applicable only to Rajputs, but in reference to the article under consideration I may observe that in this province of the turbulent every one who possessed the power to annoy has and enjoys his girás either in land or money, and this is proportionate to the awe which he or his ancestors may have been able to inspire or to the injuries which he or they may actually have committed." The origin of Toda Girássias dates from the time of anarchy, when the Mussulman power was weakened in Gujarát, and the petty chieftains and leaders by making depredations, by incendiarism in the villages, and by terrorising the people exacted these dues. In other cases they were paid by the villagers to Chiefs a little more considerate to secure them from such depredations. In all cases they were in the nature of black-mail. If a village was depopulated the toda girás was supposed to cease; therefore it was to the interest of the recipient to maintain the village communities in comparative prosperity. In that way it acted as a purchase of protection as well as purchase of exemption. In succeeding to the Government of Gujarát we undertook a great many obligations to secure the peace of the country, including guaranteeing the Gáikwár tribute from his tributary States, and guaranteeing his Girássias their rights against him. There has been an officer employed for the last nine years in settling claims that are still outstanding and unsettled, a legacy from those times. To protect our own villagers we undertook from our own Treasury to pay the Girássias who had formerly levied their dues direct, and in case of non-payment, harried the villages or burned the

crops or carried off hostages. Very soon after we had undertaken to make these payments regularly the creditors of these classes, who are usually improvident, found these allowances to be convenient assets for attachment in execution of decrees in the usual process of the Civil Courts, and as early as 1830 the question arose whether Government should do anything to interfere and protect these allowances from alienation through the decrees of the Court. The case best known in connection with it and the one which has since created a very large record on the subject was the case of the man Sambhulal, who purchased a toda girás right at a sale under the decree of the Surat Court. That case went through the Courts of India and after decisions on both sides the highest Court of the time in India found these allowances were inalienable. Sambhulal then appealed to the Privy Council. The suit was instituted in 1841, and in the course of the proceedings which he had instituted against Government to have his right to the allowances recognised, Government sent instructions, which I will read, to the officers in the defence of the suit. They said:—

“It would be difficult, if not impossible, to define the origin of the Girássia and of his rights and dues. But this is certain, that on our coming into possession of any district where we have found Girássias, we have respected their rights, and have taken great pains to ascertain their dues on villages, and, in order to prevent disputes and violence have paid these dues direct from our treasuries. These dues have always been considered hereditary, but it may be doubted whether there is any real authority for considering these Girássias as hereditary officers, or their dues as emoluments of office. [Government had to rule on that because some of the Government officers dwelt strongly on the point that some Girássias were called upon for service, and that these toda girás allowances were in the nature of payment for services.] Their position varied according to the Girássia's power. In some cases he was a chief, holding lands and rights in various villages; in others he was little better than a recognized freebooter, but with established dues on his particular village. In all cases where the dues were unpaid, we know that under the native rule the Girássia resorted to violence against the recousant village. These dues may, in our language, be considered black-mail or the price of forbearance. But, however considered, they were a property recognized by us without considering their origin, but merely the person or property to whom the dues belong, and are to be paid. It is believed that Girássia dues paid from the treasury have been frequently paid to their creditors, and that there have been instances of their sale and mortgage, chiefly in the Surat District. Our policy, however, should be to prevent these transfers, and to make this Girássia property inalienable, as the holding of a particular class, which we have recognised as an exclusive property for the maintenance of these persons for the great end of preserving the peace of the country. The defence, therefore, should be that the Girássia dues paid from the treasury are fixed in the person of the Girássias; that they were so in their origin, and have since continued so; and that the whole nature of the tenure and the circumstances of the country require that the Government should maintain them to be inalienable.”

These were the opinions of the Government of Bombay in January, 1844; and after obtaining the decision which confirmed their views, the matter rested until 1860, when the Privy Council found that toda girás allowances must be considered an ordinary recognised class of property liable to the processes of the Court. The Court announced that they constituted “a recognised species of property capable of alienation and seizure and

sale under an execution." That was the decision in 1860, in view of which the Government took under consideration what course they were to adopt in order to secure their object, which was that the recipients of these allowances should be continued in receipt of their allowance, in order to assist in their maintenance and to act as security for their good conduct. In 1862 the Government resolved that they would continue to pay these allowances from the treasury ; perhaps I had better read the passage :—" Faith should now be kept with their descendants, although they are no longer dangerous to the State. This the Governor in Council is prepared in the strictest sense to do, but he cannot allow that a tax at first so irregularly imposed on the community should now be extorted from the public purse by others than those in whose favour the original arrangements were made, or that Government should be compelled to continue its good offices between the Girássias and the village communities in a manner to which it never pledged itself. It should therefore be publicly declared in every táluka, as the Revenue Survey settlement is introduced, that the new rates of assessment do not include any such collection, and that Government will in future not aid or take part in the collection of girás." The last portion of that decision refers to the alternative course open to Government. At any moment they might have refused to pay these allowances any longer and allowed the Girássias to assert their rights if they were prepared to do so by legal process against the village community who had been originally liable to them. But Government go on to say :—

" In thus placing the Girássias in the same position with respect to the village communities which they originally held, the Governor in Council cannot allow them to resort to other than legal means to enforce their claims, and if any village communities decline to accede to the Girássias' demands, the latter must resort to the Civil Courts. At the same time the Governor in Council is not unwilling to make some sacrifice of revenue in order to relieve the Girássias from the necessity of resorting to law, and he is prepared, whenever the Girássia may be willing to receive from Government his present income, instead of collecting it direct from the villagers, to continue that income to him under such reasonable rules and restrictions as it may seem fit to Government to impose." So that by the departure made in 1862 a contract was to be made with the Girássias in order that they might not be forced back by the refusal of their dues by the treasury to their previous lawlessness in demanding their dues on the village ; and in consideration of this undertaking of Government to continue their dues, they were put under restrictions, and in 1863 a form of agreement with the Girássias, who were willing to accept these terms, was issued. Very large numbers—about twelve hundred I believe, or at any rate more than a thousand—signed this agreement. Among the conditions in these agreements are the clauses :—" We will not alienate our girás out of our families by sale, mortgage", &c., and " we will, whenever called for, perform police or any other service which it may have been or may be customary to exact from Girássias, in return for the payment of girás." So that in 1862 Government supposed that the Girássias who signed these agreements and accepted sanads for their allowances were precluded from alienating them or pledging their allowances to their creditors. But fresh cases arose in which the Courts gave execution against girás allowances, and Government were advised in 1875 that this agreement was not such a legal instrument as would enable Government to make use of it to protect girás allowances from alienation. In the meantime the Pensions' Act had been passed, and it was thought that under the

provisions of that Act—XXIII. of 1871—these allowances would not be saleable. But the question was raised in one of the subordinate Courts and referred to the High Court, who found that the girás was liable to attachment for sale by the Court. Although under the Pensions' Act, the Privy Council had found that no suit could lie against the Government, still, as regards the holder, he was, according to the decision of the Court here, amenable to have his girás allowance subjected to attachment and sale. Government were accordingly brought to the position they had been in on the decision of the Privy Council in 1860 that toda girás allowances were open to the process of the Civil Court. They have since had other advice on the subject of legislation, and after considerable reference on the question to the Government of India we have now come to the conclusion that this short Bill, which is before the Council, will provide all that is necessary to meet the original objects. These objects are to define the extent to which the toda girás allowances are heritable, and to prevent future alienation. Now the limitation of succession to the lineal male heirs is no new provision. It has been a recognised condition of these allowances for many years, and all the Girássias accept it. We have had no objections or remonstrances made against the Bill, and it is in fact really giving legal standing to the actual state of the case; with regard to the succession to these allowances, we have further provided discretion to allow continuance of the toda girás in the line of a brother. The other object is to prevent alienation. There is a very simple provision made that no mortgage, charge or alienation shall be valid except those which have already taken place. The intention from the first has been that the allowances should be continued to those persons who belonged to the turbulent classes in order that the peace of the country may be maintained, and that they may not, owing to their losing these allowances, be provoked again to have recourse to breaches of the peace. A few allowances are paid directly by Inámdárs, and we treat them in the same way, as it is a matter of public policy for protection of the subjects that there should be no exception made. I move the first reading of the Bill.

Bill read a first time.

The Bill was read a first time.

His Excellency the PRESIDENT :—Do you wish to refer the Bill to a Select Committee?

The Honourable Mr. RICHEY :—No, Your Excellency. I think that the principle of the Bill having been accepted, a review on the second reading will be sufficient. There have been no objections or petitions on the subject.

The Honourable Mr. MELVILL, in moving the first reading of Bill No. I. of 1887 entitled

“A Bill to further amend Bombay Act II. of 1874,” said :—
 Mr. Melvill moves the first reading of Bill No. I. of 1887. This Bill calls for very few remarks. Bombay Act II. of 1874 is an Act for the Regulation of Jails in the City and Presidency of Bombay and the enforcement of discipline therein. Section 17 of the Act divides criminal jails into three kinds—first, subordinate; second, district; and third, central. Section 19 of the Act is as follows :—“District jails shall be established at the seats of the Courts of Sessions Judges.” Thus the section makes it obligatory to establish district jails in every place where there is a Sessions Court. Section 22 says—“All convicts sentenced by the Courts of Session shall be imprisoned in the district jail.” Now that small stations like Sátára have been brought by rail within easy communication with Poona, where there is a central jail, it is more convenient to do away with the district jails and their extensive establishments at these small stations, and to transfer all convicts as soon as they are sentenced by the Sessions Court to the central jail at Poona. The

present Bill, therefore, proposes to amend Section 19 of the Act by making it optional, and not compulsory, to establish district jails at the stations at which criminal sessions are ordinarily held by Sessions Judges. We have introduced a new Section 22a to make provision for dealing with convicts in a district in which there is no district jail, there being of course no provision for such a contingency in Act II. of 1874, which provides that there shall be district jails in every district. Lastly, the opportunity has been taken to amend Section 41 of the Act so as to bring it into harmony with Section 400 of the Criminal Procedure Code. The section of the Code requires that, when a sentence has been fully executed, the warrant shall be returned to the Court from which it issued, while Section 41 of Bombay Act II. of 1874 requires the warrant to be sent to the officer from whom it was received. Now the officer from whom it was received may not always be the Court by which it was issued. For example, if a prisoner is sentenced by the Sessions Court at Thána, and sent to the jail there, and afterwards forwarded to the Central jail at Poona, then, when his sentence has expired, the warrant according to the Criminal Procedure Code should be returned to the Sessions Court, while according to the Bombay Act it would be returned to the Superintendent of the jail at Thána. The matter is not one of much importance, but there is a conflict to this extent between the two Acts. It is of course necessary that the Act of the Imperial Legislature, which is the later Act, should govern the procedure. Section 41 of Act II. 1874 has been altered accordingly by striking out the last paragraph. I move that the Bill be read a first time.

Bill read a first time.

The Bill was read a first time.

The Honourable Mr. MELVILL:—The Bill has been duly published. No objections have been made to it; in fact it is a Bill to which no objections can be made. As we are anxious to carry out our economical measures as quickly as possible, I propose that the standing orders be suspended, and that the Bill be read a second and third time at once.

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

The standing orders were accordingly suspended, and the Bill was read a second and a third time and passed.

The Honourable Mr. MELVILL:—I must ask, my Lord, for an extension by one month of the time granted for the presentation of the report by the Select Committee on the Aden Port Trust Bill. Two months were originally allowed for the report; but there has been some delay in consequence of the necessity of obtaining the opinion of the authorities at Aden. The report is now being drafted, and will very soon be presented.

The extension was granted.

His Excellency the President then adjourned the Council.

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

A. SHEWAN,

Acting Secretary to the Council of the Governor
of Bombay for making Laws and Regulations.

Bombay, 12th February 1887.

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 16th July, 1887.

PRESENT :

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

The Honourable Sir M. MELVILL, K.C.I.E., C.S.I.

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

The Honourable the ADVOCATE GENERAL.

The Honourable KÁSHINÁTH TRIMBAK TELANG, C.I.E.

The Honourable F. FORBES ADAM.

The Honourable J. R. NAYLOR.

The Honourable Khán Bahádur KÁZI SHÁHÁBUDIN, C.I.E.

The Honourable Ráo Bahádur MÁHÁDEV WASUDEV BARVE, C.I.E.

Papers presented to the Council.

The following papers were presented to the Council :—

- (1) Letter from the Secretary to the Government of India, Legislative Department, No. 748, dated 16th March, 1887, returning, with the assent of His Excellency the Viceroy and Governor General signified thereon, the authentic copy of the Bill to further amend Bombay Act II of 1874.
- (2) Letter from the Secretary to the Government of India, Legislative Department, No. 953, dated 16th May, 1887, returning, with the assent of His Excellency the Viceroy and Governor General signified thereon, the authentic copy of the Bill to provide for the protection of Pilgrims at the Ports of Bombay and Karáchi.
- (3) Report of the Select Committee appointed to consider and report on the Bill to vest the Port of Aden in a Trust.
- (4) Second Report of the Select Committee appointed to consider and report on the Bill to amend the Bombay Hereditary Offices Act so far as it relates to Matádárs.
- (5) Memorandum from Mr. Pándurang Rámchandra Desai, Pleader, District Court, Thána, regarding the Bill to amend Bombay Act III of 1866.

The Honourable Mr. RICHEY in moving the second reading of Bill No. 3 of 1884, a Bill to amend the Bombay Hereditary Offices Act so far as it relates to Matádárs, said :—Your Excellency,—In moving the first reading of this Bill Mr. Peile explained that the law of 1874 had been found to be unsuited to the case of the watandárs of Gujarát. He explained their position, which was described by Mountstuart Elphinstone to have originated in the taking of the Government revenue rights in a village not by single patels, but by the members of a patel family in shares, with joint responsibility for the revenue. The head of each branch holding a share is a matádár, and the matádárs jointly manage the village affairs. Thus each matádár has an individual right of office as member of a body of joint-officiators, and it is merely for administrative convenience that one of the body has been selected under British rule for the office of police or revenue patel. In the Deccan the patelki watan is rather an individual office, which

Mr. Richey moves the second reading of Bill No. 3 of 1884.

Bombay Act III of 1874 seeks to bring back as far as possible into the line of the original sole officiator. It is true that there are in the Deccan watans distinct takshims, which are treated in some respects as watans, and the matás are not very different from takshims; but the matás cannot be treated as takshims, because of the difficulty about actual service. The Bill before us is decisive and simple, and provides an alternative procedure to the existing procedure, by which those who are members of a matádár group shall all be eligible for appointment. Instead of being as the present law is, rather seeking exclusion, we want to make it inclusive, and the main essence of our Bill is directed to that end. It would perhaps help the Council to understand how we propose to meet claims of these matádárs, if I state briefly the process by which we have arrived at the position in the Bill on that point. First of all we find the Gujarát watans are made up of groups of families. The question before us is how to provide such machinery as will allow each family to have its right of succession. Under the watan law all watandárs are eligible for succession provided they are elected by the other "sharers" as they are called. All are to have their right of succession recognised; we propose that the several families shall enjoy that right in rotation on the occurrence of a vacancy; we provide for the election of an officiator, at which election all the matádárs of the village shall have the right to vote, and all members of the matádár family whose turn it is to enjoy the right of office shall be eligible for election. The first restriction comes in here—"Every family whose turn it is." Then we have to find out who are the persons who are entitled to nominate. In order to do this we take the names of all members of the families who have been registered as matádárs, as proper persons to be vested with the right to elect an officiator, and in order to provide a simple method by which, in case of an election failing, the Collector shall fill up the vacancy, we vest the rights of each matádár family in a representative. The election failing, the right of office will fall to the representative matádár of that family. As to the various points on which the Honourable Mr. Telang has to move amendments, I need only say these are matters which can very well be dealt with after the Bill is read a second time, as the principle of the sections upon which they are to be introduced is already included in previous legislation.

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

The Honourable Mr. RICHEY:—To prevent misunderstanding and possible difficulty I move the following amendment:—"In section 3, clause (1), for 'definition of watandár'; substitute 'definitions of wataudár and representative watandár.'"

The motion was agreed to.

The Honourable Mr. TELANG moved the following amendment:—In Section 5, add "(h) the nature of the duties customarily discharged by matádárs." He said:—My Lord, As there is a penalty attached to any failure in the proper discharge of the duties of the office, there can be no objection to specify the duties, so that there may be no misunderstanding and every matádár may know what he is bound to do. I do not think there will be any practical objection to this course, and I move this amendment accordingly.

The Honourable Mr. RICHEY:—The objection will be the great difficulty in so doing, the duties are so various. Some of them are very trivial and some important; but they are so varied and so indefinite that it would be impossible to lay down any rigid rules. The duty of a revenue patel has never to my knowledge been properly defined, and the duties of the matádárs may be regarded much as the patel's. I find only one order on the subject, quoted at page 120 of Nairne's Revenue Hand-book, which says—

“It is a mistake to suppose that the only duty of a matádár is to sign village papers. He has to assist in the examination of boundary marks and field inspection of all sorts, and to satisfy himself of the correctness of all the field statements, &c., which he signs.” By the present law all watandárs are legally bound to render customary service, but no sanction is attached to this obligation; the bill provides a sanction in a penalty of a fine which may amount to $\frac{1}{4}$ of the annual emoluments. This in the case of a non-officiator would usually be a trivial penalty. Moreover, I think that the matádárs would be very jealous if we endeavoured to restrict their duties in any way. I think they would resent any statutory limitation of the service which gives them title to their emoluments. In respect to this I think the law as it stands is all that is required. The difficulties and objections are so very great, I could not accept the responsibility of defining their duties. In any case of dispute as to duty the matter must come before the Governor in Council for decision under section 83 of the Watan Act.

The amendment was withdrawn.

The Honourable Mr. TELANG next moved as an amendment to omit the proviso to section 6. He said—I have a very strong objection to legislation of this description, of which we have had much in recent days. The question involved being one of right, it ought, I maintain, to be left for determination to the established tribunals of the land, and not be handed over to the Governor in Council.

The Honourable Mr. RICHEY:—I understand Mr. Telang to assume that where there is more than one matádár family in a village, there must be an *onus probandi* laid upon any family claiming exclusive right, and the presumption is that all families have equal right and eligibility for office. I will read the report of the Committee which drafted the first Bill upon the point—

“There are exceptional cases in which we think that the right of office should vest immediately in the representative matádár, and that the other registered matádárs, if any, should have no right of electing an officiator. We refer to the cases in which, although there may be two or more distinct *matás* in a village, the right of office is exclusively associated with one only of those *matás*. It is provided in section 13 of the Bill, that in every village in which this is the case the sole representative matádár shall alone be entitled to office. We have given very careful consideration to the question whether these preferential claims to the patel's office should receive recognition, and if so what should be the means of determining where they should be recognised and where not. There are, no doubt, villages in each district in which the duties of patel have always been performed, with absolute or almost unbroken continuity, by members of one *matá* family only, notwithstanding that there are other *matá* families whose members discharge the minor duties of ordinary *matádárs*. But the fact of the office being confined to the one family is, especially since the commencement of the British rule, in many cases the result of accident merely. While, therefore, we feel bound to recommend that the exclusive rights of one out of several families should be recognised when they have been fairly established, mere continuity does not, in our opinion, constitute sufficient proof of such rights. They should, we consider, have such further corroboration as would be derived from (a) official recognition previous to the year 1875, when the Hereditary Offices Act came into force; or (b) the recorded admissions of other matádárs; or (c) the presumptions arising from very early records; or (d) in case of newer settlements, direct descent from the founder of the village. We are at the same time much impressed with the inexpediency of any course which would involve lengthy

investigations, or give occasion to the parties for the expenditure of time and money on litigation. The method which we propose is (sec. 6, para. 2) that it should rest with the Governor in Council to declare the existence of an exclusive right, and that he shall make the declaration (which shall be final) whenever upon consideration of past history of the tenure of the office in any village, or of the circumstances, so far as known, under which the village was founded, he deems it equitable to do so. The advantages which we think will be gained by this mode of settlement are :—(1) That in disputed cases Government will have the aid of the opinions, after the necessary inquiry, of the local officials, and of the Collector, and of the Commissioner; (2) that the Government will determine each case as equity, and not any set of rigid rules, may seem to require; (3) that there will be no further room for litigation or appeal when once a decision has been arrived at.”

These are the grounds upon which it is thought desirable that the Governor in Council should have power to make an exception to the rule. Really if you withdraw this clause you will throw upon the wrong man the duty of proving his right.

The Honourable Mr. TELANG :—I am not satisfied with the explanation. The course proposed must prove unsatisfactory.

The Council divided :—

Ayes.

The Honourable Káshináth Trimbak
Telang.
The Honourable Khán Bahádur Kázi
Sháhábudin.

Noes.

The Honourable Sir M. Melvill.
The Honourable J. B. Richey.
The Honourable the Advocate-General.
The Honourable F. Forbes Adam.
The Honourable J. R. Naylor.
The Honourable Ráo Bahádur Máhádev
Wásudev Barve.

So the amendment was lost.

The Honourable Mr. TELANG moved that the following words be substituted for section 8, clause (3)—

“ If there are two or more Matádárs of any such Matádár family, the Collector shall, as soon as may be after the passing of this Act, call upon all such Matádárs to send in to him in writing the name of the member of their family whom they wish to be entered in the said Register as Representative Matádár of the Matádár family. The Collector shall then enter in the said Register as Representative Matádár the name of the Matádár who obtains the largest number of votes, and in case of an equality of votes between two or more Matádárs, the Collector shall decide between them by drawing lots in such manner as he shall determine.”

He said :—The proposal which I make is to enable members of a Matádár family to nominate their own representatives, instead of giving the Collector the power of making the nomination. In moving this amendment I would ask that the last clause be allowed to run in the form I have now read instead of that which I had originally proposed. I am quite content that in case of equality of votes the decision should devolve upon the Collector, in order that the Collector may then be able to apply the educational test proposed in section 28, clause (c).

The Honourable Mr. RICHEY :—The procedure proposed by the Honourable Mr. Telang was that provided in the first draft of the bill and it was rejected by the Select Committee for the following reasons :—

“In Section 8 we have, with the concurrence of two of the members of the Committee which drafted the Bill, whom we had the advantage of consulting, struck out the part of clauses 3 and 4 which provides for the appointment of a representative matádár by the vote of a majority when there are two or more matádárs in a family, and thus left the determination of the representative matádár to the Collector, who will enter the name of the head of the family as its representative, on the principle followed in the Bombay Hereditary Offices Act. It appears to us that, the determination of the representative being permanent for all future time, injustice might be done if the appointment were made by a majority of matádárs able to be present on one particular occasion, and that an opening would be afforded thereby for unfair dealings.”

Mr. Telang proposes to get rid of the difficulty of getting all the voters together by allowing written votes. This would be open to considerable abuse. The votes would have to be taken in the presence of some officer that they might be verified; if not, there would be great risk of forgery, and of subsequent repudiation even if genuine, and there would be no meeting these objections. There are rarely more than three nominees of one family, and it would be scarcely worth while going through the form of election, yet the danger of the wrong one getting the office and its becoming hereditary in the wrong family is serious, so that the objections are both as to principle and practical difficulties.

The Honourable Sir M. MELVILL :—A representative matádár is the head of a family. Suppose the senior heir for the time being were a child of three years of age. His chance of election would be imperilled. Surely in such a case some judicial authority should be exercised.

The Honourable Khán Bahádur KÁZI SHÁHÁBUDIN :—I think it is admitted that the hereditary heads of families are the representatives of those families. This is the custom in India, but in fifty out of one hundred cases there would be no chance of the head of a family being elected. The proposed amendment would lead to jealousies, intrigues and interminable quarrels among matádárs, as the social position of the officiator is vastly superior. There are already many intrigues and many quarrels among the heads of these families and these would be increased if the plan proposed were adopted. Hence I am against the amendment.

The Council divided :—

Aye.

The Honourable Káshináth Trimbak
Telang.

Noes.

The Honourable Sir M. Melvill.
The Honourable J. B. Richey.
The Honourable the Advocate-General.
The Honourable F. Forbes Adam.
The Honourable Khán Bahádur Kázi
Sháhábudin.
The Honourable Ráo Bahádur Máhádev
Wásudev Barve.
The Honourable J. R. Naylor.

So the amendment was lost.

The Honourable Mr. TELANG next moved that the words “if in the opinion of the Collector there are good grounds for such request” be omitted in section 19, paragraph

2, and said:—I do not see why a representative matádár should not be allowed to officiate as soon as he likes without consulting the Collector or any one else.

The Honourable Mr. RICHEY:—Suppose you take the two amendments together, section 19, paragraph 2, and the next one (section 24, clause (a) of proviso—substitute “shall” for “may”). It is important to have a man who holds the office of patel a man of some experience as officiator; or there would be a risk of constant change of office. Indeed, it would be unlimited. As to section 19, clause (2); that is already the law. It was included in the Act passed last year, so that it is merely an extract put into this Bill for convenience sake, so as only to have one Act. As regards section 24, clause (a), I see less objection to this, because it does not involve that risk of the frequent change of officiators, but there is always an advantage of leaving it to the discretion of the Collector, because he would be sure to put in the representative if he was a good man. Otherwise a lad of eighteen who had hitherto been disqualified by minority might claim office. He could hardly learn his duties in the short time which would be left to him. I think we may trust the Collector always to allow the deputy to be removed, when good cause exists, by the representative who appointed him.

The Honourable Khán Bahádur KÁZI SHÁHÁBUDIN:—It would be hard upon a representative matádár, who has appointed a deputy, not to be able to remove him if he wished to perform the work himself, or appoint, say, his own son to the post. There are Collectors and Collectors, and it may happen that the representative matádár may be frustrated by subordinate officers.

The Honourable the ADVOCATE-GENERAL:—As we have already affirmed the principle of the Bill in carrying its second reading, and as the scheme of the Bill is to invest the Collector with the power of dealing with matádárs, I am against these amendments, which, if carried, would seriously abridge the Collector's power.

The Honourable Mr. TELANG:—I quite admit that the principle has been affirmed, but as the Honourable Mr. Richey said in moving the second reading that my proposals might be considered subsequently, I did not bring them forward at that stage. It is therefore quite open to the Council to deal with them now. On the merits I adhere to the view I have already expressed.

The Council divided:—

Ayes.

The Honourable Káshináth Trimbak
Telang.
The Honourable F. Forbes Adam.
The Honourable Khán Bahádur Kázi
Sháhábudin.
The Honourable Ráo Bahádur Máhá-
dev Wásudev Barve.

Noes:

His Excellency the President.
The Honourable Sir M. Melvill.
The Honourable J. B. Richey.
The Honourable the Advocate-
General.
The Honorable J. R. Naylor.

So the amendment was lost.

The Honourable Mr. TELANG then moved an amendment to omit clause (c) of section 28, and said:—I am rather sorry to have to move this amendment, for it is not one of a sort with which I can ordinarily sympathise. But it seems to me that when a person is pronounced disqualified in consequence of not having passed such an educational test as Government may think fit to lay down, a disqualification is set up about which we

should be very chary, interfering as it does with hereditary right. When I was serving on the Education Commission some five years ago, I had an idea that something of this kind might be done. My colleague, Mr. Lee-Warner, and I had a conversation about it, and we both were of opinion that something in this direction might be attempted, provided it did not interfere with hereditary rights. So it seems to me that although an educational test should be imposed it is premature to introduce it at the present stage.

The Honourable Mr. RICHEY :—This was made part of the law for watandárs last year. Such a test would be an easy one to most matádárs. Their sons at the present time are at school and could satisfy the test, such a test as Government may demand. In all villages in Gujarát where the test would be likely to be enforced there are schools, and I think it would be a great mistake to make Gujarát an exception to the general law. There are duties likely to be required of patels which demand a higher standard of intelligence to enable them to be carried out, and I think all patels should be able to satisfy a reasonable test.

The Honourable the ADVOCATE GENERAL :—As to Mr. Telang's argument concerning hereditary rights, it must be remembered that even these must be subordinated to the public good. This clause does not bind Government to enforce the educational test at any particular time. It is subject to such limits and reservations as may be thought proper. The retention of the clause will not prejudice the matádárs. It will be a wholesome stimulus to them to educate themselves.

The Honourable Sir M. MELVILL :—The extension of village sanitation is one of the most important questions of the day. It would be impossible to enforce regulations on the subject without some officer in the village empowered to punish offenders. It would be very hard on a poor man to carry him off to a distant Magistrate. It should be open to Government to give the patel power to punish offenders, but that could not be done where the patel is uneducated. He would not be fit to be trusted with such powers. I don't think there should be any difficulty in enforcing such a test. We have already sanctioned it in other districts, and should make no exception in the case of Gujarát.

His Excellency the PRESIDENT :—It seems to me that where a man is justly jealous of his hereditary rights as patel or matádár, an educational test will do more to preserve those hereditary rights than anything else. For those rights would be threatened in the long run by want of due capacity to exercise them properly, and by intellectual inferiority.

The Honourable Mr. TELANG :—I should have no objection to the educational test being enforced if sufficiently long notice of the proposed amendment were given, say ten years. What I wish to guard against is the chance of these people being disqualified by legislation without having had sufficient notice that something more will be insisted on in future than has been in the past. I shall be quite content to withdraw the amendment if I am told that no immediate enforcement of this clause will be attempted. I do not wish to limit Government to this or that period. I shall be content if notice of some reasonable period of years is given. But not to give such notice would interfere unfairly with what we are dealing with here as a valuable right.

His Excellency the PRESIDENT :—I am afraid the undertaking cannot be given, for there are certain measures which cannot be delayed, measures which are very urgent, such as that relating to sanitation. To have them properly administered you must have local administrators capable of carrying out the provisions of these Acts. The public cannot be neglected because hereditary officers have not received sufficient education.

The Honourable Mr. TELANG :—The public at large should be made to pay for special officers for these purposes. I am one individual who would be taxed for such a purpose, and I am quite prepared to submit to this rather than that hereditary rights should be interfered with and the pledges given by the State prejudiced in any way. The immediate enforcement of such a rule as is proposed would be regarded by the matá-dárs as interference with such pledges.

The Honourable Khán Bahádur KA'ZI SHA'HA'BUDIN :—If this clause were to be put into force within the next four or five years, it would sweep away more than fifty per cent. of most useful servants who, however, are not educated. If Government will give them previous notice of say 10 or 15 years, then I would support the clause. I know many of them who are not educated beyond knowing how to sign their names.

His Excellency the PRESIDENT :—I believe I am right in saying that it is not intended to disestablish the present holders of the office but to apply the test in case of fresh vacancies.

The Honourable Mr. RICHEY :—That is so, but I would observe that as the police patel who would have to deal with sanitation is selected by the Magistrate, this clause does not necessarily apply to him. The revenue patel would not have to deal with questions of sanitation in the larger villages and towns which have two officers.

The Honourable Khán Bahádur KA'ZI SHA'HA'BUDIN :—But it does not say whether for police patel or revenue patel. It says for patel's office,

The Honourable Mr. RICHEY :—The Magistrates appoint police patels; they have, I know, for some time been anxious to get some educational qualification for the police patels.

The Honourable Khán Bahádur KA'ZI SHA'HA'BUDIN :—But this clause applies to police patels also; it does not exempt them.

The Honourable Mr. RICHEY :—His Excellency the President said he could not undertake to postpone the application of the clause on account of sanitation which might affect the police patel. The clause necessarily affects revenue patels only. But present incumbents are to be exempt.

His Excellency the PRESIDENT :—The two offices of revenue and of police patel are entirely distinct.

The Honourable Khán Bahádur KA'ZI SHA'HA'BUDIN :—But, your Excellency, this Act makes no distinction between the two offices.

His Excellency the PRESIDENT :—The revenue patel can only act as police patel when the Magistrate appoints him under section 5 of Bombay Act VIII of 1867.

The Council divided :—

Ayes.

The Honourable Káshináth Trimbak
Telang,

Noes.

The Honourable Sir M. Melvill.
The Honourable J. B. Richey.
The Honourable the Advocate General.
The Honourable F. Forbes Adam,
The Honourable J. R. Naylor.
The Honourable Khán Bahádur Kázi
Sháhábudin.
The Honourable Ráo Bahádur Máhádev
Wásudev Barve.

So the amendment was lost.

The Honourable Mr. TELANG moved the following amendments in section 29, para. 2 :—Before “misconduct” add “departmental” and for the words “or if fraud,” &c., substitute the following :—“If an officiator shall be accused of any criminal offence, the Collector may suspend him from office, and in the event of the officiator’s conviction before a criminal Court—such conviction not being reversed or quashed—the Collector may remove him from office.”

The Honourable the ADVOCATE GENERAL :—I am in favour of this amendment. Looking to the nature of the misconduct as specified in the section it appears to me that the most appropriate mode of proving it is by a criminal prosecution.

The Honourable Mr. RICHEY :—This would make it impossible to remove him from office without a criminal conviction. It suggests that every departmental offence must be a criminal one. We have adopted these sections altogether out of the old law, and these words are borrowed from the Statute. Of course it would be a very considerable reduction of the powers of Government or their officers if they were prohibited from dismissing watanárs unless there was a criminal conviction against them. There is no reason to alter the existing law in this respect. We very often find a case of misconduct meriting dismissal without question. The patel is a man of considerable influence in a village, and it would be often very difficult to get evidence such as you would want to convict him in a criminal Court. There are offences for which he would require dismissal which would scarcely be matters for criminal proceeding. It is to deal with this class of offences that we want power.

The Honourable Mr. TELANG :—The only question is whether it should not be as difficult to prove an offence against a man before the Governor in Council as before the regular criminal Courts. Provisions of this character, withdrawing from the established tribunals matters which properly fall within their functions, form a feature of recent legislation not here only, but elsewhere, and I shall not allow myself to be a party to them.

The Honourable Sir M. MELVILL :—I think you may go further back than the last Act to find authority for the removal of a patel from office without a criminal conviction. It has been the case since 1843,—over forty years. It would be a very improper thing if an employer could not dismiss a servant without first obtaining a criminal conviction against him. I think we should require very strong reasons before altering what has been the law for nearly fifty years.

The Honourable Khán Bahádur KA’ZI SHA’HA’BUDIN :—I think Government should have some power in cases which are not of such a nature as to necessitate proceedings under the criminal law. I have also known cases in which upon a technical point the Court has discharged the prisoner, who nevertheless was morally guilty of a serious offence.

The Council divided :—

Ayes.

The Honourable the Advocate General,
The Honourable Káshináth Trimbak
Telang.
The Honourable F. Forbes Adam.

Noes.

The Honourable Sir M. Melvill.
The Honourable J. B. Richey.
The Honourable J. R. Naylor.
The Honourable Khán Bahádur Kázi
Sháhábudin.
The Honourable Ráo Bahádur Máhádev
Wásudev Barve.

So the amendment was lost.

The Honourable Mr. TELANG then moved to omit in para. 4 of section 29 the words "or deputy" and from "or of the representative matádar" down to the end of the section. He said:—The effect of this clause would be to make the representative matádar suffer for the offences of others. He should of course suffer for his own crimes; but I cannot see how it can be just for him to be made to suffer for his deputy's offences. The matter has been discussed before, and I do not wish to occupy the time of the Council by going again over the whole ground. I did not hear the arguments in favour of the clause when it was discussed in the Council Chamber, though I read them afterwards in the report. As regards one of the arguments then urged, I would beg to point out that concealing evidence would be a dereliction of duty, and would render the offender liable to dismissal and to further punishment. As to another of the arguments adduced, I may say that I do not charge Government with having misused their powers or being likely to do so. But I am against vesting Government with such powers. I may add that the unfairness of this provision becomes particularly remarkable in view of the section which the Council has passed, authorizing the Collector to keep a deputy in office against the wishes of the representative matádar.

The Honourable Mr. RICHEY:—It has been the law for the last 44 years at least. It was again discussed in 1874, and again last year. The clause simply makes the principal directly interested in the conduct of his deputy. Thus the responsibility is put upon the proper person. I think the Council may safely accept the clause as it stands.

The Council divided:

<i>Ayes.</i>	<i>Noes.</i>
The Honourable Káshináth Trimbak Telang.	The Honourable Sir M. Melvill.
The Honourable Ráo Bahádur Máhádev Wásudev Barve.	The Honourable J. B. Richey.
	The Honourable the Advocate General.
	The Honourable F. Forbes Adam.
	The Honourable J. R. Naylor.
	The Honourable Khán Bahádur Kázi Sháhábudin.

So the amendment was lost.

The amendment to section 30, of which the Honourable Mr. Telang had given notice, was withdrawn.

It was decided that the Bill should come up for the third reading at the next meeting.

The Honourable Mr. RICHEY moved the second reading of Bill No. 7 of 1886, a

Mr. Richey moves the second reading of Bill No. 7 of 1886.

Bill to declare and amend the law relating to Toda-giras allowances. He said:—The Bill of which I move the second reading was before the Council at Bombay. It was explained at the time, therefore it is not necessary that I should go into it now.

Its origin was explained, and it was shown that the allowances were subject to considerable restrictions, and these restrictions have been embodied in an agreement which has been entered into by most of the holders of them. The allowances have been held by the Civil Court to be alienable; but a suit would not lie against Government, therefore Government's hands are free. As the Bill is intended to give effect to existing practice I have, at the suggestion of my Honourable friend Kázi Sháhábudin, introduced an amend-

ment to modify the proviso of section 3 in order to bring it into conformity with that practice. The amended proviso is as follows—“(a) on failure of such heirs the Governor in Council may, if he thinks fit, direct that the allowance, or some portion thereof, shall be continuable hereditarily to the lineal male heirs in male descent of a brother of the first recipient of such allowance under British rule; (b) when any toda giras allowance or any portion thereof ceases to be continuable to a male heir, the widow, if any, of the last recipient shall receive, during her lifetime, the same amount which was payable to her deceased husband in respect of such allowance.” We have been in the habit of letting allowances be continued to widows, and I shall move the amendment to make law what has so long been custom. The Honourable Mr. Telang has submitted an amendment making toda giras like ordinary private property with regard to succession. Of course, if the Honourable Member's motion is carried it would increase the contingent liabilities of our treasury, and it might be argued that it is beyond the powers of a Member of Council to make an amendment which would impose such charges without permission, but I think I can satisfy the Honourable Mr. Telang best on the point raised by reading the report of the Government of Bombay on this very issue, as follows—“I am to state that the proposal is not, as supposed by the Government of India, a new suggestion, but is in strict continuity with the policy adopted by the Government long before 1862 in dealing with these allowances. The limitation of succession to property held from the State to lineal male descendants is moreover not a new device invented for toda giras alone. The settlements effected with inámdárs in this Presidency, at least, have from the earliest times been very generally subject to this restriction, as is evidenced by the rules for the adjudication of titles in Schedule B of Act XI of 1852. The limitation is well understood by the privileged classes concerned, and it does not appear that any objection has ever been raised to it by any girasia. Indeed, as the Government of India have noticed, the practice of disallowing female inheritance in the case of toda giras had prevailed in the Broach district at least from an early period, and Government in 1843 issued an order “forbidding succession in the female line” to such allowances everywhere. The proposal of this Government for giving legislative sanction to the restriction of succession is not, therefore, as the Government of India suppose, a new suggestion, the intention being simply to give legal validity to the executive orders of the last 40 years. The origin of this rule of limitation is to be found in the nature and purpose of the giras allowances. The giras was given to purchase protection, or to induce turbulent classes to abstain from violence; and it was therefore of the essence of the estate that the property should be held by the persons from whom protection was to be obtained or from whom violence was to be apprehended. If females were allowed to inherit the object of the grant might be as effectually defeated as it would by alienation.” We have taken agreements from the recipients in which they have undertaken to accept terms such as are now proposed. We do not attach much importance to these agreements. But there are eleven hundred in which the restriction is clearly laid down.

The Honourable Khán Bahádur KÁZI SHÁHÁBUDIN :—When I read this Bill restricting the toda giras allowances to lineal male heirs, I was aware of the exclusion of female heirs, but to exclude collateral heirs when the holders are without heirs male does not seem to me to be good faith on the part of Government.

The Honourable Mr. RICHEY :—This is only a limitation which has been enforced.

The Honourable Khán Bahádúr KA'ZI SHA'HA'BUDIN :—There are some thousands of cases in which collateral succession has been allowed.

Discussion adjourned.

The discussion was adjourned to enable the Honourable Mr. Richey to consider the question as to pledges given by Sanads, now raised by the Honourable Kázi Sháhábudin's remarks.

Extension of time obtained for presentation of Select Committee's report on Bill No. 5 of 1886.

The Honourable Sir M. MELVILL obtained from the Council an extension till 19th March, 1887, of the period originally granted for the presentation of the Report of the Select Committee on Bill No. 5 of 1886 (a Bill to vest the Port of Aden in a Trust).

The Honourable Sir M. MELVILL in moving the second reading of Bill No. 5 of 1886, a Bill to vest the Port of Aden in a Trust, said :—The report of the Select Committee is before the Council for consideration. It was published in the *Government Gazette* on the 7th April last, and no objection has been taken to the Bill as amended by any person except the Political Resident at Aden, whose communication on the subject has been printed, and is before the Council. It will be seen that the Political Resident objects to the creation of a board for the management of the Aden harbour. It is, however, too late to entertain such an objection now. The Bill has been introduced on the recommendation of a former Resident. That recommendation was approved by this Government, by the Government of India, by the Secretary of State, and the Board of Trade. It has been the subject of a vast amount of correspondence; and constant pressure has been put upon this Government by the Secretary of State, the Government of India, and the shipping and mercantile firms connected with Aden, to secure that the Bill may be pushed on as fast as possible. The Bill has been read a first time, and referred to a Select Committee whose report has been presented; and it could not be dropped now, unless for much stronger reasons than those suggested by the Political Resident. It is quite true that Aden is primarily a fortress, and that the interests of trade must at Aden be subordinated to military and naval exigencies; but the Bill has been so drafted as to give a preponderating influence to officers of Government to reserve the appointment of all trustees in the hands of Government, and to give to the Political Resident and to Government a powerful control over the proceedings of the Board. I do not think therefore that there is any sufficient reason for the apprehension of the Political Resident, and I may mention that, should it be found hereafter that the provisions of this Bill are in any way inconvenient or insufficient, it will at any time be competent to the Governor General in Council, upon the recommendation of this Government, to introduce changes by means of a regulation made under the provisions of 33 Vict., Chap. III. At the same time I think that it may be expedient to introduce into the Bill a section which will enable Government to interpose in the event of the Board making any order, or carrying out any work, which might appear likely to interfere with the defences of Aden as a fortress and naval depôt, and I have accordingly given notice of an amendment of the Bill with that object. The objections taken by the Political Resident to certain details of the Bill have been carefully considered, and effect has been given to some of them, but not to all. It seems unnecessary to make provision at present for the time—which must be distant, and which may never arrive—when sea-going vessels will be

able to lie alongside of quays and wharves at Aden. The Political Resident wishes to introduce into the Bill certain provisions taken from the Sea Customs Act (VIII of 1878), which on the advice of the Legal Remembrancer it has been thought better to omit. The Sea Customs Act, which is an Act of the Government of India, makes Aden a foreign port and not a Customs port or a warehousing port; and it is doubtful whether it is competent to this Council to introduce into a local Act provisions which the Supreme Legislature has advisedly, in an Act which deals with the subject and with Aden, declared to be not applicable to Aden. I do not say that it may not be desirable that some of these provisions should be made applicable to Aden: but if so, it seems better and safer that the Resident should put them into the form of a Regulation, which might be submitted by this Government to the Governor General in Council. It will be observed that it is stated in paragraph 6 of the Select Committee's report that we have struck out sections 37 and 38 of the original Bill as unnecessary, on the ground that Aden is not a Customs port. It is, however, true that Customs duties are levied at Aden upon arms under section 8 of Act XI of 1878, and it may be desirable, as I believe it to be within the competency of Government, to appoint proper places at Aden to be wharves for the loading of arms under section 11 of the Sea Customs Act, 1878. To that extent, therefore, it seems proper to meet the Resident's wishes by retaining so much of sections 37 and 38 of the Bill as provides for accommodation for Customs officers; and I have given notice of an amendment accordingly. The Political Resident desires that power should be given to the board to open and search packages of goods, whenever it may think necessary. Such power is not, I believe, given to any other board of the same kind; and it does not appear to be necessary, inasmuch as the authorities at Aden already have power, under the Arms Act and the *Ábkári* Act, to search for concealed arms and for liquor. I now move that the Bill be read a second time.

Bill read a second time and considered in detail.

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

The Honourable Sir M. MELVILL moved that the following sections be added to the Bill:—

“37. When Government appoint under the provisions of any Act for the levy of Sea Customs duties any wharf, quay, stage, jetty, or pier, to be a wharf or place for the landing and shipping of goods within the meaning of such Act, the board shall set apart, maintain, and secure on or in such wharf, quay, stage, jetty, or pier, such portion thereof or place therein, or adjoining thereto, for the use of the officers of Customs as the Political Resident at Aden approves or appoints in that behalf.

Accommodation to be provided for Customs Officers on Wharves, &c., appointed under Sea Customs Act.

“38. Notwithstanding that any wharf, quay, stage, jetty, or pier, or portion thereof has, under the provisions of the last section, been set apart for the use of the officers of Customs, all rates, tolls, charges, and rents, payable under this Act in respect thereof, or for the use thereof, shall be paid and be payable to the board or to such persons as they may appoint to receive the same.

Dues at Customs wharves, &c.

“78-A. If, in the opinion of the Governor in Council, the execution of any order or Resolution of the board, or the doing of anything which is being done, or is about to be done, by or on behalf of the board, injuriously affects or is likely to affect the defensibility of Aden against Her Majesty’s enemies, or the security or sanitary condition of the Garrison, he may, by an order in writing, prohibit the execution or doing thereof.

Governor in Council may prohibit execution of orders, &c., affecting the defensibility of Aden or the security or sanitary condition of the Garrison.

“ Pending the receipt of an order by the Governor in Council under this section, the Political Resident at Aden may, by a like order, suspend the execution or doing of anything by or on behalf of the board, which appears to him, for any of the reasons aforesaid, to be open to objection.”

The motion was agreed to.

He also moved that “44” be substituted for “42” in line 24 of section 79, and that “31” be omitted in section 70. These amendments were agreed to.

Bill read a third time and passed.

On the motion of the Honourable Sir M. MELVILL the Bill was then read a third time and passed.

The Honourable Sir M. MELVILL next moved the second reading of Bill No. 6 of 1886,

Sir M. Melvill moves the second reading of Bill No. 6 of 1886.

a Bill to amend the law for the periodical inspection, and the management by competent Engineers, of boilers and prime movers in the Presidency of Bombay. He said:—Upon this subject I do not think I have anything to add to the report of the Select Committee. There is no objection to the Bill. Originally there was an objection from the Mill-owners’ Association of Bombay. But now that the amended Bill has been before the public there seems to be no opposition at all, either from the Bombay Mill-owners Association or any one else. There is only one alteration I would desire, and that is trifling. I will mention it to the Council presently.

Bill read a second time and considered in detail.

The motion was agreed to and the Council proceeded to consider the Bill in detail.

On the motion of the Honourable Sir M. Melvill, the words “boiler or prime mover in any steam-vessel” were substituted for the words “steam vessel” in paragraph 3 of section 1.

Bill read a third time and passed.

The Bill was then, on the motion of the Honourable Sir M. Melvill, read a third time and passed.

The Honourable Sir M. MELVILL in moving the first reading of Bill No. 2 of 1887,

Sir M. Melvill moves the first reading of Bill No. 2 of 1887.

a Bill to amend Bombay Act III of 1866, said:—The Bill which I have now the honour to submit to the Council is one, the object of which is to remove the limitations imposed by what I may call the Mofussil Gambling Act, Bombay Act III of 1866. In consequence of those limitations gambling cannot be put down in towns which are more than three miles distant from a railway station, unless they contain 5,000 inhabitants and a resident Magistrate. The result is that a great amount of gambling goes on within a few miles of Bombay, which the authorities are powerless to check. The attention of Government was directed to the subject last year, by an article in a native newspaper; and upon inquiry we were informed by the Commissioner of Police in Bombay and the District Magistrate of Thána, that the mischief was one which had attained very serious dimensions, and which

required to be promptly dealt with. The Commissioner of Police reported as follows:—

“Most professional gamblers find they cannot successfully carry on their occupation in Bombay, and resort to places outside in Sálsette, and especially to Chimore, where for some years past regular gaming houses have been established. These houses are notorious, and are almost daily visited by large numbers of bad characters from Bombay, and other towns and villages in Sálsette.” This led Government to inquire further as to the prevalence of gambling in Sálsette, and especially at the place Chimore, or Chembur, mentioned by the Commissioner of Police, and which appears to be a place just outside the three miles radius from the railway station of Kurla. We then received a report from the Superintendent of Police, at Thána, from which I may read an extract to the Council:—

“The evil has not been entirely eradicated from the district of Thána; it has only been transferred from one part of it to several others of the same. The village of Chimore, in the Sálsette táluka, where gambling was previously carried on to some extent, and Bassein and Agáshi are now infested with gamblers to such an alarming extent, in the first mentioned of these places, that Pársis, Hindus, Mahomedans and Chinamen have for their separate use erected sheds in gardens, where they carry on this nefarious practice in an open manner. The Chinamen have coupled a lottery with gambling, and in doing so have placed themselves within the reach of the law, and will before long meet with their deserts.

. . . . The first and second of the above places are above three miles from the Railway station, and the first and the third have no resident Magistrate, and are thus beyond the reach of the law on the subject. . . . The law is inoperative owing to Chimore being a village, containing less than 5,000 inhabitants, and to the absence of a resident Magistrate, and being more than three miles from Kurla, the nearest railway station.”

The report further said that “strings of tongas belonging to gamblers await the arrival of trains at Kurla, and take their disreputable cargo of gamblers from that place with all haste to Chimore, and bring them back to Kurla for Bombay in a similar manner. No hire is charged by the owners of conveyances, as they all belong to the chief gambling establishments, where raw youths and old men (apparently respectable) daily resort. The gambling so openly carried on so close to Bombay without fear of punishment, has a most demoralising influence over the people, and I attribute most cases of house-breaking and theft at Thána, to this vice carried on so close to it.”

On sending in this report, the District Magistrate made the following observations:—“The state of things at Chembur has often been reported on, but the same decision has always been come to, *viz.* that owing to the wording of the Gambling Act nothing can be done where the village in which the gambling establishments are is more than 3 miles from a railway station, and has no resident Magistrate. Till the law is altered nothing can be done, but the Commissioner may perhaps consider it advisable to bring the subject to the notice of Government, so that they may express a final opinion whether gambling on such a scale should be allowed unchecked in places so near Bombay, or whether they are willing to take steps to amend the Gambling Act. The alteration of ‘3 miles’ to ‘10 miles’ from a Railway station would apparently be what is wanted.”

This was in June last year, and two months afterwards Government was called upon to sanction a special police post at Chimore, in consequence of the increase of serious crime in the surrounding villages, which was distinctly connected with the prevalence of gambling at Chimore. Now we cannot of course prevent people from gambling altogether. If Marwaris like to go on betting which of two kites will fly the higher, or which of two drops of rain will first fall from the eaves of a house,

Government cannot stop them. But I think the Council will agree with me that we do not want a Monte Carlo within twelve miles of Bombay, and that we ought to have power to put down organised gambling establishments of this kind, which must exercise a most demoralising influence on the people. I may mention that the Gambling Act in Bengal, (Act II of 1867), contains no such limitations as these which it is now proposed to remove from the Bombay Act. The Bill as drafted retains the limit of 3 miles from railway stations, but it has been suggested that the Bill should be amended by extending this radius to a greater distance. This is a matter which can be considered by the Select Committee to which the Bill will be referred. I now move that the Bill be read a first time.

Accordingly the Bill was read a first time, and referred to a Select Committee, consisting of the Honourable Mr. Naylor, the Honourable Khán Bahádur Kázi Sháhábudin and Ráo Bahádur Máhádev Wásudev Barvé, and the mover, with instructions to report within a month. The Bill and Select Committee's report to be translated into Maráthi and Gujaráti.

The Honourable Sir M. MELVILL, in moving the first reading of Bill No. 3 of 1887, a Bill to amend Bombay Act VI of 1863, said:—Bombay Act VI of 1863 is an Act primarily passed “for the regulation of public conveyances in the town, suburbs, and harbour of Bombay.” But section 34 of the Act enables the Governor in Council to extend the Act to any town or place in the Presidency of Bombay, and the Act has accordingly been extended to Poona and other towns in the Mofussil. It has, however, been found to be difficult to give effect to the provisions of the Act, because “a public conveyance” is defined in the Act as being “a carriage with two or more wheels which shall be used for the purpose of plying for hire,” and Government is informed by its legal advisers that a carriage does not ply for hire, unless it is taken about the streets, or to appointed stands, with a view to its being hired. In short, a London cab, or a buggy or victoria in Bombay, plies for hire, but a similar vehicle in Poona, which is kept in a stable until it is sent for, does not ply for hire, and therefore does not ordinarily come within the provisions of the Act. The Council will, perhaps, permit me to read a letter from the District Superintendent of Police at Poona, which first led Government to consider the necessity of legislating on the subject: “I have the honour to bring to your notice the very unsatisfactory state as far as Poona is concerned of the law regarding hack carriages (Bombay Act VI of 1863). In 1883, the Legal Remembrancer to Government gave it as his opinion that the Act does not apply to carriages hired out by the month, and which do not ply for hire about the streets, and on a reference regarding a case sent up by the Police for carrying passengers without a license made by the Cantonment Magistrate, the District Magistrate has given it as his opinion that a carriage taken out from the stables, even for a short journey only, and which is neither taken about the streets nor to appointed stands for hiring is not a public conveyance within the meaning of the Act. As you are doubtless aware, there are very few, indeed it may almost be said no carriages in Poona, which strictly speaking do ply about the streets for hire, and as regards public stands the only ones are the railway station, and one at the Budhwar Chowk in the city. This year I endeavoured to start others, but the drivers of the carriages would not use them. The practice, when any one wants a carriage, is for a servant to go

to the stables and fetch one from thence. The consequence of this under the present law is that only some fifteen or twenty of the public conveyances of Poona, need, if the owners really knew it, come to me for a license, and this fact is, I fear, becoming better known every day. I carefully examine all the carriages brought up myself and reject a great many, but after all this has been done, the rejected carriages have nearly if not quite as good a chance of being hired as the ones that have been passed, the result being danger to the public from the carriages breaking down, and endless complaints both to and of the police, from the public, who take it for granted that the carriages have been licensed, a state of things which we have no power to prevent, because the carriages have been hired from the stables. Under these circumstances I would ask the favour of your moving Government to somewhat amend the preamble of Bombay Act VI of 1863, so far at any rate as the Mofussil is concerned, so that it may apply to all conveyances hired for a less period than say a week at a time, whether plying about the streets or taken direct from the stable." On receipt of this communication, Government consulted the Magistrates of the Districts in which the Act had been introduced, and found that they were generally agreed that legislation was necessary. Some of them also pointed out that in one or two other particulars, besides that involved in the question of plying for hire, Bombay Act VI of 1863 was hardly suitable to Mofussil towns. Section 7 contains an enumeration of the different kinds of vehicles used in Bombay, or which were used in Bombay in 1863, and for which alone a license fee can be levied. Now some of these, omnibuses for example, are not in use in Mofussil towns, while on the other hand certain vehicles are fashionable in Mofussil towns, which are never seen in Bombay, and are therefore not included in the list given in section 7. A common vehicle in the Mofussil is the tonga, which is not in the list, while in Alibág there is a strange and curious vehicle described as a kind of van on two wheels, and carrying six, and therefore not coming within the provisions of the Act of 1863, which did not contemplate a carriage on two wheels as capable of carrying more than three persons, including the driver. Evidently in 1863, our predecessors in this Council thought that the venerable buggy of Bombay, now happily almost extinct, was the only two-wheeled vehicle of the future; while the good people of Alibág, in the progress of their civilisation, have fashioned a van, which apparently somewhat resembles the remarkable vehicles which one sees plying between Naples and Castellamare. The Bill which I submit to the Council is a very short and simple one, removing the exemption now enjoyed by vehicles which do not ply for hire in the streets, and enabling Government to apply all or any of the provisions of the Act of 1863 to all vehicles, or to any class of vehicles, ordinarily let for hire, but at the same time to exempt any class of vehicles from all or any of the said provisions. As an illustration of the desirability of having this power of exemption, I may mention that in places like Poona and Karáchi, carriages are often let out by the week or the month, and appear to the world, and are intended to appear, as private carriages, while elegant vehicles are obtained from livery stables for the purpose of going to Government House, or making a round of morning calls; and it would be painful to the feelings of the hirer of such a carriage if it had a board attached to it with a number and inscription, and if the driver had to wear a badge, as the Act requires. Government will doubtless think it desirable to exempt carriages of this description from the operation of the Act. I now move that the Bill be read a first time.

Bill read a first time.

The Bill was then read a first time.

The Honourable Sir M. MELVILL :—I hardly think it necessary to refer this Bill to a Select Committee. Two days ago I may mention I received a memorial from the Hindu Mahájan community of Karáchi in favour of the Bill, but asking that the duty of supervision be transferred from the police to the municipality. We have no intimation from any mofussil municipality or from Bombay that such a transfer is desired, and it would be unfair to saddle them with this new and cumbersome duty. I fully sympathise with the petitioners in the desire they express to prevent cruelty to animals, but it would be impossible for us to prescribe the weight to be carried by each labour cart as they desire. I think it would entail a good deal of harassing work both upon officials of the port and the police. Section 31 of Bombay Act VII of 1867 is in force in Karáchi, and it empowers the police to proceed against any one overworking an animal. The best thing for the memorialists to do would be to form themselves into a branch of the Bombay Society for the prevention of cruelty to animals.

It was decided not to refer the Bill to a Select Committee, but to take the second reading at a future meeting of the Council.

His Excellency the PRESIDENT then adjourned the Council.

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

A. SHEWAN,

Secretary to the Council of the Governor
of Bombay for making Laws and Regulations.

Poona, 16th July, 1887.

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 23rd July, 1887.

PRESENT.

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

The Honourable Sir M. MELVILL, K.C.I.E., C.S.I.

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

The Honourable the ADVOCATE GENERAL.

The Honourable KA'SHINA'TH TRIMBAK TELANG, C.I.E.

The Honourable F. FORBES ADAM.

The Honourable J. R. NAYLOR.

The Honourable Ráo Bahádur MAHA'DEV VA'SUDEV BARVE, C.I.E.

The Honourable Mr. RICHEY moved that Bill No. 3 of 1884, a Bill to amend the Bombay Hereditary Offices Act so far as it relates to Matádárs, be read a third time.

Mr. Richey moves the third reading of Bill No. 3 of 1884.

The motion was agreed to, and the Bill was read a third time and passed.

The Council then resumed consideration of Bill No. 7 of 1886, a Bill to declare and amend the Law relating to Toda Girás allowances.

Mr. Richey resumes his motion for the second reading of Bill No. 7 of 1886.

In resuming his motion that the Bill be read a second time the Honourable Mr. RICHEY said :—

With reference to the discussion which took place at the last meeting of the Council, have given notice of some new amendments. The first of these relates to section 3. The object of the amendment is to give legal effect to the executive standing orders on the subject of succession to toda girás allowances. So far as this section is concerned, it is merely to give validity to existing standing orders, and as one of these orders is that, failing male heirs, the widow of the last recipient shall be allowed the annuity during life-time, this provision should be made, that the allowance shall duly be payable during life-time of the widow. The Honourable Kázi Sháhábudin called attention at the last meeting of the Council to the form of sanads issued for allowances in pursuance of the settlements in 1862-63, in which provision was made for failure of heirs in direct male line, and indicated that he was not quite sure that the discretion, which is provided in section 3, as to the continuance of these allowances to the heirs of the brother of the first recipient under British rule truly represented the existing state of the rules. It appeared to me there was no question about this. I have compared the Bill with the rules made in 1863, which are to the effect that in case of failure of heirs in the male line, if the Revenue Commissioner finds that any hardship will occur, the brother of the first recipient is to be allowed to succeed. That is the rule, and under these rules a large number of allowances has been declared continuable

through the brother of the first recipient, and many sanads have been issued since 1863 under the settlement which embodied that privilege. There is therefore no question as to this proposal properly representing the existing rules and procedure. But as we want to make the Bill as consistent as possible with the existing facts, I ask you to make an amendment to the proviso, making it read: "Provided that, on failure of such heirs, the allowance, or some portion thereof, shall whenever the Governor in Council has already so directed, or shall hereafter so direct, be continuable hereditarily to the lineal male heirs in male descent of a brother of the first recipient of such allowance under British rule." I have given notice of an amendment to substitute for the first sentence of section 6, as it appears in the Bill: "(1) Nothing in this Act applies to a toda girás allowance, which has already been alienated." This will meet the amendment in section 6, proposed by the Honourable Mr. Telang, by which the date before which the alienation should be recognised is altered from the 19th November 1886, (the date of the publication of the Act), to the date of its becoming law. With regard to the other amendments proposed in section 6, the object which should be kept in sight in these provisions is that while no *bond-fide* alienation is invalidated by the Act, no room should be left for people interested in securing an alienation to do so hereafter by any collusive means. Therefore, in accepting Mr. Telang's suggestion that the date of passing of the Act should be substituted for 19th November, I have also to ask that only *bond-fide* and complete transfers should be recognised. Therefore I propose that the test of the transfer should be that any document effecting it should be registered before the passing of the Act, and that the provisos as regards alienation shall be—“(a) If the instrument purporting or operating to effect such alienation has *before the date on which this Act comes into force* been registered under any law for the time being in force relating to the registration of documents; or (b) if the said instrument not being compulsorily registrable and not having been registered under any such law as aforesaid *has been executed before the date on which this Act comes into force* and is presented for inspection, together with a copy thereof for record, at any time within six months after the *said date*, to the Collector of the District in which such allowance is payable; or (c) if, when such alienation has not been effected by an instrument, proof thereof is produced within the period, and to the Collector aforesaid.” Then it has been suggested that it will be useful for the Courts if the Act should provide some simple proof of the validity of the transfer, and I have therefore to move an additional amendment, which is this—“(2) *When any instrument is presented to a Collector under clause (b), he shall, before returning the same, endorse thereon, under his signature and official seal, the date of such presentation. When proof of an alienation is produced before a Collector under clause (c), he shall give to the alienee a certificate, under his signature and official seal, that the toda girás allowance so alienated is not subject to the provisions of this Act.*” Mr. Telang has given notice of another amendment to substitute “one year” for “six months.” Six months are allowed for inspection. We only know of fourteen instances at present in which alienation has taken place, and it is very improbable that since the Bill was published there have been any more. It seems entirely unnecessary to make the time any longer than six months, as there is risk that proof will become more difficult and more doubtful.

The Honourable Mr. TELANG:—Having regard to the explanation given by the Honourable Mr. Richey at the last meeting of the Council, I shall ask the Council to

consider that I withdraw the first of my proposed amendments. As to the other amendments, I think (a) of section 6 even as now proposed should be amended.

His Excellency THE PRESIDENT :—Perhaps these remarks had better be deferred till after the motion for the second reading has been put.

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

The Honourable Mr. TELANG then withdrew the amendment he had given notice of to section 3, namely to omit all words from "to the lineal male heirs" down to the end of the section.

The Honourable Mr. RICHEY moved that section 3 be amended as follows, viz. :—

- (1) In lines 8 and 9, omit the words "the Governor in Council may, if he thinks fit, direct that."
- (2) In line 10, after the word "shall" insert : "whenever the Governor in Council has already so directed or shall hereafter so direct."

The motion was agreed to.

The Honourable Mr. RICHEY moved that for section 6 the following section be substituted, viz. :—

6. (1) Nothing in this Act applies to a toda girás allowance which *has already been alienated* :

- (a) If the instrument purporting or operating to effect such alienation has *before the date on which this Act comes into force* been registered under any law for the time being in force relating to the registration of documents ; or
- (b) If the said instrument not being compulsorily registrable, and not having been registered under any such law as aforesaid, *has been executed before the date on which this Act comes into force and* is presented for inspection, together with a copy thereof for record, at any time within six months after the *said date*, to the Collector of the district in which such allowance is payable ; or
- (c) If, when such alienation has not been effected by an instrument, proof thereof is produced within the period and to the Collector aforesaid.

(2) *When any instrument is presented to a Collector under clause (b), he shall, before returning the same, endorse thereon, under his signature and official seal, the date of such presentation. When proof of an alienation is produced before a Collector under clause (c), he shall give to the alienee a certificate, under his signature and official seal, that the toda girás allowance so alienated is not subject to the provisions of this Act.*

The motion was agreed to.

The Honourable Mr. TELANG then moved that in section 6, clause (a), the words "is duly" should be substituted for the words "has been." He said :—My Lord, with reference to clause (a) of section 6, I would suggest to the Council that it is desirable that a certain change should be introduced, so that clause (a) should read in this way : "If the instrument

purporting or operating to effect such alienation *is duly* registered under any law for the time being in force relating to the registration of documents." I do not object to the provision that the instrument should be executed before the Act comes into force, but why should it also be registered before that time? Of course there is the danger of collusion, but there is no greater danger as regards an instrument coming under clause (a) than there is as regards alienations falling under clauses (b) and (c). It is also to be remembered that in no case can the instrument be registered after eight months from the date of execution. And as clauses (b) and (c) provide for six months, clause (a) will provide for eight months. The effect of clause (a) as proposed by Mr. Richey will be practically to curtail the period allowed by the general registration law, and it may, in practical operation, become a retrospective enactment. In cases of collusion, too, in such a matter as this, it should not be difficult to prove such collusion. But by clause (a), as now proposed, some alienations, even though not collusive, will be rendered invalid. I am willing that six months should stand. Twelve months were suggested to me by the old Registration Act. Still if Mr. Richey thinks six months should not be extended, I am quite willing to accept that. But by adopting my amendment, clauses (a) and (b) will be brought into unison.

The Honourable Mr. RICHEY: Mr. Telang's argument that the period for documents coming under (a) and (b) should be assimilated as far as possible, has some force; but it will be observed in the amended proviso (b) that we have worded it so as to secure that these documents shall have been executed upon a date before this Act shall come into force. Transactions provided for under (b) would be of very small values, and it is very unlikely that any of a high value has been begun since the first reading of the Bill; it is reasonable to give a certain amount of latitude to parties interested in any small transactions, if there are any in progress, and yet it is desirable to check any important alienation at once.

The Council divided;

<i>Aye.</i>	<i>Noes.</i>
The Hon. Káshináth Trimbak Telang.	The Hon. Sir M. Melvill.
	" J. B. Richey.
	" the Advocate General.
	" F. Forbes Adam.
	" J. R. Naylor.
	" Ráo Báhádur Mahádev Wásu- dev Barve.

So the amendment was lost.

The Honourable Mr. TELANG then withdrew the other amendments to section 6 of which he had given notice, *viz.*, to omit the words "which was", and for the words "19th November 1886" to substitute "passing of this Act"; and in clause (b) for "six months" to substitute "one year".

The Honourable Mr. RICHEY then moved that the Bill be read a third time.
Bill read a third time and passed. The motion was agreed to, and the Bill read a third time and passed.

The Honourable Mr. NAYLOR moved the first reading of Bill No. 4 of 1887, a Bill to consolidate and amend the Law relating to the Municipal Government of the City of Bombay. He said :—Your Excellency, —I appear before this Council to-day on behalf of the city of Bombay. In saying this, I do not lay claim to be in any special sense the representative of the city. I owe to your Excellency the honour of being placed in charge of the Bill for consolidating and amending the law relating to the municipal government of that city, which now lies before us. But I describe my position in regard to this legislative project in these terms, because it seems to me to be desirable that I should clearly state at the outset that the object we have in view is the advancement of the interests of the city of Bombay. The consolidation and the amendment of municipal enactments, the extension of the municipal franchise, the promotion of local self-government, the definition of the powers and duties of the several municipal authorities are things which are, no doubt, desirable in themselves, but they are only means to an end. The end is the perfection of municipal government, the attainment, in the highest possible degree, of those conditions which will secure to the inhabitants of the city, health, convenience and comfort, and which will enable the city to maintain its place amongst the finest cities of the world, without imposing upon the people undue taxation. I am sure that I rightly interpret the intentions of Government, when I say that this was the main object with which they commissioned me, in consultation with the late Municipal Commissioner, Mr. Ollivant, to draft the Bill which is now before the Council; I can testify to the fact that the provisions of the Bill, from first to last, have been carefully designed to effect this object, and I do not doubt that the honourable members of this Council will approach its consideration and deal with it in all its stages with this object in view.

It is nearly a century ago since the first municipal enactment for the city of Bombay was passed. That was a very simple provision enacted by Parliament in the year 1793, which empowered Justices of the Peace, assembled at their General or Quarter Sessions at Bombay, "to appoint scavengers for cleaning the streets, to order watching and repairing of the streets as they shall judge necessary," and to assess houses, buildings and grounds, in order to defray the expenses, at a rate not exceeding one-twentieth of their annual value. Between that time and the present the affairs of the city of Bombay have always enjoyed a large share of the attention of the Indian Legislatures, both Supreme and Local. I need not trouble the Council with details. I will only say that at this moment there are no less than eleven Acts of the local Legislature, relating exclusively to the Bombay Municipality. If, therefore, the length of the present Bill, with its 528 sections, creates surprise, I must explain that, if passed, it will take the place of all these eleven enactments in the statute book, containing between them 417 sections, and of several rules and orders which have been passed under them, and that it, moreover, supplies provisions on many new and very important and useful matters, which the existing municipal enactments either do not deal with at all, or provide for very imperfectly. The principal of the existing enactments is Bombay Act III of 1872. That Act was passed only fifteen years ago, but its administrative provisions were not essentially different from those of the preceding Municipal Act, Bombay Act II of 1865, which again were copied, without much alteration, from two Acts passed by the Government of India for all the three presidency towns of India in 1856. The two last-mentioned Acts were prepared at a time when municipal institutions were only beginning to be tried in this country, and it was impossible for the Gov-

ernment to know what special provisions would be adapted to the peculiar requirements of oriental towns, and so it happened that, with few exceptions, the provisions of these two Acts were taken almost bodily from English statutes. Thus the Municipal law in force in Bombay for the last thirty years has been obtained almost exclusively from English sources, and but little attempt has hitherto been made to shape and adjust it to the local conditions of that city.

In the meantime, also, Bombay has been making immense strides in everything that lends importance to a city. Within it have sprung up a great number of mills and other manufactories, which whilst they are a source of employment and profit to large classes of the inhabitants, are on the other hand the cause of new species of nuisances and danger to the community at large, which it is absolutely necessary that the Municipality should have power to control. The population which in 1871 was found to be, in round numbers, $6\frac{1}{2}$ lákhs, had increased in 1881 to $7\frac{3}{4}$ lákhs, and is now, probably, not far short of $8\frac{1}{2}$ lákhs. The last quarter of a century has seen Bombay brought into connection by railway with Calcutta, Madras, Delhi and the Punjab, and it is now the focus towards which all the principal railway systems of this vast empire converge. The importance of this fact to Bombay may be estimated when it is remembered that the total mileage of Indian railways is now approaching 16,000 miles. The opening of the Suez Canal and the development of trade in the country have added enormously to the ocean-borne traffic which is either shipped or landed at its port. Figures, with which I have been obligingly supplied by the Collector of Customs, exemplify the immense expansion of the trade of Bombay during this period in a remarkable manner. Five and twenty years ago, *i.e.*, in the year 1862-63, the total number of steamers entered at the port of Bombay was 105, with a tonnage of about 80,000 tons; last year, 1886-87, the number entered was 1,816, with a tonnage of over $1\frac{1}{2}$ millions of tons. The total value of the trade, *i.e.*, of imports and exports together, amounted in 1862-63 to a little over £59,000,000 sterling; it last year exceeded $84\frac{1}{2}$ millions. And as illustrating the growth of our city in importance, comparatively with the two other presidency-towns, I may mention that Bombay's share of the total foreign trade of British India (exclusive of Government transactions), which stood at 37 per cent. in 1878-79, has since, year by year, steadily increased, till in 1885-86 it was nearly 44 per cent. Calcutta's share in 1878-79 was 44 per cent., and it has since steadily fallen off, until in 1885-86 it was only 36 per cent. The share enjoyed by Madras has in the meantime continued pretty constant at about 5 per cent.

To these statistics I may add the following, which have been kindly given to me by Mr. Charles, the present Acting Municipal Commissioner of Bombay. In 1864 the municipal revenue was a little over 15 lákhs only. In the following year it was increased to nearly 33 lákhs. In 1881 it had grown to $38\frac{3}{4}$ lákhs, and in the last year, 1886-87, it exceeded 48 lákhs. In addition to this ordinary revenue, the Municipality has raised loans during the last twenty-five years, which, including the Vehár Water works' debt due to Government, aggregate 223 lákhs; and other loans to the extent of 106 lákhs, for the completion of the Tánsa Water-works, and 50 lákhs, to complete the drainage and house-connections in the city, are in early contemplation.

These figures, I think, illustrate more vividly than any words of mine could, the pre-eminent position which, during the last quarter of a century, the city of Bombay has

obtained for itself in our Indian Empire, and the magnitude of the interests confided to its municipal authorities.

The Act of 1872, under which, as I have said, the municipal affairs of the city have for the last fifteen years been conducted, was amended by Act No. IV which this Council passed in 1878, and honourable members will observe from the frequent references to the Municipal Acts of 1872 and 1878 in the margin of the Bill now before us, that these two Acts together, at present, guide and control the municipal government of the city. The amending Act of 1878 was, however, no more than a temporary measure. It left many difficulties unsolved, and the late Honourable Mr. Gibbs, who introduced it, was, I know, fully alive to the fact that in a few years an entirely new consolidating enactment would be required. In May 1881, Mr. Ollivant became Municipal Commissioner, and he found the Corporation already engaged in considering what amendments were necessary in the Municipal Acts. Honourable members will find in Government Selection No. 178 a long series of "proposals for the amendment of the Bombay Municipal Acts" extending over the years 1881 to 1885, and emanating partly from the Corporation, partly from the Town Council, and partly from the Municipal Commissioner. There is also a "Blue Book," referred to at pp. 65-66 of the above Selection, in which Mr. Ollivant, at the request of Government, submitted in November, 1882, a revised Bill embodying the recommendations theretofore made by the Corporation and the Town Council and himself, with such further modifications as his later experience of municipal administration suggested to him. In January, 1883, the Corporation appointed a Committee "to consider and report, in conjunction with the Municipal Commissioner, what amendments in the Municipal Acts may, in the opinion of the Corporation, be desirable in connection with the new local self-government scheme." A second Committee was afterwards appointed by the Corporation for this same purpose, and their report, which was generally approved by the Corporation, was submitted to Government by their chairman, who is at present the honourable member of this Council, Mr. Pherozechah Mehta, and is printed *in extenso* at pp. 69-100 of the Government Selection No. 178. It is right that I should mention that the Commissioner, Mr. Ollivant, was absent from Bombay for the greater part of the time that this Committee sat, and that he, consequently, participated but little, if at all, in its deliberations.

But although absent from Bombay, Mr. Ollivant was, for three months in 1883, very usefully engaged in inquiring into the methods of municipal administration in England. The Corporation, with much wisdom, requested him to remain in England for three months on special duty for this purpose, and having been associated subsequently with Mr. Ollivant in the preparation of the Bill which is before us, I can bear witness to the great use which that gentleman must have made of this opportunity. When we were deputed in the early rains of 1885 to draw up a new Municipal Bill in consultation, I found in Mr. Ollivant a coadjutor, who not only was fully cognisant of every detail of the work of the Bombay Municipality, and of all its intricacies and difficulties, but one, also, who was deeply versed in the municipal and sanitary legislation of the United Kingdom and of many of her Colonies. For the completeness of the provisions on each of the numerous subjects with which this important Bill deals, and for their adaptedness to the circumstances of their city, the people of Bombay are entirely indebted to their late Municipal Commissioner; and it is a matter of very great regret that he should have been

compelled by ill-health—ill-health brought on by his too zealous labours on behalf of the city—to take furlough, before the Bill, on which he bestowed such infinite pains, could be introduced into this Council. I fear there are many valuable provisions in the Bill of which I shall be able to give but a very imperfect explanation, but of which the importance and necessity could be demonstrated by my late colleague, were he present, in a manner which would readily carry conviction. During our short official intercourse, I have, however, learnt many things, of which, I confess, I had no previous knowledge, and during the careful scrutiny which the details of the Bill will, no doubt, undergo in Select Committee, I shall endeavour to give the reasons which led us to frame its several provisions as we find them.

My Lord, the Bill which has thus been drawn by myself, under the guidance and with the able assistance of Mr. Ollivant, is the outcome of his great local experience and of his very extensive acquaintance with the municipal and sanitary laws of other parts of the world; but we have also had before us all the amendments and improvements from time to time suggested by the Corporation and the Town Council, which are to be found in the Government Selection already referred to; and it will, I think, be found, on examination, that we have generally adopted those suggestions, and that where we have not done so, it has been because more recent experience, or a fuller knowledge of facts, has satisfied us that public interests would be better served by the adoption of some other course. If I were to attempt to speak of each of the subjects dealt with in the Bill, my speech would extend to a length which at this stage of the discussion of it would be quite unwarrantable. I will only say, generally, that the object kept in view in every chapter is to secure to the citizens of Bombay the greatest possible efficiency in municipal services with the most complete possible control over expenditure. Many of the provisions in the chapters relating to drainage, water-supply, buildings, and sanitation are strict, perhaps even severe; some may even be found by the Select Committee to be unsuited to the conditions of life in the native quarters of the city; these are points to which I cordially invite the attention of the Native gentlemen who interest themselves in the Bill and of the honourable Native members of this Council. The Bill, if it should pass into law, is likely to take a permanent place in the statute-book, and although we may desire that the provisions of such an important enactment should be thorough and effectual, there is no wish to impose restrictions which would needlessly run counter to popular sentiments, or harass or annoy the people.

But there is one portion of the Bill on which honourable members will, perhaps, expect that I should submit a more full explanation, *viz.*, that part of it which regulates the future municipal constitution. This does not appear to me, in the present condition of things, to be the most important portion of the Bill; there are other portions of it which are much more urgently required, and the future successful operation of the law depends, I think, in a far greater degree upon the careful amendment of its executive provisions than upon any contemplated change in the constitution of the Municipality. But a revision of the whole law involved a reconsideration of this part of it also, and, as I have stated, the Corporation submitted in 1884 certain recommendations on this point, in connection with the impetus which was given in the time of the late Viceroy to the development of local self-government generally throughout India. Great care has been taken in drafting chapter 2 of the Bill which treats of the municipal constitution, to render

the provisions regarding the qualifications and disqualifications of electors and candidates, the conduct of elections, the appointment of the Town Council, the proceedings of the Corporation and Town Council, and the respective duties and powers of the Corporation, the Town Council and the Municipal Commissioner, clear and free from ambiguity. These are matters in which the present Municipal Acts are especially defective, and no pains have been spared to make the Bill as free from such defects as possible, although I do not doubt that there may be still much room for improvement. With regard to the constitution itself, no very radical changes are proposed, and I will offer a few observations in explanation of this fact.

Your Excellency, in the mother-country the history of municipal institutions is a part of the history of the people rather than of the history of the Government. A large number of people congregated in a growing town would recognize the need for municipal regulations and for taxing themselves in order to supply public local wants, and out of this desire there would arise an application for a Royal Charter of incorporation. The burgesses, or citizens, having become a corporate body, proceed to elect from amongst themselves a council, and this council, charged with the conduct of the municipal affairs of the town, appoints working committees, each with the control of a different department, and reserves to the whole body only such large questions as can be conveniently disposed of by them at occasional general meetings. All the details of the administration are settled by the committees. The history of the Bombay Municipality bears but little resemblance to those of England. Its commencement dates from that statute of 1793 which I have already mentioned, and which entrusted the duty of appointing scavengers and of ordering the watching and repairing of the streets to His Majesty's Justices of the Peace. His Majesty's Justices of the Peace at this time consisted of the Governor in Council and of covenanted civil servants and other British inhabitants of Bombay appointed by the Governor-General in Council. The number of Justices of the Peace so appointed in addition to the members of the Government was, in 1793, five; in 1798, nine; and in 1807, when the power of appointment was transferred to the local Government, sixteen. In 1812, a Court of Petty Sessions was appointed, consisting of Justices of the Peace, and including the two Police Magistrates, and the Regulations framed by this Government during the following twenty years imposed municipal functions sometimes on the Court of Petty Sessions, and sometimes on His Majesty's Justices of the Peace at their quarter sessions. In 1832 Parliament passed an Act authorising the appointment of any person not being a subject of a foreign State to be a Justice of the Peace, and as soon as the nomination of natives of this country to be Justices had been thus legalized, the Bombay Government in 1834 enacted that the Court of Petty Sessions should thenceforward consist of not less than three Justices of the Peace, of whom one should be a Police Magistrate, one a European and one a native of India. Municipal matters continued to be managed in Bombay partly by the Court of Petty Sessions, partly by the Police Magistrate, and partly by Her Majesty's Justices of the Peace in Sessions assembled, until in 1845 a Municipal Fund was for the first time established, and a Board of Conservancy was appointed to administer it. This Board consisted of seven members, *viz.* the Senior Magistrate of Police as chairman, the Collector of Bombay and two European and three Native resident Justices of the Peace elected by the Bench of Justices. It existed for thirteen years, but it was not found to work satisfactorily, and in 1858 a new experiment was tried. This consisted in vesting

the Municipal Fund in three Municipal Commissioners, one, the President, being appointed by Government, and the other two elected by Her Majesty's Justices of the Peace in Sessions assembled. These three Commissioners had very large powers and were subject to very little check or control; but, to use the words of the Honourable Mr. Cassels, who introduced the Municipal Bill of 1865 in this Council, it was found "that three Commissioners with equal powers but divided responsibility almost unavoidably obstructed and counteracted each other." At length, in 1865, this Council passed the Bill, introduced by Mr. Cassels, in which provision was made for the appointment of a highly-paid sole Municipal Commissioner in whom was vested "entire executive power and responsibility." At the same time, all Justices of the Peace for the town and island of Bombay were constituted a body corporate, with power to fix the rates of municipal taxes and to sanction or reject the Municipal Commissioner's budget. This system continued in force for seven years under the able administration of Mr. Arthur Crawford; but experience showed that the whole Bench of Justices formed too large a body for an efficient Municipal Council, and that the check on expenditure provided by the Act of 1865 was insufficient. The result was the passing of the Municipal Act of 1872, to which I have already alluded, as being the principal Act at present in force. That Act still maintained the position of the Municipal Commissioner, vesting in him "the entire executive power and responsibility for the purposes of the Act." The Bench of Justices were displaced by a Corporation of 64 members, 32 elected by rate-payers, 16 nominated by Government and 16 elected by the Justices; and a third authority was created, a Town Council, consisting of twelve members, 8 selected by the Corporation, and 4 nominated by Government, whose special function was "to secure due administration of the Municipal Fund." This is the municipal constitution as it at present exists.

The essential difference between this Municipality and those of England is that whereas the latter are the creation of the people themselves, the Bombay Municipality is distinctly the creature of English legislation, and its present constitution is the outcome of a long series of experiments. The result of the experiments is that for the last twenty-two years the city of Bombay has been under a form of municipal government which has worked smoothly and well, which has given satisfaction both to the people and to the Government, and which has effected in the aspect of Bombay, in its beauty as a city, in its conveniences, its healthiness and its cleanliness—in fact, in everything which betokens a sound municipal administration, changes which are little short of marvellous. If I should appear, in these remarks, to be using the language of exaggeration, I will only appeal to those who knew Bombay, as I knew it, five and twenty years ago. I will also quote the observation of His Excellency the Viceroy, who, in replying to the address of the Corporation in November last, said "he knew of no Municipality imbued with a more enlightened, wisely progressive and thoroughly practical spirit than the Municipality of Bombay;" and that the work of the Municipality has been thorough and not merely on the surface is evidenced by the following passage which I take from the Memorandum of the Army Sanitary Commission—a body by no means easy to please—on the Municipal Commissioner's Reports for 1885-86. The Commissioners say: "The municipal work * * * up to the present has considerably reduced the mortality from epidemics, which in other Municipalities and in the country villages have, in the absence of effective sanitary work, been left year after year to inflict great loss and suffering upon the people. And these results have been obtained in, perhaps, the most unfavourable

population group to deal with in the whole Presidency and in one of the most densely-populated cities anywhere to be met with."

A constitution under which such results as these have been achieved is one which should, I think, be continued. At least, it should not, in the face of previous failures be in any way seriously altered, without grave reason. Moreover, no such alteration has been asked for. I am not aware that any application has been made by the rate-payers, or by the general public of Bombay, for any change in the municipal constitution. As I have already shown, no thought was entertained before 1883 of altering the constitution, and the recommendations of the two Committees of the Corporation appointed about that time to consider what amendments were desirable in connection with the new local self-government scheme are contained in the report which is printed at pp. 69-72 of the Government Selection No. 178. They are in effect—(1) that the number of members of the Corporation be raised from 64 to 72; (2) that the respective functions of check and control vested in the Corporation and Town Council be in no way lessened; (3) that the chairman of the Town Council be elected by that Council; (4) that the position and duties of the Commissioner remain unaltered; and (5) that his appointment continue to be made by Government. But Mr. Ollivant, for reasons which are very clearly set forth in his letter to Government, No. 2009 of 18th May, 1885, printed at pp. 101-105, of the Government Selection No. 178, was desirous of inducing the representatives of the Bombay tax-payers to take an active part in the municipal government of the city, by sharing with the Commissioner the executive power and responsibility. His idea was to assimilate the Municipality to the English models by requiring the Town Council to distribute itself into sub-committees, each of which, with the Municipal Commissioner as chairman, should have charge of one or more branches of the executive work of the Municipality. This view commended itself to me, as being an important step in the direction of real self-government, and the first draft of our Bill was devised to give effect to it. That draft proposed to deprive the Commissioner of the sole executive authority, and to vest such authority in sub-committees of the Town Council, of which the Commissioner would be the chairman. The draft was referred by Government to the Corporation for the favour of their opinion, and honourable members will find from para. 10 of their chairman's letter, No. 1943 of 1886, which is printed at pp. 106-107 of the Government Selection No. 178, that that body disapproved of the proposed change. Government did not press the new departure, when those in whose interest it was suggested were unwilling to accept it, and the Bill had therefore to be entirely recast. It appears that there does not exist in Bombay the class of gentlemen upon whom municipal institutions in England so greatly depend—gentlemen who are both able and willing to devote a considerable share of their time and attention, without remuneration or for comparatively little remuneration, to local public affairs, and to incur the responsibility which participation in the conduct of such affairs necessarily involves.

I may mention that the first draft Bill also proposed that, following English precedents, the "Corporation" should henceforward be called "the Municipal Council" and "the Town Council" "the Standing Committee." In deference to the views of the Corporation, which were in favour of retaining the old names, the existing nomenclature has been restored in the present Bill; but I venture to hope that this Council may see fit to adopt the amended names. The so-called "Corporation" is in reality

the Municipal Council, and although it is by its constitution a body corporate, there is no particular reason why its designation should proclaim this fact. If the body is designated a Council, each member of it is necessarily a Councillor, a term which not only implies dignity, but is also much more convenient and simple than the term "member of the Corporation." The ugly words "Corporator" and "Corporationer" I leave out of account altogether. The "Town Council" is a clear misnomer. The body which bears that name is not a distinct council; it is a committee selected from the members of the Corporation, and it performs vicariously the duties of the Corporation. It is, in fact, a standing committee of the Corporation, and it would seem fitting that it should be so called. The term "*Town Council*" is quite inappropriate. In England a Municipal Council is popularly called the Town Council, if it is the council of a town. But Bombay has for many years past discarded that appellation, and with every right claims to be a city. A *Town Council* in a city is evidently misnamed. Moreover, the *town* of Bombay meant originally only the Fort; when what we now recognise as the city was intended, the expression "town and island of Bombay" was used. The word "town" still survives in the term "presidency-town" and under the Government of India's enactment, Justices of the Peace are still appointed "for the town of Bombay." The Government of India in their Legislative Department have not yet recognized our claim to be a city; but that I submit is no reason why we in our local enactments should speak of a "*Town Council*" when, for all other purposes, we call Bombay a city.

In the Bill which is before us, the wishes of the Corporation have been followed, not only in this matter of nomenclature, but also in other more important particulars. Upon their suggestion, the number of members of the Corporation is proposed to be raised from 64 to 72. This is a change which, in my opinion, is inexpedient. The number of members is already very large, and the more that number is increased the greater will be the difficulty in obtaining the prompt disposal of business by the Corporation. Upon the recommendation of the Corporation, also, it is proposed that two members of that body be elected by the Fellows of the University and by the Chamber of Commerce. Another proposal of the Corporation which has been accepted is that the Town Council shall have power to elect their own chairman. In some points, however, Government have not been able to concur with the Corporation. They are, for instance, of opinion, that it will promote the despatch of business, if the Commissioner is *ex-officio* a member of the Corporation and of the Town Council; and in view of the unwillingness of the Corporation that the Town Council should share with the Commissioner the executive administration, it appears to be absolutely necessary to provide for the possible need of appointing a Deputy Municipal Commissioner. The experience of the last few years is that the work is increasing far beyond the capacity of any one officer, and although provision is made in section 67 of the Bill by which the Commissioner will be able to depute many of his duties, under his control and subject to revision by him, to Municipal officers, it is still feared that the work of the Municipal Commissioner may be too great for one man.

The only other important feature of the constitutional provisions of the Bill which I need trouble the Council to notice is the careful attempt which has been made to define the respective functions and duties of the three municipal authorities—the Corporation, the Town Council and the Commissioner. The idea that the Commissioner

should be simply the executive officer of the Corporation, obeying and carrying out the behests of that body and of the Town Council, does not appear to accord with the lines of the constitution as at present existing. The great success of the administration of the last twenty-two years is, no doubt, very largely due to the fact that "the entire executive power and responsibility" have been vested in the Commissioner, who is an officer specially selected by Government for this very important and difficult post. The history of municipalities in other parts of the world in which the administration is vested exclusively in an elective body does not encourage us to think that in a city like Bombay such a system would answer; and, as I have endeavoured to show, our own experience in Bombay teaches us that we should adhere to the system which we already have. The interests centred in Bombay are not merely local; the proper administration of its municipal affairs is a matter of vital importance to the whole presidency, to the whole of India. On all these grounds, it seems to me to be imperative, not only that the existing position and authority of the Commissioner should be maintained, but also that, in order to avoid all future conflict of authority and overlapping of jurisdiction, the respective powers and duties of the Corporation, the Town Council and the Commissioner should be explicitly defined. This is also of importance, I think for the credit and usefulness of the Corporation itself. To those who take an interest in the progress of popular institutions in this country, it is obvious that such bodies as the Corporation cannot reasonably be expected to acquit themselves satisfactorily of their public duties, unless their sphere of action is well defined. The principles upon which the division of duties and powers has been made in the Bill are stated in para. 17 of the Statement of Objects and Reasons. It is impossible for me to attempt on this occasion to explain their application in detail. This is a matter which will, no doubt, receive very careful attention at the hands of the Select Committee, and it is possible that that Committee may see fit to make several alterations. I am not prepared to say that I myself concur in all the allotments of authority in the Bill, as it stands, and it is very likely that after interchange of views with the honourable members who will form the Select Committee, my opinion will change even in respect of some of the instances in which I at present think the Bill is right. But I would invite the special attention of the members to sections 66, 68, 92 and 113 and 116 of the Bill, under which the exercise by the Commissioner of any power with which the Bill will invest him is strictly limited by the provisos—(1) that he will be bound by budget provisions; (2) that he cannot enter into any but minor contracts without the approval of the Town Council; (3) that he cannot dispose of any municipal property, exceeding in value Rs. 500, without the approval of either the Town Council or the Corporation; and (4) that he cannot draw a rupee from the Municipal Fund except on a cheque countersigned by a member of the Town Council and the Municipal Secretary, who are strictly enjoined not to countersign any cheque, until they have satisfied themselves that the Commissioner has due authority for the proposed expenditure.

The Bill has been drawn with the full knowledge that it will be very widely discussed by the public and by the Corporation, and that many changes and improvements will be suggested before it is finally passed. I am not instructed that it is the desire of Government to adhere to any particular provisions of the Bill, if it can be shown that some other would be more suitable or more workable. The object of the Bill is, I repeat, the promotion of the best interests of the city of Bombay, and not the enforcement of any fixed, unalterable views.

In conclusion, it may be convenient that I should state the course which is contemplated with respect to the progress of this Bill through Council. It will be seen from section 23 that the time prescribed for the first elections under the Bill is in January and February, 1888, and all the other dates throughout the Bill are fixed with reference to those elections. But these dates were inserted at a time when it was hoped that the Bill would be introduced into Council last rains. They will now all need to be made a year later. To permit of the first elections being made under the new law, even in January and February, 1889, it will be necessary that the Bill be passed by this Council in the ensuing cold weather. The Select Committee will, it is hoped, be able to meet in October, and to submit their report before the end of this year. If that can be accomplished, the second reading may be taken on some convenient day, during the cold weather session in Bombay.

I beg now to move that the Bill to consolidate and amend the law relating to the municipal government of the City of Bombay be read a first time.

The Honourable Mr. TELANG:—Your Excellency,—The Bill now before the Council is one of such great importance, not only to the city of Bombay, but also indirectly to the whole Presidency, that I trust I may be allowed to say a few words upon it even at this stage—only, however, as to its general principles rather than as to its details, which can scarcely be properly discussed on the present occasion. After hearing the speech of the honourable member in charge of the Bill, it is satisfactory to me to think that there is, at least to some extent, a common platform occupied by those who, like myself, are interested in the advance of popular government in Bombay and the honourable member. He seems to agree with us as to the success which the application of the principle of popular government in Bombay municipal matters has hitherto achieved. At the same time I must confess that I find it impossible to perceive how this Bill, framed in the manner in which it has been framed, can harmonize with the views which the honourable member has expressed on his own behalf, as well as on behalf of Government, regarding the success of municipal government in Bombay. Looking at the Bill as a whole, I must say that I consider it to be a retrograde measure—so retrograde, indeed, that if in voting I had to make my choice merely between this Bill and the old law, I should unhesitatingly give my voice in favour of the law as it at present exists, with all its anomalies, its laxities of phraseology, and its conflicts of jurisdictions. But having regard to what the honourable member has said, and what we believe as to the intentions of Government in this matter, I think it still possible that, in the later stages of this Bill, improvements may yet be made which will make it more acceptable, not only to myself, but also to those—and they are many—who agree with me upon this. And that being so, I shall not vote against the first reading of this Bill, but ask leave to point out those of its general features to which I am inclined to take more or less strong objections.

It will be convenient to take the points in the order in which they occur in the Bill. On Chapter 2, referring to the constitution, I must say a few words. And I must state, at the outset, that I am quite prepared to take my share of responsibility as one of the members of the Corporation who rejected the proposal referred to by the Honourable Mr. Naylor as made in the draft of the Bill first published—the proposal, namely, by which the Town Council was to be converted into an executive body to act with the Municipal Commissioner. When that proposal was first made in the Corporation, as it had been made

before the publication of the original draft of this Bill, I and others strongly opposed it. And I am still of opinion, that our position was well-founded. Having regard to the circumstances of Bombay and its society, as at present constituted, I am convinced that a provision of this sort cannot possibly work well. I say that it must prove either an obstruction in the way of efficient executive action, or—and this is much more likely—a perfect sham and a delusion, preventing responsibility being imposed upon the persons on whom it ought properly to rest. As, however, this matter is not now before the Council, I will not deal further with it at present, but proceed to other matters which seem to me to call for criticism. And, first, I should like to say that I entirely approve of the addition to our municipal constituency of the University of Bombay and the Chamber of Commerce. I am sorry to see from the public prints that there is an inclination in some quarters to oppose this provision. I think the opposition is ill-advised, and I entirely approve of this part of section 5. But in regard to the other portion of section 5, making the Municipal Commissioner of Bombay one of the members of the Corporation, I must confess I take a different view from that of the framers of this Bill. It seems to me that no sufficient reason has been shown, and none can be shown, why the position of the Municipal Commissioner at the Corporation should be altered from what it is at present. The true principle which ought to guide us here is, I think, that the Municipal Commissioner should be merely the head of the Municipal Executive; and whatever important proposal he may bring forward should have to be sanctioned by the Corporation before it is carried out. It will not do, then, to make the head of the Executive an integral member of that body. I have had some conversation on this topic with our Municipal Commissioner, Mr. Ollivant, to whose ability I gladly take this opportunity of offering my tribute of appreciation. I have heard from him his views on this proposal, but have never been satisfied by them. The main reason adduced was that the Commissioner's attendance was always necessary,—that it was necessary that he should be always at hand to guide the Corporation and Town Council. But I do not know that making him a member of those bodies will secure his attendance more regularly than will his interest in his work. We cannot secure the regular attendance of members. I can speak to that from personal experience, for my attendance recently at meetings of the Corporation has, I regret to be obliged to acknowledge, been so irregular, that I fear I shall be disqualified under section 18. Besides, it seems to me, as already indicated, that the principle here is wrong. It mixes up the head of the Executive with what should be a purely deliberative body. Furthermore, when the Act of 1872 was passed, this matter was fully gone into, and the provision, as it at present exists, was generally approved. It is true, as I have said before in this Council, that I do not consider myself absolutely bound by what the Council has done on previous occasions, and I am not now asking the Council to accept without question what was done by our predecessors in 1872. But what I do say is that the arrangement made in 1872 has worked satisfactorily; it was arrived at after full discussion; and it is not in itself unjust or unfair. And I do not think we should be justified now in disturbing an arrangement of such a character. This is the first great change here proposed, and it is one, be it remembered, which the Corporation has not asked for, but has distinctly rejected in its communication to Government. If we are to be guided by those who have had experience of municipal matters, I will refer to my honourable friend Mr. Phirozesháh, who has had such experience in larger measure than most people, and who entirely agrees in the view I have expressed. Having mentioned my honourable

friend's name, I may add that I have been in communication with him about this Bill. He regrets his inability to be present in Council on this occasion. But he holds generally the same views as I do upon this whole question.

I shall pass over many of the other sections in this chapter, for they deal with matters merely of detail, upon which I may have something to say on another occasion. But there is one clause which I must strongly object to. Section 37 (g) provides that "if the Commissioner shall, at any time before any business or proposition is finally disposed of at a meeting, certify to the presiding authority of such meeting that the said business or proposition is of special importance, it shall not be competent to the said meeting; or to any subsequent meeting, notwithstanding anything contained in clause (f), to dispose of the same, unless at least twenty-five members of the Corporation, inclusive of the presiding authority, are present during such time as the said business or transaction is under consideration and until it is finally disposed of." I cannot consent to this power being given to the Commissioner. It comes to this, that the Corporation is not to be trusted to decide whether a matter is so important, as that it should not be disposed of by the number of members present on any particular occasion, though the Commissioner is to be trusted. I will venture to say, that there is no ground for such a want of confidence in the Corporation, or for reposing in the Commissioner such unlimited trust. If this clause is carried, we may have such a scene as that of the Municipal Commissioner sending members of the Municipal Corporation away, although they may have attended the meeting at considerable personal inconvenience. It reminds one of Lord Protector Cromwell sending about their business the Commons of Great Britain. I can assent to no such section which would place the Municipal Commissioner over the head of the Municipal Corporation.

Another point in Chapter 2 is a matter of detail, but one which I am apt to consider of so much importance that I should like to refer to it even on this occasion. It is dealt with in section 41 about educational grants-in-aid. Clause 2 of that section provides that "a schools' committee may be appointed under this section to administer the school-fund, as defined in section 120, to manage and provide for maintaining and suitably accommodating primary schools which vest in the Corporation or partly in the Corporation and partly in Government, and for affording aid, in accordance with the Government grant-in-aid rules from time to time in force, to private primary schools and for the promotion of primary education generally." I do not know whether I shall be considered by others to be right or wrong, but I must say that I do not think the Government grant-in-aid rules to be by any means the *ne plus ultra* of educational wisdom. We—and when I say 'we' I mean the Municipal Corporation—may, perhaps, be able to suggest alterations and improvements in them. But if we cannot, as we frequently cannot, get Government to see as we do, I do not understand why we should nevertheless be entirely bound by the rules made by Government. This provision, therefore, seems to me to be in itself unjustifiable, and it also betokens a want of confidence in the Corporation.

In the same chapter comes a provision about the appointment of a Deputy Municipal Commissioner. That appointment should, I think, be left to the Corporation, although I would not object to the appointment being made by that body subject to the confirmation of Government, as is the appointment of a Health Officer or an Executive Engineer to the Municipality. I come next to section 58, which provides, among other

things, for the Municipal Commissioner serving as a member of this Council or of certain local Committees. These provisions seem to me to be open to objection. It is admitted that the Municipal Commissioner has already too much work to do, yet by this Bill we give him much more; and proceed further to impose on him a liability to do the work of the Presidency at large, when he is a paid officer of the Municipality of Bombay city. I do not see what equity the Presidency has to entitle it to such service.

I come next to what is probably the most important point in this Bill, relating to the obligatory and discretionary duties of the Corporation. We have in section 62 a large number of matters mentioned as incumbent on the Corporation. And, in the first place, it is said that the Corporation shall be bound to make "adequate" provision for them; but we are not told who is to judge of the adequacy or inadequacy of the provision made. It is the Corporation that ought to be the judge of that. Again, you find in the enumeration various matters which are dealt with in their respective places elsewhere in the Bill. For instance, take the construction and maintenance of drains. It is the first of the items under section 62 incumbent on the Corporation. Yet by section 219 all drains belonging to the Corporation are to be under the control of the Commissioner, and he is to construct such drains as *he* may consider necessary. In fact, he is master of the whole thing. I confess I find it impossible to harmonize sections 62 and 219. And be it remembered, again, that the Corporation, which has asked for various changes in the law, has not asked for any change in this direction. Take, again, the construction and management of water-works. Under the old law, this was expressly left to the Corporation, but now we have the Commissioner throughout, and he may do pretty much as he pleases. Look, again, at section 65, clause (2), which says: "Except in so far as authority is expressly vested by or under this Act in the Corporation or in the Town Council, or in any such committee as aforesaid, and subject, whenever it is in this Act expressly so directed, to the approval or sanction of any of the bodies aforesaid, the duty of carrying out the provisions of this Act vests exclusively in the Commissioner." The key-note of the Bill may be said to be sounded in that clause. The result of it is that the one municipal authority whose powers are deliberately left indefinite in this Bill is the Municipal Commissioner; yet it is his powers, before all others, that ought to be strictly defined. The powers of the Corporation and Town Council, on the other hand, are strictly defined, while it is the Corporation, if any authority, that within the Municipality ought to be omnipotent. I may remark, too, that it is not only the Corporation and Town Council which have their powers limited by this Bill, but even the executive Health Officer is placed on a lower footing than under the old law. Under that law he had authority, in special cases, to make reports to the Town Council direct, and to exercise some powers independently of the Commissioner. But in the present Bill all his independent authority is absorbed into that of the Commissioner.

I shall now pass over the intermediate sections to come to section 135, which is remarkable as dealing with a matter about which there has recently been some considerable feeling inside and outside the Corporation. Comparing section 135 of the Bill with section 30 of the present Act, we find that while under the latter section the Town Council has power to call for all municipal records, under section 135 of the Bill the Town Council is to have "access" only to "all the municipal accounts and to all correspondence relating thereto." Obviously the powers of the Town Council are here considerably curtailed. I do not say that the question is one entirely free from all difficulties. But

I certainly do say that this is not a satisfactory mode of dealing with those difficulties. The next section vests the appointment of municipal auditors in Government,—the Corporation no longer appointing them, as it has done hitherto. What advantage to the Municipality is to result from this provision I do not know; for I do not understand it to be contended that the audit hitherto has been unsatisfactory. I can quite understand that the Central Government should wish to examine the accounts of local bodies. I do not see anything objectionable in that. And I should probably not have objected to the change had Government not required payment for the audit thus provided for. I need not say more on this point at present, but proceed to the provisions about the annual Budget. The framers of this Bill do not seem to have had it present to their minds that its provisions in regard to the important work of considering the Budget will either deprive members of the Corporation of their Christmas holiday, or make them neglect their most important civic duty. I cannot see why they should be placed in this position. The Budget is to be in the hands of members of the Corporation not later than the 22nd of December; they are to proceed to consider the same not later than the 5th of January—a date that often falls before the expiry of the holiday available to myself, for instance, and others connected with the High Court; and, before the 15th of January, the taxes are all to be finally determined. I can only say that the lot of a man who has the misfortune to be a member of the Municipal Corporation with such duties is much to be pitied.

Section 336 and following sections relating to building regulations can, in my judgment, be only characterized as providing, not for local self-government, but for autocratic government run mad. The Commissioner has power to decide how I shall build my house, of what materials, to what height, what shall be the situation and size of the rooms in it, and, after all has been done, whether I shall live in it or not. I will venture to say that autocratic government could not be reduced to an absurdity more clearly. When such interference with individual liberty was attempted under bye-laws proposed during the Municipal Commissionership of Mr. Pedder, I was one of those outside the Corporation who took part in the popular protest against it. I have not had time to compare those proposed bye-laws with the regulations proposed in this Bill; but my general idea is that those bye-laws were not more objectionable than these regulations. I will make only one other remark on these regulations by way of illustration of my general objection to them. You may provide by an Act of the Legislature for means of ventilation to all houses, but you cannot by any Act of the Legislature compel the use of such means when provided. We know that there are many houses used by our people where such means, though existing, are not availed of. This illustrates the inefficacy of such provisions interfering with individual liberty. Look, again, at section 372, clause 2. The occupier of any land is bound to cause dust, &c., to be deposited upon a part of his land which the Commissioner may appoint. Why should this be so? If a man places rubbish in any place so as to cause a nuisance to his neighbour, the law gives such neighbour a remedy. Why, then, should the Commissioner have power to come and tell me where I am to put the dust and ashes on my land? I confess the thing is beyond my comprehension. Again, sections 382 and 383 deal with buildings unfit for human habitation and overcrowded dwellings. Under these sections, the Commissioner has only got to say the buildings shall not be used, and the owner who afterwards uses them or allows them to be used becomes liable to a penalty. Under section 222 of the present Act the Commissioner has no such despotic power. The Health Officer's certificate and the Presidency Magistrate's order are now necessary for such

interference with individuals. Under the present Bill the Health Officer and Presidency Magistrate are both ignored. I do not see what there has been in the every-day life of Bombay hitherto to justify such legislation.

I come next to the provisions relating to markets. At present, the Commissioner can only establish a market with the sanction of the Corporation and Government. But, under the Bill, the Commissioner is the sole authority in that respect. To take another point—small in itself, but still of importance, and kindred to this one about the markets. Section 414 prohibits the hawking about of articles of human food without a license from the Commissioner. Under section 314 the Commissioner may summarily remove from the streets any man creating an obstruction by hawking, and seize his goods. Now I must say that I object to these provisions very strongly. There is no doubt it would be desirable, if it were possible, that all things should be purchased by all people in well-appointed markets in æsthetic buildings, with nice-looking stalls, and everything arranged in the most beautiful and symmetrical style. This would be desirable, if possible. But how does this provide for the poorer classes, to whom it is obviously a very great convenience to have their food supplies brought to their doors by these people who go about hawking their goods? The proposed arrangement belongs, perhaps, to a higher platform of civilization than those people can imagine. They cannot appreciate it; it is entirely foreign to their habits. And on behalf of these poor people, these provisions must be objected to.

The Honourable Mr. NAYLOR :—It simply prohibits hawking without a license being taken out.

The Honourable Mr. TELANG :—Yes, but the people affected would belong to the poorer classes, who have no voice to give utterance to their complaints, and no means of getting them redressed. It is easy to imagine the great oppression to which they must be exposed under the operation of such regulations as these.

Section 438 and following sections deal with sanitary measures to be taken in the event of an outbreak of any dangerous disease. The Commissioner is to take the proper steps in such a case. This is well enough, as he is the head of the Executive of the Municipality. But in the performance of his duty he is not to communicate, according to this Bill, with the chief authorities of the Municipality. His communications are outside the Municipality,—that is to say, with Government. It ought to be provided that he should also report to the Town Council and the Corporation. Again, section 516 provides that Government should call on certain Municipal authorities to do certain things. This seems to me not the proper mode of proceeding. The Government should address the Corporation, and be addressed by or on behalf of the Corporation: the chief Executive Officer or any other Municipal authority should not be dealt with by Government as if he was an independent authority.

I now come to section 474, a long section providing for penalties. This will have to be very carefully considered, for I have noticed some provisions not easy to defend. For instance, if the provisions as to notice of transfer of property under sections 148 and 149 are not complied with, a man becomes liable to a fine under section 474. Why should this be so? If notice is not given, the original owner remains liable to the Municipality. That is a sufficient safeguard for the interests of the Municipality. The last point I wish to refer to, is contained in section 515. The Commissioner is to take or withdraw from

all proceedings against any person for offences under the Act, &c. The Town Council and Corporation have nothing whatever to do with this. I am not satisfied with this provision. I know it is said that bodies, like the Town Council and Corporation, are not the most fit for dealing with such questions. There is some truth in that. But we must not forget that, under the operation of rules similar to those now under notice, the Municipality has actually suffered, before now, heavy pecuniary losses. This aspect of the matter, too, is one to which special attention must be paid. I am not now in a position to say how the provision before us should be modified. But I think it necessary that some check on the Municipal Commissioner should be provided.

I do not propose to trouble the Council at this stage of the Bill with any further remarks. I will only say this, in conclusion, that, regarding the Bill as a whole, the effect it seems likely to have is to reduce the powers of the Corporation and Town Council, and to enhance those of the Commissioner, not only at the expense of those bodies, but also of the Health Officer as well. In all these respects I think the principle of the Bill is wrong. I admit that we are all anxious to secure the good government of the city, and that what we have to consider is its true interests. I admit that to conserve those interests properly we ought to have a strong Executive. But to conserve those interests it is not necessary to make the Executive independent of the higher municipal authorities. The Executive ought still to be answerable to the Town Council and Corporation. So far, although we have had the various anomalies, and the conflicting jurisdictions, and the laxities of phraseology to which references have been made, still we have worked on the whole successfully. The Municipal Commissioner has been the head of the Executive, no one meddling with him in that respect. The Corporation has retained the province of supervision. The Corporation has in the past been, in fact, only too glad to support the Commissioner, whether it has been consulted before or after any action taken by him. I do not say that the confidence reposed in the Commissioner has not been, in general, fully deserved. But, on the other hand, it is a mistake to suppose that there will ever be any endeavour to stretch unduly the powers of the Corporation. The tendency of this Bill, however, is, when correctly viewed, towards a material abridgement of the Corporation's powers, and towards allowing the Commissioner the amplest possible scope. This is not as it should be. It may hereafter happen that we shall get a Commissioner anxious to assert his own powers, and not careful about the due powers of other authorities. Friction will then ensue. If you want to have complete success, define the powers of the Commissioner as well as those of the other authorities fairly. Here you have restricted unduly the powers of the Corporation, while the Commissioner's powers are almost unlimited. But it is said that this must be so, because power and responsibility ought to go together. This is true enough, but I say that, under the provisions of this Bill, power and responsibility do *not* go together. They are completely divorced. The power under section 219, as I have already pointed out, does not go with the responsibility under section 62 for identical matters. Again, when it is said that the Municipal Commissioner is responsible for the condition of the city, I ask to whom is he responsible? It is to the Corporation he ought to be responsible, and then the proposition about power and responsibility going together ceases to have any application to the case. My *beau ideal* of municipal government includes a strong Executive responsible to the Corporation, and an enlightened Corporation watchful over its Executive. Under such a constitution you may give full play to the good sense of the Corporation, which has been, on the whole, pretty well shown

during the past fifteen years. But the principles of this Bill are as far from my *beau ideal* as they could well be. And I am afraid that this Bill will not accelerate, but rather retard, the approach of it. Local self-government is a sham if no trust is reposed either in the Corporation or the Town Council. I do not say that Mr. Naylor or Mr. Ollivant are actuated by a distrust of popular government, but their confidence in it is weaker than it should be. If it had been as strong as I think it ought to have been, many of the provisions of this Bill would have been very different from what they are. If the pre-eminent position of Bombay, to which reference has been made in the speech of the honourable member, requires a special mode of government, let us by all means consider that point. If popular government cannot be trusted to cope with all the necessities of that pre-eminent position, let us abolish the Municipality altogether, and let us have a strong administration, and rule by means of the Governor in Council. But if we are to have popular government, let us have it in a genuine form, with power and responsibility in the hands of those who represent the people. Considering the large expenditure which has been incurred and the great development of the city which Mr. Naylor has described as marvellous, there are grounds, in my opinion, for reposing great confidence in those representatives. There may have been blunders, but these blunders are a necessary part of our municipal education, and are not always absent under autocratic rule. We must be prepared to put up with such occasional blunders to secure eventual good government.

Such eventual good government, I hold, is more likely to be achieved under our present law, than under the law as proposed in this Bill. It will, therefore, be my duty to oppose the passing of the Bill, unless it emerges from the Select Committee's hands very much altered from its present form. I would sooner have our lax phraseology, our conflicts of jurisdiction, and our numerous anomalies, than scientific legislation, in which all the substance of self-government will be abolished or starved out. I am quite willing to have a strong Executive under a popular government. But under the proposed Bill we shall have what some people would call a benevolent despotism, but what I should call autocracy slightly tinged with bureaucracy.

I would ask leave to add one word about my friend Mr. Phirozesháh. I wish he had been here to-day, for he is immeasurably more familiar than I am with the history and present working of our Municipality. But I know that he generally agrees with me. Although he is, of course, not pledged to everything I have said, I may state that on the general principles governing this matter he and I are agreed in opinion.

The Honourable the ADVOCATE GENERAL:—I should be sorry to give a silent vote in this matter: so will accompany my vote with a few observations. I trust that I approach the consideration of the Bill with a due sense of the responsibility which must attach to every member of this Council in dealing with it. Of course I take an interest in it as a citizen of Bombay for more than twenty years past. If Mr. Telang and I allowed professional considerations to influence our votes, we should probably not welcome the introduction of the Bill into the statute book, inasmuch as it will repeal the existing cluster of eleven acts, which are a perfect chaos of inconsistencies, repositories, in fact, of legal conundrums, which have, in the past, substantially contributed to the precarious subsistence for which he and I toil in Bombay. But feelings of this kind are subordinated to larger considerations, and as a citizen, from many points of view, I welcome this enactment, which will replace the present unworkable law by one consolidated Act. So far as I

have formed an opinion, from the limited attention I have hitherto been able to give to the Bill, it seems to me most logical in its arrangement, lucid in its composition, and in its matter well adapted to the conditions and requirements of life in Bombay. As to details, there may be much ground for difference of opinion; and in the few observations I am making, I reserve to myself most ample liberty to alter my views on any particular section or sections; but, regarded as a whole, the Bill strikes me as being in its conception an extremely satisfactory measure. It seems to me impossible, in a measure of this kind, having regard to the difficulty of drawing a hard and fast line between financial and executive control, to avoid anomalies. But I would unhesitatingly say that the powers proposed to be conferred on the Commissioner are, in the main, only such as are demanded under the existing conditions of society in Bombay. We must consider what is likely to produce the greatest good to the greatest number, and we must remember that the only consideration in this matter is not the education of local self-governors, who themselves are a very limited number of individuals. They have during the past decade or longer been undergoing a course of education at the cost of the general body of unobtrusive rate-payers. One result has certainly been, (as Mr. Telang and Mr. Phirozesháh no doubt would admit), that there has often been a great deal more talk than real work at meetings of the Corporation, and I apprehend that both my friends must themselves have occasionally perused the debates of that body with feelings rather of weariness than of edification. What strikes me as the object which Government has kept in view in the preparation of this Bill is this, the furtherance of the best interests of Bombay as a city. All considerations of the development and expansion of local self-government, though extremely weighty, must be subordinated to this primary object. That Government is anxious to help forward local self-government, was testified by the suggestion of a system of executive committees which was offered to the Corporation. But that scheme, which would have invested them with a very large measure indeed of executive power, was rejected, and if there are any defects in this alternative scheme, it seems hardly to lie in the mouths of those, who declined to accept additional powers, to object to what Government now offers as being retrograde legislation. I notice that the Committee of the Corporation in their report, pp. 107 and 108, are extremely curt in their rejection of the committee-scheme, assigning no reasons for it, but simply saying that the Commissioner should be the executive officer of the Corporation. As an experiment, I should have been inclined to support the scheme of committees with executive powers, but I should have done so with considerable misgivings. The reason is that the class of men who in England do this sort of work is not forthcoming in Bombay. In England there is a large class of burgesses entirely or almost entirely withdrawn from professional or commercial work while still in the prime of life, and who take a pleasure and pride in doing municipal executive work without remuneration. But the inhabitants of Bombay generally are more indifferent. When Bombay can exist with a form of government such as obtains in English towns, then by all means introduce it. But as yet Bombay is not fit for it. To me, and I believe to many other rate-payers, an increase in the powers of the Municipal Commissioner in matters of detail is acceptable; and I should be exceedingly sorry if, before he could exercise his authority in closing my neighbour's cesspool, he should have to consult a body of twelve or more members. Even if there be some anomalies—and I am not prepared to say there are not—in the proposed new law, it is decidedly an improvement on the old. I admit that progress should be the Government motto and not retrogression. But

the progress should be cautious, and with due regard to the experience of the past. The well-being and the sanitary condition of the city must not be sacrificed. It is within my experience that on many occasions the action of the Town Council or Corporation has tended to hamper and baffle the Commissioner in carrying out most desirable undertakings. I remember one instance in particular. It is of recent occurrence in the case of the formation of the Ripon Road. Section 157 of the existing Municipal Act gives the Municipal Commissioner power, with the Town Council's sanction, to acquire for the purpose of constructing roads or streets not only the land on which the road or street itself is to be, but an adequate entourage to admit of the municipal body disposing of the same for sites of houses to abut on the road or street. The sales so effected would produce sufficient funds to drain, metal, and wholly to construct the road. This might have been done in the case of the Ripon Road—and Mr. Ollivant proposed to do it—but in nine cases out of ten he was prevented from doing so by the Town Council. One of the few exceptions, however, occurred in the case of an old woman, who thereupon made a grievance of being treated worse than her neighbours, and complained that she had been very unfairly dealt with, by having all or the greater part of her land taken, while in other cases only so much as was wanted for the road was taken; whereas of course the real unfairness was that all the frontage along the road was not uniformly taken up under the section, and a great economy so secured to the Municipality, without the slightest injustice to any individual. This is an instance which, in my opinion, shows that very great caution should be observed in curtailing the Commissioner's executive powers. It seems to me futile to say that he is not under the control of the Corporation and Town Council, seeing that their financial powers are so complete, and that by section 55 he is liable to dismissal upon the vote of 45 out of 72 members of the Corporation.

The Honourable Sir M. MELVILLE :—The present is a case which illustrates the saying *quot homines tot sententiæ*. Mr. Telang describes the Bill as a monstrous measure, and says that if it were carried, the Corporation and Town Council would cease to exist. He says, too, that if it is not radically altered, he will have to move its rejection on the second reading. The Honourable the Advocate-General says it is an excellent measure, though perhaps subject to alteration in detail, and hopes Mr. Pherozeshah's and Mr. Telang's views upon the subject will be met as far as possible by modifications to be made before the third reading. The chief objection taken by Mr. Telang is that the Bill deprives the Corporation and the Town Council of power, and entails too much upon the Commissioner. I do not think that is altogether so. The Municipal Corporation and the Town Council have power to deal with questions in which the part of the Commissioner is very small indeed. No doubt the present Acts provide that power and responsibility shall rest with the Municipal Commissioner. But their provisions can be regarded as wider than that. They require that matters shall be dealt with with the sanction of the Town Council and Corporation. These restrictions seem to have been removed from the present Act. Of course it is open to consideration whether they should be so. For instance, the Municipal Commissioner is at present in certain cases obliged to consult the Health Officer. It is questionable whether any change is desirable in that respect. The Honourable Mr. Telang has taken objection also to the Commissioner being a member of the Town Council. Considering that he has to attend all meetings of the Corporation and Town Council, I do not see why it should be contrary to principle any more than it is for the Home Secretary to be a member of Parliament.

The Honourable Mr. TELANG :—He has to be re-elected after his appointment.

The Honourable Sir M. MELVILL :—Another objection is taken to the provision that the auditors should be appointed by Government. But it is contrary to principle that the auditors should be appointed by the person whose work is to be audited. Again it is urged that the Deputy Commissioner should be appointed by the Corporation and not by Government. I am sure that Government does not desire this as a piece of patronage. Those who are called upon to take part in any function of appointing a person to the public service, find it a very unpleasant task indeed. It has been said that if you have to make an appointment and have twelve candidates, you make eleven enemies and one ingrate. I am sure it is an unpleasant duty, and is not desired by Government, except with the best possible end in view.

The Honourable Mr. TELANG :—I do not suggest that Government wishes it as a piece of patronage.

The Honourable Sir M. MELVILL :—No, I do not say you do. It seems to me that the reason why this power should be given to Government is because Government will be best aware who is or is not qualified for the post. Moreover, Government appoint the Municipal Commissioner, and it seems reasonable that they should also appoint the person who is in training for his place. And a still more important consideration seems to me to be that the appointment should be made by the authority which can most conveniently remove the person from office. It is clearly most important that the Deputy should work harmoniously with the Commissioner. But if he fail to do so, or to work harmoniously with the Corporation, it is difficult to see what the Corporation can do. Of course it could dismiss him, but that is an extreme measure, which should be reserved for cases of grave misconduct. The Municipal Commissioner might say his Deputy was a hardworking man, conscientious and so forth, but he could not get on with him, as he was wanting in tact or discretion. In such a case it would be perfectly easy for Government to transfer him to another appointment. It would be difficult for the Corporation to find a position to which to transfer a man drawing a monthly salary of twelve or fifteen hundred rupees. I do not think it necessary at this stage of the Bill to make any further remarks; no doubt the details will be fully and carefully considered by the Select Committee.

His Excellency the PRESIDENT :—I wish only to make one observation with reference to the concluding remarks of the Honourable Mr. Telang's interesting discourse about the *beau ideal* of local self-government. Now whoever may be responsible for the fact that his *beau ideal* is not more of a reality, it certainly is not the Government of Bombay. The honourable member who in a very able speech introduced this Bill recalled to our memory that a proposal was made to the Corporation on behalf of Government which bore a close resemblance to the ideal placed before us by my honourable friend. That proposal was made by Government in real earnest, and as far as I am concerned with a sincere wish that the experiment should have a fair trial and I may add—perhaps because I have not been so long in the presidency as the Honourable the Advocate-General—without any misgiving. What I had read of the debates of the Town Council and of the Corporation led me to the conclusion that the interests of the town of Bombay might very well be entrusted to working members of these bodies. I do not wish to criticise the reasons which brought about the refusal of the offer of Government. Perhaps

on that occasion, as on another occasion connected with educational reform, Government was slightly in advance of public opinion, and too sanguine as to the capacity for self-government at present available. *Timeo Danaos et dona ferentes* may in this case have been prompted by a laudable sense of modesty. But under these circumstances the honourable member cannot accuse Government of having, in the initial stages of this reform, shown a retrograde disposition. Quite the contrary has been proved. Government was so progressive that the Corporation was not prepared to follow it. I am not contending that the diffidence of the Corporation was unwise. But our original offer should guarantee us from any taunt that we are imbued with retrograde proclivities. Whatever illustrations the honourable member has given as to defective detail, none of them touch on irremediable points. His conclusion was pitched in rather a higher tone than the arguments in the body of the speech warranted. So long as the Corporation and the Town Council have the right to control expenditure, the Municipal Commissioner cannot degenerate into an "autocrat." It should not be forgotten that the Municipal Commissioner being an officer of Government is responsible to Government, and Government is as directly interested in the welfare of Bombay and in its wise administration as any member of the Corporation or of the Town Council. Besides, I cannot conceive that any Government would entrust the administration of Bombay to a Commissioner who could not act harmoniously with the Town Council and the Corporation. No constitution can secure good administration; but the fact is that a strong executive, such as is required in all large cities, is quite compatible with the exercise of proper control by the representatives of those for whose benefit it is instituted. To one sentence in the Honourable Mr. Telang's speech I must take decided objection, that in which it is implied that the Corporation should be an omnipotent assembly and the ultimate master of the destinies of the city of Bombay. I do not see why an assembly should be omnipotent, and I think it undesirable for the same reasons that omnipotence of individuals is to be deprecated. It is certainly contrary to the genius of the constitution of Great Britain; and in those countries where local self-government has reached its highest pitch of perfection—in the Low Countries—after centuries of experience a careful series of checks has been designed to prevent abuses. The Municipal Council checks the Executive in towns and villages, and the Council itself is checked by representatives of the districts—or as we should call them collectorates. The Central Government has a further residuary control. I think the Acts of their Legislatures have been translated, and I shall be very glad to give them to my honourable friend.

The object of municipal legislation is to secure to the rate-payers sound finance, a methodical extension of buildings, good roads, fair sanitary conditions, good schools, medical aid, not to mention other matters. Such legislation cannot but make the discretion of individuals subject to limitations warranted by public requirements, but it also should prevent any section of the community being neglected by those sections which happen at the time to be most influential in the Corporation.

I should not vote in favour of this Bill if I thought it a retrograde measure, and I trust that it will emerge from our deliberations as a measure calculated to secure to Bombay a strong but not an arbitrary executive as well as a thoroughly representative Corporation.

The Honourable Mr. TELANG :—I should like to offer an explanation with reference to one of my propositions which has been misunderstood. I do not want the Corporation

to be omnipotent in the sense supposed. Certainly it should be under supervision, and I would not object to some restrictions being devised for this purpose. For instance, as to buildings, I would not let even the Corporation interfere with an individual in that respect to the extent proposed in this Bill.

The Bill was then read a first time, and on the motion of the Honourable Mr. NAYLOR it was resolved that the Bill be referred to a Select Committee, consisting of the Honourable Sir M. Melvill, the Honourable the Advocate General, the Honourable Messrs. Telang and Mehta, the Honourable Khán Bahádur Kázi Shahábudin, and the mover, with instructions to report by the 1st January, 1888.

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

Translation of Bill No. 3 of 1887.

On the motion of the Honourable Sir M. MELVILL it was ordered that Bill No. 3 of 1887, a Bill to amend Bombay Act No. VI of 1863, should be translated into Maráthi and Gujaráti, and that the translations should be published in the *Bombay Government Gazette*.

His Excellency the PRESIDENT then adjourned the Council.

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

A. SHEWAN,

Secretary to the Council of the Governor
of Bombay for making Laws and Regulations.

Poona, 23rd July 1887.

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

The Council met at Poona on Monday the 10th October, 1887.

PRESENT:

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

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

The Honourable J. R. NAYLOR.

The Honourable the ADVOCATE GENERAL.

The Honourable KASHINATH TRIMBAK TELANG, C.I.E.

The Honourable Khán Bahádur KAZI SHAHABUDIN, C.I.E.

The Honourable Ráo Bahádur MAHADEV WASUDEV BARVE, C.I.E.

The Honourable PHEROZESHAH MERVANJI MEHTA.

His Excellency the PRESIDENT said :—Since our last meeting this Council has lost two of its members. In the Honourable Sir Maxwell Melvill we had a colleague whose calm and sound judgment inspired the highest confidence. Very few men had a greater knowledge of the various needs of the Presidency, for the prosperity of which he laboured so hard and so faithfully. I doubt if Bombay ever had a Member of Council who was so single-minded in his devotion to its interests. The chief characteristic of the late honourable member's work was its thoroughness and finish. Whether he had to settle important questions of Forest or of Abkári policy, or to decide upon a comparatively insignificant matter affecting the humblest individual, never did my late friend rest until he had satisfied himself that every point had been considered. As an instance of this I may mention the case of some Mehvási Patels in the Kálol Táluka of the Panch Maháls, on whose behalf the late honourable member took infinite pains as soon as doubts arose about the justice of a former settlement of their rights. The acuteness of certain minds is only too apt to develop into obstinacy or one-sidedness. In my late honourable friend's method of dealing with intricate questions nothing was more remarkable than his extraordinary fairness. No argument that could be urged on either side was suppressed, and his minutes always contained a full record of the *pros* and *cons*. Always conciliatory, always ready to waive minor points, there was only one thing which he could not tolerate—unreality. Too modest himself, self-assertion seemed to him a breach of good taste which his refined nature abhorred. Theories did not attract him, and I can hardly recollect a single minute in which a doctrinaire idea made its appearance. His mind was too versatile to run into any special groove, and his perception was so quick that he invariably detected the practical demerits of a theoretical solution. I have often wondered in reading his minutes what Sir M. Melvill would have done if he had been a Professor. He would probably have adopted the course which Savigny tells us the Roman jurists took, who did not indulge in definitions, but in illustrations (*"verbi causa"*). He was an ideal administrator without other ambition than that

Speech by His Excellency the President on the deaths of Sir. M. Melvill and Mr. Dayaram Jethmal.

of promoting the happiness of the people of India, and his conception of the means by which that object could be accomplished was essentially practical, because founded on the existing state of things. On the dignity of Government, and the loyalty of its servants, he held very strong opinions, which were the natural result of the great pride he felt in belonging to the Bombay Civil Service. In the affairs of the town of Bombay, of which he had so long been a resident, he took a direct and personal interest, and to that city as well as to the Presidency his loss is irreparable. Having paid this tribute to his memory in your name, I can only say for myself that I sincerely mourn the loss of a true friend.

In the Honourable Mr. Dayaram Jethmal we have lost a thoroughly efficient and upright member, who during the short time he was with us had produced a most favourable impression and who filled a most important place on account of his intimate acquaintance with the province of Sind, in which Government and this Council are deeply interested. He was so universally respected in Sind that everything he said on its behalf commanded our attention, and to me personally it was a pleasure to discuss Sind affairs with the late member whose name is associated with many useful institutions in that part of the Presidency, over which I may say we are keeping a most careful watch. We are supplying Sind—whilst fully recognising its special characteristics—with some of our best administrators, in order that it may rapidly attain that development which our late colleague so earnestly endeavoured to secure for it.

The Honourable Mr. TELANG:—On behalf of the Additional Members of the Council I would like to express our concurrence in what has fallen from your Excellency. It is not necessary to add anything to what your Excellency has said, but we desire to express our sympathy with the relatives of the deceased members of Council whose death we lament.

Papers presented to the Council.

The following papers were presented to the Council:—

- (1) Report of the Select Committee appointed to consider and report on the Bill to amend Bombay Act No. III of 1866.
- (2) Letter from the Secretary to the Hitachintak Sabha, Vengurla, No. 47, dated 2nd August, 1887, offering certain observations on Bill No. 2 of 1887.
- (3) Petition from Dádábhoy Hormusji and others (without date) praying that Bill No. 2 of 1887 may not be passed.

The Honourable Mr. NAYLOR in moving the second reading of Bill No. 2 of 1887, a Bill to amend Bombay Act No. III of 1866, said:—Your Excellency, I have to move the second reading of the Bill to amend Bombay Act No. III of 1866, the object of which was stated when introduced by the late Sir Maxwell Melvill to be “the removal of the limitations imposed by what he might call the Mofussil Gambling Act, Bombay Act III of 1866, in consequence of which gambling cannot be put down in towns which are more than three miles distant from a railway-station, unless they contain five thousand inhabitants and a resident Magistrate. The result is that a great amount of gambling goes on within a few miles of Bombay, which the authorities are powerless to check.” The law as to gambling, as it at present stands, is different for Bombay from what it is for the Mofussil. The provisions for Bombay are contained in two old Acts of the Indian Legislature, viz., Act No. XIII. of 1856 and Act No. XLVIII of 1860; the provisions for the Mofussil in Bombay Act No. III of 1866. But although the Acts for

Mr. Naylor moves the second reading of Bill No. 2 of 1887.

Bombay and the Mofussil are separate, they are in substance very much the same. In fact, for the greater part they are word for word the same. In the opinion of the Select Committee, it is desirable that the opportunity should be taken to consolidate all these provisions regarding gambling, and the Bill prepared by them effects this purpose. This amended Bill, which is now before the Council, will extend to Bombay and the island of Sálsette and to all-places within three miles from any railway-station-house. So far as it affects the city of Bombay and railway-station-houses and places within three miles of any railway-station the law will remain as at present. With regard to the island of Sálsette, I must explain that the late Sir Maxwell Melvill pointed out in his speech on the introduction of the Bill that it had been suggested that the limit of three miles from any railway-station was insufficient and should be extended to ten miles. This matter has been considered by the Select Committee, and it was decided by them not to accept the suggestion to extend the limit of three miles. The consequence of such an extension would be that it would still be possible for people to evade the Act by taking short journeys beyond the ten miles' limit, and, on the other hand, the extended radius would include a large number of villages in which there was no necessity for the Act to have operation. The Committee therefore came to the conclusion that it would be better to retain the three miles' limit, and leave it to Government to extend the Act to places beyond that limit as it became necessary to do so. But as Sálsette is so easily approachable from Bombay by either of the two railways which intersect that island, it was considered necessary to include the whole island in the area to which the provisions of the Act will apply without express extension by Government. The object with which the Bill was originally introduced has also been kept in sight by the Select Committee. So long as Government was restricted as to the sort of place to which the operation of the Act might be extended, effect could not be given to that object. All that it was necessary for people to do was to find some place without a resident magistrate and whose inhabitants numbered less than 5,000. In such a place they might have carried on their gambling operations quite beyond the reach of the law. I am also informed that there are many such places in this presidency where fairs are occasionally held at which gambling goes on, which it is thought desirable that Government should have power to suppress. The present Bill, as drawn by the Select Committee, makes the Act applicable to the entire presidency, and as it thus enables Government to prevent evasion of its provisions by extending it from time to time to any place in the presidency, I trust it will meet with the approval of the Council.

Three memorials regarding the Bill have been presented, two in favour of and one against it. The first memorial is that of Mr. Desái of Thána, dated 29th January, 1887, who approves the proposal that the limit of three miles be extended. He says :—" It is, I believe, a well known fact that the provisions of the law (sections 56 and 66 of Act XIII of 1856), which prevent gambling in the city of Bombay, are frequently evaded by persons living in that city by resorting, for the purpose of gambling, to places like Chembur in the Sálsette and Nirmal in the Bassein tálukas of the Thána collectorate. These two places are, I am told, a little more than seven miles distant from the railway-stations. To prevent gambling in these and other villages, not very far from railway-stations, it is, I think, necessary to extend the provisions of the Act (No. III of 1866) to all places surrounding railway-station-houses and being not more than eight miles from any part of such station-houses. I would, therefore, respectfully propose to substitute the

words 'eight miles,' for the words 'three miles' in section 1 of the Bill." If that suggestion were acted upon, people would repair to places just over the eight miles and the same evasion of the Act would continue. It has therefore been considered best to leave Government power to determine to what places the Act shall at any time be extended. The second part of the memorial contains a suggestion with regard to the power of the police to search houses in order to ascertain whether they are common gaming-houses within the meaning of the Act. It is suggested that to section 5 of the existing Mofussil Act there be added the provision of the Code of Criminal Procedure that such searches shall be made in the presence of two or more respectable persons. This suggestion was considered by the Select Committee, but after discussion it was decided not to adopt it. If the proposal were adopted, the Committee felt it would be very difficult, if not almost impossible, for the police to pounce upon gamblers, as is generally necessary, and to seize them and their instruments of gaming in the very act. Those instruments are so very easy to conceal and carry away that unless the police can act promptly and catch the offenders whilst they are actually engaged in gambling, a successful prosecution is nearly impossible. For this reason, it appeared to the Committee that any such restriction as was imposed by other laws with regard to the search of houses could not safely be imposed here. The Committee were also not aware that any complaint of unfair or improper proceedings in the search of houses supposed to be common gaming-houses had been made since the law against gambling had been in force in this presidency.

The second memorial was from the Sabha of Vengurla in the Ratnágiri District. They say :—"Now that a Bill to extend the sphere of Act No. III of 1866 for ten miles from the station has been introduced by the Honourable Mr. Justice Melvill, I am directed by the Sabha to bring to the notice of the honourable members of the Council that the working of the present law is not as satisfactory as it ought to be to suppress the evils caused by gambling. This city of Vengurla being greatly oppressed by the prevalence of gambling the Sabha exerted their labours with the Government, and Government were pleased to extend the Act to this station by Resolution No. 7289, dated 30th October, 1884. But the law having its force for only three miles round this station, the Act had no sooner come into force here than gambling broke out at Araoli and Shiroda, two very rising villages, not more than five or six miles from this station. The Sabha, therefore, think that the extent limit of ten miles proposed by the Honourable Justice Melvill is quite expedient and trust that the Bill introduced by him be passed into law." These memorialists have somewhat misconceived Sir Maxwell Melvill's intentions, but their object would be sufficiently achieved by the Bill as now drawn. Their representation furnishes, however, an illustration of the necessity for empowering Government to extend the provisions of the Act, whenever from time to time they may find it necessary, to places where there are no resident magistrates and in which the inhabitants number less than five thousand ; as both Araoli and Shiroda are places within that category.

The third memorial was from Dadabhai Hormusji, Bhao Khumaji Patel, and other persons who are owners or are interested in the gaming-houses in the island of Salsette which were described by the late Sir Maxwell Melvill, and which were the cause of the introduction of the Bill. These memorialists say :—"Your humble petitioners beg to submit that there does not seem any necessity for amending Act III of 1866, which for the last nearly twenty-one years seems to have worked

fairly and to have attained the object for which it was passed. The object of those who framed Act III of 1866 was, as your petitioners believe, not to put a stop to gambling altogether, but to prevent the vice spreading in large and populous cities, or rather in cities and towns which contained five thousand or more than five thousand inhabitants. This restriction had the desired effect, and for the last twenty or twenty-one years none of the inhabitants of the aforesaid town or place where people assemble for the purpose of having a game at cards or dice, and at which some money is put at stake, have ever complained to Government or any other authority either against those who so assemble or against those who keep houses for such people to assemble." Further on they say:—"Your petitioners beg to state that, as far as they are aware, no offence of a serious nature has ever been committed within the aforesaid villages ever since the passing of the said Act, nor have any of the villagers from the aforesaid places suffered any injury to their person or property from the presence of those who have frequented places for gambling. On the contrary, your petitioners beg to state that owing to the fact of persons coming in large numbers, shop-keepers and others have derived much benefit, and which fact also has benefited the villagers as they find commodities for their daily use within their easy reach for which the villagers had formerly to go a long distance to procure the same." In another paragraph they observe: "Your petitioners are informed that the Bill to amend Act III of 1866 having been introduced in your Excellency's Council by the honourable mover was referred to the Select Committee for report, which has been already published and from a perusal thereof it is evident that the Committee have gone much further than even the honourable proposer, for while the latter proposed to extend the radius from three to ten miles, the Select Committee propose to include the whole of Salsette within the prohibited districts and thus put a stop to gambling altogether." In short, these memorialists complain that the Bill, as it is now before the Council, will leave them no loophole whatever for evading its provisions. That is obviously the principal object of our legislation. And, as regards gambling, although we do not seek to attempt what would be impossible, *viz.*, to put a stop to it altogether, we do seek to prevent the existence of organised gambling establishments, and we do this not only because their existence is a cause of annoyance to the respectable residents of the neighbourhood, but also because anything which facilitates the assembling together of persons for the purpose of gambling, tends to public demoralisation. With these remarks, Your Excellency, I beg to propose the second reading of the Bill.

The Honourable Mr. TELANG :—I am informed that people of the same class as those who were described by the mover of this Bill have been exercising their wits to find out how to frustrate the working of the Act when passed, and one of the ways which seems to have suggested itself to their ingenuity is that they might go into Bombay harbour and play in boats. I do not know whether this Bill would cover gambling in such places. But I presume that inside the limit of three miles from the coast they would come under the Act. If not, the Council should expressly legislate for such offences. If these were included in the Bill, it would prevent this particular mode of running a coach and four through the Act when passed.

The Honourable Mr. NAYLOR :—The Act will apply to the city of Bombay, which is defined in the Bombay General Clauses Act to include the area within the ordinary original civil jurisdiction of the High Court. I speak subject to correction by the

Honourable Advocate General, but I believe I am right in saying that that definition includes the harbour.

The Honourable Advocate General replied in the affirmative and added that Mr. Telang's objection was thus met.

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

The Bill having been then read a second time was considered in detail, after which it was read a third time and passed.

The Honourable Mr. NAYLOR in moving the second reading of Bill No. 3 of 1887, a Bill to amend Bombay Act No. VI of 1863, said:—Your Excellency, this Bill, was not referred to a Select Committee and no memorials concerning it have been received. Its object was very fully explained when the Bill was introduced by Sir Maxwell Melvill, and I have only now to ask that it be read a second time. I have, however, a slight amendment to propose when the Bill is considered in detail.

Bill read a second time and considered in detail.

The motion was agreed to and the Council proceeded to consider the Bill in detail.

The Honourable Mr. NAYLOR:—Bombay Act VI of 1863 was framed originally for the city and port of Bombay only; but it was thought that it might be convenient to extend its provisions to other towns and places in this presidency and a section was therefore inserted at the end of the Act (section 34), enabling Government, by notification in the official Gazette, to extend its provisions to any such town or place. Considerable use has been made of that section and the Act is now in force in several towns in the mofussil of this presidency. Amongst other localities to which it has been thought desirable to extend the Act are certain roads connecting railway-stations with adjacent towns. Thus, it has been extended to the road, six miles in length, between the Násik station on the G. I. P. Railway and the town of Násik, as well as to that town itself. It was obviously very important to regulate the conveyances employed on that road, more important, in fact, than to do so in the town, where conveyances are little used. Similarly the Act has been extended to the road between Ahmednagar and its railway-station and to the road between the Dhárwár town and cantonment and the Dhárwár railway-station. It has also been extended to the road between Bhiwandi in the Thána district and certain other places in the táluka of the same name. At present it is in contemplation to extend it to the road from the new Wathár station on the S. M. Railway to Wái.

But section 34 of the Act authorizes the Governor in Council to extend it only to "towns or places," and as it is, perhaps, rather a straining of language to call a road such as I have described a "place," doubt has been entertained whether the extension of the Act to these roads is quite legal. It is thought desirable that this opportunity should be taken both of preventing any such doubt arising in the future and also of legalising what has been done in the past. I, therefore, move the following amendments, *viz.*, in section 1, line 1, for "paragraph" substitute "paragraphs" and at the end of the section add the following:—

"In this section the word 'place' shall be deemed to include and to have always included a road between two towns or places."

These amendments were agreed to.

The Honourable Mr. NAYLOR :—As the amendment which has been made in the Bill is, perhaps, rather more than a mere verbal amendment, I will now ask Your Excellency to suspend the operation of Rule 30 in order that the Bill be read a third time, without further delay.

Mr. Naylor moves the third reading of the Bill.

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

The said Rule was accordingly suspended by His Excellency the President and the Bill as amended was read a third time and passed.

His Excellency the President then adjourned the Council.

A. SHEWAN,

Acting Secretary to the Council of the Governor of
Bombay for making Laws and Regulations.

Poona, 10th October, 1887.

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