

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

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

The Council met at Bombay on Tuesday the 19th January, 1892, at 3-30 P.M.

PRESENT.

His Excellency the Right Honourable Lord HARRIS, G.C.I.E., Governor of Bombay,
Presiding.

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

The Honourable Sir CHARLES PRITCHARD, K.C.I.E., C.S.I.

The Honourable the ADVOCATE GENERAL.

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

The Honourable Mr. JAVERILAL UMIASHANKAR YAJNIK.

The Honourable Mr. L. R. W. FORREST.

The Honourable Mr. FAZULBHOY VISRAM.

His Excellency the PRESIDENT :—I think it will accord with the feelings of my Honourable colleagues, if, after the few remarks I have to offer, instead of proceeding to the business of the day, I adjourn this meeting of Council to Friday next, that is, until after the day fixed for the funeral of His Royal Highness the Duke of Clarence. Gentlemen, the pity of the calamity that has befallen the Empire must have struck every heart; that is capable of feelings of sorrow and of sympathy. There is no such leveller as Death, the palace and the cottage are alike open to the terrible king, but terrible though he be, there is an attribute of loving kindness attendant in his train, common only to occasions of supreme joy and of extreme sorrow. The high position of the Royal family does not even in ordinary times place them beyond the need of that loving friendship which is the truest comfort attainable here below; but at moments of great joy or of sorrow they especially find that they are indissolubly bound up with the hopes and fears, the happiness and the misery, of the teeming millions of a mighty Empire. But a few weeks since—such short weeks they seem to us—our highest hopes were realized, our happiness was complete in that the future heir to the Crown of Great Britain was to take as his wife an English Princess, and now scarcely before the smiles of congratulation had faded from our lips, our hopes have been shattered and our happiness turned to the deepest grief. I venture to say that wherever the joyful news penetrated, be it to palace or to cottage, and wherever has followed so suddenly, all with such calamitous suddenness, this saddest news, there both amongst

the lowly as well as the highly born have been struck by those notes of tender sympathy, of condolence, of loving kindness, which are merciful attendants on bereavement, which are the best and most fitting offerings that can be made to the bereaved and which, when given informally, spontaneously and from the heart, should bring some comfort to those most sorely stricken. Gentlemen, the Royal family of Great Britain, from Her Most Gracious Majesty downwards, have identified themselves with the peoples of this Empire in many ways; our sorrows have aroused their sympathies, our successes have won their congratulations; and now in the moment of their great grief the heart of the Empire responds, takes to itself its humble share of their grief, and endeavours by a common acclaim of sympathy to assuage it. Gentlemen, I say the pity of this calamity is patent to us all. We had been watching for years, and with approval, the wise system of education which had been adopted for their sons by the Prince and Princess of Wales. In the great schools of the University, of the Navy, of the Army and of travel, the Duke of Clarence has been and was still receiving that training which is most necessary for one who might some day ascend the throne of an Empire which is struggling hard to cultivate the seeds of a modern education which it has sown in so many lands; whose ships carry the great bulk of the sea-going exchanges of the world, and whose Navy is the strongest in the world; whose Army, small though it may appear, has probably more experience of active warfare than that of any European nation; and the stretch of whose domain is so wide, that nothing but travel through its lands and amongst its peoples can convey even a remote idea of its vastness and complexity, and the difficulties of its administration. We had watched this course of training with approval; and it, together with what we knew of the personal qualities of the Duke of Clarence, justified us in believing that when, at some future day, long distant we hoped, he was called to the throne, he would ascend it conscious of the magnificence of his inheritance, able to realize its grave responsibilities, and capable of filling adequately a post so anxious. More than that, we had hoped, and with good reason, that his domestic life would be softened and assisted by the presence of a gentle lady, who has already acquainted herself in no small degree with the want and the sadness that render so gloomy many corners of the busy heart of the Empire, and we had good right to feel satisfied that her influence combined with his Royal Highness' personal amiability would have led him in the same path as that followed by his father and grandfather, having for its benevolent object the solution of some of those most difficult and perplexing social problems which divide the poor from the rich. Gentlemen, the bright hopes which we had encouraged for a happy future for the Duke of Clarence and the Princess May have been dashed to the ground; and there is nought left us but to pray that that higher consolation which it is in the power of the Almighty alone to pour upon stricken hearts, may be accorded to Her Majesty and the Royal family, and to trust that the common note of mundane sympathy, which has rung out without a single discord, may bring some measure of comfort to them. Actuated by these feelings, gentlemen, I could not distinguish myself from a sorrow, which I believe I share in common with everyone in this Presidency, and I, therefore, took a liberty, in which I believe I was justified in uniting myself with the peoples of the Presidency of Bombay, and I telegraphed to the Secretary of State, begging him to convey from all classes in this Presidency our most respectful sympathy to Their Royal Highnesses the Prince and Princess of Wales and the Royal family, and also with our humble duty to Her Majesty the Queen-Empress.

The Honourable Mr. JAVERILAL UMIASHANKAR YAJNIK said :—Your Excellency,—Words fail to express adequately the deep sorrow which has been felt by the varied communities which make up the population of this great city, on account of the sudden and untimely death of the Duke of Clarence and Avondale; but it seems to me that if anything should tend to assuage the grief of Her Gracious Majesty and the Royal Family in the calamity which has overtaken them at this moment, it is the widespread, unmistakeable, and heartfelt manifestations of the one common feeling of melancholy sorrow among every race and creed in this country. The memory of the Prince's visit to India, two years ago, is still fresh among the people, and it enhances this grief. It was in course of that visit that all sections of the people had opportunities of observing the Prince and of estimating at its true worth that nobility and simplicity of character, which constitutes real greatness in Royalty. This fact, joined to the circumstance that the Prince was heir to a great name and a mighty Empire, excited great hopes about him here. That a promising career should be cut off at the very period when the Prince was on the threshold of married life or *Grahasthashram*, is what intensifies the sorrow and excites the loyal sympathies of people of all races and creeds in India. Let us hope that grief shared with grief may lessen in intensity and afford some consolation to Her Majesty the Queen-Empress and the Royal Family, and that Providence give them strength and courage to bear the shock caused by the overwhelming grief into which they have been thrown. I beg to offer the heartfelt sympathy of the whole Hindu community on this calamitous occasion.

The Honourable Mr. FAZULBHOY VISRAM said :—Your Excellency,—I need scarcely say that I concur in what has so pathetically and eloquently fallen from your Lordship on this mournful occasion. I am sure the words used by you, Sir, correctly represent the feelings not only of all present here to-day, but also those of every one throughout the length and breadth of the Empire. Two years ago when His Royal Highness Prince Albert Victor was here, and some of us had the privilege at the hands of your distinguished predecessor Lord Reay to make his acquaintance, no one, of course, ever dreamed that that young and hopeful life would so soon be no more. But death is as inscrutable as it is indiscriminating and cruel, and although it must come to all of us sooner or later, and as, I believe, your Lordship once expressed it elsewhere, we must all be ever prepared for it, its work sometimes is more terrible than on other occasions, as happens to be the case in the present sad instance. However, it is to be hoped that the manifestations of sympathy that are pouring in upon Her Majesty and Their Royal Highnesses the Prince and Princess of Wales from all parts of the world, will tend in some measure to mitigate the great grief in which they have been plunged for some days past.

The Honourable RAO Bahadur MAHADEO GOVIND RANADE said :—I join with a heavy heart my friends the Honourable Messrs. Yajnik and Fazulbhoy in expressing on behalf of the native community, how deeply the feelings of our people have been touched with overwhelming grief ever since the sad announcement of the death of His Royal Highness the Duke of Clarence and Avondale was made in the local papers. Our people mourn the loss of one whom they had only a year ago been taught to look up to as a possible ruler in God's own far distant time over this great dominion. They mourn his loss because they feel that his loss must weigh down with sorrow Her Majesty the Queen-Empress and Their Royal Highnesses the Prince and Princess of Wales and other members of the Royal family. A mother's sorrow, a father's grief, a wife's desolation, these afflictions appeal at once to the heart of our people, because, owing to our family system, these domestic and sacred

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.

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

The Council met at Bombay on Friday the 22nd January, 1892, at 3-30 P.M.

PRESENT:

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

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

The Honourable Sir CHARLES PRITCHARD, K.C.I.E., C.S.I.

The Honourable the ADVOCATE GENERAL.

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

The Honourable Mr. JAVERILAL UMIASHANKAR YAJNIK.

The Honourable Mr. L. R. W. FORREST.

The Honourable Mr. FAZULBHOY VISRAM.

The Honourable Mr. J. R. NAYLOR, C.S.I.

I.—Papers presented to the Council:—

- (1) Letter from the Government of India, Legislative Department, No. 1689, dated the 13th October 1891, returning, with the assent of His Excellency the Viceroy and Governor-General signified thereon, the authentic copy of the Bill to amend the Bombay General Clauses Act, 1886.

Papers presented to the Council.
- (2) Letter from the Government of India, Legislative Department, No. 3, dated the 4th January 1892, returning, with the assent of His Excellency the Viceroy and Governor-General signified thereon, the authentic copy of 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.
- (3) Letter from the Secretary, Indian Progress Society, Bombay, dated the 18th January 1892, submitting observations on the Vaccination Bill (No. 3 of 1891).

THE BOMBAY DISTRICT VACCINATION BILL.

The Honourable Sir CHARLES PRITCHARD said:—I do not think it necessary to occupy the time of the Council with any detailed explanation in introducing this Bill to prohibit the practice of inoculation and to make the vaccination of children in certain portions of the Bombay Presidency compulsory. The Acts which render compulsory vaccination in the City of Bombay and the town of Karáchi have worked well and ten years' experience is in their favor. They have therefore been closely followed in the present Bill. The only difference between this Bill and the former Acts, is with regard to section 33, in which it is proposed to remove all doubt as to the legality of compulsory vaccination in the case of convicts and persons detained for long periods in gaols, reformatories and lunatic asylums.

The Honourable Mr. YAJNIK said:—Your Excellency,—I wish to offer a few general remarks at this stage of the Bill. I see that this Bill has for its object the extension to any area in this Presidency of the compulsory system of vaccination which is at present limited to Bombay and Karáchi by the Acts of 1877 and 1879. That these Acts have worked fairly well admits of little doubt. And in considering this project of extension, it seems to me that we shall best consult the interests of the people of this Presidency if we are guided by the light of past experience gained in the administration of the compulsory system during the last 13 to 15 years. Speaking chiefly with reference to Bombay, I may say that in appealing to past experience, three points naturally suggest themselves for enquiry, namely,—(1) in what respects has the compulsory system succeeded in Bombay? (2) to what circumstance or circumstances is the measure of success so far attained due? and (3) how far is it possible to make compulsory vaccination acceptable to the people in the interior of this Presidency in their present circumstances and with their present prejudices and beliefs? With regard to the first point, it may be said that if it be a success to work a compulsory system of vaccination in Bombay, with none of the coercive processes sanctioned by the law having had to be resorted to, to any appreciable extent, then that success has certainly been achieved. An increasing number of people have voluntarily brought their children to the vaccine depôts, conscious of the advantages of vaccination, and they have been protected. There have been no prosecutions worth noticing. Another noticeable fact is that whereas before the passing of the Act of 1877, every second or third year witnessed an outbreak of epidemic small-pox; since its introduction there has been only one year of epidemic small-pox in Bombay—the year 1883—in the course of the last fifteen years. Singularly enough, however, that year coincided with the outbreak which was general over the whole of India. A third point in favour of the Act is the decrease of mortality from small-pox. I find that in 1878, the first year of the Act, deaths from small-pox numbered 357. Last year, that is in 1891, they were about 102. In the epidemic year, however, the deaths came to 1,461. Coming now to the causes which have made the smooth working of the Act possible in Bombay, I may mention, as the first cause, the manipulative skill with which vaccine operations have been carried on in our City. Vaccination in Bombay may be said to date from the year 1858 with the appointment of Dr. Anantá Chandrobá as Superintendent of Vaccination. For full 26 years till his death in 1884, Dr. Anantá worked with the greatest zeal and success as an expert in vaccination. I am paying him no higher compliment than what is justly due to him when I say that it is to his good sense, tact and judgment and to the conciliatory spirit in which he worked that we owe the smooth working of the compulsory Act in Bombay. His successors in the office, down to the present incumbent,—Dr. Shantaram Venayek Katak,—have followed his cautious proceedings in a praiseworthy manner and continued to deserve the confidence of the Government and the public. But apart from the skill and good sense of these gentlemen, it appears to me that the circumstance which has contributed most materially to whatever success that compulsory vaccination has attained in Bombay is the *exclusive* use of animal lymph for purposes of vaccination. Act I of 1877 was in fact framed upon that basis. When the Bill, which subsequently became the Act of 1877, was referred to the Select Committee, that Committee had the advantage of the opinions of the most eminent medical men of the day—gentlemen who had made vaccination their special study, and it was from the opinions of the experts thus consulted, that the Committee was enabled to make the suggestion that the Bill for making vaccination compulsory in the City of Bombay should only, as a rule, require such compulsory vaccination

when the vaccine matter is taken from the animal. The late Honourable Mr. Gibbs, then in charge of the Bill, in presenting the report of the Select Committee, observed that "the prejudices of the people which the Select Committee have noticed in their report he found on enquiry to be deep-seated, and we came to the conclusion,—a conclusion to which we were brought mainly by the arguments of the native members of the Select Committee,—that it would be far preferable, if possible, to make the Bill render vaccination compulsory only when the vaccine lymph is taken from the calf." And it is noticeable that in the City of Bombay animal lymph alone has been used, and that not once in the course of the last fifteen years has there been found a single occasion for the use of human lymph, or a single case in which arm-to-arm vaccination has been resorted to. The supply of animal lymph has never failed. At the present day as many as 700 calves are yearly inoculated for purposes of lymph. The supply has been so abundant that it is found possible to send lymph to places beyond Bombay.

I now come to the third point of enquiry with which I started, namely, how far is it possible to make compulsory vaccination acceptable to the people of any district in this Presidency with due respect to their prejudices? To be able to arrive at a tolerably correct decision on this point, let us see how matters stand with regard to vaccination in the rest of the Presidency, where vaccination is at present voluntary. And the first and most prominent fact to be noticed in this connection is that the bulk of the population,—rural and urban,—show a marked preference for animal vaccination. The cow is revered by the Hindus as a sacred animal, and the products of the cow have in their eyes something of a sacred character in them. The vaccine lymph taken from a cow or calf has nothing objectionable in it in their opinion. But apart from this the calf-lymph has this advantage that it dispenses with the necessity of giving lymph from one child to another for purposes of vaccination. In his last Sanitary Report (for 1890-91) Dr. MacRury, the Sanitary Commissioner, says:—"The people generally appreciate animal vaccination, as it does away with the necessity of their having to allow lymph to be taken from their children to which they always object." But animal lymph is costly. It is therefore only in three or four places out of the numerous cities, towns and villages in the Presidency that animal lymph is in use. In every other place in the Presidency the system carried on is that of arm-to-arm vaccination and with human lymph. This is found cheaper. But this system is felt by the people to be most obnoxious. It is feared that the inoculation of human lymph from one child into another will, if the operation is performed carelessly, impart such blood diseases as syphilis and phthisis. Then, there is the annoyance and harassment caused to mothers of inoculated children in being required to move from one place to another and from one village to another for vaccinating other children. This is what Dr. MacRury says in his report for 1888:—"Considerable difficulty is experienced in keeping up arm-to-arm vaccination on account of the refusal of parents to allow vaccinators to take lymph from their children; and as animal vaccination entails expenditure beyond the means of most Municipalities, it would be advisable to make it obligatory to give lymph when required. This would be preparatory to making vaccination compulsory which can only be a matter of time." As an illustration of the annoyance caused to poor mothers of inoculated children by this arm-to-arm system, I may point to a case which recently came up before the local High Court from the district of Bijapur. It also shows how even under a system of voluntary vaccination the wishes of the father of the child are often disregarded. It was the case of a poor woman, by name Satawa. She was tried,

sentenced and fined Rs. 15. The charge against her was of having embezzled two annas paid to her by the vaccinator on promise to go to a neighbouring village where a child had to be vaccinated from lymph to be taken out of her baby. When the woman came home she was sharply rebuked by her husband, and when the vaccination peon called for the baby, he refused to let it go. The District Magistrate, in forwarding the proceedings of the first Magistrate before whom the case was tried, said that no offence was committed. The High Court quashed the conviction and sentence, His Lordship the Honourable Mr. Justice Jardine remarking that "it is obvious that those (vaccination) operations will become unpopular if paternal rights are thus disregarded." I have often heard that in the mofussil well-to-do mothers of inoculated children escape from being required to move from place to place and village to village while the poorer classes suffer. Thus arm-to-arm vaccination throws great temptations in the way of low-paid karkúns and peons. All this, however, is avoided by animal vaccination. But costly as animal vaccination is, Government have, it seems to me, shown great foresight, while administering the Act in Bombay, in preferring that system to making compulsory vaccination unpopular through arm-to-arm vaccination. This Bill, which reproduces the provisions of the Bombay Act, provides that ordinarily all vaccination operations must be carried on with animal lymph. Now, in this connection the important point to determine is, how far is it possible to carry out animal vaccination in a given area to which compulsory vaccination is extended? It is feared that the requisite stock of animal lymph may not be procurable in a vaccination area. For myself I do not share these apprehensions. It may be got from a neighbouring district or sent for from Bombay. I find that during the last fifteen years Bombay has received a regular supply of English lymph every year in the shape of tubes. Then, again, in the City of Bombay itself something like 700 calves are inoculated every year for the purpose of maintaining a requisite supply of lymph not only for the use of the City, but for stations in this Presidency and beyond it and even outside India. Bombay lymph is, moreover, noted for its purity. It is sent to Afghánistán, Aden, Burma, Assam, Quetta, Kandahar, and even Bagdad, Zanzibar and to so distant a country as Australia. In these days of rapid communication, therefore, I have no fear of animal lymph failing. But if any such difficulty is found to arise, surely it cannot be difficult for Government to form centres in Gujarát, Káthiáwád, the Deccan, Konkan, and Southern Marátha Country for the purpose of procuring lymph. It is said that with lymph obtained from one calf a skilled vaccinator can vaccinate as many as 300 to 500 children. Again, my friend, Dr. Shantaram Venayek Kantik, has been training up since the last two years a class of vaccinators in a practical course of vaccination with animal and human lymph. He has already turned out about 75 students who are subordinates in the Sanitary Department. So, I repeat, I have no fear about animal lymph failing for want of skilled vaccinators to take out such lymph from calves in a remote vaccination area. My chief difficulty as regards the extension of compulsory vaccination is in respect of the cost of animal lymph. It seems to me that the whole question of this extension of the compulsory system resolves itself into a question of cost. I find that at present the average cost of each successful case throughout this Presidency is 5 annas and 6 pies. In Bombay the average cost of each successful operation is a rupee and ten pies. But, as Dr. MacRury says, in his last report for 1890-91, "if animal vaccination be carried out in the districts with a widely dispersed population often of difficult access owing to creeks, hills and rivers, the cost per case would be even greater than in the City of Bombay where the population is concentrated. Taking the cost in Bombay as applicable to the Presidency and Sind, the annual

expenditure consequent on the adoption of this system would at least amount to three times the present cost." I find that last year (1890-91) the total cost of the Vaccination Department was put down at Rs. 2,95,179, while the number of all successful vaccinations and re-vaccinations was 8,61,053. The sources from which the income of the Department was derived are as under:—From Provincial Funds, Rs. 1,07,757; from Municipal Funds, Rs. 30,918; from Cantonment funds, Rs. 976; from Local Funds, Rs. 91,815; and from Native States Rs. 63,713; total, Rs. 2,95,179. Taking the average cost of a successful case to be five annas and six pies, I find that the Provincial Funds contribute one anna and two pies, whereas the local, municipal and cantonment Funds and Native States contribute among them the remaining four annas and three pies. The smallest contribution is that from the Municipalities. The burden which the Provincial funds have to bear is at present but a comparatively small one. Now, Your Excellency, the introduction of a compulsory vaccination system in any district of this Presidency means the introduction of a system of animal vaccination, and that means a provision for the cost of animal lymph equal to three times the present cost of each successful case in the Presidency. And since this expenditure appears on the statement of the Sanitary Commissioner to be beyond the means of most Municipalities, it is a question for Government to consider whether under the circumstances the wisest course would not obviously be to extend the compulsory system to only such of the large cities and towns in the Presidency of which the Municipalities and Local Boards come forward and are prepared to pay a portion of the increased cost, the rest of the portion being supplemented by a liberal grant from the Provincial Revenue, which, as things stand at present, pay but an inadequately small contribution to the general cost of the Vaccination Department. It will be for the Select Committee to see how far this may be provided for in the Bill.

The Honourable Mr. RANADE said:—After what my friend the Honourable Mr. Javerilal has spoken in detail I do not consider it necessary to go over the same ground again. I will only observe in this place that the question of compulsion now under consideration has a three-fold aspect. There is, first, the compulsion about vaccinating children. On this point I think the experience of all European countries, and of the towns in India where compulsory vaccination has been in force, warrants the Government in undertaking the responsibility of making vaccination general whenever in special areas a case is made out for such compulsion. Even without a compulsory law, parents in our rural and urban areas are vaccinating their children freely and without objection, and the proportion of vaccinated children already comes up to 75 per cent. The remaining 25 per cent. remain unvaccinated, not so much because of their parents' refusal, but because the agency available is not able to reach all in one time. The outbreak of natural small-pox being epidemic and infectious in its character, it cannot be maintained that the refusal of the parent is a self-regarding act in which the general public are not concerned. The protection given by vaccination chiefly consists in depriving the disease of its epidemic and infectious character, and this protection must in the general interests be enforced even if the minority, a diminishing minority, dissents. When the compulsion relates to an act which affects the public interests and the protection is definite and adequate, and involves no greater risks, then the duty of the Legislature is clear and definite. The present Bill, however, involves two other compulsions which must be taken only into account. The Bill involves a financial compulsion upon Local and Municipal Boards to find out additional resources. It is estimated that the present expenditure will have to be trebled at the least

if the agency is to be raised to a standard of efficiency to make compulsion a practical survey. The Bill gives discretion to the executive Government, but it leaves no place for the independent action of the Local and Municipal Boards. In the case of the previous Acts for the time and place of Bombay, as also for the City of Karáchi, the Municipalities of these places were consulted beforehand, and their assent secured before Government took action in the matter. No such provision occurs in the present Bill, and it deserves the consideration of the Council how far Government action should not be made to depend upon the initiative of the Municipal and Local Boards, or of their subsequent definite assent. The third compulsion to which the Bill gives a qualified sanction relates to the enforcement of arm-to-arm vaccination in special cases, where there might be the risk of unreasonable delay in the matter of procuring animal lymph. There is no such exception in the previous Acts applicable to Karáchi and Bombay. The reasons which justified the giving of choice to parents to insist on the general use of animal lymph in the Bombay and Karáchi Acts ought to prevail also in the consideration of the present measure. In these two connections the present Bill is not framed on the same lines as those of the previous Acts. The Select Committee will no doubt consider these points at more length. They do not affect the principle of the Bill, and I therefore feel no hesitation in supporting the first reading of the Bill, subject to the further consideration that it no doubt will receive at the hands of the Select Committee.

The Honourable Mr. FAZULBHOY VISRAM said:—As far as I can judge, my Lord, the Bill is sure to prove to be a beneficent measure. The existing Act, I believe, has worked very satisfactorily and produced excellent results all over Bombay and Karáchi, and there is no reason why it should not be extended to the districts. On the contrary, I think it is highly desirable that it *should* be so extended as it must prove to be a boon for which the public cannot but be grateful to Government. So far as I am concerned, there may be one single amendment, which I shall bring forward at the proper time. Meanwhile the Bill has my hearty support in its first reading.

His Excellency the PRESIDENT said:—I am glad to find that there is such a practical unanimity of opinion, that Government is justified in introducing a Bill of this character, although it is clear that in one or two parts of it it may be found desirable to make some slight amendments. Still it is quite clear that public opinion in the Bombay Presidency has so far advanced in respect of sanitation, that it regards it to be the duty of Government to protect to its utmost ability the health and lives of those over whom it is placed, and it is only in points of detail that any objection is raised. As a matter of fact this Government have long recognised the necessity of a Bill of this kind. The delay in introducing it has been caused owing to the necessity of references to the Government of India. There is a letter now before us from the Secretary of the Indian Progress Society. I do not recognise the Society by name, but it seems to recognise the principle and the necessity of this Bill, and no doubt the opinions expressed in the letter will be duly considered by the Select Committee. This letter expresses approval of compulsory vaccination so long as it is confined to animal lymph. Now as regards the question of animal as opposed to human vaccine, I think some consideration should be given to the feelings of the people, provided the safety and protection of the greater number could also, at the same time, be secured. That question also will come up for discussion in a Select Committee, for whose consideration it will be whether the safety of the greater number is to be ignored on the ground that instances have been adduced where it has been surmised that diseases had been

transmitted by vaccination. But I must remind you that in England, where vaccination is compulsory, much opposition has been experienced, on the grounds that it might introduce disease into the body; and although alleged instances of this have been adduced, yet Parliament has remained distinctly in favour of compulsory vaccination, ignoring the preference of the few to the safety of the greater number; and carried on to the extent vaccination is in England, it is scarcely possible to operate exclusively with animal lymph. What is necessary is that the closest attention should be paid not only to the health of the child from which the lymph is taken but also to the health of its parents. The tendency of other European countries, which have hitherto been backward in this matter, has impressed upon Government during the last few years the necessity of introducing compulsory vaccination. The financial consideration involved is more an executive matter, but it will no doubt not be lost sight of by the Select Committee, and the Select Committee will, I daresay, consider Dr. MacRury's opinion regarding the arrangements which could be made for the supply of animal lymph in the larger municipal areas. I gather from Mr. Ranade's speech that he wishes that local bodies and Municipalities should, if they prefer animal vaccine to human vaccine, be made to pay for it, that is, pay for their preference. I daresay this will also be a point for consideration by the Select Committee. Now with regard to one of the paragraphs in the letter of the Indian Progress Society, which suggests that one of the clauses of the Bill leaves a loop-hole for the convenience of rich and well-to-do persons, we repudiate the suggestion that Government in drafting the Bill had considered the convenience of that class as against the convenience of its poorer neighbours. The object of Government has been to deal fairly with every class of the community. Regarding the higher cost of vaccination in Bombay as compared with the mofussil, I think, although I am not sure, that the additional cost is to some extent due to the vaccination stations in Bombay being of the character of training schools. By this I mean that the cost of vaccination in Bombay includes the training of young men sent out as vaccinators, and this, if it is so, undoubtedly would partly account for the extra cost of vaccination in Bombay.

The Bill was then read for the first time and referred to a Select Committee consisting of the Honourable Sir R. West, the Honourable Sir Charles Pritchard, the Honourable the Advocate General, and the Honourable Messrs. Javerilal Yajnik and Fazulbhoy Visram, with instructions to submit the report by the 10th February 1892, and to have the report translated into the vernaculars.

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

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.

22nd January 1892.

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

The Council met at Bombay on Tuesday the 23rd February 1892, at 3-30 P.M.

PRESENT :

His Excellency the Right Honourable Lord HARRIS, G.C.I.E., Governor of Bombay,
Presiding.

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

The Honourable Sir CHARLES PRITCHARD, K.C.I.E., C.S.I.

The Honourable the ADVOCATE GENERAL.

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

The Honourable Mr. JAYERILAL UMLASHANKAR YAJNIK.

The Honourable Mr. L. R. W. FORREST.

The Honourable Mr. FAZULBHOY VISEAM.

The Honourable Mr. J. R. NAYLOR, C.S.I.

The Honourable Ráo Bahádúr OODHARAM MULCHAND.

The Honourable Mr. NAVROJI NASARWANJI WADIA, C.I.E.

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

- (1) Report of the Select Committee appointed to consider the Bill (No. 3 of 1891) to prohibit the practice of Inoculation, and to make the Vaccination of Children in certain portions of the Bombay Presidency compulsory.
- (2) Letter from Mr. P. R. Desái, District Pleader, Ratnágiri, dated 15th February 1892—Submitting his opinion on the Bombay District Vaccination Bill.
- (3) Letter from the Honorary Secretaries, Poona Sárvajánik Sabha, No. 40, dated 16th February 1892—Submitting the opinion of the Sabha on the Bombay District Vaccination Bill.
- (4) Letter from the President, Grant College Medical Society, dated 17th February 1892—Submitting the opinion of the Society on the Bombay District Vaccination Bill.
- (5) Letter from Mr. Narayen Bhikaji Joglekar, Pensioned Deputy Collector, dated 17th February 1892—Submitting his opinion on the Bombay District Vaccination Bill.
- (6) Letter from the Secretary, Indian Progress Society, dated 19th February 1892—Submitting the opinion of the Society on the Bombay District Vaccination Bill.
- (7) Letter from the Honorary Secretaries, Bombay Presidency Association, dated 22nd February 1892—Submitting the opinion of the Council of the Association on the Bombay District Vaccination Bill.

The Honourable Sir CHARLES PRITCHARD, whilst moving the second reading of the Bill,

The Honourable Sir Charles Pritchard moves the second reading of the Bombay District Vaccination Bill,

said :—The report of the Select Committee that has just been read by the Secretary contains most of the information which it is necessary for me to lay before the Council in moving the second reading of this Bill. The criticisms and opinions that have appeared in the newspapers since the Bill was published, as well as those conveyed in the petitions and papers presented to the Council, go to show that public opinion in this Presidency is in favour of the general principle of the Bill for extending compulsory vaccination, and that at the same time certain sections of the community and individuals, whose opinions are entitled to the greatest respect and consideration, are strongly opposed to that part of the measure which legalises compulsion in respect to arm-to-arm vaccination under certain circumstances. As I think that some misapprehension prevails as to the scope and intentions of the Bill in this last-named respect, and as to the effect of the amendments made by the Select Committee with the object of meeting the views of those who object to the use of human lymph for the purpose of vaccination, I will briefly explain what the provisions are :— Section 14 prescribes that the vaccination of a child must, if the parent or guardian of the child so require, be performed with animal lymph, excepting in cases in which it is shown to the satisfaction of the Governor in Council that animal lymph is not procurable without dangerous delay. In such cases—as, for instance, during an epidemic of small-pox when there is a rush for vaccination on, and the supply of animal lymph available in the locality is exhausted—the Governor in Council is empowered to direct, by notification published in the *Government Gazette*, resort to vaccination with lymph taken from human beings; but at the same time provision is made to enable parents or guardians who may object to the vaccination of their children with human lymph to arrange privately for their vaccination by the method they prefer.

In such cases parents and guardians may be put to trouble and expense in taking their children to some distant place where animal lymph is procurable, but if municipalities and local boards do their duty and maintain a supply of animal lymph in localities in which there is a desire for animal lymph, that hardship will not occur. It cannot then be said that vaccination with human lymph is in any case made *compulsory* by the Bill; and I submit that the Bill as amended by the Select Committee substantially meets the objections raised on that ground. The Bill before the Council imposes greater restrictions on the use of human lymph than the Acts making vaccination compulsory in other parts of India.

The Bengal Act of 1880, with its amending Act II of 1887 and Act II of 1890, makes vaccination compulsory without imposing any conditions as to the kind of lymph to be used. The provisions of the Madras Acts IV and V are similar in this respect. The Government of India Act, XIII of 1880, empowers each local Government to make rules prescribing for each area the nature of lymph to be used therein.

Another point referred to in the letter of the Poona Sārva-janik Sabha is as follows :—

“ The Committee of the Sabha regret that from the Select Committee's report it does not appear that the question was considered by it. We are directed to point out that if the Bill be passed in its present form, it will virtually lay a heavy burden

on the local bodies without their consent. The cost of the Vaccination Department is at present nearly 3 lákhs of rupees, out of which Rs. 1,07,000 is contributed from the Provincial Revenues and Rs. 1,25,000 is borne by Local and Municipal Boards, the remainder coming from the Native States. Whether this same proportion of expenditure is to be kept up when this Bill passes into law, is a serious question, and, in the opinion of the Committee, it should not be left to be decided by Government in its executive capacity, but should be considered and disposed of by the Legislature itself. The average cost for each vaccinated child in places where vaccination is not at present compulsory, appears to be about 5 annas, while the same in the Town and Island of Bombay, where vaccination is compulsory, is over a rupee and 4 annas per child. At the lowest estimate, therefore, the Local and Municipal Boards will have to increase their expenditure four times what it is at present, *i. e.*, they will be required to expend about 5 lákhs of rupees where they at present expend $1\frac{1}{4}$ lákhs. The Committee of the Sabha submit that these bodies might legitimately ask to be consulted before such a heavy burden is imposed upon them. The Committee would point out that such a procedure was adopted in the case of the Town and Island of Bombay and the City of Karáchi, and they would, therefore, respectfully urge that a provision to make it incumbent upon Government to obtain the consent of Local and Municipal Bodies in regard to increased expenditure, before vaccination is made compulsory within their areas, should be included in the present measure."

The letter of the Sabha was not before the Select Committee, but the point has not been lost sight of. A clause—clause 4—has been added to section 2 by which an opportunity is given to local bodies to state any objections they may entertain to the introduction of the provisions of the Bill within their limits, and to Government for considering such objections. All attention is certain to be paid to reasonable objections. But I scarcely think we can go further, and legislate for the consent of the local bodies concerned as a condition precedent to the application of the provisions of the Bill.

With these remarks I beg to move the second reading of the Bill.

The Honourable Ráo Bahádur OODHARAM :—I am anxious to know if the object of section 14 is to leave the choice of lymph to the parents and guardians of children: Can a father who desires his child to be vaccinated by arm-to-arm system do so, without any interference on the part of the vaccinator, and can, on the other hand, a father who has prejudice to human lymph, have the choice of his child being vaccinated with animal lymph. Does the Bill recognise this principle?

The Honourable Sir CHARLES PRITCHARD :—Yes, it does allow the choice of the lymph to the parents, so far as lymph of either kind is procurable.

The Honourable Ráo Bahádur OODHARAM :—Then the parents and guardians can have their choice as to lymph, animal or human lymph.

His Excellency the PRESIDENT :—This is the second reading of the Bill. The details as to animal and human vaccine will be considered at the time of considering this Bill in detail. I think the Bill provides for the choice of the parents.

The Honourable Sir R. WEST :—I think if the honourable member reads sub-section (3a) in section 14, he will see that provision is made for the choice by parents or guardians.

His Excellency the PRESIDENT:—Yes, if the parents or guardians wish they can arrange for any kind of lymph they like.

The Honourable Ráo Bahádur OODHARAM:—What I wish to know is whether the provisions of section 14 can be said to provide for the option of the parents in their choice of lymph.

His Excellency the PRESIDENT:—I should think so.

The Honourable Mr. YAJNIK said:—Your Excellency,—It seems to me that section 14 of this Bill contains the crucial point of the whole Bill in regard to the extension of compulsory vaccination in this Presidency. It is divided into three sub-sections. The first sub-section provides that, except under certain circumstances, the vaccination of a child must ordinarily be performed with animal lymph. Your Excellency is aware that the vaccination system at present at work throughout the Presidency is voluntary. In the statement of objects and reasons it is mentioned that the voluntary system is ineffectual, and that the extension of the compulsory system to certain districts in the Presidency, and especially of those in Sind, has become a matter of pressing necessity. It would, I think, have been very satisfactory to this Council and to the public generally if, either in the statement of objects and reasons or in his speech, when moving for the first reading of the Bill, the honourable member in charge of the Bill had been so good as to supply information or facts showing the number of outbreaks of serious epidemics of small-pox or unusual mortality on account of those epidemics under the voluntary system. On the other hand, it appears, from the memorial by the Council of the Bombay Presidency Association, that Government have expressed their satisfaction with the fairly good work which the voluntary system has done. The results, attained so far, show that under the voluntary system, the average number of persons vaccinated during the five years previous to 1890-91 was 33·44 per 1,000, whereas in the presidency circle or the City of Bombay, where vaccination is compulsory, the average for the same period was 23·34 per 1,000. This might lead to the inference that the voluntary system, measured by results, works much more satisfactorily. I must, at the same time, state for the information of the Council that in Karáchi, where also vaccination is compulsory, the average of successful operations during the same period was 64·61, whereas the average in the whole of the Sind registration district was 36·98 per 1,000. Now, if Government consider that there is room for further extending the Act, such extension should take place, I think, in the direction of animal vaccination under the voluntary system, more especially, because that system, though more costly, is popular throughout the Presidency. Dr. MacRury, the Sanitary Commissioner for the Bombay Presidency, in his annual report on the Vaccination Department for the last year (1896-91), says: "The people greatly appreciate animal vaccination, as it does away with the necessity of their having to allow lymph to be taken from their children, to which they always object." But if Government are of opinion that compulsion must be applied to ensure more satisfactory results, then, I say, it should be applied on the only safe lines on which the Act in Bombay has worked smoothly and successfully during the last fifteen years, namely, by restricting compulsion to cases in which animal lymph alone is used. I say, on the authority of my friend, Dr. Blaney, that the Municipal Corporation of Bombay, who pay the cost of vaccination in Bombay, give their sanction to compulsory vaccination (1) on the clear understanding that animal lymph is to be used, and (2) because they hold the power of making the vaccination grant, which

includes hire of calves as one of the chief items. At every budget they have passed the expenditure as right and proper. In fact, it was on that condition, if I am not mistaken, on which the Corporation of Bombay agreed from the first to bear the charges of the Vaccination Department in Bombay.

Now, in extending compulsory vaccination to any area in the Presidency, two important points have, it seems to me, to be borne in mind. One is that in the rural districts of this Presidency you have to deal with people who show a wide disparity in intelligence and civilization and strong prejudices of their own, which it is by no means easy to get over. Too much care, therefore, cannot, in my opinion, be taken in seeing that their prejudices, and, I should say, even their superstitions, are tolerated if the compulsory system is to be made acceptable to them, and the cause of vaccination is to make headway. Another important precaution to be taken is that the zeal of the public vaccinator does not outrun his discretion. I say this with a due sense of responsibility. I consider it my duty, while a member of this honourable board, to endeavour to keep your Excellency and my honourable colleagues informed of what I believe to be the current feeling of the people in respect of a measure pending the consideration of this Legislature. In pointing out these precautions, my Lord, I am borne out by a striking letter I received the other day from a friend in Gujarát. It is from a gentleman now in retirement from the public service, but who was at one time a high officer of Government and had unusual opportunities as administrator in British and Native territories of observing the habits and customs of the people. With your Excellency's permission I will just quote that part of it which bears directly on the points now before the Council. The letter says:—"I am against the introduction of compulsory vaccination among the rural population, particularly such as are backward. When in the Baria (Panch Mahál) districts, the aboriginals of villages deserted their homes and fled to the hills and jungles at the approach of a *tankania* (literally, a *pricker* or puncturer), as they styled the vaccinator. Since then they have changed their attitude towards the vaccine department and are gradually being reconciled to the (to them) strange operation of vaccination, but there are yet people who are too indolent, apathetic or superstitious to perceive the advantages of vaccination and to such people,—and they must be many—the new law, if passed, will prove very harsh. Among the upper classes in large towns compulsory vaccination may succeed, but among the lower classes it will give rise to a great deal of annoyance, oppression, and extortion. The vaccinators are very lowly paid, and they, I am afraid, miss no opportunity of filling their pockets. Dr. Colah, the Superintendent of the Northern Division, is, I know, very strict in his dealings with his subordinates, but the latter somehow or other manage to elude his vigilance, and extort some money from simple and ignorant patels, who dread the prospect of being reported on to their superiors. One of their departmental rules is that every vaccinator should submit a monthly return of his work to the Superintendent, and as heavy fines are inflicted on vaccinators whenever the number of children vaccinated by him during the month falls short of the departmental requirement, he is very eager to swell the number as much as he can, and the consequence is that the vaccinators insist upon parents to get their children vaccinated even during the Diváli and Holi holidays."

His Excellency the PRESIDENT:—I think we should have this gentleman's name. It appears to me he is bringing charges against Government servants. If the letter is to be read and noted we must have his name. We cannot have anonymous charges brought against Government servants without their being prepared to have them substantiated.

The Honourable Mr. YAJNIK :—In the letter the writer gives his own experience of what he saw when he was in office. If your Excellency press for his name, I may say that the letter is from Ráo Bahádur Nandshankar Tuljashankar. In view of these facts and in view of the cost of animal vaccination, it is a point well worth considering whether compulsory vaccination should not, at the outset, be restricted to such of the cities and towns in the Presidency of which the municipalities and local boards are prepared to defray a fair share of the cost of such vaccination. There is one point in sub-section (1) to which I must refer here before I pass on to another sub-section. It is the proviso that the performance of the ordinary vaccination operations with animal lymph is subject to the condition that *the parent or guardian of the child so require it*. This means, I take it, that failure on the part of the parent or guardian to make such an express requisition will leave it open to the public vaccinator to use animal lymph or not, or that he may resort to arm-to-arm vaccination if he is not expressly asked to use animal lymph. I cannot see what useful purpose this conditional clause can serve except perhaps to leave a loophole for the vaccinator to act as he likes. Ignorant people in the rural districts can hardly be expected to enter into these niceties of the requirements of law. With them such a proviso would be sure to go hard if they failed to tell the vaccinator expressly that their child was to be vaccinated with animal lymph. I would therefore ask the honourable mover and the Council whether it is not expedient to omit such a requisition.

I now come to sub-section 2, which enforces the practice of arm-to-arm vaccination without the assent of the parents or guardians of a child in any vaccination area by notification in the *Government Gazette* if Government are satisfied that animal lymph is not procurable in that vaccination area without dangerous delay. I admit that this provision is intended to meet an emergency. But I would say there was a similar section in the Bombay Compulsory Act of 1877 intended to meet an emergency. But it is a patent fact that during the last fifteen years, for which the Bombay Act has been at work, there has not arisen a single occasion for a resort to arm-to-arm vaccination in our City. This sub-section of section 12 of the Bombay Act has remained practically a dead letter. Fifteen years have made a great change in the condition of things in this Presidency, and I hold that in these days of rapid communication by telegraph and rail the chances of animal lymph failing, even in an outbreak of small-pox epidemic, are every year being too minimized to justify the enforcement of arm-to-arm vaccination. I see that Mr. P. R. Desái, Pleader, District Court, Ratnágiri, considers that the object of the Bill would, to a certain extent, be frustrated if arm-to-arm vaccination was not legalized in case of absolute necessity. "Suppose, for instance," says he, "small-pox of a virulent type threatens to break out in a vaccination area quite remote in a district, and animal lymph is not procurable in time, what steps will the honourable gentleman recommend to be taken for the suppression of the disease? Will he be so cruel as to see people suffer or die of the disease because vaccination with human lymph is, in his opinion, prejudicial to religious notions of a few ignorant people?" As this view might perhaps receive support from some honourable members of this Council, I proceed to reply to it. My first answer to Mr. Desái is that if, on the occasion of a virulent epidemic, animal lymph is not procurable in the particular area where the epidemic has broken out, it can be supplied from a neighbouring area, but if the neighbouring area fails, lymph can be had from Bombay. Bombay not only imports English lymph every year, but is an important centre for the cultivation of lymph. Bombay lymph supplies not only the wants of the City but of out-stations so distant as Afghánistán, Assam, Burma, Zanzibár,

and even so far off a country as Australia, in the shape of glass tubes. It seems to me that Bombay can supply lymph to any given vaccination area in this Presidency in a much shorter time than that which would be taken up in the publication of a notification in the *Government Gazette* enforcing arm-to-arm vaccination. The late Dr. Warlomont, founder of the State Vaccine Institute at Brussels, who supplied European lymph to Bombay for many years, says, in his work on animal vaccination, that the chief advantages of animal vaccination consist in this that "it furnishes a good reserve to vaccination from arm-to-arm, even to the extent of being able to replace it in case of need, and that by its aid we can produce an unlimited supply of vaccine matter at short notice." Mark the words "unlimited supply of vaccine matter at short notice." Coming nearer home, I find that Dr. Barclay, till lately Secretary to the Surgeon-General and Sanitary Commissioner with the Government of India, in his report on "Animal Vaccination", invites the attention of Government to the fact that among the advantages claimed for animal vaccination the most important is "the readiness with which any desired quantity of it (animal lymph) can be obtained within a relatively short space of time." The Government of India, in circulating copies of this report among sanitary officers, expressed their desire (see G. R., General Department, No. 3133, dated the 6th August 1889,) that animal vaccination should be vigorously encouraged. They also urged upon sanitary officers to arrange for the provision, with as little delay as possible, of such a supply of animal lymph as will enable provincial vaccine establishments to dispense with lymph obtained from the human subject. Thus, while the Government of India desires to dispense with the use of human lymph by insisting on the formation of centres for the cultivation of animal lymph, I fail to see the expediency of this Government providing for a resort to arm-to-arm vaccination on failure of human lymph. My second answer to Mr. Desai is that the districts of this Presidency are all, more or less, agricultural, in which cattle, especially calves and buffaloes, can be had without much difficulty. It must be remembered that the definition of animal lymph has been extended in the Bill to buffaloes as well. I cannot see what possible difficulty there can be in the selection of suitably cool places or hill tops in this Presidency as centres for the cultivation of lymph. Dr. Barclay tells us that "in favourable cases the material obtained from one calf should suffice for the vaccination of 2,000 to 5,000 persons. In Berlin it suffices on an average for 3,000, and in Munich for 4,000." Referring to Indian animals, he says "there can be no doubt that owing to the smaller size of the Indian animals, nothing like 4,000 portions could be expected from each of them; but perhaps half the quantity might be obtained." I think I am not far from the mark when I say that in Bombay a skilful vaccinator is in a position to obtain lymph from a heifer sufficient to vaccinate 300 to 500 children. But the supply of lymph with glycerine and distilled water from one heifer is capable of being increased many times over by diluting such lymph. Let there be one heifer and the supply will never fail as you can get other calves for inoculation. Again, since the establishment under Dr. Katak of a regular training class for practical instruction in animal and human vaccination, a large number of qualified vaccinators are being turned out every year. I have no fear of any vaccination area suffering from a failure of lymph or from dangerous delay in the supply of such lymph, if the German system of cultivating lymph is adopted.

Having thus shown that the fear in regard to dangerous delay in the supply of animal lymph, especially after the establishment of requisite centres for the cultivation of such lymph, is imaginary, I now proceed to refer to one or two points connected with

the passing of the Bill which subsequently became the Act of 1877, merely with a view to indicate the precautions taken at the time. That Bill originally provided for the enforcement of arm-to-arm vaccination, but the Select Committee which was composed of the Honourable Messrs. Gibbs, Marriot, Mandlik, Rogay, Graham, and Bengali, consulted such eminent men as Sir Guyer Hunter, Surgeon-Major Blanc, Surgeon-Major Pinkerton, and Dr. Ananta Chandroba on the point. Of these medical men Dr. Blanc was the officer who first introduced vaccination with animal lymph into Bombay. His opinion as a specialist in vaccination, concurred in by the other medical gentlemen, carried great weight with the Committee. The first conclusion the Select Committee came to, on the advice of these medical men, was that the experience gained in this Presidency during the past five or six years showed that not only is there no difficulty in vaccinating with lymph taken from the animal direct, but that such vaccination is more efficacious than vaccination from arm-to-arm. Their second conclusion was that the system prevalent in Bombay was to use animal lymph and that its extension to outlying districts was merely a matter of expense. The third conclusion the Committee arrived at deserves the earnest attention of this Council. The Committee found that "strong prejudices existed among the people generally, and especially among some particular castes, against vaccination with lymph taken from arm-to-arm, especially against lymph from a child of a different religion or lower caste being used." For these reasons, the Committee was of opinion that these prejudices might be overcome and the operation rendered even popular by limiting compulsory vaccination to animal lymph. They accordingly reported that they "struck out the last sentence of section 8, which gives authority to a public vaccinator if he saw fit to take from a child he had vaccinated lymph for the performance of other vaccinations." Lest animal lymph might die out entirely clauses (a) and (b) were added to section 12 for a resort to arm-to-arm vaccination. The Honourable Mr. Gibbs said:—"It might so happen that we should have to send to Belgium and that would occupy upwards of six months before we could renew the supply of animal lymph." Now I venture to say that in these days there is hardly any possibility of failure of a supply of animal lymph. English lymph is and can be imported into Bombay in sixteen days. But apart from that, we know that Bombay has now become a regular centre or depôt for the collection of animal lymph. Mr. Gibbs concluded by saying that "I think that in the Bill now before the Council, the second reading of which I now move, we, in the City of Bombay and in this Legislative Council, are taking a course strictly in accordance with the very latest opinions of those who are best qualified to give an opinion on this subject, viz., not only by making vaccination compulsory only as a rule when the vaccine lymph used is taken direct from the animal. The Municipality of Bombay have declared their readiness to meet the required expense, and as the question of animal *versus* arm-to-arm vaccination is simply a matter of money, and the expense being provided I think the other members of Council, who were not on the Select Committee, will agree with members who sat on it in unanimously coming to the conclusion that the Bill as now submitted should become law. I trust that should it so become law, Bombay will receive credit as having been the first city in the whole empire of India in which this very necessary measure has been carried out." Now in extending the scope of this Act to the Mofussil, it seems to me that no procedure is apt to get the generally law-abiding people in the interior of the Presidency against vaccination generally than compulsion in arm-to-arm vaccination when animal lymph is not to be had. I am addressing honourable members who are thoroughly

familiar with the habits and customs of the people. I am stating nothing new when I say that a Hindu or a Pársi would object to have his child inoculated with lymph taken from a Mahomedan or a Christian and *vice versá*. A high caste Brahman, who prides on the purity of his blood, would regard the vaccination of his child with lymph (which is not always unmixed with blood) obtained from the arm of a child belonging to a Mahár, Máng, Chambhár, or Dhed, as an act of defilement of its body. His feeling would be very much akin to the feeling with which he would look upon being compelled to take food or water from any of these castes. The whole proceeding would, I am afraid, be resented as an act of unwarrantable interference with his religion and social customs. You may regard such feelings as prejudices, or superstitious if you like, and reasonable or unreasonable, but there they are. The province of the legislator as well as of the statesman is, I humbly submit, to shape his course by the facts as he finds them and not by his wishes as to what those facts might have been. The whole secret of the popularity of British rule in India consists to my mind on the spirit of toleration for the beliefs and habits of the people so long as such beliefs and habits do no injury to others. People hardly dream for one moment that Government would sanction any proceeding in law or administration calculated to hurt their social or religious prejudices. I fail to see therefore why a measure of this legislature, designed avowedly to carry out a purely benevolent object, namely, the protection of children from the evils of small-pox, should, by a side proviso, sanction a practice which is obviously deemed by the people as obnoxious. The result of it would, in my opinion, be simply to make vaccination operations odious to them.

Leaving prejudices aside, I come to another point. It is the belief of most people in this country that children inherit certain diseases, such as syphilis, tuberculosis, scrofula, leprosy, &c., from their parents, and that vaccinating a child with lymph mixed with blood from such children is one of the means of transmitting those diseases to an otherwise healthy child. This belief seems to have received confirmation from advanced scientific medical opinion in Europe. That advanced opinion is that if nothing but pure and unmixed lymph is taken from a vesicle with a clean lancet there is not much probability of such lymph communicating any disease, but if the vaccinator, while taking lymph from the arm of a child, performs the operation carelessly and takes a portion of the blood with it, then there is a possibility of transmission through that small blood on the lancet of the diseases of the vaccinifer to the vaccinated. Now, how can vaccinators on Rs. 15 a month in this Presidency who, it must be borne in mind, are not medical practitioners, be expected to perform the operation with such precision and skill as to take out on the lancet lymph unmixed with blood? But the advantage of animal vaccination is, according to Dr. Barclay, "the diminution of all danger of the accidental inoculation of syphilis, tuberculosis, and other diseases." A danger, which though much smaller than is usually supposed, exists in vaccination with human lymph in spite of every precaution to avoid it. Accordingly, animal vaccination is practised to a larger extent in Brussels and London, where there are regular hospitals for the purpose, but nowhere in Europe has it reached a higher development than in Germany. Owing to the results arrived at in 1885 by an influential Commission appointed in 1884, under the presidency of Dr. Koch, to enquire into the vaccination question, more especially in relation to the guarantees suitable for surrounding the operation of vaccination with the utmost possible safety and propose the measures to be taken with a view to attaining this result eventually by the substitution of animal lymph. The question was also discussed by the Commission as to

whether it be not possible to exclude entirely all injury accruing from the operation. The result of the enquiry was that vaccination by means of animal lymph was pointed to as the only safe measure, more especially with a view to avoiding syphilitic lymph. The principal points of the conclusions arrived at by the German Commission are thus summed up in the evidence given in the third report of the Royal Commission appointed by the British Parliament to enquire into the subject of vaccination (page 144):—"Compulsory vaccination can only be continued if damage from vaccination, notably vaccine syphilis, can be avoided. Vaccination with human lymph is unable to comply with this condition. Vaccination with animal lymph, which, in its improved form, comes nearest to the employment of human lymph as to certainty of effect, excludes the occurrence of vaccine syphilis and offers considerably greater security against other damage from vaccine erysipelas, &c., than vaccination with human lymph. For these reasons vaccination with animal lymph must in future take the place of vaccination with human lymph." This recommendation of the Commission was accepted by the German Government, and according to Dr. Barclay the gradual extinction of vaccination with human lymph is progressing in Germany. From the last official report to which Dr. Barclay had access (1888), it appears that the substitution of animal lymph for human lymph has rendered protection against small-pox quicker and much less difficult; that apart from the certainty of its acting and its sufficient durability its use excludes the direct transmissibility of certain other diseases; and with reference to syphilis that this disease is with certainty excluded, as, indeed, is shown by the fact that not a single case of inoculated syphilis was reported among the millions of verified vaccinations already performed with animal lymph. Such being the unquestionable testimony as to the result of substitution of animal for human lymph, I humbly ask, whether in legalising at this stage of the vaccination question in Europe arm-to-arm vaccination in this country, we are not in this Council sanctioning retrograde legislation in the teeth of the soundest scientific medical opinion of the day? It seems to me that the best reform in the Indian vaccination system that this Government can introduce would be to adopt the German system and demolish arm-to-arm vaccination by expunging the sub-sections from the Bill. Scientific medical opinion has also made it clear that leprosy is also inoculable by vaccination. This is what Dr. Robert Francis Black, who for 16 years had resided at Trinidad, says, in a letter to His Excellency the Governor, Sir William Robinson, dated 16th July 1887, referring to the cases of leprosy induced by vaccination, reported in the medical journal, July 11th, 1887:—"I beg to say, for the information of His Excellency the Governor, that my experience agrees with the statement of Professor Gairdner of Glasgow contained in your circular, and that I am of opinion that the disease in question is communicable by vaccination lymph from healthy vesicles only being used." With these facts before the Council, how is the public vaccinator to know that vaccination from lymph taken from the arm of a child shall not prove injurious to the vaccinated as provided for in clause (b) of sub-section (2) of section 14?

Coming to sub-section 3, I find that the first safeguard against abuse of arm-to-arm vaccination consists in the granting of the extension of time not exceeding one month within which the parent or guardian is to arrange privately for the vaccination of his child. The parent may be too poor to afford the means of taking his child to Bombay to be vaccinated with animal lymph, or he may have conscientious scruples or fears lest his child should suffer by the transmission of the taint of disease in the act of vaccinating the child with human lymph, and may refuse to take it to the vaccinator for arm-to-arm

vaccination. Is it fair, under such circumstances, to subject him to the pains and penalties of the law for not complying with the orders of the vaccinator? The second safeguard provides that lymph shall not be taken from a child who is apparently in good health and free from taint of a disease transmissible by vaccination. To say that a child is in good health is perhaps the most difficult thing to do even for a medical man. On this subject, I cannot do better than place before the Council the view of an able and experienced medical gentleman amongst us, Dr. Bahadurji. He says: "In answer to your letter in which you ask me my personal opinion on the arm-to-arm vaccination method which is intended to be enforced by the new Vaccination Bill, I have no hesitation in saying that, besides its being not suited to the peculiar conditions which obtain in this country, on professional grounds the method is objectionable, and for these reasons:—Arm-to-arm vaccination obviously acts as a channel for the transference of some skin diseases, and affords a ready means for propagating such inherited constitutional taints as those of syphilis and leprosy. No doubt, special rules with full details will be framed for the guidance of the operators in their selection of proper subjects, with a view to avoid these mishaps; but, having regard to the class of men from whom the supply of district vaccinators is to be obtained, the detailed rules will be of as much use to them as the paper on which they are printed, for 'whatever is received is received in proportion to the recipient.' Syphilitic taint does not necessarily show itself in ill-health at the early age at which vaccination is practised and demanded by law. A child may be in fair health, and yet have inherited syphilis. Moreover, syphilis does not stamp itself on the face and arms so much as on the back and legs—parts not generally examined by the vaccinator, and thus apt to be overlooked. Only yesterday I was asked to see a case of skin disease in a child. On stripping the child bare I found him fairly healthy to look at, and could see no skin blemish on his person. But closer examination of the hidden parts revealed the presence of unmistakable condylomata (syphilitic). These condylomata unnoticed, I should have passed the child as a very fair specimen of average health, and a fit subject to take the lymph from. Syphilis, as betrayed in obtrusive signs, is not difficult to recognise, but when concealed, as is more often the case, it is by no means easy to detect it. In the case of leprosy, it is still worse. There is no such thing as a leper child or infant. The leper heir does not put on its inherited exterior till youth is reached. And it is by no means possible by any close observation or examination of a child to say that it is free from the leprous taint. Surely, arm-to-arm vaccination will not help to stamp out leprosy. On the contrary, it has been asserted, and not without good reasons, that it has favoured the propagation of the hideous disease. It is acknowledged that extreme care is required in taking out lymph from the vesicles to avoid drawing any blood, for blood contains the germs of disease. Extreme care means great delicacy of manipulation, and delicacy of manipulation with children is not an easy task, and requires some experience and training. Is it to be expected from the class of men who are going to act as public vaccinators in the districts? Supposing a district vaccinator were to acquire it, to some extent, after considerable practice, what about the delicacy of manipulation of one newly put on? Puncturing a vesicle with such delicacy as not to wound its floor and draw blood is one great difficulty. But the selection of a 'proper' vesicle is another as great if not a greater difficulty. Products of inflammation are charged with the germs of disease, the contagion or contamination media, as much as the blood itself is. And the contents of an inflamed vesicle are quite

as contaminating as the blood itself of a subject who, though charged with the poison of (inherited) syphilis or leprosy, has none of the obtrusive signs of the taint for identification. And out here, inflamed, *i. e.*; angry-looking vesicles, are not the exception but the rule, as can be easily told by personal observation and experience, and equally easily surmised if the habits and ways of our poor be duly considered. Thus even if no blood be drawn, the danger of transferring constitutional taints by the arm-to-arm method is by no means small; remembering that leprosy which claims India, and not England, for one of its homes, does not admit of any detection on the person of a subject from whose arm lymph may be taken, and that syphilis is more often difficult to detect than otherwise, and remembering also that both these are often met with largely in some districts."

Thus it is clear that there is no absolute security in vaccination with human lymph. With animal lymph, on the other hand, there is this security from the danger. After all, my Lord, this is a purely scientific medical question, and if the authorities cited by me now and in the various representations submitted to this Council are not found satisfactory, your Excellency may be pleased to direct that the opinions of medical experts may be invited before this Legislature finally decides on the point. One word more: it seems to me that this provision regarding arm-to-arm vaccination will place on the vaccinators in the Presidency, who are generally in receipt of Rs. 15 to Rs. 20 a month, power which may prove a potent engine for oppression, extortion and illegal gratification. People will naturally desire to escape from the annoyance of arm-to-arm practice, will hide their children on the approach of the vaccinator, or do what they can to see that their prejudices are not interfered with. Again, the Bill provides no proper system of registration of births, no machinery for carrying it out, while it takes away the only machinery which exists at present in municipal agency.

Before concluding, I wish to say that all the representations made on this subject except one are in favour of dispensing with the practice of arm-to-arm vaccination. This is an indication of public feeling which, I humbly think, deserves the careful consideration of this Council. And now I beg to apologise to your Excellency for having taken up the time of the Council, and to thank honourable members for the patience with which they have listened to the somewhat lengthened statement I had to make. I may state that my sole object in making this statement is to see that the Act is worked as smoothly and with the least friction as is possible among the various populations of this Presidency who show such marked disparity in intelligence and civilization.

The Honourable Ráo Bahádur RANADE said:—I only wish to make a few remarks in regard to the observations made by the honourable mover to-day that in none of the previous Acts of the Government of Madras or Bengal was any choice given to the parents as to the method in which their children should be vaccinated, and the Government of India in its own general Act allowed a discretion to the local Government as regards the lymph to be used in vaccination. I think in a measure like this the practice of the other presidencies is a matter of no great consequence, when we have our own precedents in previous Acts of this Council to follow, which have allowed free choice to the parents and given decided preference to the use of animal lymph. As far as I understand it, the difference of views in this Council relates solely to the question of the practical advantage or necessity of retaining or omitting certain words in one of the sub-sections of section 14. The Government has no objection to allow the parent of a child full liberty to require

that it shall be vaccinated by animal or human lymph according as the parent prefers the one or the other. This is admittedly the principle of the Bill and there is no exception to it in ordinary circumstances. The difference of views relates to extraordinary contingencies when according to one view this freedom of choice allowed on ordinary occasions should be curtailed and arm-to-arm vaccination enforced against the wishes of the parents, while the contingency lasts. This power exists in the Bombay and Karachi Acts, but there has been no occasion to exercise it, and animal vaccination has been the rule. I contend that if the principle conceded by the honourable mover and sanctioned by the Legislature and by invariable practice be good for ordinary occasions, this liberty of choice should not be curtailed simply on the ground that animal lymph was not procurable without dangerous delay. It is the insertion of these words "without dangerous delay" which appear to have been advisedly put in in this Bill, found no place in the previous Acts, which has created misapprehension in the public mind. In the present circumstances of the country, it can never happen that animal lymph will be unprocurable without dangerous delay. Before Government issues its notification, there must be representation from the Sanitary Department, which representation will have to be considered. Such consideration will necessarily take up some time, at the least a week or two, and there is no part of this presidency where within that interval it will not be possible to make arrangement for securing a permanent supply of animal lymph. Having made a concession to the prejudices of the people under ordinary circumstances, I contend that it is a question of principle that this concession should not be withdrawn for an alleged reason which has no validity, more especially when expert opinion is distinctly in favour of substituting the use of animal lymph in place of human lymph as a decidedly better protection. I cannot understand how under these circumstances the retention of these words can be made a question of principle. If these words were removed, the whole discussion would drop. Both from a medical and purely social point of view, it is undesirable that Government should ignore in special contingencies on untenable grounds the considerations which it admits are valid in ordinary times. If people in Sind object to the use of animal lymph, the choice allowed to the parent will protect them, and they will have no cause for complaint, if people on this side of India prefer animal to human lymph. By leaving the whole matter to the choice of the parent, the fullest justification is furnished for a compulsory system of vaccination. The use of animal lymph as a rule takes away the ground from all caste or religious objections in this part of the country, and this is not its least recommendation. I would therefore urge upon the honourable mover of the Bill and those who share his views that they should make the principle of the Bill one of free choice to the parent under all circumstances.

Another point on which I wish to make a few observations relates to the memorial from the Poona Sarvajanik Sabha. The honourable mover of this Bill refers to this memorial and observes that the addition made to section 2 would do away with the difficulty suggested by the memorial in regard to the constraint placed upon the action of the municipal and local boards, which will without being previously consulted have to provide the additional funds necessary to maintain the compulsory system in efficiency. I concede that the addition made is of some value, but it is a concession not to local and municipal boards but to the inhabitants of those places in which the compulsory provisions will be applied. These inhabitants will be permitted to submit their objections to Government, but it is plain that these objections can have no reference to the financial side

of the question but would be confined to the necessity or otherwise of the compulsory system. In the majority of cases, Government would overrule these objections and issue the notification, and such notification will at once make it obligatory on local and municipal boards to provide the funds. The Poona Sabha suggested that before such notification is issued, the readiness of the local bodies to help Government with additional funds should be ascertained, and their consent secured. I am not at present prepared to suggest any particular modifications. I think municipal and local boards should have some voice in the consideration, not so much of the medical or social aspect of the question as of the financial burdens to which they are likely to be subjected to by the notification when once issued. As a matter of fact, the difference is very considerable between 5 annas per head, the cost at present, and 1 rupee and more the expected costs under the compulsory system. There are many towns and talukas which will not be able to bear this additional cost without impairing their usefulness for the discharge of their other equally pressing duty. From this point of view, it seems desirable that as in the case of Bombay and Karachi, the local bodies should be consulted before Government issues its final notification under section 2. This was the point which the Sabha's memorial urged upon the consideration of Government, and I fear the addition that has been made in section 2 does not meet the difficulty.

There is one other point of principle which appears to me not to have received sufficient attention from the Select Committee. It appears to have been assumed all along that there is a ready machinery at work in the Mofussil for the compulsory registration of births. As a matter of fact, however, there is no such ready and organized machinery either in municipal towns or local board areas. The Bill in various sections refers to registrars of births and prescribes their duties. The occurrence of births is however not regularly reported or registered. The Kulkarnis in villages keep birth registers, but the work is very irregularly done, as it is not obligatory on parents or guardians to notify births. This is also the condition of things in municipal towns. If the registration of births is not compulsory, and no registrars are responsible for the work, it is hardly possible that criminal prosecutions under the penal sections before the magistrates would succeed. Where the child's birth-day cannot be ascertained, the provision that the child should be vaccinated within a certain time after birth would be of little use. It would not be easy for the Courts to ascertain the particular period of months which may have elapsed since birth. It will therefore be necessary to provide more definitely for the timely if not compulsory registration of births than has been attempted in the Bill.

These are the three points of principle which, in my opinion, require fuller consideration before the second reading is carried. In these three respects, the Bill appears to me to be defective not in point of details but in principle, and it is on this account that I have ventured to trouble your Excellency and the other honourable members of this Council with these rather lengthy observations.

The Honourable Mr. WADIA said :—While I am not opposed to the second reading of this Bill I must say there is some reason why the addition to clause 14 should be omitted. I think the feelings of the Hindu community have to be considered, and under those circumstances it would be desirable to give the parents of children the option of having the use of the one or the other means of vaccination. If this Council is prepared to change the Bill so far, I am quite prepared to support it.

The Honourable Mr. NAYLOR said:—I feel, Sir, some difficulty in following the first two gentlemen who have spoken upon the Honourable Sir Charles Pritchard's motion, as their speeches appear to be suited rather to the consideration of the Bill in detail than to the second reading of it with which we are now concerned; and the Honourable Ráo Bahádur Ránade, although he has mentioned some objections to the Bill, has not given notice of any proposals for its amendment. Regarding the Honourable Mr. Javerilál's proposed amendments in section 14 of the Bill, I had intended, when the Council should come to consider the Bill in detail, to oppose that gentleman's proposals and to state my reasons for doing so. But as the honourable gentleman has placed before the Council the views he entertains on the subject of this section now at the second reading, it will perhaps be convenient that I should submit at once the remarks which I had proposed to make at the later stage of our proceedings.

Considerable misapprehension appears to exist as to this Bill not following on the lines of the City of Bombay Vaccination Act of 1877. The language employed by the Honourable Mr. Javerilál in recording his dissent to the Select Committee's Report has given rise, I think, to this misapprehension, although such a result was probably not anticipated by the honourable gentleman. The truth, however, is, and it cannot be too distinctly understood, that the provisions which are contained in the Bill now before us with regard to the use of lymph are precisely the same provisions as are contained in the City of Bombay Act. That Act provides that if the parent or guardian of a child so requires, the vaccination of the child must be performed with animal lymph; but that if owing to animal lymph not being procurable, the Governor in Council has notified that vaccination must for a certain period be performed with human lymph, then vaccination from arm-to-arm shall for that period be compulsory and lymph may be taken from the arm of any child who has been vaccinated for the performance of other vaccinations. This is exactly the same procedure which is contemplated by the Bill before us, the only difference being that in this Bill certain provisions have been added which are designed for the greater protection of the children or of their parents and guardians. The first of these is a proviso that lymph shall be taken from a child "in such manner as shall not be injurious to the child." This is a proviso which is not contained in the City of Bombay Act. Then there are two other provisions in sub-section (3) of section 14 of the present Bill which are new. One is that if during any period when it is notified by the Governor in Council that animal lymph is not procurable the prescribed time within which a child must be vaccinated expires, the parent or guardian of such child may give written notice to the public vaccinator and obtain an extension of the time allowed by law for the child's vaccination, in order that he may, by private arrangement, secure an effectual vaccination of the child in some manner not offensive to his own feelings. The other is a proviso that "lymph shall not be taken from any child who does not appear to be in good health and free from taint of a disease transmissible by vaccination." So far, therefore, from its being true that the present Bill is not drawn on the same lines as the City of Bombay Vaccination Act, the truth is that it actually follows that Act entirely, but that it contains, in addition, certain provisions which are calculated to make it operate with more consideration for the wishes and feelings of parents and guardians. The Honourable Mr. Ránade has pointed out one other difference between the two measures which I have purposely left to the last. He has noticed that the words "without dangerous delay" in sub-section (2) of section 14 of the Bill do not occur in the corresponding section of the City

of Bombay Act. There is, I believe, no amendment before the Council for the omission of these words and I do not understand why the honourable gentleman should take exception to them, without having made a definite proposal for their omission. But although the words in question have been newly imported into this Bill for reasons of which I am not aware, for I did not draft the Bill, they strike me as being necessary. The Honourable Mr. Ránade is himself a lawyer and I think that a little consideration will satisfy him that without some such qualifying words, the section in which they occur would be one which it would be very difficult for the Governor in Council to bring into operation. For if those words be deleted from the section, the Governor in Council will only be able to take action under it "on its being shown to his satisfaction that animal lymph is not procurable in any vaccination area." Now, I believe, it could never be truly said that animal lymph is absolutely not procurable in any area. It is necessary that the words "not procurable" should be qualified in some way to give them a definite meaning. Had I drafted the Bill myself, I should have attempted to put in some words in order to make the meaning of the clause clear; and when the words "not procurable" are qualified, as they are in the Bill before us, by the words "without dangerous delay", the section acquires a definite meaning and the Governor in Council will know exactly when he will be justified in issuing a notification under it; without the addition of some such words he would be in difficulty.

The Honourable Mr. Yajnik urges upon this Council that the Bill should be altered so as to make the use of animal lymph in all cases obligatory. His proposal is to make the use of human lymph absolutely illegal. The question which we have to consider is whether such a provision is either necessary or expedient. I cannot pretend to be able to discuss the medical aspect of this question with any degree of authority; but so far as my reading and my communications with those who are competent to form an opinion on the subject enable me to judge, it appears to me that very much more has been said against the employment of human lymph than there is occasion for. Vaccination has been performed in this country since somewhere about the beginning of the present century; and until within very recent years the use of animal lymph was enforced in the City of Bombay, arm-to-arm vaccination has been universally practised. Notwithstanding this, the Honourable Mr. Javerilál and those who would persuade us that the employment of human lymph is dangerous have to go for their evidence to such far-off places as the Fiji Islands and the West Indies. No case that I have heard of in India has been brought forward as a proof that arm-to-arm vaccination endangers the health or life of the child vaccinated. Not only is the case against the employment of human lymph unsatisfactorily established, but to me the case in favour of the employment of animal lymph seems to be still less satisfactory. It appears to be admitted on all hands by medical men that there is just as great likelihood of transmitting diseases by the employment of animal as of human lymph. The diseases which would be transmitted are not the same, of course, in each case, but those which may follow upon the use of animal lymph are equally dangerous and have effects equally undesirable as those which may be traceable to the use of human lymph. The truth appears to be that, whether human or animal lymph be used, there is a certain amount of risk to the child vaccinated; but that risk is so infinitesimally small that, in practice, parents and guardians disregard it. And we, I think, as practical legislators, are justified in paying no heed to the slight danger which is involved in the use of either the one lymph or the other. We do not

legislate to prevent people travelling by railway, although we know that many very serious and fatal accidents occur on railways and therefore that travellers by them incur great risks. So, also, it seems to me to be no duty of the Legislature to say to parents and guardians you shall not use this or that means for the vaccination of your children. It is a matter on which parents and guardians may be left to decide for themselves.

The argument has been used that there exists amongst natives, and especially in the Hindu community, a strong prejudice against arm-to-arm vaccination; and it has likewise been said that a religious objection is entertained to it. With regard to prejudices I have had some personal experience in the matter. Some of my own children were born in remote up-country districts of this presidency, and during the first few months of their infancy they were, in the usual course of events, subjected to vaccination. In those days animal vaccination was scarcely known in this country. It was all arm-to-arm vaccination. My children were vaccinated in the usual manner and the lymph in each case was taken from a native child. I do not say there was anything singular in that; for I merely followed what was the general custom, as well with the natives as with the Europeans, and I have known many natives to allow their children to be vaccinated with human lymph without the slightest hesitation. I have had now pretty nearly thirty years' experience of the Mofussil, and in the course of my duties have come across Indian gentlemen of all classes, and I cannot recall a single instance in which I have ever had brought to me a single complaint against the use of human lymph. My duties have also made me acquainted with a large amount of litigation against Government officials and against Government itself, in which persons thinking themselves injured, or in any way aggrieved by the action of Government officers have sought to obtain damages or other redress, but I cannot recall a single instance in which a public vaccinator has been the defendant. I think if we consider who are the public vaccinators, this is easily accounted for. They are men of the people, fathers of families themselves—Hindus, Mahomedans, and Pársis—men of all castes and persuasions, who have the same feelings and are quite as well aware of every popular prejudice as the parents whose children they are called upon to vaccinate. If they have to vaccinate the child of a Bráhmán, they are in a position to know whether a Bráhmán of his class objects to lymph being taken from the arm of a child who is not also a Bráhmán. If they have to vaccinate the children of purdah ladies, they are in a position to know whether those purdah ladies would willingly come to the vaccine-station or not, and being fully acquainted with all the views and prejudices of their fellow-citizens, it is very natural to expect that they should make allowance,—and I think the facts show that they do make allowance—for the prejudices and wishes of the people.

If we turn to other presidencies, we find that the Government of India's Vaccination Act which was passed in the year 1880 was introduced into the Governor General's Council by an Indian gentleman. That gentleman was, it is true, a Mahomedan, but it is obvious that an experienced gentleman of his high position would well know what provisions would be unpalatable to the great Hindu community of India. Had he thought arm-to-arm vaccination would be unpalatable to that community, he would have drafted his measure in a very different form to that in which he introduced and carried it. For what do we find in this Act (an Act which may be applied by the Local Government to any Municipality or Cantonment in any of the provinces of India which has not a local legislature) on the subject of lymph? The Act contains this curious double provision. By section 21 (j), the Local Government is empowered to determine

what kind of lymph shall be employed. Then in section 15, it is enacted that if a Local Government has prescribed the use of animal lymph, it shall be competent to the parent or guardian of any child to have the child vaccinated with human lymph, if he so desires. That is one provision, and then, on the other hand, if the Local Government has prescribed the use of human lymph, the parent or guardian of a child, if he so desires, may have the child vaccinated with animal lymph, but on payment of such fee as may be prescribed by the Local Government. This double provision in that Act of the Government of India shows clearly that in the mind of the honourable gentleman who brought forward that Act there was no idea that in the large provinces of India in which that Act might be applied, there would be any general objection to the employment of human lymph.

Then with regard to the Bengal presidency, the Honourable Sir Charles Pritchard has already mentioned the Bengal Vaccination Act (Bengal Act V of 1830) and has told us that it also leaves it to the Local Government to prescribe what kind of lymph shall be employed. With regard to that Act I should like further to mention that it also was introduced by an Indian gentleman, a Hindu in this case, the Honourable Mr. Kristodás Pál. The Act makes vaccination compulsory in Calcutta and its provisions may be extended to other local areas in the Bengal presidency. In explaining the provisions of the Bill to the Bengal Council, the Honourable Mr. Kristodás Pál said :—“The Bill did not lay down any hard-and-fast rules about the character of the lymph to be used for vaccination. The subject of the kind of lymph which ought to be used, as the Council was aware, was a matter of much controversy amongst scientific men, both in Europe and America ; experiments were going on in several European countries with calf lymph and in the Bombay Act the use of animal lymph had been made obligatory. But the preponderance of medical opinion here seemed to be that it would be best to leave the matter open at present and to let the Government which would supply the lymph supply that kind of lymph which might be in accord with the scientific opinion of the day. He should mention that in Bengal and throughout Upper India he believed arm-to-arm vaccination was generally practised and human lymph was used.” It is right that I should say that the honourable gentleman added that “the ancient books of London medicine were more in favour of calf than human lymph” ; but I have quoted the passage from his speech to show that arm-to-arm vaccination was general throughout the Bengal presidency and the North-Western Provinces in 1830, and that no prejudice, religious or other, could have existed against it in those provinces, inasmuch as the Hindu gentleman who introduced the Bengal Vaccination Act would not have done so and would not have spoken so unconcernedly of the kind of lymph to be employed, if any such prejudice had existed.

I think that these facts which I have ventured to bring before the Council show that the feeling against arm-to-arm vaccination is not so general or so widespread as some people believe it to be, and that there are in all communities in this country a large number who have no objection to that kind of vaccination. Curiously enough it has also been stated to-day that there are people who object to the use of vaccine obtained from the calf and prefer the use of human lymph.

There is another important point which I venture to think should weigh with the Council in determining whether the Bill should render arm-to-arm vaccination unlawful

and that is the question of cost. The Honourable Mr. Javerilal at the first reading of the Bill quoted figures to show that in the City of Bombay, where animal vaccination is in vogue, the cost per head of vaccination is very considerably larger than up-country, where arm-to-arm vaccination has been practised, and the Poona Sárvajanik Sabha, in their representation placed before us to-day, state that if compulsory vaccination is adopted in the mofussil and the employment of animal lymph is made obligatory, the difference of cost to the local boards will be to raise it from about Rs. 1,25,000 to about Rs. 5,00,000. I am not in a position to say whether these figures are correct or not, but I can easily understand that the cost of maintaining a supply of animal lymph must be very considerable, and as the law requires that municipalities and local boards shall, as a matter of duty, make adequate provision for public vaccination, if we by this Act impose upon them the only obligation of employing animal lymph for public vaccination, we take upon ourselves the responsibility of very seriously increasing the charge to these local bodies of the discharge of their duties in connection with vaccination. This, I think, in view of the fact that there is no general serious objection to the employment of human lymph, is a step we are not justified in taking. For every reason it is wiser to adopt the Bill as it stands, leaving it optional with parents and guardians to allow their children to be vaccinated with human lymph, or to require the employment of animal lymph. I may add also that if any local board or municipality should come to the conclusion that the inhabitants of the area subject to its authority are unanimously, or practically unanimously, in favour of the employment of human lymph, there is no reason that I can see, in the Bill as it now stands, why such board or municipality should not give effect to the wishes of the people whom they represent. It has been done in the City of Bombay under the Act there in force, which is similar to the Bill now before us, and the same steps which have been taken if the municipal or local board chooses to pay the money, can be taken in any area in which it may be thought expedient to take them. For these reasons, Your Excellency, I shall support the second reading of the Bill.

The Honourable Mr. FAZULBHOY VISRAM said :—I merely wish to remark that the only amendment I saw fit to propose was readily accepted by the honourable mover in charge of the Bill as well as by the other members in the Select Committee, and it is now embodied in section 14, sub-section (3), clause (b), which provides that lymph shall not be taken from any child who does not appear to be in good health and free from taint of a disease transmissible by vaccination, and supplemented as it is by other safeguards such as the parents' option to make their own arrangements for the vaccination of their child within the period of one month beyond that prescribed in section 9 and the provision about resorting to arm-to-arm vaccination only when animal lymph cannot be had without dangerous delay, the Bill must be said to be open to no reasonable objection. Supposing that vaccination is preventive of small-pox, I cannot help feeling that it is the merest sentimentalism and prejudice to oppose arm-to-arm vaccination under conditions such as these. We can trust to Government, whose great desire is to promote the welfare of the people, to resort to it only when there is no other alternative. In fact section 14 (2) provides that human lymph is only to be used when it is shown to the satisfaction of His Excellency the Governor in Council that animal lymph is not procurable without dangerous delay. It does not require an expert to tell us that when small-pox threatens to break out in a remote district and animal lymph is not procurable in time, it is certainly desir-

able to use human lymph rather than let the people be stricken with a fell disease and die of it. Moreover, it must not be forgotten that at present in many places arm-to-arm vaccination is indulged in by people of their own accord, except when the child is suffering from or shows external marks of internal disease, and we hear of no evil results thereof both in point of transmission of disease and of hurting the religious notions even of the most ignorant people. Those who oppose the Bill or rather arm-to-arm vaccination declare that medical opinion is against it, and that the working of it will not be carried out without *zulum*. As a layman I leave the first part of this argument to the medical authorities, but as to the second, I must say that if you go by the bare view of *zulum*, the whole legislation must fall to the ground. But I am sure that as Government has taken care and does take care of our welfare in other matters, it will take due precautions against all abuse in this matter also. After all it has to be remembered that the provision for arm-to-arm vaccination is exactly what is contained in the existing Act—that of 1877—and now to take it from this Bill which has for its object compulsory vaccination is to defeat its own aim. It seems to me, therefore, that the provision for arm-to-arm vaccination to fall back upon on occasion of emergencies is very desirable indeed.

The Honourable the ADVOCATE-GENERAL :—Your Excellency, Section 14 of the Bill, which provides for arm-to-arm vaccination in cases when animal lymph fails, has been objected to at this stage of the Bill by some of the honourable members. It is not usual to bring forward such objections to the details of a Bill at the second reading. In England, such speeches are made at the time when the “House is in Committee.” We cannot occupy the two positions—that of accepting the principle of a Bill and objecting to the details of the Bill—at the same time. We only accept a Bill in its principle at the second reading, and this has always been the practice of this Council. The principle of the Bill now before us is “the extension of compulsory vaccination with animal lymph to certain areas of the Bombay Presidency,” and discussion ought to have been directed to this point. From what I gather from the speeches that have been made both at the last and present meeting, all honourable members accept the principle of the Bill. If honourable members object to any particular section they can do so at a later stage of the Bill by putting forward their amendments.

The Honourable RAO Bahádur OODHARAM said :—There is no intention on the part of Government that human lymph should necessarily be used; on the contrary, it is left entirely to the option of parents and guardians to say what lymph should be used. There are people who object to arm-to-arm vaccination, and those will have the privilege of having animal lymph. There are others who object to animal lymph, and they can use human lymph. There is, no doubt, a consensensus of medical opinion in favour of animal lymph. But so far as I can understand much depends upon the manner in which lymph is taken from children rather than on the actual use of the lymph itself. The use of lymph taken from a child is not dangerous unless it is mixed with impure blood or other matter. When animal lymph cannot be had, as often happens, it will be necessary to have arm-to-arm vaccination, otherwise operations would have to be stopped. Animal lymph was introduced last year in Karáchi, but after a few months it was found there could not be got a sufficient number of calves, and it was therefore necessary to resort to the use of human lymph. If such difficulties arise in other places the operations will have to be stopped unless provision is made in the Bill. On the whole there appears to me to be no objection to the clause in question.

His Excellency the PRESIDENT said :—I agree with the Honourable the Advocate-General that the speeches we have heard to-day have been rather of the character which they should assume when addressed on the occasion of the House being in Committee, or when the Bill is considered in detail, and I also hold with him that it is not convenient to have the two processes mixed up together. I have on one previous occasion drawn attention to the inconvenience which resulted from such a practice before voting on the second reading of the Bill. I think it is essential for Government to point out in what way they have regarded the introduction of this Bill, and in what way its intentions have been misunderstood. I do not understand why there should be any objection from any honourable member to the second reading of the Bill. What is the principle of the Bill? The principle of the Bill is compulsory vaccination with animal lymph. That is the principle of the Bill, and I submit that under those circumstances there cannot be any objection in the mind of honourable members to the second reading, and on the Bill being read in detail they will have every opportunity of discussing the amendments placed on the paper by various honourable members, and any other amendments which may be placed on the paper subsequent to the second reading. The Honourable Mr. Javerilal, so far as I can understand him, was inclined to question the expediency of the compulsory system. Well, it appears to me to be a late stage at which to raise that question—possibly he may have been roused by the memorial which has most recently come to our hands, that of the Bombay Presidency Association. All I can say is that I did not recognize that objection in his speech on the first reading, and although he was a member of the Select Committee and raised a dissent, his dissent was not on the compulsory character of the Bill.

The Honourable Mr. YAJNIK :—Your Excellency, my opinion has not changed. I am not against the compulsory character of the Bill.

His Excellency the PRESIDENT, continuing :—If the Honourable Mr. Javerilal had objected to the compulsory system I should have said there is sufficient answer, so far as Government is concerned, in the memorials which have been presented to this Council. If it is asked why Government have introduced the Bill at all, I say there is ample justification for having done so in these memorials. The memorial of Mr. P. R. Desái supports Government without a doubt. The memorial of the Grant College Medical Society says :—“This Society begs, therefore, most respectfully to assure His Excellency the Governor in Council that the Bombay District Vaccination Bill has its entire and cordial sympathy and support, and ventures to hope that it will soon receive the sanction of Government and pass into law.” There is no doubt therefore about the Grant Medical College supporting the compulsory principle. The Poona Sarvajanic Sabha says that their Committee was entirely in accord with the general principle of the Bill. Mr. Joglekar does not deal with the compulsory principle at all. The Indian Progress Society’s memorial approved the principle of the Bill. The Bombay Presidency Association, after requesting that section 14 be expunged, concludes its remarks by saying that “that omission will thus bring proposed legislation in harmony with popular and scientific sentiment, without diminishing the practical utility so widely and benevolently aimed at.” I think that Government may take credit in that from every quarter from which criticism has come there has not been one word implying a doubt but that Government was perfectly right in introducing compulsory vaccination; the only question is whether Government is right or not in including those sections of the Bill

which are at present also included in the Bombay Act. The Honourable Mr. Javerilal has dealt at some length with the medical view of arm-to-arm vaccination. If it had been my wish to support arm-to-arm vaccination as against vaccination with animal lymph, I have no doubt I could have brought equally valuable evidence in favour of arm-to-arm vaccination as that which the Honourable Mr. Javerilal has brought forward against it, but as a matter of fact Government is not in the least in favour of it, as is shown by the Bill, and, moreover, it is not the business of the Government to show whether one is better than the other. It could, without difficulty, have produced ample medical evidence to support a belief that the alleged cases of dangerous diseases arising from vaccination are extremely doubtful. I have it on record that the Surgeon-General of the Bombay Government in his report in 1873 and 1874 reported that he had not once seen a case of syphilis brought about by vaccination, that only one case had ever been spoken of, and in that case Dr. Turnbull's enquiry proved conclusively that vaccination had nothing to do with it. During the past year the medical officers of the Department, inspecting 92,000 children, say the worst things they saw were sores, which I suppose were to be expected. Dr. Pinkerton has recently repeated the statement contained in his report of 1873, and says that he has never seen or heard of a case of syphilis inoculated by vaccination in this Presidency. I merely quote this to show that there is a very strong medical opinion that these alleged communications of disease by vaccination are highly problematical. There is another question which was raised on the first reading, that of the expense. On that occasion I said that possibly the increased cost in Bombay arose from the fact of the establishment here being to some extent a training school. I have made enquiries since then from Surgeon-General MacRury, and he replies that the cost of vaccination in other towns when made compulsory will not rise to the level of the cost in Bombay, as the staff already exists and only requires some additional supervision. Also that the cost of calves, attendance, feeding, and shelter are what increase the cost in Bombay. All these items are less in up-country towns. The instruction given in Bombay does not increase the cost in any way, and the only real cause of the heavy expenditure was the circumstances above mentioned. I think, therefore, that the figures quoted by the Honourable Mr. Javerilal of the present cost in Bombay City must not be relied upon as indicating what the cost of animal vaccination will be in the mofussil towns. Turning once more to the question of animal vaccination, the intention that Government had when this Bill was introduced, was that vaccination was to be made compulsory primarily so far as animal vaccination was concerned. I cannot see why there can be any objection to the second reading, since the only criticism that has been applied to the Bill is as regards the power given to the Governor in Council to notify arm-to-arm vaccination under section 7. There is a point raised by the Honourable Mr. Ranade as to consulting the wishes of local authorities. Well, the Select Committee were under the impression that by inserting the amendment in section 2 they had given an opportunity to local authorities to represent their case to Government, but if the insertion of any words in that section in the course of consideration of the Bill in detail will strengthen the position of local authorities so as to secure their views of the case being considered by Government, I can promise that Government will give every consideration to such an amendment; but if Government and the general body of opinion consider it right that compulsory vaccination with animal lymph should be introduced, the safety of the public should not be left to the prejudice of this or that small local body who may, by obstruction and various objections, be able to retard the

introduction of a measure which Government wishes to introduce, and which public opinion says Government is right in introducing.

So far as the consideration of an objection made by any local authority can be secured by the introduction of any words in this Bill, we shall be glad to consider any such suggestion from honourable members, but we must consider the safety of the lives and health of the public at large who are not perhaps so adequately represented on local boards as was originally intended and hoped. As regards the particular words which Mr. Ránade called attention to about dangerous delay, I am under the impression they were inserted with the special intention of qualifying the notification of arm-to-arm vaccination, but if he thinks that it is owing to the insertion of those words that misconception as to the intention of Government has arisen, he has an opportunity of moving the omission, and I am sure we shall be glad to consider what the real effect of the words is.

Under these circumstances I do not see any reason why the Council should not unanimously accept the second reading of the Bill, seeing that—and I think I am justified in saying so—the compulsory principle of the Bill is in regard to animal vaccination and that what is exceptional is that under certain circumstances the Governor in Council can by notification enforce arm-to-arm vaccination.

The Honourable Mr. YAJNIK said:—I am entirely at one with your Excellency with regard to animal vaccination and the general principle of compulsion as regards animal lymph.

His Excellency the PRESIDENT replied:—I misunderstood the honourable member's speech, and am glad to express regret that I did so. I am sure, also, that it will be clearly understood that we have simply followed the Act now in force in Bombay, which was considered a useful measure.

The Bill was read a second time.

The Council then adjourned until Monday the 29th instant.

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.

Bombay, 23rd February 1892.

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

The Council met at Bombay on Monday the 29th February 1892, at 3-30 P.M.

PRESENT:

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

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

The Honourable Sir CHARLES PRITCHARD, K.C.I.E., C.S.I.

The Honourable the ADVOCATE GENERAL.

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

The Honourable Mr. JAVERILAL UMIASHANKAR YAJNIK.

The Honourable Mr. L. R. W. FORREST.

The Honourable Mr. FAZULBHOY VISRAM.

The Honourable Mr. J. R. NAYLOR, C.S.I.

The Honourable Ráo Bahádur OODHARAM MULCHAND.

The Honourable Mr. NAVROJI NASARWANJI WADIA, C.I.E.

The following papers were presented to the Council:—

- (1) Letter from Mr. Bhaskarrao Balkrishnaji Pitale, dated 22nd February 1892, submitting his opinion on the Bombay District Vaccination Bill.
Papers presented to the Council.
- (2) Letter from Khán Bahádur Cursetji Rustomji, late Chief Justice of Baroda, dated 25th February 1892, submitting his opinion on the Bombay District Vaccination Bill.

THE BOMBAY DISTRICT VACCINATION BILL.

Consideration of the Bombay District Vaccination Bill in detail.

The preamble of the Bill was postponed. Section 1 was adopted.

The Honourable Ráo Bahádur OODHARAM moved that in section 2, sub-section 2, clause (a) (iii), lines 10-11, the words "the scheduled districts other than the province of Sind" be omitted. He said:—I understand there will be no objection to this amendment.

The Honourable Mr. NAYLOR:—I think it is a desirable amendment.

The Honourable Mr. MULCHAND, referring to the words "the town of Karáchi" in section 2, said they do not evidently include the cantonment of Karáchi. The Judge of the Sadar Court in Sind has ruled in a judgment of which I have a copy that the words 'town of Karáchi' in the Karáchi Vaccination Act do not include the cantonment of Karáchi. In that case the Karáchi Vaccination Act will apply to the town of Karáchi and the Bombay District Vaccination Bill which will shortly be passed into law will apply to the cantonment of Karáchi. But it is desirable that one and the same Act should apply both to the town and the cantonment of Karáchi.

The Honourable Sir RAYMOND WEST :—If the existing Karáchi Vaccination Act does include the cantonment, this Act will not apply. If not, some measure is necessary and this will cover the space until the other can be amended. It is desirable to allow the words to remain.

The Honourable Ráo Bahádur OODHARAM :—Would it not be better to settle the matter now ?

The Honourable Sir RAYMOND WEST :—That could not be done, as it would involve the alteration of another Act.

The Honourable Ráo Bahádur OODHARAM :—I quite agree to that, but it is understood there will be two Acts, one for the town and another for the cantonment of Karáchi.

The Honourable Sir RAYMOND WEST :—At present it is a choice between this Act and none at all, and better this Act than none.

The Honourable Mr. YAJNIK proposed to substitute the following for sub-section (4) of section 2 :—“Except when an epidemic of small-pox exists or is apprehended, notice of the intention of Government to introduce the Act as aforesaid on a date specified in any local area where a local board or municipality exists shall be given in the *Bombay Government Gazette* at least one month before such notification is issued, only on the application of such local board or of such municipality represented by the body of municipal commissioners and on such terms as to contribution by the local board or municipality as to the expenses of administering the Act as to Government shall seem reasonable, provided that if such terms are not agreed to, Government shall receive such objections as may be submitted to by persons interested not later than a week before the date specified.” He said :—I have submitted this amendment with the view of meeting the wishes of local authorities in regard to their objections to the Act. At the last meeting your Excellency was pleased to remark that if the addition of any words in sub-section 4 would strengthen the local authorities, your Excellency would be prepared to consider the addition of such words. Now when an epidemic of small-pox is in existence or when an epidemic is apprehended in a certain locality, Government have under this Bill the power of introducing the Act ; but in ordinary course I propose that the Act shall only be introduced if applied for by local bodies, such as a local board, or municipality, and on the settlement of terms as to who is to bear the cost, what proportion is to be borne by the municipality and what by a local board, and if no such settlement is come to, then Government will of course introduce it irrespective of the wishes of the local bodies. The object is to see that the wishes of the local authorities in respect of the cost or proportion of the cost of the new compulsory system which they will be called upon to bear, are consulted in the matter.

His Excellency the PRESIDENT said :—I cannot exactly see how the honourable member reconciles his acknowledgment that compulsory vaccination is necessary with the first part of this amendment which does not leave vaccination at the discretion of the Government, but to local boards or municipalities to say whether the Act shall apply. If any local board is of a different opinion to this Legislative Council, which has unanimously declared that it agrees with compulsory animal vaccination, it might hold out and be obstructive if it pleased.

The Honourable Mr. YAJNIK :—The compulsory introduction of the Act in either case depends entirely upon the view of Government. It is true that there is an *apparent* want of consistency in the two propositions, namely, a compulsory introduction of the Act and its introduction after consulting the wishes of the local bodies, but this inconsistency is only apparent. The ultimate decision will rest with Government. In practical administration, however, it will be found that opportunities given to local bodies to say how far they are or are not prepared to bear the cost of the new system will enable Government to appreciate the needs and condition of the locality much better. If the terms offered by Government are not agreed to, Government will merely record such protests as local bodies offer.

His Excellency the PRESIDENT :—Government has got to wait until the Local Board applies for the notification.

The Honourable Mr. YAJNIK :—That is a slower mode of procedure, I admit, your Excellency. The object is that Government should ascertain the views of local bodies as to how the cost of public vaccination is to be met.

His Excellency the PRESIDENT :—But there is a good deal more than that in your amendment.

The Honourable Mr. YAJNIK :—What I wish is that the question of cost may be brought home to the minds of the local bodies and then the Act made compulsory.

His Excellency the PRESIDENT :—Does not Mr. Ranade's amendment raise a question of cost ?

The Honourable RAO Bahádur RANADE :—Yes.

The Honourable Mr. YAJNIK :—I will withdraw my amendment in favour of Mr. Ranade's.

The amendment was withdrawn.

The Honourable RAO Bahádur RANADE proposed to insert the following in section 2, sub-section 4, line 39, after the word "aforesaid" :—"Provided that no additional charge will by reason of the notification be imposed upon any local or municipal board within which such area may be included without the assent of such board." He said :—My reason for suggesting this is that I do not want any municipality or local board to pit their judgment against the Government as to the desirability of introducing compulsory vaccination or not. Government is the best judge as to its duty, and what those bodies are concerned with is only the question of cost, and even in regard to the question of cost, the arrangement as I have drafted it, only allows them the choice as to saying they are not prepared to saddle themselves with any additional expenditure. At present nearly one-half the total charges are borne by these local and Municipal boards. Regarding municipal boards, the position is slightly different. Municipal boards have power to tax, and they can, if necessary, under the circumstances of their situation, go in for new taxes and so increase their resources. If it is contemplated that this Act should be extended both to taluka or district areas as also to municipalities, then the peculiar condition of local boards will have to be borne in mind. Local boards have no power to tax. They only administer an assigned revenue. They have no power to impose additional taxes. Gov-

ernment might overrule any objections to their proposals to extend this compulsory law to any particular area of a district, and if it is found that local boards are not prepared to provide this additional cost then the question would arise how is this additional money to be raised. I think under the circumstances it is only fair that they should be allowed to ask Government to consider the fact that no further burdens should be placed on them, seeing that they have no powers of additional taxation. So much for the taluka and district boards. It is not likely, presided over as they are by District officers, that under ordinary circumstances the district boards would say they are not prepared to bear the additional cost, but circumstances can be imagined where from want of funds they may find themselves crippled for action. Even with regard to Municipalities it is one of the constant complaints in the smaller towns that all their resources are taken up by Educational and Medical charges. Those additional charges having been imposed by Local Government Act, it is not now open to question their propriety until a change is made in one of those Acts. I understand from the Poona Municipality that they actually applied to Government for the extension of the Compulsory Act to their city long before this present Bill was contemplated, so that in the case of a city like Poona there is no difficulty Government only exercises its power under the Act and the Municipality provides the additional funds. But in the case of smaller towns there should be some provision that these additional charges shall not be put upon them without their consent. I believe the Poona Municipality have expressed their readiness to go in for three times the amount they are now paying, and whenever a Municipality is able to bear such an addition. But there is no question as to the propriety of Government action. But in many other places this happy state of things may not exist; and to sanction a measure which might increase their charges by two or three times would not be quite fair to those municipal bodies. It on this account I have proposed this amendment.

His Excellency the PRESIDENT :—Your idea is that the general tax-payer should pay for it and not the local rate-payer. Is that so ?

The Honourable Ráo Bahádur RANADE :—That the rate-payer should be induced to do so. That is what it comes to.

His Excellency the PRESIDENT :—You see Government at present undertakes the supervision and the cost both of the Inspectors and of the Commissioner and his office, and the local boards and municipalities undertake the immediate executive work of the vaccinators. It seems to me your amendment is rather an inducement to local boards to throw the whole cost upon the provincial funds. Do you mean anything beyond the date of the Act ?

The Honourable Ráo Bahádur RANADE :—Yes.

His Excellency the PRESIDENT :—Then we will always have to date back to when this Act was passed to see what that particular municipality or local board was in that year.

The Honourable Ráo Bahádur RANADE :—I find from the Municipal Act that municipalities are bound to make adequate provision for vaccination; and adequate provision at the passing of the Act in 1873 was intended to meet the needs of the time when the Act was introduced. Now when these needs are being more intensely felt, some arrangement must be made whereby adequate funds may be furnished, otherwise the department will press upon the already small resources of these bodies.

The Honourable Sir CHARLES PRITCHARD :—If your amendment is adopted, the payers of local-cess would have to pay for vaccination within their own local areas and also to pay some part of the cost incurred for vaccination within municipalities.

The Honourable Ráo Bahádur RANADE :—But it will not be possible for Government to superintend the vaccination work without increasing its own agency. It will also be impossible for the municipality or local board to increase their own agency without additional cost, and so if the two agencies are to go together, and the additional cost is met by Government; if that assurance can be given, there will be no ground for complaint.

The Honourable Sir RAYMOND WEST said :—It is quite impossible that any local area should be included within "a local board." As to the substance of the amendment I think there are some considerations which tend strongly against it. If it were introduced, the result would be that where the Act was introduced you would be paying for it out of the funds raised from out of all the different areas, and the result would be just the same as if local areas paid for themselves, so there would be no advantage. If you had three areas, "a," "b," and "c," and you have the Act introduced in these, whether "a" pays for itself and so on, or whether it is paid out of the three areas does not matter; but suppose, on the other hand, the Act is introduced in "a" and not in "b" and "c," then according to the honourable member's proposal "b" and "c," although the Act had not been introduced, would still have to pay in general taxation for the benefits derived solely by "a." Therefore, it is better that the rule should be left as it is, namely, that generally speaking local areas and municipalities pay for the actual vaccination in their districts, Government giving such assistance to poor districts as may seem necessary and adjusting the burden to the capacity of those who have to bear it. Under such a rule as proposed it would always be a difficult question to say what precisely is the increment of expenditure occasioned by the introduction of the Act, as the calculations would be extremely complicated. As matters stand, the Government can exact from the local boards under the Local Boards Act nothing beyond what is reasonable, and they only pay for vaccination in their own areas. That will be exactly their position after the Act is passed, because it does not impose a burden which was not on them in some shape or other before. If local bodies desire to have vaccination in a particular form, the same reason which is a good one for their paying the smaller sum is an equally good reason for their paying the larger sum if they wish to have expensive vaccination. If they reject the cheaper form of vaccination, nothing can be more reasonable than that they should pay for expensive vaccination, but nothing is more properly a local charge than the charge of keeping the inhabitants free from disease. It is a benefit which ought as far as possible to be paid for by those who experience it. Taking into consideration what the increased charge is, and also the fact that we shall either have areas getting no benefit for what they pay, or others getting the benefit from the fact that every one pays equally, the objection to the introduction of this amendment seems to be very serious. As matters stand now, the adjustments between Government and the local boards are easily carried on, and Government can give assistance where it is needed. It is far better I think to leave matters on their present footing giving Government neither greater nor less legal power than they have now and not involving local bodies in perpetual disturbances whether there is an increase in expenditure or not. I ask the honourable member whether he considers it would work better than the existing system.

The Honourable Mr. FORREST said :—I have not the slightest intention of voting for the Honourable Mr. Ranade's amendment, but I cannot help feeling pleased that he brought it forward, because it has elicited some account of how it is proposed to work this measure which might have been given in the introduction of the Bill. I think Mr. Ranade might consent to withdraw his amendment.

The Honourable Ráo Bahádur RANADE :—Supposing Government makes education compulsory, the same argument would make the local board pay for it, for the same Act says they will make adequate provision for education. The words adequate provision must be interpreted by the practice at the time which did not make vaccination compulsory. Now that you will make vaccination compulsory, Government cannot well say they are not bound to help the local and municipal boards out of the general revenue, even though it involves the maintenance of four times the number of officials now employed. There ought to be some provision especially for bodies which have no power to tax, to enable them to bear the additional burdens. That is my view. I do not want them to say they should not bear their present burdens; but they should have some choice to say whether they accepted these burdens.

His Excellency the PRESIDENT :—Government is bound to bear what they say under sub-section 4. In the case of the Poona district, I think it is rather over one-third of the cost of the municipality.

The Honourable Sir RAYMOND WEST :—Has the honourable member considered that his amendment will make areas where there is no vaccination pay for those where there is vaccination? Whether it is compulsory or non-compulsory it must be paid for.

The Honourable Ráo Bahádur RANADE :—They have to pay their quota to the total cost; but if those bodies have to bear the whole additional cost, and if no funds are provided for that additional expenditure, it does seem that they have good cause for complaint.

His Excellency the PRESIDENT :—As to the question of compulsion, municipalities are bound to provide for vaccination, and Government relieves them of a portion of the expense. With regard to local boards there is no provision in the Bill imposing on them an absolute necessity to pay more than the present Act imposes on them. If they spend more, it would still be a local expense, but they need not incur more expense.

The Honourable Mr. NAYLOR :—Local Boards are legally bound to pay for public vaccination to the extent which their funds admit of.

The Honourable Sir RAYMOND WEST :—They cannot raise taxes though.

His Excellency the PRESIDENT :—Can you turn up the section for me? There are some people in the Presidency who imagine the purse of Government is bottomless.

The Honourable Ráo Bahádur RANADE :—Government has to exercise its power under the Bill, and the exercise of that power means additional funds.

The Honourable Sir RAYMOND WEST :—It appears to me that the municipalities are bound to provide for vaccination if the funds are adequate.

The Honourable Ráo Bahádur RANADE :—The whole point turns upon what is regarded as adequate.

The Honourable Sir RAYMOND WEST :—Adequate provision means sufficient.

The Honourable Mr. NAYLOR :—It means also that Government is not legally bound to relieve municipalities of the larger portion of the cost.

His Excellency the PRESIDENT :—I myself do not see why any distinction should be made between the mofussil and the City of Bombay. The City of Bombay came forward some years ago, desiring to have vaccination, and undertook a considerable portion of the expense. Government also came forward, and undertook part of the cost of superintendence, vaccine depôts, and of course the Commissioner and his office. That practically meant a distribution of cost in the City of Bombay. That is how it stands now, and I would certainly suppose an equivalent distribution of cost would be made in the mofussil. I do not think there is anything in the Bill which can suggest that we are going to ruthlessly throw on smaller municipalities a heavier proportion of cost than we do in the City of Bombay.

The Honourable Mr. YAJNIK :—I find that the Bombay Municipality pays something like Rs. 15,800 towards the cost of vaccination.

The Honourable Sir RAYMOND WEST said :—As the matter stands the cost is distributed on fair terms, and the matter could not be more equally arranged for than at present. Any change in the law would involve a change in the Local Boards Act, which would probably not be to their advantage.

His Excellency the PRESIDENT said :—I do not see why a distinction should be made between the mofussil municipalities and the City of Bombay. Bombay has gone to a considerable expense. Government came forward and paid its part of the cost, and of course found the Sanitary Commissioner and his office. That is approximately the distribution of cost in the City of Bombay at the present moment. There is no suggestion of imposing in the mofussil a heavier expenditure than in the City of Bombay.

The Honourable Sir RAYMOND WEST :—I think the honourable member had better leave the cost to be adjusted as is recommended.

The Honourable Mr. YAJNIK :—The total charges on account of vaccination in Bombay is Rs. 20,500, of which the Municipality finds Rs. 15,800 and Government pays Rs. 4,575.

His Excellency the PRESIDENT :—In Poona district we pay a larger proportion, so far as I can make out, than we do in Bombay.

The Honourable Sir RAYMOND WEST :—Perhaps the honourable member will accept the addition of the words " suggestions and " in line 36, between the words " such " and " objections," making the clause read " such suggestions and objections as may be submitted to Government."

The Honourable Ráo Bahádur RANADE :—I think that the burden of existing taxation should be taken into account.

The Honourable Sir RAYMOND WEST :—In the municipalities ?

The Honourable Ráo Bahádur RANADE :—I would not insist upon it in the case of municipalities.

His Excellency the PRESIDENT said :—There are some local boards which have had more ample means in the past than at present. When a time of trial comes, at present the orders of Government are that the first funds that shall be spent are the local funds. They are being spent now in several ways. If they had spent the whole of those sums on vaccination they would not have been losers, because Government would have had to spend an equal amount. It is as broad as it is long. The proposal then is that in section 2, line 36, sub-section 4, between the words “such” and “objections” to insert “suggestions and”.

The amendment was adopted.

The Honourable Ráo Bahádur OODHARAM proposed that in section 4, clause (a), lines 6—7, to omit the words “or the mother.” The Honourable Oodharam Mulchand in moving the amendment in section 4, said :—The object of this amendment is to see that the females are excluded as far as possible from the operation of this Act. I do not desire to exclude them altogether. I propose to throw the duty of getting the children vaccinated primarily on the father, but if he be not living, the eldest male member or manager of the family will be responsible for it. If, however, there is no male member in the family and the mother acts as guardian and assumes the care and custody of the children, the duty of getting the children vaccinated will be thrown upon her. She will come under clause (b) and will be responsible. It will thus be seen that the mother is not altogether exempted, nor under any circumstances will the vaccination of children be neglected. The only object in moving this amendment is that the females should be the last persons resorted to as responsible for the vaccination of their children. This Honourable Board is aware that the purda system prevails to a great extent in native society. It prevails to a very great extent among the Mahomedans, and it prevails equally among the Hindus, especially those of Sind, who were under the Mahomedan rule for centuries, and who have, therefore, borrowed this purda system from the Mahomedans. The native women as a rule do not appear in public, and it is but right that their privacy should as far as possible be respected. They are generally uneducated and cannot read or write. If a native woman happens to receive a letter from her husband, she is in a fix as to how to get it read and to send an answer. Imagine her position then when she receives threatening notices from the vaccinator or a summons from the Magistrate. They cannot manage any out-door work and they take charge only of the household work. They cannot look to the education of their children, and this duty and other similar duties are thrown upon the male members of the family. Those who are acquainted with the constitution and habits of native society are fully aware of the difficulties which women feel in managing anything. It may be said that the duty which this section throws upon the mother is to cause the child to be vaccinated and that might be done by sending the children with servants to the vaccine station. But we know that most of the people have no servants and it will be very difficult for them to manage to send their children to the station for vaccination and again for inspection. It will be very difficult for the females to carry out the various orders they may receive from the vaccinator. If the amendment is not approved of, the Mahomedans generally will feel the hardship. The Hindus will equally feel it. The hardship will be the more keenly felt when females are taken to Court under the operation of this Act. Christians and others may not feel any difficulty, but the Mahomedans and the Hindus form the bulk of the population of this

Presidency, and their feelings ought to be respected. I find that a communication on this subject has been received by this Council from Mr. Joglekar, a pensioned Deputy Collector. He is of opinion that some provision should be made to preserve the respectability and privacy of native women. For reasons that I have given, I quite agree with him, and I hope that the honourable members of this Council will sympathise with the object sought to be secured by this amendment. I trust that the amendment will receive the serious consideration which it deserves.

The Honourable Sir RAYMOND WEST said the section spoke of the parent or guardian. Under the proposed amendment the child would have no parent if its father died, and could have no guardian because the mother still lived.

The Honourable Ráo Bahádur OODHARAM replied :—I think that should be provided for in the word. “ guardian.”

The Honourable Sir RAYMOND WEST said there were hundreds of agricultural people who left their homes and went to work in towns, leaving the children in charge of the mother. She, as parent, was naturally in charge of the children, and she is the one who ought to be made responsible, and even in the case of those persons who are especially sensitive about their ladies being seen, there is no difficulty about sending the children to be vaccinated. That ignorance stands in the way is no argument, for the fact that vaccination is now universally known, and the fact that it is necessary, makes the duty just as well known as the fact that it is a sin to steal or trespass on your neighbour's premises. Surely it is not too great a burden for a woman to bear in the interests of her child and the community. It would not be too great a burden to tell parents that they are not to send their children about with revolvers in their hands, and it is not imposing too much on mothers that Government should require them to send the children to be vaccinated, for the means are always available. They should be made responsible in the absence of the father, for it is the first duty of a mother to arm her child against this dire disease. I trust the honourable member will not proceed with his amendment, for when they come to the question of a guardian, there would be an oscillation and throwing about from one to another, and the mother might object to the child being taken by guardians. If the father is away it is her duty.

The Honourable Ráo Bahádur OODHARAM said :—I submit from a native point of view the case is entirely different. Mine is not a sentimental point, and any one acquainted with native society will feel the force of what I have said. Am I at liberty to make a suggestion ?

His Excellency the PRESIDENT :—You can withdraw your amendment, and Mr. Ranade may suggest what he likes.

The Honourable Ráo Bahádur OODHARAM :—I have no objection to withdrawing my amendment in favour of the suggestion of Mr. Ranade.

His Excellency the PRESIDENT said :—I think some stress ought to be laid on the fact that the Act has been in existence some years, and that these words are copied from the Bombay Act, and that there has been raised objection against several parts of the Act, but none against this. I think it is only reasonable to suppose that if the definition of parent had proved inconvenient to the family system in Bombay, we should have heard

of it and that those people who have objections to it would have taken the opportunity to have had the matter discussed.

The Honourable Ráo Bahádur OODHARAM replied :—So far as the Karáchi Act was concerned, I know difficulties have arisen.

The Honourable Ráo Bahádur RANADE :—I would alter my amendment as follows :—
“Or other male relation acting as head of the family, or where there is no such male head of the family, then the mother.”

The Honourable Sir CHARLES PRITCHARD :—But I fear there might be difficulty in finding out who the head of the family is. What is the authority defining the expression “head of the family”?

The Honourable Ráo Bahádur RANADE :—Fathers and mothers of children very often live under the same roof as the grandfather or grandmother or elder brother, and as they all live together, it is well known who the head of the family is.

The Honourable Mr. NAYLOR :—I think both the honourable members who wish to amend the definition of “parent” forget the fact that we are not legislating for Sind alone or for any particular community but for the whole Presidency and all the various communities within it. The word “parent” is defined in its proper and natural sense in the City of Bombay and Karáchi Acts, and we have not been told by either of those gentlemen that any difficulty has been experienced during the years these Acts have been in force, and I submit that the case for the amendment has not been made out at all. If the mother is a lady who lives in seclusion, there can be, and there is no difficulty in getting the services of a relative to discharge the duties devolving upon her under the Act. I suppose there are a very large number of purdah ladies in Bombay, yet they have managed to secure vaccination for their children, without being dragged from their seclusion to go before Magistrates for punishment for not having discharged those duties in their own persons. I really think we cannot do better than leave clause (a) as it stands.

His Excellency the PRESIDENT :—Why would not your object be secured by the definition of guardian? You say you desire to insert the words “either the male head of the family”; and I believe the male head of the family may be the grand-parent who has the care of the child. Why, then, is he not included in the term “guardian”?

The Honourable Ráo Bahádur RANADE :—I admit that; but I want to interpolate this between “father” and “or,” so that in the absence of the father there may be another friend. That is the only reason.

The Honourable Sir RAYMOND WEST :—The parent cannot mean the head of the family, who may be the uncle.

The Honourable Ráo Bahádur RANADE :—I think somebody ought to be introduced between the father and mother, because after the death of the husband, the mother is more helpless in the family than any one else.

The Honourable Sir CHARLES PRITCHARD :—I think under the compulsory section of the Act, it is compulsory on the parent or guardian, and there is no reason why a male member of the family other than the father should not be the guardian. It is natural, if he is in charge of the family, that he should be held responsible for the performance of the duties of guardian.

The Honourable Ráo Bahádur RANADE:—The parents' obligation comes first.

The Honourable Sir CHARLES PRITCHARD:—The obligation is on the parent or guardian.

The Honourable the ADVOCATE GENERAL:—It is all a matter of interpretation of the clause.

The Honourable Ráo Bahádur RANADE:—I merely suggest that this is one way out of the difficulty.

His Excellency the PRESIDENT:—These words are omitted in the Bombay Act, and I do not think any objection was ever offered on that point.

The Honourable Ráo Bahádur RANADE:—I will not press the amendment.

The amendment was then withdrawn.

The Honourable Ráo Bahádur RANADE moved amendment 3 as follows:—“In the same section, clause (g), line 48, to omit the words “and the Act is”. After I sent in the amendment the Honourable Mr. Naylor explained to me why the Select Committee had made that addition. I thought that the definition of the expression “vaccination area” as a local area in which the Governor in Council has by notification declared this Act to be in force, would be quite sufficient. I did not understand at all why “vaccination area” was to be defined as a place to which this Act had not been extended.

The Honourable Sir RAYMOND WEST:—When the Governor in Council suspends the operation of this Act in certain places, the “vaccination area” remains the same for that place, whether the Act is in force or not.

The Honourable the ADVOCATE GENERAL:—Yes, the vaccination area remains the same whether the Act is in operation or not at a particular place. These words are intended to define vaccination area whether the Act is in force or not.

The Honourable Ráo Bahádur RANADE:—I have nothing to say. I accept the explanation of the honourable member. I sent in this amendment as it occurred to me that there was no necessity for these words. I desired further explanation and as the reason now given satisfies me I withdraw my amendment.

The Honourable Ráo Bahádur RANADE moved that in the same section, clause (j), (b), line 69, after the word “laid” to insert the words “or under this law.” He said:—What I want to submit is that the duty should be directly imposed by this law; because as I understand it there is no clause in the Births and Registration Act which makes registration of births obligatory except in the case of two or three small communities, and in the Local Government Acts there is no provision which makes registration of births compulsory.

The Honourable Sir CHARLES PRITCHARD:—This stands or falls as your amendment to section 9, sub-section 2, clause (a), line 23, stands or falls. Do you wish to press it now?

The Honourable Ráo Bahádur RANADE:—What I wish to say is that there are no Registrars of births recognised by law even where, as in the case of municipalities, power is given to secure registration of births and deaths. There are no officials called registrars, except in very few areas, and if they are to be recognised as necessary, it is as well to say in this Act what is the duty of the registrars.

The Honourable Ráo Bahádur RANADE did not press the amendment and withdrew it.

The Honourable Ráo Bahádur RANADE had amendment 5 down on the agenda paper as follows :—In the same section, clause (b), line 78, after the word “to” to insert the words “register kept or”.

The Honourable Ráo Bahádur RANADE did not wish to press this amendment, and it was withdrawn.

The Honourable Ráo Bahádur OODHARAM had an amendment 3 on the agenda paper to the following effect :—In section 5, sub-section (1), line 5, between the words “the” and “Commissioner,” to insert the word “revenue.”

The Honourable Ráo Bahádur Oodharam did not press the amendment, which was withdrawn.

The Honourable Ráo Bahádur RANADE in moving the substitution of the word “or” for “and” in section 9, sub-section (1), line 7, said :— I think it is primarily the duty of the parent and in his absence the duty of the guardian to cause the child to be vaccinated. I therefore think the substitution of the word “or” would be better.

The Honourable Sir CHARLES PRITCHARD :—We propose to introduce the words “or in the case of a child in the case of a guardian of a guardian” after the word “parent”.

The Honourable Ráo Bahádur RANADE :—I accept that.

The amendment was adopted.

The Honourable Ráo Bahádur OODHARAM moved that in section 9, sub-section (1) line 13, between the words “vaccinated” and “by” to insert the words “by a public vaccinator, or”.

His Excellency the PRESIDENT :—We accept that.

The amendment was carried.

The Honourable Ráo Bahádur RANADE did not press amendments 8 and 9, standing in his name, and they were accordingly withdrawn.

The Honourable Ráo Bahádur OODHARAM moved that in section 10, sub-section (1), line 1, the words “at an appointed hour” be omitted. He said this was simply a matter of convenience so as to give working people the whole of the day during the working hours of the vaccinator in which to bring children.

The Honourable Sir CHARLES PRITCHARD pointed out that a vaccinator might have to attend at several places on the same day. His working hours might be from 10 until 5, and he might have to attend at three or four places within that time.

The Honourable Ráo Bahádur OODHARAM said :—If it could be done it would give the people more time.

The Honourable Sir RAYMOND WEST said :—It may be that the vaccinator has to attend two villages in the morning and one in the afternoon, and parents of children might attend when they knew the vaccinator was away in order to avoid vaccination.

The Honourable Sir CHARLES PRITCHARD :—We might make it “the appointed time.”

The Honourable Ráo Bahádur OODHARAM :—That would be a little better.

His Excellency the PRESIDENT :—I do not think I can accept so trivial an amendment.

The Honourable Ráo Bahádur OODHARAM then withdrew his amendment.

The Honourable Ráo Bahádur OODHARAM proposed in the same section, sub-section 2, line 15, between the words "unsuccessful" and "such," to insert the words "or insufficiently successful," and in line 19 to omit the word "forthwith." He said that partially successful cases were always treated as successful and they were so treated in the forms of the Bombay Returns.

His Excellency the PRESIDENT:—Can a case which is insufficiently successful be anything but unsuccessful?

The Honourable Ráo Bahádur OODHARAM:—They are treated as successful in Bombay.

His Excellency the PRESIDENT:—It is very odd.

The Honourable Ráo Bahádur OODHARAM:—I adhere to my amendment.

His Excellency the PRESIDENT:—I do not understand the qualification, but if you can obtain any medical opinion that it is desirable, then we can consider the matter. We do not wish to compel children to be vaccinated more times than is necessary.

The Honourable Sir RAYMOND WEST:—If it is not sufficiently successful the vaccinator may make an order for re-vaccination. I would suggest that the words be "wholly or partly."

The Honourable Ráo Bahádur OODHARAM accepted the suggestion, and the section was carried as amended.

The Honourable Mr. YAJNIK referring to amendment 2, which stood in his name as follows—Section 14, sub-section (1), lines 1—2, to omit the words "except as in sub-section (2) otherwise provided," and in lines 5—6, to omit the words "if the parent or guardian of the child so require," said:—It will depend very much on the result of my amendment on the omission of sub-sections 2 and 3 as to whether sub-section 1 be omitted or not. The consideration of this might, therefore, be deferred.

His Excellency the PRESIDENT:—Well, there is Mr. Ranade's amendment on the same section.

The Honourable Ráo Bahádur RANADE moved that in section 14, sub-section (1), lines 5—6, the words "if the parent or guardian of the child so require," may be omitted and in line 7 after the word "lymph" the following may be inserted:—"Provided that if the parent or guardian of the child requires that the child shall be operated upon with human vaccine, the operation shall be performed accordingly."

He said:—The principle of the Bill as stated is compulsory vaccination with animal lymph, and the Bill permits only on extraordinary occasions the use of human lymph. This has been the principle recognized when drafting the Bill. But this section, however, has given rise to an apprehension that animal lymph shall be used only when parents or guardians require its use. The obligations laid on the vaccinator is that he should perform the vaccination with animal lymph whenever the parents or guardians so require. Though I would myself prefer the general use of animal lymph still I cannot lose sight of the fact that there are parts of the country where the use of animal lymph is not popular. It is with the intention of meeting such cases that I have suggested the addition of the words "provided that if the parent or guardian of the child requires that the child shall be operated upon with human vaccine the operation shall be performed accordingly."

This will give an opportunity for the parents and guardians to ask for human or animal lymph, as they wish.

His Excellency the PRESIDENT:—Perhaps these words would do better: “as the parents or guardians of the child shall require, be performed with animal lymph or with lymph taken from a human being.”

The Honourable Ráo Bahádur RANADE:—I have no objection to accept your Excellency's amendment in preference to mine.

His Excellency's amendment to substitute the words “as the parents or guardians of the child shall require, be performed with animal lymph or with lymph taken from a human being” for the words “if the parent or guardian of the child so require, be performed with animal lymph”, in section 14, sub-section 1, lines 5, 6, 7, was accepted by the Council.

The sub-section as amended was carried.

The Honourable Mr. YAJNIK proposed an amendment to the effect that in section 14, sub-sections 2 and 3 be omitted. These ran as follows:—“(2) It shall at any time be lawful for the Governor in Council, on its being shown to his satisfaction that animal lymph is not procurable in any vaccination area without dangerous delay, to direct, by notification in the *Bombay Government Gazette* (a) that during such period as he may deem fit to appoint the vaccination of children within such vaccination area may, without the assent of the parents or guardians of such children, be performed with lymph taken from a human being; (b) that the public vaccinator or medical practitioner to whom at any time during the said period a vaccinated child is brought under the provisions of section 10 for inspection, may, if he see fit, take from such child lymph for the performance of other vaccinations in such manner as shall not be injurious to such child. (3) The operation of any such notification shall be subject to the following provisos, viz., (a) that if the period prescribed by section 9 for the vaccination of an unprotected child will expire while such notification is in force, the parent or guardian of such child may give written notice to a public vaccinator, before the expiry of the said period, of his desire to arrange privately for the effectual vaccination of the child in conformity with the provision of this Act, and thereupon the public vaccinator shall for the said purpose allow an extension of the said period for such times not exceeding one month, as he deems reasonable. (b) Provided, further, that lymph shall not be taken from any child who does not appear to be in good health and free from taint of a disease transmissible by vaccination.”

His Excellency the PRESIDENT said:—I have never been able to understand the ground on which the honourable member has opposed this part of the Bill. I think that some part of the misconception which has arisen in public has been due to the objection that the honourable member raised to the report of the Select Committee. I think the public gathered from that protest of his that this Bill, somewhere or other, differed from the Bill actually now existing in Bombay and Karáchi. I am quite certain it was no intention of his to give rise to this misconception, but in consequence of the publication of that protest, the public got it into their heads that Government was introducing a Bill different in form from the Bombay and Karáchi Bill. I think it is pretty clearly understood in this Council now that there was no intention whatever of that sort on the

part of Government; and we, in introducing the Bill, have been guided by a right view, taking two Acts as our precedent which have worked simultaneously and well in two parts of the province. Of course, we know objections have been raised on various grounds and by various bodies, especially to this part of the Bill. I do not wish to underrate the value of the petitions that have been presented; but I think it is justifiable if weight is to be attached to them, to attach most weight, probably, to the body which is connected with the medical profession, than to any other, and in the petition presented by the Grant College Association, objection was taken to this part of the Bill. Well, I think that any value that is attachable to a medical society of that kind has been qualified by the consideration of whether the notice which called the meeting at which the question was discussed was a special notice, or whether the notice of discussion was merely inserted in the agenda paper of the ordinary meeting. I say that our opinion would naturally be qualified on a question of this kind by these considerations. I do not know whether the question was fully discussed by that body or not. I can only judge by the reports of the public prints, and if it was discussed at length, the Press has not done justice to the Association by giving a full report of their meeting. As regards the objections raised by other bodies, all I can say is that I do not think there has been shown in them that in the working of the two Acts now in existence there is anything to cause Government to see the necessity of changing the form of the Act we are now introducing. We do not, however, wish to ignore that there is an opinion prevalent that in some way or other oppression is going to be used. We do not see why it should be used in the future oppressively, any more that it has been in the past. We know as a matter of fact there have been children vaccinated all over the province, and why there should be this fear of oppression it is difficult for Government to understand; but at the same time it is our business to recognise the fact that these opinions have been expressed, although we do not think there has been any oppression shown in the past, so far as we can hear. We do not believe the officers on whom lies the responsibility of carrying out the provisions of this Act would so neglect their duties as not to prevent oppression being introduced; but if any of the honourable members are afraid of oppression, and that the feelings of the people might be disregarded, we are not unwilling to attempt to meet them by inserting a clause, or a sub-section in the Act, which will show what the views of Government are. We doubt whether it is necessary to add anything to the Act, because we think there is no doubt vaccination is going on smoothly at the present time, and without oppression. Still, as I have already remarked, if it will meet with the approval of the honourable members, and if they wish us to show clearly what the views of Government are, we are not unwilling to introduce a sub-section to show that we are distinctly opposed to any oppression. If that is what the honourable member wants and wishes to press us to meet his views without omitting these two sub-sections, we will be glad to meet him.

The Honourable Mr. YAJNIK said:—I take leave to assure your Excellency that neither in my minute of dissent nor in my remarks on the second reading of the Bill have I said anything tending to show that a section is inserted in the Bill which was not in the Bombay Act. I have all along maintained that the present Bill is based upon the old Act. What I did say was that the Bombay Act has worked smoothly and successfully, because if the vaccination of children animal lymph alone has been used. The exclusive use of animal lymph has made vaccination simple, and the time has come when those sections in the Bill in regard to arm-to-arm vaccination which have practically remained a dead letter in the Bombay Act should be dispensed with in the extension of

the Act to the districts of this Presidency. If compulsion is to be used it should be used in respect of animal lymph only as has been shown by the actual working of the Act during the last 15 years. That is why I contend for the omission of the two sections. I maintain that the use of animal lymph is popular, and while it is clear that under the voluntary system throughout the Presidency this method has worked well, it is just possible that when compulsion is used in respect to arm-to-arm vaccination, certain classes of the community might object to it on the ground of lymph being taken from a low caste to a high caste child. It was in that respect I said that compulsion should be restricted only to animal lymph. I find that even in Europe the best medical opinion, in regard to the safety of vaccination, lies more in the direction of animal vaccination, and that is confirmed by what medical opinion says in Bombay, and I find a body like the Grand Medical Society saying that children are better inoculated with lymph taken directly from the cow, and that in arm-to-arm vaccination disease has been transmitted.

His Excellency the PRESIDENT:—That is only a statement. We have it from Surgeon-General Pinkerton that he never knew a case in Bombay.

The Honourable Mr. YAJNIK:—Yes, your Excellency told us last time that there had been no such case.

His Excellency the PRESIDENT:—Yes; if you are going to quote statements of that kind it will necessitate our going into the whole of the medical evidence again.

The Honourable Mr. YAJNIK:—I am not going into the medical evidence again. All I was saying was that that was one of the reasons why I tried to bring to the notice of this Council the desirability of omitting these two sections; but I am glad to find that your Excellency thinks of adding a clause, which will avoid any fear or misapprehension on the point that the provision would work oppressively.

His Excellency the PRESIDENT:—I quite understand. We entertain no apprehension but we recognise the fact that some people do entertain some apprehension; and, so far as we can, we will introduce a sub-section which will indicate Government's disapproval of anything which will hurt the sensibility, or the feelings or prejudice of the people among whom we live and for whom we legislate. We think this will meet the views of the honourable gentlemen—to add to section 14 the following:—“Whenever the Governor in Council shall publish such a notification as aforesaid, he shall also frame and notify such regulations for the administration of the provisions thereby brought into force as shall appear necessary in order to prevent the application of the said provisions from being attended with oppressive or needless offence. These regulations shall include such rules as to the source from which lymph is to be obtained, and the means by which it is to be preserved pure, as shall appear necessary in order to satisfy reasonable scruples on the part of persons to be vaccinated or the parents or guardians, and such persons.” Do you think that will meet your views?

The Honourable Mr. YAJNIK:—Yes, your Excellency.

His Excellency the PRESIDENT:—Then it is proposed that we add this as sub-section 4 to section 14.

This was carried unanimously.

The Honourable Mr. YAJNIK withdrew amendment 7 standing in his name.

The Honourable Ráo Bahádur OODHARAM MULCHAND moved amendment 7, section 14, sub-section (2), clause (b), line 29, after the word “child” to insert the words “but in

no case shall more lymph be taken from each vesicle than what is necessary or sufficient to vaccinate one child."

His Excellency the PRESIDENT :—This is covered by the sub-section we have agreed to.

The Honourable Mr. FORREST :—The vaccinator trusted with the operation will surely take care of this.

His Excellency the PRESIDENT :—I do not know what the evidence is upon which Mr. Mulchand is going.

The Honourable Ráo Bahádúr OODHARAM :—Often a great quantity of lymph is taken from one particular child.

His Excellency the PRESIDENT :—I believe there are some mothers who are very glad to allow their children to undergo the operation, if they get eight annas for each child vaccinated. I am quite willing to meet any one who can prove that the Act is likely to be inhumane, but I think it requires evidence of a practical character that the provision in the Act is likely to prove oppressive. Under the circumstances I do not think we can accept the amendment.

The amendment was then withdrawn.

The Honourable Ráo Bahádúr RANADE proposed that in the same section, sub-section (3), clause (b), line 52, after the word "vaccination" to insert the words "or whose parents have been known to have suffered or are suffering from phthisis, leprosy, or syphilis." There is no proper definition given of the diseases transmissible by vaccination; and as I understand some of these diseases are not easily detected in a child at the age of vaccination, there is a chance of disease being transmitted by vaccination to a healthy child.

His Excellency the PRESIDENT :—We will try to meet you.

The Honourable Sir CHARLES PRITCHARD suggested that the amendment should be :— "Or whose parents are known to the public vaccinator or medical practitioner to have suffered, or to be suffering, from phthisis, leprosy or syphilis."

The Honourable Mr. FORREST said :—The point about human lymph is not quite clear. Any one can demand it.

His Excellency the PRESIDENT :—After notification.

The Honourable Mr. FORREST :—But if the vaccinator says "I cannot give you human lymph," are you going to put in a section which says he is forced to give it if asked for it? How will he get it?

His Excellency the PRESIDENT :—We will think over that.

The Honourable Ráo Bahádúr RANADE moved that in section 16, before line 1, to insert the following clause :— "In the case of all villages included in a vaccination area, it shall be the duty of the Kulkarni or Taláti of each village, or where there is no such officer appointed, of the Pátíl or Khote, or proprietor of a village, to act as Registrar of Births, and to register the births of all children within twelve days after birth. In the case of municipal towns, it shall be the duty of the Secretary or Health Officer, or any other officer appointed by the Municipality to this work, to act as Registrar of Births, and to register the same within twelve days after birth." If it is not the intention of Government to have the registration of births made compulsory, then my amendment cannot be of use; but as I understand that this legislation is a preliminary

step to the compulsory registration of births, I think Government should make some provision whereby the registration of births would be the duty of some one. At present it is not the duty of any particular person either in towns or villages. It is with that view I have made this suggestion and I virtually seek to legalize the existing machinery and thereby make it more effective. Village officers do the work at present, but they do it indifferently in obedience to executive orders, and I want to substitute a legal sanction for this duty. I do not want to press my amendment if my views are not correct. If it is intended to make registration of births compulsory, then it is necessary there should be certain officials empowered by law to perform this particular duty.

The Honourable Sir RAYMOND WEST said :—The object of the section is, I apprehend, to give assistance where assistance can readily be given under the existing system, and where it can be given without going into the larger question of universal registration. If registration should be extended universally, that is a different question. The Act is not intended in itself to take up a matter which lies outside vaccination. It merely intends that where registration is in force such aid should be made use of for the purpose of the Act.

The Honourable Ráo Bahádúr OODHARAM moved that in section 19, line 17, after the word “vaccination” to insert the words “or has already had small-pox.”

The amendment was accepted.

The Honourable Mr. YAJNIK moved amendment 6 as follows :—Section 23, sub-section (1), line 18, after the word “time” to add the words “not exceeding two months.”

The amendment was accepted.

The Honourable Ráo Bahádúr OODHARAM moved that in section 23, sub-section 3, line 36, some other word for the word “informant” be substituted. He said :—A word ought to be used which makes the matter quite clear.

The Honourable Sir RAYMOND WEST replied that it was more specific and direct as it was. Informant does not mean some one who tells you something in the street.

The Honourable Ráo Bahádúr OODHARAM :—That means that the informant is the Superintendent.

The Honourable Sir CHARLES PRITCHARD :—It is quite clear.

Sections 23 and 24 were adopted.

The Honourable Mr. YAJNIK withdrew amendment 7.

The Honourable Ráo Bahádúr OODHARAM moved that in section 25, clause (b), lines 8—10, the words “at any time during the period for which any notification made under section 14 is in force” be omitted.

His Excellency the PRESIDENT said :—I think this is the same consideration as that raised by the Honourable Mr. Forrest. They might be considered together.

The Honourable Ráo Bahádúr OODHARAM said :—If it is left to the parents to apply for human lymph, the vaccinator must be in a position to give it.

The Honourable Sir CHARLES PRITCHARD :—I think it will be better if the consideration of this question stands over.

His Excellency the PRESIDENT :—Yes, I think the best plan would be to hold over the amendment for a day or two, and then we shall be able to consider what is best to be done.

The Honourable Ráo Bahádur RANADE moved amendment 15 as follows:—Section 33, sub-section (1), line 11, after the word “mentioned” to insert the words “who has not been vaccinated before,” and in lines 16—17, 23, 27—28, to substitute the words “three months” for the words “one month.”

The Honourable Sir RAYMOND WEST said:—Re-vaccination may be necessary. If a person is vaccinated as a child and then goes into jail as a man of 35, then it would be necessary.

The Honourable Ráo Bahádur RANADE:—If you make it obligatory upon all to undergo vaccination on going to jail, it must be a little harsh in the case of persons whose offence is of a venial sort, and that is the reason I propose to substitute three for one month. What I object to is that people suffering very slight sentences should be subject to compulsory vaccination, without consideration of their age or sex.

The Honourable Sir RAYMOND WEST:—It seems harsh for the individual, but you must look to the 500 or 600 people with whom he is constantly communicating. You cannot have a separate jail for each prisoner to ensure safety. It is inconvenient to him, but it ensures safety to the others in the jail.

The Honourable Ráo Bahádur RANADE:—It is only in the Central Jails that great care is needed, and not in the lock-ups, where generally the numbers are few and the chance of danger nil.

The Honourable Sir RAYMOND WEST said:—The genesis of this section is, that at one time it was suggested to vaccinate every one under trial, but that was considered to be very harsh, and it was dropped. Then the question arose, “what rule should be made,” and the section as it stands was the result of that consideration. It is obvious that in one month a prisoner would be able to communicate small-pox.

His Excellency the PRESIDENT said:—There is no hardship in vaccinating prisoners convicted for one month or upwards. It is obviously undesirable that small-pox should break out in prison and we must as far as possible minimise the chance of disease breaking out in jail. If we take more than one month it increases the chances of an outbreak of small-pox.

The Honourable Ráo Bahádur RANADE:—Prisoners are often sent to prison pending the payment of a fine, or they might have to pay so much of a fine or suffer so much imprisonment: are they to be liable to enforced vaccination?

The Honourable Sir RAYMOND WEST:—It is not more harsh than the present practice.

The Honourable Ráo Bahádur RANADE:—If this assurance is given as regards present practice, I have nothing to say. My information is that this is not the present practice.

HIS EXCELLENCY THE PRESIDENT then adjourned the Council until Friday the 4th March 1892, 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.

Bombay, 29th February 1892.

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

The Council met at Bombay on Friday the 4th March 1892, at 3-30 P.M.

PRESENT:

His Excellency the Right Honourable Lord HARRIS, G.C.I.E., Governor of Bombay,
Presiding.

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

The Honourable Sir CHARLES PRITCHARD, K.C.I.E., C.S.I.

The Honourable the ADVOCATE GENERAL.

The Honourable Mr. L. R. W. FORREST.

The Honourable Mr. FAZULBHOY VISRAM.

The Honourable Mr. J. R. NAYLOR, C.S.I.

The Honourable Ráo Bahádur OODHABAM MULCHAND.

THE BOMBAY DISTRICT VACCINATION BILL.

Consideration of the Bombay District Vaccination Bill resumed.

The Honourable Ráo Bahádur OODHABAM proposed—Section 14—If amendment No. 2 is carried, to amend section 14 as follows:—

“To make clause (b) of sub-section 2 of section 14 a sub-section of section 10, and in line 22, to omit the word ‘that,’ and in lines 23—24, to omit the words ‘at any time during the said period.’”

Section 25, clause (b), lines 8—10, to omit the words “at any time during the period for which any notification made under section 14 is in force.”

He said:—The object of my amendment was to put in a section authorising the vaccinator to take lymph from children in ordinary times as well. But as section 14 is allowed to stand as it is, it is not necessary.

His Excellency the PRESIDENT:—I do not think it is.

The amendments were withdrawn.

His Excellency the PRESIDENT:—I do not think there is anything else except section 33.

The Honourable Sir R. WEST:—Though the Honourable Mr. Ranade is not present, I may as well give the Council the explanation I had meant for him. That explanation is that under the existing jail regulations of this procedure, chapter 5, para. 4, it is the duty of the medical officer, expressed in these words, “he shall vaccinate or cause to be vaccinated every prisoner admitted into the jail,” so that there is no exception whatever; and as to the question raised whether every person besides prisoners who have been convicted should properly be subjected to vaccination, we find that the Government of India have observed on the jail records of 1889-90, that the disease of small-pox appears to be prevalent in a dangerous form in the jails of Bombay, it was therefore considered desirable that proper regulations should be made in order if possible to check any severe

outbreak of the disease, though in some of the ordinary jails it was found difficult to get vaccination carried through on account of the absence of regularly qualified medical officers and vaccinators ; and some prisoners would get through a short term of imprisonment and escape without vaccination. However, this was the rule, though there was a question as to the strict legality of the application of the rule, and there was another point as to whether anything could be done with untried prisoners. The law-officers said there was no authority over untried prisoners, and it was agreed that what was in the rule should be supported by legislation. We endeavoured to secure prisoners against contagion from small-pox, and at the same time not to impose any undue harshness on prisoners sent to jail for short periods. It was observed by the Honourable Mr. Ranade that it was very hard that the men whose imprisonment was only for a short time, and the men who could not pay a fine, while perhaps their friends were trying to raise the fine for them, should be subjected to vaccination against their will. Though this is rather a hardship from this point of view, as a matter of necessity they must go to jail, and they thus are exposed to contagion and the risk of communicating it if they themselves are not vaccinated. It is a necessity where a large number of men are crowded together, and all that Government can do has been provided for in the way of indulgence in the several clauses of section 33. It is in that shape it comes before the Council, and it is distinctly lenient as compared with the rules as laid down in the existing regulations. I trust therefore Government will be considered to have dealt with the matter with all the favour possible to the unhappy subjects who must go to jail, and who must, in cases where it is absolutely necessary, be subjected to vaccination, both for their own sakes, and for the sakes of the prisoners with whom they have necessarily to communicate. This conclusion having been come to I trust no objection will be taken to it.

It was agreed to let section 33 stand as part of the Bill.

The Honourable Mr. NAYLOR proposed as a verbal amendment to strike out the figures (i) and (ii) in section 2, and after the words "City of Bombay," to insert the word "and".

The amendment was carried.

The Honourable Mr. FORREST :—I think in section 14, line 55 and the following lines, it should read "whose parents are known to the public vaccinator or medical practitioner".

The Honourable Sir R. WEST :—Yes, there has been a slight mistake.

His Excellency the PRESIDENT :—At the last sitting the following was approved : "whose parents are known to the vaccinator or medical practitioner to have suffered or to be suffering."

The Honourable Mr. FORREST :—In section 10, sub-section 2, the word "partly" might be "partially".

His Excellency the PRESIDENT :—I think it was originally "partly".

Amendment withdrawn.

The Bill as amended was then approved.

THE MHOWRA BILL.

His Excellency the PRESIDENT:—Before fixing a day for the third reading I think it would be convenient if I made a short statement as regards the Mhowra Bill. I observe from the usual sources of information that some interest is being taken in the subject, and also it appears that there is some idea that Government has a wish to hurry the Bill on. It is true that the Bill was put down for first hearing about a fortnight ago, but that was by mistake. Government have not the slightest intention of hurrying through a Bill of that character. What our intention was, and is, is that the Bill should be introduced for first reading before Government leave Bombay to re-assemble at Mahábaleshvar, upon which occasion a full exposition of the policy of Government will be made, and it is our wish that all information which is in our possession on the subject, and which we can properly lay before the public should be put upon the table, and that it should be utilised for the purpose of public information as much as possible.

His Excellency the PRESIDENT then adjourned the Council till Tuesday the 8th day of March, at 4 P.M., for the third reading of the Compulsory Vaccination Bill.

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.

Bombay, 4th March 1892.

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

The Council met at Bombay on Tuesday the 8th March 1892, at 4 P.M.

PRESENT:

His Excellency the Right Honourable Lord HARRIS, G.C.I.E., Governor of Bombay,
Presiding.

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

The Honourable Sir CHARLES PRITCHARD, K.C.I.E., C.S.I.

The Honourable the ADVOCATE GENERAL.

The Honourable Mr. JAVERILAL UMIASHANKAR YAJNIK.

The Honourable Mr. L. R. W. FORREST.

The Honourable Mr. FAZULBHOY VISRAM.

The Honourable Ráo Bahádur OODHARAM MULCHAND.

THE BOMBAY DISTRICT VACCINATION BILL.

His Excellency the PRESIDENT moved the third reading of
Bill read a third time and the Bombay District Vaccination Bill, No. 3 of 1891.
passed.

The Bill was read a third time and passed.

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

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

C. H. A. HILL,

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

Bombay, 8th March 1892.

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

The Council met at Bombay on Tuesday the 5th April 1892, at 3-30 P.M.

PRESENT:

His Excellency the Right Honourable Lord HARRIS, G.C.I.E., Governor of Bombay,
Presiding.

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

The Honourable Sir CHARLES PRITCHARD, K.C.I.E., C.S.I.

The Honourable the ADVOCATE GENERAL.

The Honourable L. R. W. FORREST.

The Honourable FAZULBHOY VISRAM.

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

The Honourable RAO Bahádur RUNCHORELAL CHOTALALL, C.I.E.

THE MHOWRA BILL.

A letter from the Honorary Secretaries, Bombay Presidency Association, dated 27th February, 1892, submitting the opinion of the Committee of the Association on the Mhowra Bill was first submitted to the Council.

Papers presented to the Council.

The Honourable Sir CHARLES PRITCHARD then introduced the Bill for the first reading. He said:—Your Lordship and the honourable members of this Council are aware that in 1892 a Bill was introduced and passed amending the Bombay A'bkári Act, 1878, with the main object of empowering the Government to make and enforce necessary rules for regulating and prohibiting the traffic in mhowra flowers in all parts of this Presidency, and thereby to check the illicit distillation of spirit. The Governor-General of India, however, withheld his assent from the Bill, for reasons that are set out in a letter published in the *Government Gazette* of the 4th November, 1882. The main objections taken by His Excellency the Governor-General were directed against the wide scope of the Bill and the possible extension of its provisions to districts in which mhowra flowers are commonly used as food for man and beast, and on the ground of doubt whether a more effective remedy for the evils which the Bill was intended to repress might not be found in some relaxation of the ábkári laws and a reduction in the duty rate on country liquor. I will read the portion of the letter in which the views held by the Government of India were summarised:—"The main objects which the Bombay Government have in view, *viz.*, to check the demoralisation consequent on excessive drinking of illicit spirit in the districts of Thána and Kolába, and to protect the ábkári revenue in these districts might, as it appears to His Excellency, have been perfectly well attained by passing a law of much more restricted scope than the Bill which has now been submitted for his assent, and he has carefully considered whether he could not accord his assent, subject to an understanding that the law should not be put in

Sir Charles Pritchard moves the first reading of the Bill.

force beyond the limits of those districts, and that the rules to be made under it should be confined to the single purpose of remedying the evils arising from illicit distillation. But the very wide scope of the Bill makes such a course undesirable, for the Act would create powers which appear to be neither necessary nor expedient; and though these might be left dormant for a time, there could be no permanent guarantee that under other counsels they might not be called into activity. Moreover, it may be doubted whether stringent measures of repression are the only or the best means of remedying the evils of which the Bombay Government complains. The Governor-General observes that some of the non-official members of the Council ascribed those evils to the severity of the present ábkári laws, and to the high tax now placed upon toddy trees. He has not before him sufficient information to enable him to judge what amount of force there may be in this contention, but the explanation is at least a possible one, and he does not find that it has been examined in such a way as to deprive it of all weight. He is, therefore, of opinion that further enquiry should be made as to whether the high rate of duty charged on licit spirit in the districts of Thána and Kolába has not encouraged smuggling, and the opportunity might, at the same time, be taken to investigate somewhat more closely the question as to whether the mhowra flower is ever used as food in those districts. If, after these enquiries had been made, it was found that the flower was not used as an article of food, and if it were clearly proved that no remedy for the existing state of things in those districts could be found in a relaxation of the present ábkári laws, it might then be considered whether legislation should not be undertaken for the purpose of placing some restriction upon the collection, sale and possession of mhowra flowers in those two districts alone. But, as the case stands now, His Excellency cannot consider that the facts clearly establish the necessity for legislation, even of a much more limited scope than that of the Bill now before him, and that being so, he regrets that he sees no other course open to him than to withhold his assent."

The further inquiry desired by the Government of India into the special circumstances of the districts of Thána and Kolába was made. It is embodied in the reports of the Mhowra Committee of 1883, which have been laid upon the table. I will read at length the principal portions of the resolutions passed on those reports by the Government of Bombay, as they give in a small compass much information that will be useful in throwing light on the subject that this honourable Council has now to deal with. "The evidence as concerns the Thána District recorded by the Committee seems to the Governor in Council to establish four main facts: 1st, that smuggling and illicit distillation of spirit are virtually non-existent in the tálukas (Dáhánu, Máhim, Bassein, and portions of Panvel and Sálsette) where toddy spirit is the liquor consumed; 2nd, that smuggling and illicit distillation of spirit are generally prevalent in all the tálukas (Váda, Sháhápur, Karjat, Muqbád, Kalyán, Bhiwandi, and parts of Panvel and Sálsette) where mhowra spirit is drunk; 3rd, that the prevalence of illicit distillation is only rendered possible by the unrestricted collection, sale, and use of mhowra flowers; 4th, that the mhowra flower, as distinct from the mhowra berries and seeds, is nowhere used as a staple article of food, and is only eaten in small quantities and as a relish or addition to their ordinary diet for a brief period of the year by some of the wild tribes. As regards the first point, the evidence shows that, under the system now in force, illicit distillation is virtually impossible without a risk almost approaching to certainty of immediate detection and punishment in those parts of Thána where the spirit used is

manufactured from raw toddy. The fear, consequently, of inevitable discovery and punishment deters the villagers from attempting to make spirit from toddy. As concerns the second point, the evidence seems to the Governor in Council to be conclusive. Every disinterested person competent to form an opinion on the point has stated that illicit distillation is rife. Mámlatdárs, Inspectors, private individuals, Government pensioners liquor-farmers, all agree on this subject. The fact is partially denied by a few of the persons whose statements have been recorded, and by certain anonymous writers in the columns of the local vernacular papers, but their statements appear from internal evidence and from the consensus of opinion on the part of credible witnesses to be undeserving of weight. It is sufficient to note that all the persons examined, who are in a position to express a trustworthy opinion on the subject, and who are able to speak from actual experience and without prejudice and bias against any measure, simply because it is undertaken by the Government, unite in holding that illicit distillation prevails to an enormous extent in the six inland talukas of the Thána District. With reference to the third point, it seems clear that but for the existence, in large numbers, in the Thána District of mhowra trees producing annually an immense crop of flowers, illicit distillation of spirit could not take place. If there were no mhowra trees there would be no contraband manufacture of spirit. As it is, in at least six of the eleven talukas mhowra flowers are obtainable everywhere and at all times. They can be collected; they can be bought. No restriction is imposed on their retention or on their sale. The result is that they are purchased freely and generally by the cultivating classes, chiefly Kunbis and Agris, and, when bought, are used chiefly, if not exclusively, for illicit distillation of spirit. As regards the fourth point, the evidence proves the following facts:—1st, that only a limited number of persons belonging to the wilder tribes, the aborigines, such as Warlis, one branch of Thákurs, Kathodís, and Dublas, eat mhowra flowers, and that even they do not eat them as a substitute for other food, but as an addition, mixing occasionally small quantities of the flowers like raisins in their bread; 2nd, that the higher castes do not eat the flowers; 3rd, that even the Kathodís, Warlis, &c., consume the flowers in very small quantities, finding it more profitable and economical to barter or sell the flowers they collect than to eat them; 4th, that mhowra flowers are occasionally, as alleged, used for medicinal purposes, but that the amount consumed for this object is exceedingly small; 5th, that mhowra flowers are sometimes given as a part of their food to cattle. Owing, however, to the costliness of the flowers, it would be a very expensive measure to feed cattle to any appreciable extent on them, and the flowers are generally only given in any quantity to cattle after the spirit has been distilled from them. Mhowra berries may be used as vegetables by the upper classes, and oil may be extracted from the mhowra seeds; but, as far as Government are aware, neither berries nor the seeds can be used for the manufacture of spirits, and consequently any legislative measure which might be passed would not touch them, and would only relate to the mhowra flowers. Almost the entire population of Thána and Kolábá is addicted to drink. For very many years past the inhabitants of those two districts have been known to be the most inveterate consumers of spirit in the entire Presidency. Drinking is not confined to one class or one race. The vast majority of the population habitually indulge in intoxicating liquors, and in this respect there is little difference between the Musalmans, the superior Hindu castes, the native Christians, the cultivators, and the wild tribes and hill men. The result is that the mass of

crime in the Thána District was immense, and the condition, mental, physical and social, of the population has been steadily deteriorating. Drink was, and is, though to a lesser extent now than formerly, the curse of the Konkan. Any measure, therefore, which would decrease the facilities for obtaining liquor and raise its price, thus checking the inordinate consumption, must of necessity be advantageous, and if at the same time it tended to increase the Government ábkári revenue, a further desirable object would be attained. The results of the ábkári policy followed by Government of late years have been a large increase of ábkári revenue, a diminution of crimes punishable under the Penal Code, a material enhancement of the price of spirits, the cessation of illicit distillation in the palm spirit tálukas, an improvement in the quality of the spirit sold, a better system of ábkári administration, the abolition of the abuses which existed under the old system when each táluka contained several separate petty farms, and each farmer fostered the consumption of liquor and tried to outbid his rivals by selling bad liquor at the cheapest price, and a diminution in the amount of drinking generally. The new system was, of course, however, unpopular. It was only to be expected that it would not meet with general approval. It excited the opposition of the large and influential class which before took, or was interested in, the numerous small liquor farms, now no longer existing. It was strongly disliked by the great body of the consumers, who found that, whilst they could get better spirit than they formerly obtained, they had to pay a materially higher price for it. The cultivators in the six inland tálukas, clinging to their love of drink, but unwilling to pay an augmented price for their liquor, have attempted to solve the difficulty by manufacturing spirit for themselves, utilising for the purpose the large supply of mhowra flower forthcoming throughout those tálukas. There seems to the Governor in Council to be no reasonable doubt but that illicit distillation in all except the coast tálukas is much more prevalent now than it was five, ten, or fifteen years ago. Such a state of affairs as that now described by the officials, who are the best authorities on the subject, was unheard of in Thána some twelve or fourteen years ago. Now, in some tálukas, there would appear to be illicit stills in most of the villages and in almost every house in some villages, and violent and dangerous opposition is offered to the employés of the A'bkári Department. Formerly such a thing was unknown. There was undoubtedly some illicit distillation then, but it was on a small scale, and such as there was generally carried on with the connivance of the farmers themselves, who entered into amicable arrangements with the illicit distillers, keeping on friendly terms with them, and accepting hush-money which compensated them for the loss sustained by the falling off in the sales at their own shops. The farmers themselves often opened unauthorizedly small branch shops, at which their liquor was sold on commission, and for any smuggling which then prevailed they generally were responsible. Under the present system this is impossible. 'The high rate of duty charged on licit spirit' cannot, in the opinion of the Governor in Council, be regarded as the true cause of the extensive manufacture of contraband spirit throughout a large area of the Thána District, nor would 'a relaxation of the present ábkári laws' prove the best and most appropriate remedy for the existing state of affairs. In view of the established fact that a bottle of mhowra spirit of a strength of 25° U. P., or but little weaker than ordinary brandy, can be purchased for eight or nine annas, or less than a shilling, and that a bottle of toddy of strength equal to the strongest ale can be bought for the equivalent of a penny, it can hardly be suspected or contended that illicit distillation is due to the oppressive incidence of the prices now charged for licit spirit or palm juice. The evidence shows that with the same prices obtaining in all parts of the

same district there is no illicit distillation where the production of contraband spirit is difficult and much where it is an easy matter. The logical inference from this fact is that the facility is the cause of the large illicit manufacture. As regards the Kolába district, the Government order runs:—"The increase in the cost to the consumer of licit spirit would not appear in Kolába to have stimulated the illicit production of liquor. The native officials, whose replies have been received to the exhaustive set of questions propounded by the Committee, are almost unanimous in the opinion that formerly there was little illicit distillation in Kolába, and that now clandestine manufacture is, if carried on at all, conducted but rarely, and on an altogether insignificant scale. In this respect there is a marked contrast between the evidence recorded as regards Kolába and that taken concerning Thána. It would seem probable that such illicit distillation as is carried on in Kolába is mainly confined to the Pen Táluka, which borders on the Panvel Táluka, which at the time Messrs. King and Campbell submitted their report, formed part of the Thána district, but has since then been severed from Thána and added to Kolába. It is, however, not surprising that the difference above noted should exist between the facts as reported in Thána and those stated in regard to Kolába. In the former collectorate no contraband manufacture of liquor is found in the coast tálukas, where toddy spirit is almost exclusively consumed, whilst according to the report by Messrs. Mulock and Campbell illicit distillation was rife in the inland tálukas, where mhowra spirit was generally drunk, and owing to the large number of mhowra trees and the unrestricted facilities which exist for the collection, purchase and possession of mhowra flowers, the illegal manufacture of mhowra spirit is a simple and easy process. The same reasons which render the illicit production of toddy spirit difficult and dangerous in the coast tálukas of Thána check the unlawful manufacture of toddy spirit in that portion of the Kolába district where palm trees abound, whilst in the other part of Kolába, as indeed throughout the collectorate, the number of mhowra trees is so small as to afford no local facilities for clandestine distillation of mhowra spirit from flowers gathered from them. Messrs. King and Campbell state that there are now in the Kolába district, excluding Panvel, only 241 trees of an age to flower, though in the Mángaon Táluka alone there are 562 saplings. The aggregate yield of mhowra flowers in Kolába may, therefore, be estimated as being at present about 500 maunds per annum, or about one-eightieth part of the yield in the Thána district, which is calculated to be about 40,000 maunds yearly. With reference to the question as to whether the mhowra flower is used as an article of food in the Kolába Collectorate, the evidence supplied establishes clearly the fact that it is not so used. On this point the Governor in Council entirely concurs in the conclusion arrived at by Messrs. King and Campbell on a careful review of the evidence, that 'the consumption of mhowra flowers for lawful purposes in the Kolába district is *nil*, and no interests which deserve respect are likely to be injured, if mhowra flowers are placed under restrictions.'

A further proposal for legislation to control and regulate the possession of mhowra flowers in the districts of Thána and Kolába *only* was submitted to the Government of India in 1884; but after consideration the Government of India still withheld consent—deprecating resort to legislation, except on the clearest evidence that an intolerable evil exists, and that there are no other means of meeting it. The measure was accordingly deferred for the time, and an attempt was made to put a stop to illicit distillation by the purchase, on Government account, of all mhowra flowers produced in the districts of Thána and Kolába. In the first year, considerable quantities of the local produce of the Govern-

ment forest were collected departmentally and bought up by the Forest Department. But many of the mhowra trees in Thána are the property of the cultivators in whose holdings they grow, and nothing approaching the entire produce of the district was brought to the Government depôts, although the price offered for it was more than double the rate realised on the re-sale of the Government purchases for export beyond the district. In successive years the quantities brought for sale to Government diminished, until in 1889 no contractor could be found willing to take up the business on any terms. Meanwhile, illicit distillation continued, though to a diminished extent, throughout the tract in which mhowra trees grow.

I must here call attention to a fact of importance. Honourable members will have noticed that at the time when legislation for the control of the traffic in mhowra flowers was previously under contemplation, illicit distillation was almost exclusively confined to the inland tálukas of Thána and to the Panvel and Pen tálukas of Kolába, *i. e.*, to those neighbourhoods in which mhowra flowers are produced. There was but little illicit distillation of toddy or of mhowra in the coast tálukas, where there are no mhowra trees. But in 1888, a new traffic in mhowra flowers sprung up. Large quantities were imported by sea from Gujarát, and more was brought by the railways from Gujarát and Khándesh and the Central Provinces, and the illicit distillation of mhowra, and to some extent of toddy also, gradually spread throughout Thána and over the Panvel, Uran and Pen tálukas of Kolába. It must be admitted that the exciting cause of that access of illicit distillation lay in changes made by the Government of the day in the system of excise management in the districts of Thána and Kolába which resulted in a large and sudden increase in the prices at which liquor was placed on sale in the licensed shops in those districts. To remedy it, it was found necessary in 1889 to lower the duty rate, and to reduce the selling prices of liquor below the limits that were prescribed for some years previous to 1888. At the same time, the preventive excise establishments employed in Thána and Kolába were largely strengthened, the full force of the district police was directed to the repression of ábkári offences, and punitive police posts were quartered at the expense of the offending communities in those parts of the districts in which illicit distillation was most rife and most determined. A full description of the state of affairs of which I have just spoken, and of the measures taken to meet it, will be found in the Administration Reports of the Ábkári Department and in the compilation of printed correspondence that have been placed upon the table. These papers contain statistics of the consumption, rates of duty and selling prices of liquor in all parts of the Presidency, full information regarding the prevalence of offences against the ábkári laws, the strength and cost of preventive establishments and of punitive police posts imposed for the repression of illicit distillation in the several districts, as well as a note, drawn up by the Judicial Secretary to Government, illustrating the effect of the intemperance and of the spirit of lawlessness engendered by the defiance of the ábkári laws prevailing in Thána and Kolába on crime in those districts.

A study of these documents will enable honourable members to inform themselves as to the state of things in Thána and Kolába—to contrast the conditions there with those existing in other parts of the Presidency—and to form a judgment as to the need for the adoption of the special measures contemplated by this Bill in order to diminish the intemperance, the illicit distillation, and the resultant crime, in the districts of Thána and Kolába. I will mention a few of the main points to which I desire to call attention. On page 18 of the printed compilation there is a figured statement showing the number of offences connected with illicit distillation detected in

Thána and Kolába and the adjacent districts in each of the last six years. Honourable members will find that the number of such cases occurring in Thána and Kolába amount to five times or six times the number occurring in the rest of the districts mentioned. The district of Thána accounts for nearly 70 per cent. of the illicit distillation cases detected in the whole Presidency. On the next page of the compilation will be found another statement giving details of the punitive police posts imposed throughout the Presidency in the last six years for the repression of offences against the ábkári laws. That statement shows that in 1889-90, while a punitive force of 122 constables and head constables was employed in Thána and Kolába, only one head constable and one constable were similarly employed elsewhere, and that in 1890-91 the punitive police force in Thána and Kolába was increased to 145 men, while only a single post of three men was maintained outside those districts. The cost of the posts in Thána and Kolába in 1890-91, defrayed by the offending communities, amounted to no less than Rs. 20,699. I need scarcely remind honourable members that the quartering of a punitive police post in a village is a very strong and stern measure, and one to which Government is always reluctant to resort, for the reason that it may punish innocent persons along with the guilty. The entire community, or, in the rare cases in which it is possible to differentiate, entire sections of the community are called on to contribute to the maintenance of the police force imposed for the repression of the lawless conduct of perhaps a portion only of the contributories. The succeeding figured statements in the same compilation illustrate the actual consumption, the rates of duty, and the selling prices of licit spirit in each of the last six years in the town and island of Bombay, as well as in the districts of Thána, Kolába, Surat, Násik, Ahmednagar, Poona and Sátára. It will be seen that the rates of duty and the selling prices of country spirit in Thána are much below those obtaining in other parts of the Presidency, and that no material increase of consumption has occurred in any district except Thána. The point to which I wish to call special attention here is the largely increased *licit* consumption in the Thána district during the last two years over the consumption of the years immediately preceding the outbreak of illicit distillation in 1888, and this although in the last year of the series (1890-91) the duty rate and the selling prices were the same as in 1885-86 and 1886-87. The licit consumption of Thána has risen from 323,952 gallons in 1885-86 and 327,708 gallons in 1886-87 to 407,154 gallons in 1890-91 with the same selling prices. The average rate of licit consumption per head of population in Thána amounts now to nearly 23 drams, a much higher rate than that reported for any other part of the Presidency, except the district of Surat and the town and island of Bombay, and this although we know that illicit distillation prevails in Thána to an extent entirely unknown elsewhere. To give some idea of the enormous extent to which the illicit manufacture of spirit is carried on in Thána and Kolába I may mention that the local produce of mhowra flowers is estimated at 40,000 maunds a year, and that in the year 1889-90 nearly 30,000 maunds were imported into the districts, and about the same quantity in 1890-91, but only about 2,500 maunds of the local produce were used in the licensed distilleries in 1889-90 and about 50 maunds only 1890-91. Roughly speaking, four gallons of liquor of strength 25° U. P. can be made from a maund of mhowra flowers. The quantities of mhowra flowers known to be within the districts of Thána and Kolába in 1889-90 and in 1890-91 were thus sufficient for the manufacture of from 250,000 to 300,000 gallons of strong spirit, and all the information obtained by the painstaking enquiries instituted, details of which honourable members will find in the papers before them

goes to show that a very small portion of the mhowra flowers produced in and imported into those districts was used for any purpose other than that of illicit distillation.

In the next place, I invite attention to the Judicial Secretary's note, on the connection existing between intemperance, illicit distillation and general crime in the districts of Thána and Kolába, that will be found on page 28 and succeeding pages of the printed compilation. If honourable members will look at the figured table on page 32 they will find that while the proportion of crime to population throughout the Presidency proper in 1890 was one criminal to every 147 of the population, and while in none of the districts, for which details are given, was the proportion less than 1 to 139, the proportion for the district of Thána was 1 to 78, and that for the district of Kolába was 1 to 119. They will find also that the proportion of crime to population has been steadily and largely increasing year by year in the last-named districts; and that there is a consensus of opinion among the expert and responsible officers of Government that intemperance, along with the contempt of lawful authority and the spirit of lawlessness induced by the general prevalence of illicit distillation, are the main factors that have contributed to the unusual growth and volume of crime now observable in Thána and Kolába. They will also find, from the papers before them, that there is a similar and absolute consensus of opinion amongst all officers who are well acquainted with the circumstances of those districts as to the nature of the remedies to be applied.

After full and careful consideration of the subject from all sides, of the objections entertained by those opposed to interference with the freedom of trade in mhowra flowers, as well as of the representations of the officers entrusted with the revenue, magisterial, police and ábkári administration of the districts concerned, the Government has arrived at the conclusion that the prevalence of illicit distillation and of intemperance in the districts of Thána and Kolába is an intolerable evil, and that there is no effective means of meeting it other than through legislative measures of the kind which I now seek permission to introduce. We desire, in the best interests of the inhabitants of the districts of Thána and Kolába, in order to diminish intemperance among them, to raise gradually the prices at which liquor can be obtained. We cannot raise the prices unless the illicit manufacture of spirit is repressed. We desire again to raise the price of drink and to repress illicit distillation, in order to ameliorate the comparatively demoralised condition into which parts of those districts have lately fallen, believing that excessive drinking and illicit distillation combined are the chief influencing causes of much of the crime that unhappily is prevalent there. We wish to see the people relieved of the burthen of punitive police posts, and of the frequent visits to their houses of the police and ábkári establishments in search of fermenting mhowra flowers and stills and implements for distillation. Believing that prevention is better than cure, we wish to remove, or at any rate to lessen, the temptation to illicit distillation, by putting a stop to the hawking of mhowra flowers about the countryside, and its sale at 'Bannias' shops in villages where it is never used for any purpose except illicit distillation. The Ábkári Department has found by experience that the provision of the Ábkári Act, which makes the owner of each toddy tree ultimately responsible for payment of the tapping tax whenever his tree is tapped, whether licitly or illicitly, operates most effectively in repressing the illicit extraction of toddy and the illicit manufacture of toddy spirit. We desire, in the same way, to place a check on the illicit distillation of mhowra flowers, by making those who collect or keep stocks of mhowra flowers responsible for their

exclusive distribution to persons who presumably will put them to licit use, *i.e.*, to persons licensed to possess them or to transport them from one place to another.

The Bill will enable Government, in the first place, to prohibit the importation of mhowra flowers from outside into the districts of Thána and Kolába, and it will also enable Government to make rules to regulate by license and permit the collection, possession and transport of mhowra flowers within those districts. No fees are to be charged for the issue of licenses or permits, and no interference will be imposed on the legitimate use of, or traffic in, mhowra flowers. To explain the mode in which it is intended to work the Bill, I will read a draft of provisional rules that has been drawn up for the purpose, premising that this draft of rules is merely tentative, and that Government will, of course, reserve the power of altering them as experience and circumstances may show to be necessary. “(1) Save as hereinafter provided, no person shall, within the districts of Thána and Kolába, possess or transport any quantity of mhowra flowers exceeding 4 seers of 80 tolas each in weight, except in accordance with the terms of a permit granted under these rules. (2) Permits under Rule 1 may, subject to the orders of the Collector of the District and the Commissioner of A’bkári, be granted without payment of fee, as follows:—(a) For possession at, or transport to, distilleries within the said districts licensed for the manufacture of spirit from mhowra flowers—by the officers in charge of such distilleries; (b) for possession at, or transport to, any place other than such licensed distilleries—by the Mámlatdár of the táluka or the Mahálkari of the mahál in which the possession, or to which the transport, is desired. 2. No person shall sell or deliver possession of any quantity of mhowra flowers, exceeding in weight 4 seers of 80 tolas each, except to a person who holds, and at the time of such sale or delivery produces, a permit granted under Rule 1, nor shall any such sale or delivery be made so as to contravene the terms of any permit, or to aid or further any contravention thereof. 3. No person shall sell or deal in mhowra flowers except under the authority of a license and in accordance with the terms thereof, which license may be granted by the Collector, and subject to the orders of the Collector of the District and the Commissioner of A’bkári by the Mámlatdárs and Maháلكaris. 4. Importation of mhowra flowers into the districts of Thána and Kolába from any place outside those districts is absolutely prohibited, except direct importation for delivery at licensed distilleries, under, and in accordance with the terms of, passes which, subject to the orders of the Collector of the District and the Commissioner of A’bkári, may be granted by ábkári officers in charge of such distilleries, or by other officers authorised by Government in this behalf.”

In conclusion, I may mention that honourable members will find a good deal in the papers that have been laid before the Council that I have not touched on in these already somewhat lengthy remarks. They will find—as bearing on the contention of some persons that mhowra flowers are ordinarily used as food for cattle in Thána and Kolába—that the price of mhowra flowers there is ordinarily about as high as that of unhusked rice; they will find accounts of murders and acts of violence committed on the persons of members of the police and ábkári establishments engaged in making seizures of stills and contraband liquor and materials, as well as on the persons of informers who have given information to the authorities of the commission of offences against the ábkári laws. They will also find that the apparent case for legislation is not as strong as regards the district of Kolába as it is with respect to the district of Thána. The explanation here is that illicit distilla-

tion prevails over only a small portion of Kolába, while it extends to the whole of Thána, and that the tálukas of Kolába, in which illicit distillation is most prevalent, have only lately been transferred from the Thána Collectorate to the Kolába Collectorate. They will notice also that in one other district—Surat—there have been many offences against the ábkári laws, that the rate of consumption per head of population is greater even than in Thána, and that the selling prices of country spirit are still unduly low as compared with those obtaining in other districts of the Presidency. The Government is fully alive to the fact that there is need for reformation in Surat as well as in Thána, but the difficulties and abuses existing in Surat are not such as can be remedied through this Bill, or, indeed, by any legislation, and I need not on this occasion say more concerning them. I shall have opportunity and pleasure, as the Bill proceeds, in affording explanation on any other points which may occur to honourable members as requiring elucidation. As illustrating the effect on consumption of raising the price of licit liquor, when illicit manufacture can be kept in check, I would invite the attention of honourable members to the table given on page 240 of the Blue Book containing the collection of papers relating to the Excise Administration of India. It will be seen that in 1872-73, with a duty of Re. 1 per gallon, 907,445 gallons of liquor of strength 25° U. P. passed into consumption in the town and island of Bombay. In 1876-77 the duty was raised to Rs. 1-12-0 per gallon, the consumption immediately fell to 566,482 gallons, and rose the next year to 653,557 gallons. In 1878-79 the duty-rate was raised to Rs. 2-4-0 per gallon, and the consumption fell to 585,166 gallons, and in the course of the next five years it rose to 698,396 gallons. Turning now to the figures on page 20 of the compilation of printed correspondence on the table, it will be seen that in 1885-86 the duty-rate was again raised to Rs. 2-12-0 per gallon, and the consumption fell to 594,065 gallons. In the course of the next three years it rose to 655,073 gallons, and was again checked in 1889-90 by an increase of the duty-rate to Rs. 3. We have thus by successive enhancements of the duty-rate succeeded in reducing the spirit consumption of Bombay about 30 per cent. below the consumption of 1872-73.

The Honourable Mr. FORREST here inquired whether these figures included the foreign imported liquor.

The honourable member in charge of the Bill replied that the figures were confined to country liquor, and that he was unable to state precisely the quantities of imported foreign spirit consumed in each year in the city of Bombay, for the reason that much of the foreign liquor imported by Bombay dealers passes into consumption up-country. A comparison of the total imports of foreign spirit at the port of Bombay—which amounted to 228,667 gallons in 1872-73 and to 278,204 gallons in 1890-91—indicates, however, that there has been no such increase in the consumption of foreign spirit in the city of Bombay as would weaken the force of the facts and arguments that he had just adduced. The importations of foreign spirit into India generally have been kept in check by successive increments in the rate of import duty.

Continuing his remarks he said—Honourable members will see that we have succeeded in keeping consumption in Bombay at a fairly even level, notwithstanding the progressive increase in the population of the city, since the reform of our ábkári arrangements was taken in hand in 1876-77. These figures illustrate very clearly the aim and object and the working of the general ábkári policy of the Government of Bombay. Consumption in the city of Bombay has been diminished by 30 per cent., and, at the same time, the revenue has

grown by nearly 150 per cent. With the aid of this Bill I have no doubt that a very satisfactory diminution of consumption and an equally satisfactory increase of revenue may be produced in the districts of Thána and Kolába. The main object Government has in view in introducing the Bill is the amelioration of the condition of the inhabitants of those districts to which I have already adverted; but the tax-payer will not, I think, have reason to complain that amelioration should be accompanied by an increase in the Government ábkári realisations, which will *pro tanto* relieve him from the impost of additional taxation in other shapes. With these observations I beg leave, Sir, to propose that this Bill to amend the Bombay Ábkári Act, 1878, be read a first time.

The Honourable RÁO Bahádúr RANCHORELAL CHOTALAL said:—I have no objection to the first reading. From what I have read and from what I have heard personally I believe some control is necessary in this direction. I find from the Ábkári Report of last year, 1890-91, that the total number of cases of illicit distillation in the whole of the Bombay Presidency, including nineteen districts, with one crore and forty lákhs of population, amounted to 575, and that 408 of these came from the Thána District alone. This gave a percentage of 70 per cent. of the total illicit distillation cases to that district alone, while the population of the Thána District was only from five to six per cent. of the whole Presidency. There was, therefore, it must be admitted, something wrong there. Of course, how far this Bill interferes with the general liberty of the people, will depend upon the rules that are framed or approved by the Select Committee; and of course we have not had time to look at those rules that are submitted now. If they do not impose any new taxation, then the people can perform their legitimate work without any inconvenience. Of course, there may be a little inconvenience connected with it, but the people must bear that for the general good. It is to be hoped, however, that this inconvenience may be as little as possible. Therefore, whatever is to be said about the rules will be said at the next meeting. I approve of the first reading of the Bill.

The Honourable Mr. WADIA:—My first impression of the Bill was that it was likely to prove a harsh measure upon those classes of people who should have our sympathy; but from the very clear manner in which the object of the Bill has been laid before us to-day, I think a very good case has been made out in favour of the Bill, and I shall, therefore, reserve my remarks till after the consideration of the rules.

The Honourable Mr. FAZULBHOY VISRAM said:—At this stage of the Bill I only wish to observe that I support its first reading, which, if carried, as I have no doubt it will be, will enable it to be circulated, and all arguments for and against it can be urged later on when it is brought up for the second reading. I have not yet been able to go deeply into the matter, but I am able to support it on the broad principle that it is directed mainly or wholly towards the suppression of the illegal distillation of spirits from the mhowra flowers. We have been told, and no doubt will be told still, that these flowers are used as an article of food, and so they are to a certain extent; but I presume Government have no intention of interfering with them so long as they are so used. I understand they simply mean to check the illegal manufacture of ardent spirits, and I am quite prepared to support the measure—so far as that means more or less the prevention of the injurious and immoral use of such spirits. So far as I am concerned, I wish that could be done in respect of all spirits, whether European or native, and the community will be all the better for it.

The Honourable the ADVOCATE GENERAL said :—Your Excellency, I do not wish to make any remarks on the merits of the Bill at this stage. I think a case has been made out by the honourable mover of the Bill, which justifies its introduction into the Council. But, in my opinion, the Bill as it stands is not complete; it requires to be altered and put into proper shape. The honourable mover will excuse my remarks. I am the most senior man in this Council—twice as senior as the senior man next to me. As I will not be in India for the next meeting of the Council, I wish to suggest that the draft rules, which were read by the honourable mover, should form part of the Bill, and should not be published separately, because they contain penal clauses. Section 2 of the draft rule is purely a penal clause; it does not matter whether a man has 4 seers of mhowra flowers or 40 seers in his possession; the rule prohibits its possession under certain restrictions, and the contravention of this rule is a penal offence. This, therefore, would be purely a point to be dealt with by legislation, and should be settled by this Council, and the draft rules should be embodied in the Bill. This Council cannot leave such questions to be dealt with by the Executive Department of His Excellency the Governor; it is properly the duty of this Council. I hope the honourable member in charge of the Bill and the Select Committee will give full consideration to this suggestion before the Bill is brought up for the second reading.

His Excellency the PRESIDENT said :—I do not propose to set a bad example by making a long speech on the first reading. In the first place, we do not know what the Bill is to be until after it has emerged from the Select Committee, and, therefore, lengthy remarks are to a great extent useless. I only wish to say that after the facts which our honourable colleague has laid before this Council, in my opinion it is absolutely impossible for any Government, having some regard for the good of those who are placed under its charge, to omit any longer to endeavour to introduce legislation of the character that has now been brought before this Council; and it is solely with the object of improving the condition of affairs in Thána and Kolába that we have now introduced this Bill, in order to carry out the principle which Government has already laid down. To give the public every opportunity of considering this Bill, I would propose, although we appoint a Select Committee now, to name the date at which its report shall come in so far ahead that there shall not be the faintest suspicion of any endeavour on the part of the Executive Council to rush this Bill through. I think if the Select Committee could report about the latter end of May we should then be able, after Government assembles in Poona in June, to proceed with the second reading.

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

The Bill was then read for the first time.

It was then agreed that the Bill should be referred to a Select Committee composed of the following members :—The Honourable Sir Charles Pritchard, the Honourable Mr. J. R. Naylor, the Honourable Mr. N. N. Wadia, the Honourable Ráo Bahádur K. L. Nulkar and the Honourable Ráo Bahádur Runchorelal Chotalall—and that they should consider the Bill and present their report on the 21st May, and that the report should be printed and published in the vernaculars.

THE BOMBAY SALT BILL.

The Honourable Sir CHARLES PRITCHARD, in moving the first reading of a Bill to amend the Bombay Salt Act, 1890, said:—I scarcely think that this short Bill requires any explanation beyond what is stated in the Statement of Objects and Reasons. It has been found that, under a strict construction of the law as it now stands, a person who purchases salt in the bazar and purifies it by dissolving it in water and then evaporating off the water, becomes liable to the penalty prescribed for illicit manufacture in respect of the purifying process to which he has subjected the salt. It is, therefore, proposed to amend the Bill, so as to provide that no penalty shall be attachable to persons so treating salt for which duty has already been paid.

Sir Charles Pritchard moves the first reading of the Bill.

The Honourable Ráo Bahádur RUNCHORELAL CHOTALAL :—Is it possible that where dirty salt is purchased and cleansed by the purchaser, the person can be punished under the Act in the same way as one who makes salt without paying the duty?

The Honourable Sir CHARLES PRITCHARD :—Yes, it has been so held by the High Court of Bombay.

The Honourable Ráo Bahádur RUNCHORELAL CHOTALAL :—There must be some peculiar case, I think.

The Honourable Sir CHARLES PRITCHARD :—I beg to propose that the Bill be read a first time.

The Honourable Mr. N. N. WADIA :—Your Excellency, I remember well when the Bill was first introduced I referred to this point, and asked if there was no danger of the meaning of the clause being misinterpreted, but I was told that under the rules nothing of this sort could be apprehended. I am glad to find that now the change is being made.

The Honourable the ADVOCATE GENERAL :—I do not think that the decision of the High Court of Bombay, referred to by the honourable mover, clashes with the existing law. The Salt Act as it now stands certainly does not prohibit persons from purifying the dirty salt usually sold in the bazar for purely domestic use. To say it does, would be putting an extreme interpretation of the law on the section which prohibits the manufacture of salt. The intention of the law is not to interfere in such cases; it refers to the purifying of salt in large quantities for sale; but as the amendment will avoid future misinterpretation, I have no objection to the first reading of the Bill.

His Excellency the PRESIDENT :—The object of Government is to remove any possible flaw in the Bill. It was very strongly held by Government that there was really no flaw in the Bill; but it has been shown that there was a chance of misinterpretation, and Government accordingly thought it was only right and equitable that it should endeavour by an amendment of the Act to avoid any possible flaw.

The Bill was then read for the first time, and referred to the same Select Committee appointed to report on the Mhowra Bill.

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

The Council was then adjourned.

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

Bombay, 5th April 1892.

for 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 Poona on Saturday the 25th June 1892, at 12 noon.

PRESENT:

His Excellency the Right Honourable Lord HARRIS, G.C.I.E., Governor of Bombay,
Presiding.

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

The Honourable Sir CHARLES PRITCHARD, K.C.I.E., C.S.I.

The Honourable Mr. H. M. BIRDWOOD, M.A., LL.D.

The Honourable the ADVOCATE GENERAL.

The Honourable Mr. FAZULBHOY VISRAM.

The Honourable Mr. NAVROJI NASARWANJI WADIA, C.I.E.

The Honourable Ráo Bahádúr KRISHNAJI LAKSHMAN NULKAR, C.I.E.

The Honourable Ráo Bahádúr RUNCHORELAL CHOTALALL, C.I.E.

The Honourable Mr. A. F. BEAUFORT.

Papers presented to the Council.

The following papers were presented to the Council:—

- (1) Letter from Khán Bahádúr Cursetji Rustomji Thanawala, late Chief Justice of the Baroda State, dated 16th April 1892—Submitting his opinion on the Bill No. 1 of 1892 to amend the Bombay A'bkári Act, 1878.
- (2) Letter from the Honourable Mr. F. L. Latham, Advocate General, No. 31, dated 18th April 1892—Suggesting, for the consideration of the Select Committee, certain alterations in the form of the Bill No. 1 of 1892 to amend the Bombay A'bkári Act, 1878.
- (3) Letter from the Honorary Secretaries, Bombay Presidency Association, dated 7th May 1892—Submitting a representation from the Association for the consideration of the Select Committee appointed to consider and report on the Bill No. 1 of 1892 to amend the Bombay A'bkári Act, 1878.
- (4) Petition from Vithoba Jiramshet and other residents of táluka Bhiwndi without date—Submitting a protest against the Bill No. 1 of 1892 to amend the Bombay A'bkári Act, 1878.
- (5) Report of the Collector and District Magistrate of Thána (No. 3193, dated 20th June 1892) on the above petition.
- (6) Petition from Balaji Sadashiv Gokhale and 371 other inhabitants of táluka Pen, Koláta District, dated 15th May 1892—Stating their objections against Bill No. 1 of 1892 to amend the Bombay A'bkári Act, 1878.

- (7) Report of the Collector and District Magistrate of Kolába (No. 3076, dated 20th June 1892) on the above petition.
- (8) Petition from Narayen Mahadev Paranjpe and other inhabitants of táluka Mángaon, zilla Kolába, without date—Submitting a protest against Bill No. 1 of 1892 to amend the Bombay A'bkári Act, 1878.
- (9) Petition from Balkrishna Pandurang Risbud and other inhabitants of táluka Mángaon, Kolába District, dated 15th May 1892—Stating their objections against Bill No. 1 of 1892 to amend the Bombay A'bkári Act, 1878.
- (10) Petition from Chimnaji Narayen Bhate and other residents of Mahád Táluka, Kolába District, dated 18th May 1892—Submitting a protest against the Bill No. 1 of 1892 to amend the Bombay A'bkári Act, 1878.
- (11) Report of the Collector of Kolába (No. 3160, dated 23rd June 1892) on the above three petitions.
- (12) Report of the Select Committee appointed to consider the provisions of the Bill No. 1 of 1892 to amend the Bombay A'bkári Act, 1878.
- (13) Report of the Select Committee appointed to consider the provisions of Bill No. 2 of 1892 to amend the Bombay Salt Act, 1890.

THE MHOWRA BILL.

The Honourable Sir CHARLES PRITCHARD said:—Your Excellency,—I propose that Bill No. 1 of 1892, to amend the Bombay A'bkári Act, 1878, as amended and presented by the Select Committee, be now read a second time. This Bill, on its publication, met with much hostile criticism, founded mainly on the fact that it seeks to resuscitate an unpopular measure that, as I explained at the last meeting of this Council, was set aside ten years ago amidst considerable difference of opinion. Viewing that fact, and recognizing the expediency of subjecting the Bill and the circumstances said to justify its introduction to close examination by a Committee, the majority of whose members should have formed no preconceived conclusions in its favour, this Honourable Council at its last meeting referred the Bill to a Committee composed of three non-official and two official members, so as to give to the non-official members an absolute preponderance of votes. Of the non-official members, the Honourable Mr. Nulkar had, as President of the Poona Sárvajanik Sabha, supported the petition presented by that Association against the Mhowra Bill of 1881; the Honourable Mr. Runchorelal Chotalall is well known for his sturdy independence in discussing debatable questions that have arisen in the Municipality of Ahmedabad, of which he is president; while the Honourable Mr. Wadia represents the legitimate trade in mhowra flowers and belongs to that section of the native community amongst which the most persistent opponents of the present ábkári system are to be found. Of the official members, one, the Honourable Mr. Naylor, was a judicial officer who had had little or nothing to do with ábkári management; whilst the other and the only member who may be said to have prejudged the question is myself. The Bill was published on the 29th January last; was read a first time on the 5th April, and the first sitting of the Select Committee was held on the 9th May. Ample time was thus

afforded to the opponents of the measure for formulating their objections, and by the time the Committee assembled their criticisms had become fully developed and, as I have just shown, the composition of the Committee was such as to ensure beyond doubt a patient and painstaking consideration of those criticisms. The result of the Committee's deliberations is set out in the report just read, and due weight will no doubt be given to the fact that there is no voice dissentient on any of the conclusions arrived at, or on any of the recommendations made. The Committee has altered the shape of the Bill so as to embody in its enactment all provisions intended to be enforced by penalties, and to define the extent of the restrictions intended to be placed on the traffic in mhowra flowers. It has further made those restrictions as lenient and as limited as, in its opinion, they can safely be made. But it prominently recognizes the fact that the immoderate consumption of intoxicating liquor and the illicit manufacture of liquor prevail in the districts of Thána and Kolába to an extent that is producing a lamentable volume of crime and is otherwise seriously affecting the welfare of a large portion of the population of those districts. The Committee expresses its conviction that measures which will have the effect of reducing the aggregate consumption of intoxicating liquor, whether it be licit or illicit liquor, are urgently called for, and that the most practicable means of attaining that object lies in the gradual enhancement of the prices at which intoxicating liquors are made available to consumers, an object which obviously cannot be effected unless illicit manufacture is checked. It believes that the Bill, as amended and now under consideration, is calculated to provide a useful and effective remedy against the illicit distillation prevalent, without interfering with the legitimate traffic in mhowra flowers, or their legitimate use, to any greater degree than is reasonably necessary under the conditions existing; and that its enactment will prove beneficial in lessening drunkenness and in diminishing crime. The Committee's report confirms with precision the aim and object with which the Government has introduced the Bill and the opinion of the Government as to the results to be expected from its operation. Those who oppose the Bill must show either that drunkenness and illicit manufacture and resultant crime do not prevail to an extent necessary to justify the adoption of the measure—or that the measure is likely to fail in its object—or suggest other means better calculated to secure that object. Now, in all the many criticisms unfavourable to the Bill that have been presented in communications to this Council, and in letters and articles that have appeared in the newspapers, no one has attempted to controvert the allegation that drunkenness and illicit distillation and disorder and crime of the kinds usually associated with drunkenness prevail to a serious extent in the district of Thána and in part of the district of Kolába as now constituted. The only attempts in that direction have been to show that during the last two years the numbers of detected offences of illicit distillation have fallen below the number reported for the year 1888-89. Not a word, so far as I am aware, has been said to cast doubt on the correctness of the Government statement as to the prevalence of drunkenness and crime. As regards illicit manufacture, the argument is that the diminution in the number of detected offences shows that the police measures adopted have been successful in checking the evil to a certain extent, and that there is reason to expect that perseverance in the same measures for some time longer will reduce the evil to the dimensions within which it was confined in the years immediately preceding the outbreak of 1888-89. I readily accept the proposition that illicit distillation might be kept in check by the continuance and extension of punitive posts and other stringent measures of police repression, but I urge that measures of that kind—of keeping the country side under strict police surveillance and of forcing the inhabitants to

pay for large bodies of police employed on the duty—are justifiable only under exceptional circumstances and for limited periods and as a last resort. I deny, again, that the districts of Thána and Kolába were in a healthy state in this matter in the years preceding 1888-89, or that it would be at all sufficient to keep offences against the ábkári laws within the numbers reported for those years. At that time some 50 per cent. of the illicit distillation cases detected in the entire Presidency occurred in Thána and Kolába. Further—and this is the consideration I would chiefly urge—it must be remembered that the prices of liquor obtaining in Thána and Kolába before 1888-89 and also those now obtaining there, are below the prices at which liquor is sold in adjacent Deccan districts with populations generally not so well to do. They are much below what they ought to be in the interests of the people themselves: they do not serve to diminish sufficiently immoderate consumption. The rate of licit consumption per head of population reported for Thána last year is 24 drams—against 13 drams for Kolába, 7 drams for Poona, one dram-and-a-half for Ahmednagar, and only three-quarters of one dram for Sátára. With the aid of this Bill we shall be able to raise prices and check illicit distillation and reduce actual consumption—in its absence, consumption cannot be reduced without resort to more extensive and even stricter police repression that has hitherto been imposed. Next, as to the objection that the Bill will fail in its object. The argument here is—not that the Bill will fail to check the illicit manufacture of mhowra spirit: its efficiency in that direction has not been questioned—but rather that there is not much use in checking distillation from that particular material, as there are other materials from which spirit might be made, to which illicit distillers would turn their attention if unable to obtain mhowra. My reply to that argument is that, whilst mhowra spirit and toddy spirit are the only kinds of country spirit exposed for licit sale in the districts of Thána and Kolába, there is but small risk of illicit distillation from other materials, as the mere fact of possession of date, or sugar, or rice, spirit would suffice in most cases to secure the conviction of the possessor. As a matter of fact, illicit distillation from materials other than mhowra and toddy is rare. The Collector of Thána has reported that in about 10 per cent. of the cases tried in 1890-91 and of those of more recent occurrence toddy was the material used, and in the rest mhowra flowers, excepting in two or three isolated cases in a particular locality, peopled chiefly by Portuguese native Christians, where sugarcane juice or dates fermented with toddy have been used. In this matter we shall, I think, be quite safe in leaving the future to take care of itself, and in confining our attention now to legislation for the repression of unlicensed mhowra distillation. Lastly, as to suggestions offered of means better calculated than this Bill to secure the objects at which it aims. Here, again, the critics have dealt with only one part of the subject. Their suggestions are directed simply to the removal of the temptation to manufacture spirit illicitly. The remedy they propose is to keep the price of licit spirit low and to remove restrictions on the tapping of frees and at the same time to reduce the rate of taxation on raw toddy, in the expectation that raw toddy will take the place of distilled spirit in consumption. But they set aside, or forget, the necessity for diminishing the aggregate consumption of intoxicating liquor of all kinds, and for reducing the volume of crime attributable to the intemperance of the population. My reply to these suggestions is firstly, that the expectation that raw toddy will ever displace distilled spirit in consumption in Thána and Kolába is chimerical, for the simple reason that raw toddy is not available during many months of the year, and that the habit of the people is to drink distilled spirit throughout the year as well as raw toddy at such times as they can

get it; secondly, that the removal of restrictions on the tapping of trees for the extraction of toddy and the reduction of the tapping tax would inevitably result in a revival of the habit of domestic distillation of toddy which, as I shall show, prevailed throughout the toddy talukas previous to 1878. The remedy suggested would simply substitute toddy for mhowra as the material for illicit distillation in those talukas in which toddy is produced—and would leave the evils of cheap liquor and resulting intemperance and crime undiminished, if it did not augment them for the reason that the supply of toddy available on the spot during the season of production is practically unlimited. The experiences of 1888-89 afford a good example of what is likely to be the result of largely increasing the toddy supply. Honourable members will find from Mr. Trevor's report of May 1889, among the papers laid on the table at our last meeting, that when restrictions were relaxed in 1887-88 and 1888-89 a great part of the toddy made available and intended for consumption in the raw state was illicitly distilled.

It is scarcely necessary for me to controvert the fallacy that was loudly asserted during the a'bkári controversies of 1887—89, and has been whispered again in the course of the recent discussion, that toddy is an innocent beverage. Even Mr. Caine has now recanted on that point, as I notice that in his most recent attack on a'bkári management in India he has denounced toddy as an intoxicating liquor. I must, however, caution those who may read communications emanating from the toddy interest, that the writers are in the frequent habit of using the word "toddy" without qualification or distinction, whether the article under reference be raw toddy (a fermented liquor) or distilled toddy. It is necessary, I think, that I should establish what I have just stated as to the habit of the people of the Northern Konkan and the results to be anticipated from the removal of restrictions on tree tapping and the augmentation of the toddy supply. The best method of doing this that occurs to me is to explain the state of things that existed before the Abkári Act of 1878 was passed, the measures taken to meet it after that Act became law, and the system of management now in force. This explanation will, I trust, tend to make clearer the need for this Bill, and to remove some of the misunderstandings that have found acceptance, and will at the same time show what are the existing causes of the main opposition to this Bill, and enable honourable members to form a fair opinion as to its reasonableness. I must premise that cocoanut palms produce toddy all the year round, but during the rainy season the produce is poor and scanty. Brab palms produce no toddy during the rains. Date palms give a limited supply during the months of November and December, and an abundant supply in March, April and May, but are barren during the rest of the year. The toddy produce of all these trees is drunk in the raw state, and formerly was also used for distillation, in Thána. But practically distillation was confined, except in the extreme north of the district, to brab toddy. Date toddy was and is the favourite drink wherever it is procurable; elsewhere brab toddy is drunk, but to no great extent. In the inland talukas of Thána and Kolába the toddy chiefly used is the sap of the bastard sago palm, that grows wild in the jungles. This palm is tapped in the hot season. Brab toddy is also used to a limited extent in the inland talukas. Our distillery returns show that the average toddy yield of cocoanut and brab palms is at least 100 gallons a year, but we have not succeeded in obtaining reliable statistics of the average yield of date palms. In some places they give over 100 gallons of toddy, in others the yield is as low as 30 gallons—all depends on the soil and position of the trees and on the care bestowed on them. To the best of my belief the average for Thána and Kolába may fairly be set at 70 gallons per tree, taking into consideration the

fact that with restricted tapping only the best trees are tapped. A gallon of spirit of about the same strength as ordinary London gin can be distilled from 7 or 8 gallons of toddy. The brab and date palms growing in Thána and Kolába number many hundred thousands. Roughly speaking, about half of them grow on unoccupied lands, and the other half on occupied lands. Those growing on occupied lands were specially exempted from assessment to land revenue at the survey settlements. A separate tax has from the earliest times been levied on *all* such trees as may have been tapped for the extraction of toddy. Whether situate on occupied or unoccupied lands the full right of the Government to regulate as it sees fit the tapping of toddy-producing palms has been exercised from times long anterior to British rule. A detailed account of the system under which toddy was drawn and toddy and mhowra spirit was made and sold in Thána before 1878 will be found in the first 9 paragraphs of the Thána Mhowra Committee's report of 1883, and in the statements of witnesses attached to that report, pages 74, 89, 90, 93, 106 to 115 and elsewhere. The Kolába Mhowra Committee's report contains a corresponding account for the Kolába District. Speaking roughly, any one was then allowed to tap as many trees as he liked and to distil the toddy drawn on taking out a permit and paying the light assessment, or bud-dene cess, that I have just mentioned. There were stills in every village in the coast tálukas, and utensils that could be used as stills in almost every home. A description of the method of domestic distillation in vogue in Thána will be found on page 74 of the Thána Mhowra Committee's report. Some people made liquor for their own consumption, others for sale to the shop-keepers. Each still was practically a liquor shop—but the right to sell spirit and toddy in regular shops was farmed. A similar state of things existed in the inland tálukas, the only difference being that mhowra was used instead of toddy. Mhowra was used also in the coast tálukas at seasons when the toddy supply ran short. There were practically no restrictions on distillation, and consequently the offence of illicit distillation was unknown. All over the district the people were habituated to manufacture spirit from materials ready to their hand, while those who did not distil on their own account could buy spirit of strength about 60° U.P. at prices ranging from 1 anna to 1½ annas a bottle. These are the reasons why ábkári administration in Thána and Kolába has been so difficult—and why special measures are now required there for the repression of unlicensed distillation. The first step taken was to prohibit the manufacture of spirit on private account, and to confine the manufacture and sale of spirit and the drawing and sale of toddy to licensed farmers. By degrees the size of the farms was increased, and the number of places at which spirit was distilled was diminished. A reasonable tree-tax was imposed on each tree tapped, and the manufacture of mhowra spirit within the district was prohibited, the requisite supply being drawn from the public distilleries at Uran and subjected there to a fixed rate of still-head duty. The result of these measures was to raise the price of spirit of the strength formerly sold at 1 and 1½ annas a bottle to 4 annas, and to reduce very considerably the number of trees tapped for the extraction of toddy and the aggregate liquor consumption of the district. As shown in paragraph 35 of the Thána Mhowra Committee's report, 151,388 trees were tapped in 1877-78, but only 43,831 were tapped in 1881-82. These figures give some idea of the enormous quantities of toddy spirit that was formerly made in Thána in each year. The witnesses most favourable to toddy, examined by the Mhowra Committee, state that about half the toddy drawn was distilled. I will take their estimate, though I believe that much more than half was distilled—and I will take the spirit yield of each tree at 5 gallons of strength 25° U.P., which is certainly less than half the average

actual yield. Calculating on that basis, 756,940 gallons of toddy spirit as strong as gin must have passed into consumption in the Thána District in 1877-78, and that for the supply of the coast talukas only, as no toddy spirit was used in the inland talukas. The fact that it is impossible to tap a tree without hanging on to it a pot that is readily discernible, and that the collection of toddy sap is a slow process, together with the provision of the A'bkári Act that makes the owner of a tree tapped without license responsible for payment of the full tapping fee, provide effective safeguards against illicit tree-tapping, and in the toddy talukas no great resistance to the reforms was offered, though they were of course unpopular. But in the inland talukas where mhowra trees grow and where it is easy to obtain the material for distillation, the reforms were vehemently resisted and the people kept to their old habit of making mhowra liquor for themselves. These are the circumstances that led to the introduction of the Mhowra Bill of 1881. It was, as Honourable Members are aware, vetoed by superior authority, and the only means left for dealing with the outburst of illicit distillation that followed the first attempts to raise the price of spirit was severe police repression. That was resorted to; some lives were lost and many men were maimed and seriously hurt in affrays with the contrabandists, and after several years' determined effort the offence of illicit distillation was checked to some considerable extent. But it was never suppressed—and in the absence of a Mhowra Act, I hesitated to raise the price of liquor above what it was in 1881, lest a fresh access of illicit distillation should be excited. In 1887-88, other counsels prevailed; the system of management was altered, and the price of liquor was largely raised all over the district, whilst at the same time the tree-tax was lowered and restrictions on tree-tapping were relaxed. The result was another outburst of illicit distillation that gradually spread over the whole district, and for the first time mhowra flowers were imported from Gujarát and Khándesh into the coast talukas as well as into the inland talukas to be used for illicit distillation. It is only just to the officers of the Ábkári Department to mention that they were in no sense responsible for the change of system or the results that followed it. In 1889, the Government was obliged to reduce the selling price of liquor below what it had been in 1886-87, in order to allay the demoralization, and at the same time to adopt the repressive police measures that I have already described. Since then we have raised the price somewhat, as the police action took effect. The prices are now 4 annas in Dáhánu and Umbargaon and 5 annas elsewhere per bottle of strength 60° U. P.—and from 8 annas to 10 annas per bottle of strength 25° U. P. In Dáhánu and Umbargaon the prices are the same now as they were in 1880-81. In Poona and Ahmednagar spirit of strength 25° U. P. is sold at 13½ annas per bottle and in Bombay at about the same price. The price of spirits in Thána ought to be raised gradually to about the same price as that now obtaining in Poona—but we cannot raise the price or reduce consumption in Thána without the aid of this Bill, and I very much doubt whether, if this Bill should not be passed, we shall be able to maintain present prices when the punitive police posts are withdrawn. Again, prices ought soon to be raised in Bombay and Poona, but there is difficulty in doing that so long as illicit distillation is prevalent in Thána. The Collector of Thána has reported that he has reason to believe that a good deal of the illicit distillation now rife in his district is carried on as a commercial speculation by the same gangs that used to loot the Thána forests when they were not as carefully looked after as they are now—and there is no doubt that quantities of the untaxed spirit made in Thána find their way into Bombay and the Deccan districts. I will now turn again to the toddy question. For some years after

reforms began, the tree-tax and a very light still license fee were the only taxes levied on toddy spirit. The total taxation amounted to about two-thirds of that levied on mhowra spirit sold in the same localities, and the selling prices fixed for toddy spirit were lower than those fixed for mhowra spirit. Notwithstanding the difference in price, mhowra spirit rapidly made head against toddy spirit sold in the same shops, and it soon became evident that the majority of consumers in Thána preferred mhowra to toddy liquor. By slow degrees, still-head duty rates were imposed on toddy spirit, lighter than those imposed on mhowra spirit, and the manufacture of toddy spirit was concentrated in public distilleries. But notwithstanding the favourable duty rate, and the exemption of toddy distillers from the establishment charges that are levied from all other distillers, the demand for toddy spirit continued to diminish. A similar progress of events followed the manufacture of toddy spirit in Kolába. Eventually, the cost of maintaining the public toddy distilleries exceeded the amounts of duty collected on spirit made in them. They were then closed, and permission, which is still available, was given to any person who desired to open a toddy distillery to do so, on condition of his defraying the establishment charges and paying duty on toddy spirit at the rate levied on mhowra spirit. No one has, as yet, availed himself of that permission, and the licit manufacture of toddy spirit has entirely ceased in Thána and Kolába for the last two years. The farmers are, however, obliged to keep toddy spirit on sale in all their shops at which there is a demand for it. They get what they want from the toddy distillery in Bombay. It is now sold at prices slightly in excess of those charged for mhowra spirit, and it is bought only by a few of the well-to-do classes—chiefly Portuguese Christians—who prefer it to mhowra liquor. The eventual extinction of toddy spirit manufacture in Thána and Kolába was inevitable when once it came into competition with other kinds of spirit. Toddy spirit is a tasteless liquor that is unable to compete on equal, or nearly equal, terms with mhowra spirit. Its sale can only be extended by making it cheaper than other kinds of spirit—*i. e.*, by taxing it at favourable rates—and that of course is against the cardinal principle of excise taxation that enjoins the taxation of all distilled liquors according to their alcoholic strength. Any one who cares to pursue further the causes of the decadence of toddy spirit manufacture will find information in the Bombay Ábkári Administration Report for 1883-84. As regards raw toddy: the demand for this beverage is small as compared with that for distilled liquor in all parts of Thána and Kolába, excepting in the Dáhánu Táluka and part of the Máhim Táluka in the extreme north of the Thána District. Even in the hot weather comparatively little toddy is drunk except in the tálukas mentioned. The toddy-consuming tracts are well defined throughout the Presidency. The consumption is, I believe, entirely a matter of habit. Thus, while toddy is very largely used in Umbargaon and Dáhánu and throughout the Surat District, little or none is drunk in Broach, Ahmedabad and the Panch Maháls—and again in the Deccán and Southern Marátha Country, much toddy is drunk in Dhárwár, Belgaum, Bijápur and Sholápur, and very little in Sátára, Poona, Ahmednagar and Khándesh, though toddy trees are common in all districts of the Presidency. At first, raw-toddy was sold in the same shops as spirit in Thána and Kolába, and the maximum price was fixed at 1 anna a bottle. Complaints were made that the price was too high, and that the shop-keepers found more profit in selling spirit than toddy, and therefore forced the sale of spirit to the exclusion of toddy. There appeared to be some reason in the complaint. The sale of toddy was accordingly entirely separated from that of spirit. The tree-tax was also reduced in the toddy-drinking tálukas—and “booths” were opened in the toddy groves in order that

pure and fresh toddy might be made available to all wanting it. The tapping tax on date and sago palms has always been kept low everywhere because the produce of those trees is mostly consumed in the raw state. At the same time the owners of toddy trees, who might wish to draw toddy for their own domestic consumption but not for sale, were allowed to tap a fixed number of trees in proportion to the wants of their households. This system is now in force throughout the districts of Thána and Kolába. The orders are that the Collector is to see that toddy in quantities fully sufficient to meet the genuine demand for the beverage is made available everywhere—but that he is to restrict tapping licenses to the number of trees in each village required to supply the quantity of toddy wanted for consumption in the raw state, in order to prevent as far as possible the use for distillation of toddy drawn from licensed trees. Complaints have been made in petitions presented to this Council and by critics in the press that the illicit distillation with which we have to deal is due, in part at any rate, to the severity of the restrictions on the toddy-supply and the high price at which toddy is sold. Now, I think that honourable members will agree with me that if the restrictions were so stringent as to interfere in any way with the supplies of toddy wanted by consumers, the Collector would hear something on the subject from the consumers concerned. They would petition him, or the Mámlatdár, or the Assistant Collector, and make known their wants. I have by me a report from the Collector of Thána, written only a few days ago, stating that during the year 1890-91 he received no complaints from consumers in his district of the inadequacy of the toddy-supply, and that during the current year he did receive a few petitions from the Umbargaon Mahál which were attended to in due course. Another and an important point, which the critics without exception have carefully avoided, is as to the prices at which toddy is sold. Toddy is now sold throughout the districts of Thána and Kolába—in shops, at 8 pies per quart bottle, and in tree foot booths, at 6 pies per bottle. In Umbargaon, where the people are poor and accustomed to the use of toddy, and the tree-tax is purposely pitched at lower rates than elsewhere, the prices are 4 pies per bottle at the tree foot and 6 pies per bottle in shops. I am afraid that these prices cannot be well defended when judged on temperance principles, for toddy as drunk in Thána and Kolába is as strong as London porter. The reason for fixing them at these low rates is to be found in the desire of Government to avoid all risk of tempting people who want strong drink to resort to spirit instead of toddy.

Another point, of which much has been made by the critics, is that the incidence of taxation on toddy is in excess of the import duty on beer and other fermented liquors, *viz.*, one anna per gallon. As regards date toddy and toddy drawn from the Bastard Sago palm, I should say that the average rate of taxation is generally less than that on beer. As regards brab and cocoanut toddy, which is mostly used for distillation, the rate is higher. It must be remembered, however, that whereas beer is a manufactured liquor brought from a long distance, toddy is the natural product of trees on which Government is entitled, as I have already explained, to levy assessment to land revenue as well as excise taxation, whenever their productive powers are utilized. Formerly those taxes were collected separately, now both levies are consolidated in the tree-tax. The fact that the demand from the owners of toddy trees and toddy sellers to tap and sell at present rates is far in excess of the number of licenses issued, shows that the incidence of taxation on raw toddy is not higher than it will fairly stand.

But the fact remains that whilst the diminution of the number of trees tapped for the extraction of toddy and the decline of toddy spirit manufacture has been to the

advantage of the population generally, and was indeed unavoidable under any system of administration that aimed at the reduction of liquor consumption, it has caused considerable hardship to many persons interested in the industry. The bhandaris, *i.e.*, the professional toddy-drawers and distillers, have suffered most as a class. Their old occupation has left them, and they have had to find other employment as cultivators and labourers. Some of them were, I fear, put to great straits in some villages; but their loss of employment was gradual, and most of them quickly acquiesced in the inevitable and sought new fields of labour. Their bad time is now past, and no complaints from that class have been heard for some years.

The tree owners generally have suffered less than would at first sight appear, as about half the trees that used to be tapped were the property of Government, and private owners get better rents per tree from such of their trees as are tapped now than they used to get when tapping was general. It must be remembered too in this connexion that no tree owner has ever been entitled to tap his trees as a matter of right. The privilege has always been subject to permission and payment of fee. Some of the tree owners are affected more than others—for instance, the class of landholders in the extreme north of the Thána District, whose statements are given on pages 105 to 121 of the Appendix to the Thána Mhowra Committee's report. It will be noticed that most of the men who have signed the statements are Pársis. The Pársis who first came to the Thána District settled down in the Dáhánu Táluka and the northern part of the Máhim Táluka—and are still the largest landholders in that tract. Many of them own holdings of several hundred acres in extent, which they cultivate mainly with the aid of Warli and Dubla labourers, the remnants of the aboriginal tribes that formerly peopled that unhealthy part of Thána. These tribes, as is well known, have fallen into a degraded condition through the intemperance of generations, and they stand in special need of a helping hand to rescue them from the curse of drink. Many of these labourers, *halis* as they are called, are in the position of bondsmen, or serfs. Their employers hold bonds over them for money advanced at some time or other, and they have to work out their debt by their labour. Meanwhile, they get very little money pay, but they are clothed and fed at the expense of their employers, like the Bhil servants of the Gujar settlers in the western part of Khándesh. I don't say that they are ill-treated, but they certainly are not free agents to go or stay as they please. There is not much field labour for them to do between March and May, and they cannot then earn their keep—at that time of the year toddy is plentiful and they are fond of it. Their employers used to give them one meal in the day and pretty well as much toddy as they chose to drink in the evening. Hard drinkers have smaller appetites than men who drink little—in that sense toddy will take the place of food—and that I take it is the real interpretation of the common assertion in petitions from the north of Thána that toddy is food. In the same way, distilled liquor is wanted by the landholders to give their labourers in the rice-fields during the rainy season, and in cold weather. Formerly, the landholders drew their own toddy and made their own liquor, and it cost them little; now they have to pay more heavily for both toddy and toddy spirit, and the expenses of their cultivation are consequently enhanced. This is the meaning of expressions that will be found in many of the statements appended to the Mhowra Committee's report to the effect that the date and brab trees used formerly to pay the whole expenses of labour and cultivation. The increase in the price of toddy and of spirit in the north of Thána—though, as I have shown, the prices of both liquors

are far below what they ought to be—is no doubt a contributing cause of the illicit distillation prevailing there. The landholders could not tap trees without being found out and compelled to pay the tapping tax—so they took to importing mhowra flowers and getting them clandestinely distilled to furnish liquor for themselves and their labourers. The village bannias followed suit, and illicit distillation from mhowra flowers became general throughout Dáhánu and Umbargaon. Mr. Pestonji Behramji Dantra is, or was, a landholder in Dáhánu, and gives voice to the aspirations of the landholders of that neighbourhood. I cannot say that he represents the labourers' interests, or those of sobriety. The holders of the lease-hold estates in Sálsette, granted at the beginning of this century with the object of introducing improved methods of cultivation into the Konkan, have also suffered much pecuniary loss in consequence of the decline in toddy spirit manufacture. They formerly derived incomes of considerable amount from the leasing of toddy trees growing on their waste lands. Now the trees are left untapped, and their rents have vanished. Many of these estates belong to influential families of Bombay. Their interests, as well as those of the owners of cocoanut oarts in the island of Bombay, have received support from Mr. Dinshaw Edalji Wacha and in letters that he has signed on behalf of the Bombay Presidency Association and the Anglo-Indian Temperance Association.

The Kalals, or liquor shop-keepers, have also suffered from the new ábkári arrangements. Many of them are Pársis. There are many fewer liquor shops in Thána and Kolába now than before 1878—and those there now are carefully looked after. Formerly, the Kalal was the money-lender in many of the smaller and out-of-the-way villages, and he gave credit for liquor and bartered it, receiving grain in payment. Credit and barter have been stopped, and each liquor seller is now obliged to sell liquor of fixed strength at fixed prices by stamped measure for payment in cash. The profits of the class are necessarily smaller now than they used to be.

I think that honourable members will have gathered from what I have already said that the main opposition to this Bill has its origin in the grievances of persons interested in the production of toddy and the manufacture of toddy spirit, whose profits have been affected by the contraction in consumption of those liquors. So far as the persons and associations whose identity has been disclosed are concerned, the present opposition is precisely the same as that which has agitated against the ábkári policy of Government for many years. In a Despatch, dated the 7th February 1890, replying to questions asked by the Secretary of State with regard to the agitation of 1887-89, Lord Reay's Government wrote: "The Bombay system, it must be remembered, whether it be right or wrong, has not been carried out without injury to the private interests of more than one powerful class, who have the means and the will to agitate against it. The toddy interest naturally wants to increase the consumption of toddy and toddy spirit, and any agitation against the ábkári policy of Government is chiefly initiated and supported by the owners of toddy trees, whose rents depend upon the increased demand for toddy juice. The agitation is one that chiefly proceeds from the producer and distiller, and the interests of the consumers, which are frequently opposed to those of the producers, have not been placed in the foreground at all." This passage accurately describes the present opposition. It proceeds from the toddy interest—which wants taxation on toddy reduced to a minimum and unlimited tree-tapping to be allowed. This is the prayer of the petition that has been advertised in the newspapers as proceeding from thousands of the inhabitants

of Thána, and has now been received by this Government for transmission to the Viceroy. It is in reality a petition from the landholders in the north of Thána whose method of cultivation I have just described. Along with that petition are put up copies of representations on the same subject made at various times by the Bombay Presidency Association and the Anglo-Indian Temperance Association, and the petitioners naively refer to those documents as representations made by themselves—clearly showing that all the communications have emanated from a common organization. Indications of similar import are apparent on the face of the memorials received from the Bombay Presidency Association and the Anglo-Indian Temperance Association. Those last received from both those societies are signed by the same individual, Mr. Wacha, who has for years past been publishing pamphlets and letters supporting the toddy interest, and there is nothing to show that the letters sent out by him in the name of the associations have been considered and adopted by the general body of their members. It is difficult indeed to understand how any society that professes temperance principles can advocate the extension of the consumption of toddy, or of any other intoxicating liquor. Yet I find, in the latest letter received from the Anglo-Indian Temperance Association, signed by Mr. Wacha and said to be submitted by direction of its committee, that unlimited tree-tapping and the removal of restrictions on the transport and sale of toddy is the burthen of its prayer. Have the present managers of that Association, which has more than once taken up the cudgels against the ábkári policy of Government, nothing to say on the subject of this Bill, which is avowedly and undoubtedly a practical temperance measure—or are we to understand that the concern for toddy rents that dictated their last communication to Government is still overpowering the temperance principles they publish to the world? A recent letter from the present Secretaries informs me that the Honourable Mr. Justice Telang is President of the Society, and that Mr. Gilder and Mr. Tomlinson are now the Joint Honorary Secretaries. The object of the Society, as published in its prospectus, is to aid in calling forth an enlightened public opinion in favour of temperance and against the liquor traffic. I would ask the responsible managers of the Bombay Presidency Association, whoever they may be, the same question, and to prove the truth of the assertion made in the last paragraph of their letter to Government dated 24th September 1887, in which they say that the Council beg to be understood that they are as much desirous of pitting down the use of intoxicants by all legitimate means, without unnecessary hardships on any section of the people, as the Government itself. I suppose that the toddy interest agitates against this Bill, partly on account of its grievances against the A'bkári Department, and partly because it sees that when illicit distillation is stopped, the price of liquor will be raised in Bombay as well as in Thána and Kolába—to the further curtailment of toddy rents. Diminution of liquor consumption is of course diametrically opposed to the interest of toddy tree-owners. Now, as during the previous agitation, the consumers of toddy, as distinct from the toddy producers and sellers, are silent. If the people of Thána and Kolába had felt any severe pressure under the toddy arrangements, we may be sure that they would have made their voice heard, as they have done on many occasions under pressure of the forest rules.

I would further point to the fact that there is no real opposition to the Bill from the tracts in which it is intended to operate. Advertisements appeared in many newspapers of a meeting to be held in Thána on the 1st May last to protest against the Bill. The

meeting was held, but I have not seen any account of its proceedings, nor has the Government received any communication from its managers. The official report of the meeting is significant. It says: "A meeting of the inhabitants of Thána was held in Mulock's Library to protest against the Mhowra Bill now before Government. The meeting was held on the 1st May and was attended by Vakils, Municipal Commissioners and school-boys, the agricultural class being unrepresented. The people of the surrounding tálukas were invited to hold similar meetings, but they have not responded." The Collector of Thána, Mr. Sinclair, writes: "No movement whatever on the part of the rural population against the Mhowra Bill has come my way." Petitions from the inhabitants of Bhiwndi in Thána and from Pen in Kolába, with the Collector's remarks on them, have been laid upon the table. There are no petitions at all from the chief mhowra-growing tálukas in Thána. This may, I think, be taken to show that the dealers in mhowra flowers of those tálukas do not apprehend any interference by the Bill with their legitimate trade. The Collector of Kolába reports that he has received no written or oral representation on the subject of the Mhowra Bill, and that the petition from the Pen Táluka resulted from the visit of a deputation from Thána. As to the petitions from Mángaon he reports that some of the petitioners on being questioned were unable to describe the contents of the petitions, and said they signed them as they were told by certain Khotes that Government intended to levy a cess on mhowra trees. The unreality of all these petitions is further manifested by the circumstances reported in paragraph 31 of the Kolába Mhowra Committee's report. The Committee says that the flowers of the few trees growing in the Kolába District are left to be eaten by birds in the trees or by cattle on the ground, and furnish no employment to the lawful industry of the population.

As regards anonymous criticisms that have appeared in the newspapers I have only to remark that not one that I have yet seen attempts to grapple fully and fairly with the whole subject. The object and intentions of the Bill in relation to drunkenness and crime, which I endeavoured to explain and insist on in my speech on the first reading, have been almost entirely neglected. I explained on the first reading the reason why it is necessary that the Bill should be extended to the whole of the Kolába District. The reasons are more fully stated in paragraph 34 of the Kolába Mhowra Committee's report. The allegation that mhowra flowers are used as food for man and beast in Thána and Kolába have been dealt with in the Select Committee's report and in the reports of the Thána and Kolába Mhowra Committees. Mr. Mulock, who was president of the Thána Committee, served in that district on and off for 25 years; Mr. Sinclair, the present Collector, was Forest Settlement Officer in Thána and Kolába before he became Collector, and has served in the two districts since 1874. He is a recognised authority on subjects connected with the forests and the forest tribes. He writes: "I went in specially for 'forest diet' when a forester here (Thána) and tried much queer food. But no one ever quoted mhowra to me as food."

I may perhaps be permitted on this occasion to say one word as to my personal experiences in the districts of Thána and Kolába. I served as Assistant Collector of Thána in 1866 and 1867, and from 1871 to 1887 it was my duty to tour frequently in the coast tálukas of Thána and Kolába. I have travelled at different times in every district of this Presidency, and I have never seen such hard drinking and drunkenness anywhere as in Thána and parts of Kolába, excepting perhaps in the toddy tálukas of

Surat during the toddy season. Cheap toddy and cheap spirit are veritable curses in all those districts. It was the sight of the drunkenness and wretchedness there and the superabundance of cheap drink in every village that made me first turn my attention to ábkári administration. Something substantial has been done to improve the condition of the people in those directions. This Bill, if passed into law, will, I am convinced, afford means for further improvement.

The Honourable Ráo Bahádur K. L. NULKAR said :—Your Excellency, in supporting the motion that the Bill be read a second time, I wish to explain the reason which has commended the measure to my approval, as the same is somewhat different from that which is generally given on behalf of Government. The avowed policy of Government is to enhance the duty on country spirits till it reaches the rate imposed on imported spirits, and thereby endeavour to check and reduce consumption. I strongly disapprove of this policy, because I do not believe that it is calculated to secure the desired end. I should advocate a more direct action and reduce the quantity annually offered for sale at the State shops, on the principle that "prevention is better than cure." I shall give my reasons further on. It, however, happens that for the success of either of these remedies all illicit distillation has to be prevented as far as it is possible. I have therefore felt it my duty not to oppose the Bill before the Council.

The honourable member in charge of the present Bill has alluded to my personal share in the public opposition evoked by the one introduced in 1882. I have only this to say on that point that the most unnecessarily sweeping character of that measure and the impatience of legitimate criticism and disregard of all constitutional safeguards to secure full deliberation, which the attitude of Government then evinced, fully justified that opposition. It must also be admitted that there is not much in common between that measure and this, as will appear from the remarks I have now to offer on the latter.

The present Bill has been objected to principally on the following grounds :—

1. That it will interfere with the food supply of the people and their cattle, as mhowra flowers form part of such food.
2. That the alleged illicit distillation from mhowra is not proved, and that according to the latest statistics, there has been a decrease in the number of offences against the ábkári law.
3. That it will unnecessarily harass the people owning and dealing in the article, and also interfere with free trade in it.

As regards the first objection, I have no hesitation in saying that, in the districts concerned, mhowra flowers do not form a material portion of human food, and only rich or well-to-do people can afford to feed their cattle with it. The oft-repeated contention that the Mhowra Committee of 1883 drew their conclusions from statements of witnesses selected by themselves is entirely unfounded. On the contrary, that Committee had before them statements of 19 persons who appear to have been summoned by themselves, and of 121 persons received (by invitation) through Sir Jamsetji Jijibhoy Ráo Bahádur G. H. Deshmukh and Mr. Macaulay, who had opposed the first Mhowra Bill in Council in 1882. Any person, who is accustomed to wade through such a mass of conflicting evidence and to endeavour to draw fair conclusions on the probabilities of the case, cannot fail to see that the chief use for which the article is prized in Thána is

distillation. It is, no doubt, sometimes used as a relish with food, and eaten when picked up fresh under the trees. On this point the result of the experiment made by Mr. Atkins of the Civil Service, who has served for several years and is known to have taken pains to study the character and habits of the people living in the mhowra talukas of Thána, deserves notice. His report on the practical tests to which he put the question, shows that it could be eaten in its dried form mixed up with bread in a very small quantity, and is sometimes so eaten by a certain class of the forest tribes; and that those who did eat it in that way before him to earn the reward of six annas each, could not have been in the habit of always so using it. The people who had assembled before him on the occasion contradicted each other as to the alleged fact that they were in the habit of eating it. Perhaps the very inferior quality of the mhowra flower of Thána, as compared with that which grows elsewhere, accounts for its not forming part of the food of the wild tribes to any appreciable extent as is the case in Khandesh and elsewhere.

In considering the question of illicit distillation from mhowra flowers in Thána and Kolába, it must be remembered, *first*, that owing to the bulk of raw toddy and the consequent trouble and expense necessary to produce the same quantity of toddy spirit as of mhowra, and also owing to the fact that raw toddy has now been brought under efficient control, it has become much more difficult and unprofitable to carry on illicit distillation of toddy than of mhowra; and *secondly*, the liquor sold by the Government farmer is now almost entirely drawn from mhowra. The cost price per gallon at the Government distilleries of toddy and mhowra spirits is stated to be Rs. 1-8 and 8 annas respectively. Thus, profit, freedom, and facility of possession point to mhowra as the raw material most conducive to the spread of clandestine distillation. When under the blundering ábkári arrangements of 1837-38 and 1838-39, the selling price of licit liquor was raised, and the farmer ceased to have any interest in the detection of ábkári offences, enormous quantities of mhowra flowers found their way into Thána and Kolába from Gujarát, the sale of licit liquor fell from 2,69,553 gallons in 1837-38 to 1,41,678 gallons in 1838-39, and the number of detected cases of illicit distillation increased from 373 to 606; of these cases, the great bulk is known to be due to mhowra. Out of 408 cases tried in 1890-91 fully 90 per cent. are now ascertained to be of mhowra. As to the extent of this class of crime, Thána still stands pre-eminently as the greatest offender as compared with the rest of the Presidency put together. A comparison between eight districts which are more or less noted for this class of offences, namely, Thána, Kolába, Surat, Násik, Ahmednagar, Poona, Sátára, and Ratnágiri, shows that of the total number of detected cases, Thána alone lays claim to no less than—

	61 per cent. in 1886-87.
71	„ 1887-88.
63	„ 1888-89.
65	„ 1889-90.
83	„ 1890-91.

In connection with this comparison, it may be noticed that the fluctuations in the number of cases in Thána itself do not correspond with the percentage just shown. Going back to the two years preceding the introduction of the first Mhowra Bill, the number is found to be—

612	in 1880-81.
767	„ 1881-82.
190	„ 1882-83.

Not given in 1884—86.

234 in 1886-87.

373 „ 1887-88.

606 „ 1888-89.

492 „ 1889-90.

408 „ 1890-91.

Many of these fluctuations are simply unaccountable by anything that I have read in the papers placed before this Council or from any reasons given in the annual reports. The first Mhowra Bill was disallowed in 1882, and it is stated that mhowra flowers began to be imported into Thána and Kolába soon after, and yet the number of detected offences fell with one drop from 767 in 1881-82 to 190 in 1882-83, and ranged between 200 and 400 till 1888 when they suddenly rose to 606, probably owing to the increase in the selling price of liquor in that year. But there is no evidence to show that Thána had turned a new leaf during the other years when the number had considerably decreased. I do not think that these figures fully represent the actual state of things, and taken by themselves, must be treated as extremely misleading. The reason is not far to seek. Under the system followed, the ábkári farmer is treated as a government agent invested with the duty of detecting such offences through his own detectives, with the help of the Government preventive establishment, which for places like Thána, though increased from time to time, is weak and inefficient. It is a mistake to suppose that it is always the interest of the farmer to check or detect illicit distillation which at times is found to be so extremely dangerous to attempt in many parts of the district where the illicit practices are most rife. To give an instance of how even in ordinary times the number of detected cases may fluctuate according to the efficiency of the men employed, I may be permitted to mention that the decrease from 94 cases in 1889-90 to 5 in 1890-91, observable in Kolába, is now ascertained to be entirely due to the utter inefficiency of the detective staff; and not to any improvement in the moral character of the people of that district. So long as the selling price of excised liquor is considerably higher than the cost price of free mhowra liquor, or, in other words, so long as liquor is taxed in any shape, illicit distillation from mhowra will continue, and the only means of checking it is to bring the raw material under executive control. The alleged danger of other materials such as jagri or coarse sugar taking the place of mhowra is simply imaginary; but should it ever prove to be an intolerable evil, the duty of Government will then be plain and will have to be performed. A reduction of the tax on raw toddy has been advocated as a more practical measure to induce people to use toddy in preference to ardent spirits. This question of raw toddy has to be dealt with on its own merits. It has no necessary connection with illicit distillation carried on in the inland or mhowra talukas of Thána.

As to the fear which is generally entertained, not without reason, that the proposed law will place an additional weapon in the hands of the ábkári police to harass innocent people, there is no doubt, that more or less all restrictive legislation has this tendency, and the district officers have to take special care to watch its working. Scarcely any law however good or bad in itself, is free from such an objection, and in good or bad hands could be administered mischievously or beneficially. There is nothing in the present Bill which need enable the police to interfere with the people's legitimate rights and privileges more than any other provisions of the present Ábkári Act. When the importation of mhowra shall have been stopped through the agency of the railway authorities and the customs department, and the forest portion of the local produce is controlled by the

forest department, the private produce growing in the Málki numbers alone will remain to be dealt with. It is to be trusted that nothing will be done in the name of the new law which will have a confiscatory effect on private property, and that permits will be freely granted without difficulty or delay to enable private owners to collect and dispose of their own produce to the legitimate trade in them, local or export. As to the fear of interference with free trade, there is scarcely any trade in the article within the two districts except for contraband purposes. Private consumption as a relish with food or for medicine is sufficiently provided by the unrestricted freedom to possess four seers at a time, and to collect and use the fresh produce during two months or more of the flowering season.

In connection with the oppression anticipated in the working of the proposed law, we must further remember that the existing state of things has necessitated the infliction of heavy punitive police posts both in Thána and Kolába during the past few years. Of the total cost of these punitive posts in the entire Presidency, Thána alone has been paying 73 per cent., and the single Panvel Táluka (Kolába) 25 per cent. Of the total charge of Rs. 20,783 recovered from the offending districts in 1890-91, no less than Rs. 20,699 had to be borne by Thána and Kolába. It seems to me that almost any restrictive legislation necessary to *prevent* the commission of offences which bring down such a crushing punishment indiscriminately on the innocent along with the guilty is to be preferred. Such wholesale and continuous fines on an entire population of a village or táluka cannot fail to have a most demoralizing effect both on the people and the police of the country. The injustice to the innocent and the impotence to reach the guilty which such punishment confessedly involve, must rankle in the minds of the innocent, and tend to aggravate the inefficiency of the police who are thereby relieved of their responsibility for the failure to detect the real offenders.

With regard to the general policy which has of late come to be adopted to regulate the ábkári administration in India, it seems to me that it has not only failed to check, but has, to a considerable extent, contributed to the spread of the use of spirituous liquors, and has consequently become a rich and welcome source of public revenue. There was a time when Government held a different language than that now adopted in laying down their ábkári policy for the guidance of their officers. In 1838, the orders were:—

“It cannot be too strongly urged upon the Collectors that the object which the Government has in view is to restrain and, if possible, to correct and diminish the total consumption of spirituous liquors, whether clandestine or licensed, being fully persuaded that any amount of revenue that may be lost by the efficiency of the system for this end, will be repaid hundredfold in the preservation and advancement of moral feelings and industrious habits among the people.”

Now, all this is materially changed. The “raising of revenue” is now admitted to be one of “the legitimate objects” of the Government excise administration. “It was at a later stage,” I am quoting from a despatch of the Government of India, “that it was recognised that the regulation of the trade in liquor for the purposes of revenue and police might with advantage be so conducted as to discourage any tendency to drink to excess and to lead to the substitution of a wholesome or comparatively harmless liquor.” “In respect of realisation of revenue, the principle to which” the Government of India say they “have given their adherence is to impose as high a tax as may be possible without

giving rise to illicit practices." The question of direct repression is summarily disposed of by stigmatising it as an "intolerable interference with the liberty of the subject," and it is denied that the use of liquor "in moderation" is harmful, it being forgotten that with ignorant classes once addicted to it, moderation is entirely out of the question. Further on the revenue question again crops up where merit is claimed for the system in force as one which, if properly carried out, would lead to no "loss of revenue." On the contrary, "it will be as successful from the financial as from any other point of view." When it is shown that consumption has increased side by side with the facilities offered by increased number of shops and other faulty measures adopted, confessedly with the object of drawing custom exclusively to authorised places, the Government answer is that "a gradual growth of healthy public opinion will reduce intemperance in a wider, surer, and more lasting manner" than any restrictive measures which Government could adopt. It is said that "a change of this nature in public opinion has occurred in the present century among large classes of the people of Great Britain: habits of intemperance which formerly prevailed among certain classes in England without disgrace, are now condemned as disgraceful." It seems to be forgotten that here (in India) in this same century, the position is quite reversed, mainly by the contact with western example and by the wrong application of the abstract principle of "liberty of the subject." What was universally condemned as "disgraceful" before is now openly done "without disgrace", and all shame or reproach has completely disappeared. And there has ceased to be any necessity for the homage of concealment, which hypocrisy usually pays to virtue. Practically the Ábkári Department seems to say to the people, "you are at liberty to drink as much as you like provided that you exclusively patronise our shops and pay the price we fix for it," the only check relied upon against drunkenness being the raising or enhancement of the selling price. Such treatment of the ignorant classes like those of Thána who are addicted to the vice for generations and who will, if left to themselves, exercise the "liberty of the subject" to their own utter ruin, cannot fail to end disastrously. It is hopeless to reach them through their pockets only, because it will only lead them to the bitter end all the sooner. The proper remedy against the present deplorable state of things is the adoption of more direct repressive measures. The removal of the temptation, which the number and vicinity of the shops offers, is bound to prove more effective than expensiveness of the indulgence in the vice. As soon as all facilities of illicit distillation are removed, the quantity of liquor issued for sale at the sanctioned shops should be gradually reduced, and the ábkári farms should be sold by public competition to those who agree to work with steadily reduced number of shops. The preventive establishments, which are at present inadequate and inefficient, should be strengthened and placed under a responsible officer to assist the head of the district in the suppression of illicit practices more effectually than has been hitherto done. In view of the paramount importance of the object to be gained, the increased expenses should be willingly incurred as a charge upon the ábkári revenue, and any diminution of that revenue, which may result from the adoption of these preventive measures, should be tolerated in the reasonable hope that "any amount of revenue that may be lost will be repaid hundredfold in the preservation and advancement of moral feelings and industrious habits among the people."

The Honourable Ráo Bahádur RUNCHORELAL CHOTALALL said :—Your Excellency, I am induced to support this Bill on the ground that the prevention of illicit distillation is the

most important measure to curtail the actual consumption of liquor with a view to check the vice of drunkenness. Wherever intoxicating drink is cheap and easily procurable, consumption would increase, and as excessive drink is one of the principal causes of poverty, crime and disease, it is the duty of Government having the true interest of the people under their protection at heart to arrest and diminish the total actual consumption of intoxicating drink both *licit* and *clandestine*.

From the papers laid before the Council it appears that the Thána District is one of the most liquor consuming districts in the Presidency, and has the unenviable position to show the largest percentage of crime. From the year 1836 up to 1892 different Government officers in the Revenue, Judicial, Police and Medical Departments have complained very strongly about the drunkenness prevailing in this district; and I think it was very truly said by Mr. Simson, a former Collector of Thána, that "if it be asked, what has tended so much to increase the consumption of spirits in Sálsette and Karanja, the answer is, an abundant supply of the material and a very low rate of duty." The same reply is applicable even at present. The materials here alluded to must be toddy juice and the mhowra flowers. The former has already been brought under control by the Ábkári Act of 1878 and it has had its good effect in curtailing and checking drunkenness to some extent and the object of the present Bill is to bring the latter under control.

The immediate question for consideration is whether there is any necessity for such a measure at present or not, and I am inclined to think that there is. The consumption of liquor is increasing so much and the mhowra flowers seem to be so much used for illicit distillation that Government will be justified to interfere with the mhowra flowers. The consumption of liquor in the last two years, *viz.*, 1889-90 and 1890-91, has been 4,33,493 and 4,07,154 gallons against 3,23,952 and 3,27,708 gallons in the years 1885-86 and 1886-87. Notwithstanding this enormous increase in licit consumption, the number of illicit distillation cases in the last two years has been 492 and 408, which are much more than the cases in the former period.

The only remedy to check this increased consumption is to raise the duty on liquor in Thána, which is much less than in its neighbourhood, and this cannot be done without effectually stopping the sources of illicit distillation, which is already carried on to an enormous extent.

In the last official year 1890-91 out of the total cases of 575 in the whole Presidency no less than 408 cases took place in Thána alone, the population of which is only from 5 to 6 per cent. of the whole Presidency, while the ratio of illicit distillation cases has been 70 per cent.

When we examine the detail of these 408 cases we are informed by the Collector of Thána that no less than 90 per cent. of them are from mhowra flowers alone.

It appears that Government have done their best to check illicit distillation by adopting most vigorous departmental measures. During this year of 1890-91 in addition to the usual police and ábkári establishment, special punitive posts costing more than Rs. 20,000 per annum have been stationed in Thána and Kolába districts, and yet the people of Thána have been going on with illicit distillation to a very large extent. As the cost of these punitive posts is to be made good by the inhabitants in general, guilty as well as innocent persons suffer equally, and therefore any measure, which will relieve the people from this burden, will be a great boon to them.

In the opinion of the gentlemen who were against the Bill of 1882 it might be that the powers given in the Abkari Act of 1878 which was then recently brought in force would be sufficient to check the illicit distillation of mhowra departmentally, but after ten years' trial it appears that even with most extraordinarily vigorous and costly measures the evil cannot be checked, and therefore the aid of the Legislature is required now.

Under these circumstances it is very necessary that the Executive Government officers should be empowered by the Legislature to check illicit distillation of mhowra flowers. In modifying the Bill the Select Committee have done their best to make the Bill least inconvenient to honest persons. The mhowra tree-owners shall be at perfect liberty during the season to collect and dispose of the flowers, and during the whole year every person requiring mhowra flowers for food, medicine or any legitimate purpose will be able to get them as much as 8 lbs. at a time without any restriction. Dealers in mhowra flowers will get licenses to keep any quantity without having any fee or tax to pay. So there will be no actual hardship on any honest person. Only those who may be interested in illicit distillation will be under restriction.

The opponents of the Bill have not been able to say that the people of Thána are not immoderate drinkers; nor have they been good enough to point out what is the remedy for curtailing consumption except by making the liquor dearer gradually. Some of the critics suggest that duty on liquor should be reduced and the toddy should be made cheaper. This course instead of redeeming the people from the vice of drunkenness will encourage and extend the vice rapidly, and I do not think that any person having the true interest of the people at heart will advocate such a course.

The chief arguments brought forward by the opponents of the Bill seem to be, firstly, that the mhowra flower is an article of food for men and cattle, and, secondly, that if restriction is put on mhowra, other articles such as rice, date, molasses, &c., from which liquor can be distilled, will be used for illicit purposes.

In regard to the first question it is to be observed that both the Collectors of Thána and Kolába say that it is not used as an article of food by men. When we refer to the evidence taken before the Thána and Kolába Committees of 1883 some witnesses say it is not used as food, while others say it is used sometimes by certain class of persons. Supposing that it is really required by some persons for food, relish or medicine, the present Bill does not prevent them from getting it from licensed dealers to the extent of 8 lbs. at a time.

As for cattle I am inclined to give weight to the statement that mhowra flower is too dear to be used as a forage or food for the cattle. In Ahmedabad distilleries we find that after the spirit is distilled the residue of the mhowra flowers is taken away by the people at the rate of 3 pies a basket to feed cattle, and it is possible that in Thána, after distilling the spirit illicitly, people might be giving the residue to the cattle; undistilled mhowra flower will be too dear as food for cattle. If people really wished to give such a dear article as mhowra flower to cattle, they can get better substitutes in oil-seed cakes, &c.

In regard to the second objection it is to be observed that mhowra seems to be the chief article used for illicit distillation at present, and we must provide for it. It is to be hoped that people will not abuse other articles to the same extent as mhowra is at present, but if they do so in future it may be necessary to interfere.

Some of the critics of this Bill say a great deal in favour of making toddy free and cheap, but if they will bear in mind how much more drunkenness there was in the toddy-growing districts before toddy was brought under restriction and if they would place any weight upon the opinion of the experienced officers like Sir B. Ellis and Sir T. C. Hope, who along with others proposed to cut down all these toddy trees because they were the cause of the prevailing abnormal intemperance, they would refrain from saying too much in favour of toddy. All respectable Hindus consider toddy to be an intoxicating drink, and they never use it.

Although India is not cursed with the vice of drinking to the same extent as many other countries, it is generally believed, and there is a truth in it, that this vice is making its progress in this country a great deal, and therefore the friends and well-wishers of this country are very glad that many noble and philanthropic gentlemen of England and India are exerting themselves to arrest this evil. I am very glad to see, from the books and papers laid before the Council, that the British Parliament, the Secretary of State, the Government of India and the Local Government are all desirous that the extension of the use of ardent spirit should be arrested and diminished in India. This humane and noble policy of Government can only be carried out by the enhancement of the price of liquor and by reducing the number of liquor shops, but these reforms cannot be accomplished without first adopting measures to stop efficiently the illicit distillation of liquor. As the Bill before the Council has this aim in view, I have no hesitation to support it.

I am a sympathizer of the movement of temperance, and I think that the friends of temperance should have no hesitation to support a measure like one before this honourable Council. There can be no temperance at all in a country if illicit distillation of liquor and sale thereof are not strictly restricted.

The Honourable Mr. N. N. WADIA, C.I.E., said :—Your Excellency, before I proceed with my remarks I would take exception to one remark made by the honourable mover, and say that I do not sit at this Council as a representative of those communities amongst which the most prominent opponents of the present *abkari* system are to be found. I represent no such bodies, nor am I a member of either of the two bodies named by the honourable mover. But I may mention that, with the exception of a few, my community has little or no connection with the liquor interest, and of those few the principal portion come from the poorer classes and from the districts of Dáhanu and Umbargan.

When the Bill now before the Council, with the statement of objects and reasons, came first in my hands, and on reading the criticisms thereon both in the English and Native Press, I felt that, unless there were other grounds than those named in the statement of objects and reasons, such a measure was likely to cause hardship; but when at the first reading the honourable mover laid before the Council a quantity of printed matter, which it was not possible then to go through, and made a lengthy statement explaining his reasons for introducing the Bill, I felt that there could be no harm in my voting for its first reading, seeing it committed this Council to nothing beyond giving its assent to the measure being further discussed in Committee, and consented to act on the Select Committee to enable me to lay before the honourable mover views of different persons who opposed its introduction. Before the meeting of the Select Committee, I obtained the views of gentlemen who opposed the measure, and who were said to be experts in their knowledge of the administration of the *Abkari* Act, carefully studied the criticisms of the Press, and on comparing them with the compilation and printed correspondence handed

to the Council at the first reading, led me to feel that the Bill was opposed on the ground that mhowra flower is a common article of food and sustenance, while on the other hand a study of the criminal statistics showed that there were good grounds for controlling the collection and possession of the flowers on account of illicit distillation.

The principal objections to the Bill by those who oppose it are as follows :—

Firstly—That it is unjust to proscribe an article of food such as mhowra flowers and exclude many others which are susceptible of distillation into liquor or spirit.

Secondly—That the reasons which weighed with the Government of India in vetoing a similar Bill ten years ago apply with all their force even to the present Bill.

Thirdly—That even the latest official testimony shows that the evil of illicit distillation has diminished, and is by no means what it was ten years ago, or even in 1888-89.

As regards the first, it is a fact which can be proved to those who choose to make enquiries into the matter that mhowra flower is not an article of food in the Thána and Kolába districts, and is given to the cattle only as a blind.

I was greatly impressed with the evidence of Mr. J. DeC. Atkins quoted on page 99 of the special *Government Gazette*, from which it will be seen that the method he adopted to arrive at the facts and the conclusions he formed fully confirm the enquiries I made.

During the present hot weather I tried to induce several of the hill tribes I met at several spots on different days on the hill of Mátherán in the Karjat Táluka to eat small quantities of mhowra flowers, and even offered them consideration for doing so, but was much struck with the uniform way in which they one and all declined to do so, alleging that they could not eat more than a few flowers, but to eat any quantity such as half a ser would cause them to vomit, produce looseness and more particularly severe pains in the head. I felt certain that those poor people would have eaten them if it were possible because of the consideration which was offered to them, *viz.*, 8 annas a person. Again, on enquiry at Thána and with several well-known and experienced persons, that I find, mhowra flower is not an article of food in the districts of Thána and Kolába, but they confirm the statement that when fresh and green the flowers are taken as a relish, just as one would eat raisins or plums which the natives call “bore,” while they are given in small quantities by the well-to-do class to cattle only when they are young to increase their speed and staying powers when used for conveyances, and also for fattening milch-cattle in lieu of cotton-seed.

The provision in the Bill that the flowers may be gathered and possessed during the flowering season without a permit, and with a permit all the year round, meets these cases.

Again, the provisions that 4 sers of flowers may be possessed without a permit ought to meet any objection which may be raised against its prohibition for medical purposes, and further, to avoid mistakes, mhowra berries and seeds have been described in the Bill as being outside its scope.

Again, the relative prices of mhowra as compared with rice and nágli may be judged from the following :—

Rice, cleaned	at 8½ pies per Bengal ser.
Nágli	at 3½ ” ” ”
Mhowra flowers (Thána)	at 6 ” ” ”
Do. do. (Khándesh)	at 8 ” ” ”

Therefore it will be seen that the wild tribes would find it preferable to use nágli to mhowra flowers.

The objection that it is unjust to proscribe an article of food such as mhowra flower and exclude others which are susceptible of distillation into liquor, may be answered that even as an article of food it is not much cheaper than rice, as shown above, while I am informed that the quantity of spirit obtainable from the flowers is larger than from similar quantity of other articles, such as dates, molasses and rice, in the proportion of 13 is to 9. The flowers are also found in the woods, and fuel being close at hand they offer more facility for illicit distillation than other articles.

As regards the second objection, it will be remembered that the Government of India when vetoing the Bill in 1882 suggested that further enquiries be made as to the cause of illicit distillation, and observed, as pointed out by the honourable mover at the first reading, that "if after these enquiries have been made it was found that the flower was not used as an article of food and if it were clearly proved that no remedy for the existing state of things in those districts could be found in a relaxation of the present ábkári laws, it might then be considered whether legislation should not be undertaken for the purpose of placing some restriction upon the collection, sale and possession of mhowra flowers in those two districts alone."

The further enquiry as desired by the Government of India was made, and the reports of the Mhowra Committees appointed in the two Collectorates, with the voluminous evidence which has been reprinted at the suggestion of the Select Committee and laid before the public in the form of a special *Government Gazette*, together with the more recent reports attached thereto, shows that crime in the Thána and Kolába districts (in the latter of which Karjat and Panvel now form parts) is on the increase and is greater than in any other parts of the Presidency.

That Thána with a population of approximately 9 lákhs of people and with the advantage of having Bombay close at hand as a large employer of labour should have one person in 90 annually brought before a Magistrate, will be admitted as an evil which requires remedy.

Crime in Thána which in 1886 was in proportion to population as 1 to 115 has increased in 1891 to 1 in 90 notwithstanding the fact that police expenditure has been augmented from Rs. 21,923 in 1881 with an increased population in the ten years of 100,000 people to Rs. 48,417 in 1889-90, shows that some remedy is necessary.

As to the third objection it has been shown that the number of cases brought up for punishment do not bear any proportion to those of illicit distillation, and further that mhowra flowers are not exported but on the contrary imported into the Thána and Kolába districts.

Sir Charles Pritchard informs us that in former years illicit distillation from mhowra flowers was prevalent only in the inland tálukas of Thána, viz., Sháhápúr, Váda, Bhiwndi, Kalyán, Murbád and Karjat, and in the Panvel and Pen tálukas of Kolába.

But since 1888 large quantities have been imported from Gujarát by sea and from Khándesh and Central Provinces by rail into the Thána and Kolába Collectorates, and thus illicit distillation has now spread throughout Thána, and over the Panvel, Uran and Pen tálukas of Kolába, and therefore it will be admitted that some efforts are necessary in order to abate drunkenness, which has been forcibly brought to the

notice of Government by experienced officers who have been connected with these districts.

The following opinion of Mr. W. P. Coghlan, Session Judge of Thána, may here be cited with advantage:—"It is," he says, "within my experience that much violent crime is committed in the district of Thána under the influence of drunkenness."

He further observes: "The inebriety of the large portion of people in the Thána and Kolába Collectorates is a public scandal, and in my opinion demanding serious consideration and vigorous action from Government. If liquor were made accessible to the public only under proper restriction I should expect diminution of 50 per cent. of offences accompanied by violence."

I may also quote a more recent opinion of the well-known Dr. K. R. Kirtikar, whose experience ought to have weight:—

Letter No. 30-P. dated Thána, 12th February 1883, from Surgeon K. R. Kirtikar, I. M. D., Civil Surgeon, Thána, and Medical Officer, Thána District Jail, to W. B. Mulock, Esq., Collector of Thána.

"Sir,—With reference to our conversation on the ábkári question some days ago, I have the honour to submit to you these remarks, being the result of my repeated and careful examinations of the convicts sent to the Thána District Jail under the present A'bkári Act. From the last week of March 1881, when I took medical charge of the jail, to the end of December last, a period extending over twenty-one months, I have examined about six hundred such convicts.

"Of these three hundred and ten convicts were examined from 22nd March to 31st December 1881. Out of this total number one hundred and fifteen were in indifferent or bad health, and one hundred and ninety-five in apparent good health. During the year 1882, there were two hundred and seventy-four such convicts examined; of these no less than one hundred and ninety, or over two-thirds, were in indifferent health, and only about eighty-four were in apparently good health.

"These men, as a class, were utterly unfit to undergo the hard labour or rigorous imprisonment they were condemned to. And the jail authorities had consequently to be extremely careful in the practical carrying out of the sentence. This adds gravely, it need hardly be added, to the responsibility of the jail executives.

"If real 'hard labour' is exacted from this class of convicts, they will certainly die, and the jail will have its mortality list swelled to an enormous extent without our ever having the chance or satisfaction of adopting preventive measures for the diminution of such mortality, inasmuch as the incoming convicts of this class has his constitution already shattered. In great majority these convicts are old, infirm, and scorbutic, and form the bulk of our jail 'convalescent gang,' which means being fed at Government expense on what is sufficient diet for a non-working convict, and thus being encouraged to come into jail again for an easy and ready living.

"It is not within the scope of this communication, though it is a well-known fact, to touch here the question of a systematic attempt made by the clandestine liquor-distilling and liquor-drinking classes to incriminate and subsequently to get convicted an infirm, old and crippled man or woman in whose hut a number of such clandestine liquor-distillers gather together; get the old man or woman to distil liquor far beyond her own immediate requirements as is often alleged; drink it on the spot; perhaps enter into a brawl and

fight among themselves afterwards; and subsequently when found out by the police, let in the old man or woman who lent the use of the hut for such drinking purposes.

“When such men are admitted into the jail, no medical officer, judging from their general condition, can put them to hard labour. The attendance among the out-patients is likewise increased by such patients, on whom the effects of chronic alcoholic poisoning are apparent. Besides, the liability of such men to disease is greater than in ordinary persons.

“It would be much better if this class of men, when outside the jail, could be made to spend their income in obtaining proper food rather than improper drink. The refreshing effects of alcoholic drinks can only exist temporarily. When, after the day's work, the labourer's system wants something to revive him, he should fly to food for support, for food in that state would be a substantial and more lasting restorative than a bowlful of alcoholic drink ever can be. Nobody grudges even a labourer his luxuries; but an article like liquor ceases to be a luxury when indulged in beyond the bounds of moderation. And it is only those men that are addicted to an immoderate use of it that distil it clandestinely. The moderate man is content with what he can purchase in the shop. The outcome of this drinking propensity is even more prejudicial to the progeny than to the drinker himself, the children of men whose nervous vitality is weakened by drink being physically decidedly feebler.

“In writing to the Compiler of the Bombay Gazetteer on the subject of the health of this district, I have alluded to the tendency and strong desire on the part of the lower classes of the Konkan to drink as a fruitful source of disease and degeneracy of the race as compared with the races of the Deccan. A moderate use of alcohol taken *with* food and *as* food is, in the opinion of the most advanced and experienced practical physicians, not prejudicial to health, even if calculated, as is done by some, not beneficial or necessary. But practically the drinking habit of the Konkani, who so often comes to the jail as a convict, is far beyond moderation, and can be only checked by firm and timely legislation, even as an erring and thoughtless child is brought to its senses by paternal castigation, and I say this from a personal experience of several years, being a native of this part of India myself.—I have, &c.”

Now, Sir, since this was written about nine years ago, and as Dr. Kirtikar is still in charge of the convicts of the Thána Jail, and has kept his enquiries (the result of which I understand is that not only does he confirm what he wrote before, but is of opinion that the evil still exists, and that too in a more aggravated form), a report from him before the third reading would be of value, and I hope the honourable mover will make arrangements to get it.

From the opinions quoted it will be evident to those who desire the welfare of these districts that some measure is necessary, and will agree with what fell from Sir James Fergusson in his speech on the subject in 1882 :—

“I am convinced,” he said, “that the poorer classes so far as honest dealing goes will not be injured in the smallest degree by this measure. No man who is living honestly and seeks to gather mhowra flowers will be injured at all under the regulations which the Government seek to impose. On the contrary, I believe there will spring up a very profitable industry, which, in the wilder districts, for which our compassion has been asked, will greatly increase the profits of the people.”

May I add that now as restriction is about to be put on the possession of mhowra flowers that Government will endeavour by every legitimate means to offer facilities for its export to foreign countries.

Mhowra flowers, I understand, possess many valuable qualities, and by careful investigation its value, as an article of commerce, might be materially increased, and thus afford to the poor gatherers a relief in the direction they want, *viz.*, by getting an enhanced price which their present system of barter with the Bania shopmen prevent them getting.

Before I conclude there is one point upon which I shall like to have a clear statement from the honourable mover.

During my enquiries I found that there is an opinion that section 18A, sub-section (1) as drafted does not clearly define that permits or passes will be granted on application, that is, any person who agrees to conform to the regulations can have on application a pass granted to him.

I understand that none below the rank of a Mámlatdár can grant passes; the owner of a few trees may have to travel some 10 or more miles to go to the authorised person to obtain a pass, and then, if obstacles are thrown in his way by referring his application for report to the village Taláti to which the applicant belongs, a second journey would have to be made and much time lost.

It might, therefore, not be worth the while (seeing that the value of an yield of a tree is about Rs. 1 to 1½) of the owner of a few trees, whose produce he is entitled to enjoy, to go to this trouble. This I think should be prevented.

Again the village Taláti might not approve of the applicant getting a pass; and there may be further trouble in convincing the officer authorised to grant permits; hence I want it distinctly embodied in the Act, and I trust the honourable mover will consent when we are considering the Bill in detail, with the assistance of the learned Advocate General, to so modify section 18A; sub-section (1), as to make it perfectly clear that applicants are entitled to get permits on application unless good reason can be shown that the applicant is a person who cannot be relied upon to possess such a permit. I have looked into section 30 of the A'bkári Act of 1878, but in that there is nothing clearly defined as to making it obligatory on the part of the authorised officer to grant a pass on application.

Another point is that I was at one time anxious that the form of the permit should be attached as an appendix to the present Act; but it has been pointed out to me that there would be difficulties in making changes from time to time which experience showed would be necessary. I therefore do not press this, but ask for a distinct statement from the honourable mover that the license shall not contain any provision hindering the transfer from one taluka to another of fresh mhowra flowers during the flowering season, thus obviating any monopoly as to purchases made by the local wholesale dealers. This will give the gatherers opportunities of selling the flowers to greater advantage.

I contend that the great point is that if the wild tribes or poor people who collect them in the jungle have facilities given them for collection and for selling at such prices which would enable them to obtain higher prices than that of grain, there will then be less temptation to store them illicitly, and the Act, instead of being of hardship to these poor people, will, in the words of Sir James Fergusson, above quoted, be the source of increasing the profits of the people.

In conclusion I feel that those who differ from our opinion will recognise that no endeavour to obtain all the information that could be got has been spared, and that the arguments against the Bill have had due attention and weight, and though we have been unable to agree with the view that the Bill is not a necessary one, will admit that the amendments introduced secure a substantial advantage to those who will be affected by it.

The Honourable Mr. FAZULBHOY VISRAM said:—Your Excellency, I do not think I should now trouble the Council with many facts or any figures after what have been already submitted in support of the Bill. It would be an unnecessary infliction if I did so. I shall, therefore, only say in a general way, that, after taking everything into consideration, I feel that a case has been made out for the proposed legislation to regulate the use of, and traffic in, mhowra flowers with a view to prevent illicit distillation therefrom of spirit and to check the consumption of liquor. I am quite aware of the various objections raised against the Bill by the Press and other people, but they are more or less based, as it seems to me, on sentiment or misunderstanding or interested grounds. For instance, a prominent citizen of Bombay remarked to me the other day, that he would not object to the restrictions on mhowra liquor if the European spirits were subjected to the same conditions. Another said that the passing of this Bill will throw 40,000 people into starvation; but when his attention was drawn to the modification therein made by the Select Committee which will enable the people to collect and dispose of the flowers without any restrictions during two months in each year when the flowers are in season, he at once said “that of course alters the matter.” Then again, at least, one writer is known to have said that there is already enough law to embitter the existence of the masses and *therefore* this Bill should be abandoned. What an unfortunate way this is of criticising the actions of the Legislature? Some people seem to think that the best way to become popular or to show their independence is to oppose Government and their measures indiscriminately, tooth and nail, but in doing so, they simply set the subjects against the rulers and do incalculable harm to the country at large. There are some who ascribe to Government the motive of increasing its revenue by this legislation; but whilst any Government would be justified in legitimately protecting its sources of revenue, I think all right-minded persons will give this Government credit for other and higher motives. For, is it not proved that the illicit manufacture of spirit and the consumption of liquor prevail to an alarming extent in the districts to which this legislation is directed? Why, in some villages, I am credibly informed, the people generally are in a state of intoxication towards the night after their day's work. Should such a state of affairs be allowed to exist in the interests of the people themselves? Moreover, the cases of illicit distillation must be far greater than what the reports show, because there must be a good many that are not detected as is the case with all other offences. Of course, it is rather hard for the people to tolerate any interference with their old habits, but when they are injurious to their well-being it is the *duty* of Government to interfere. So far as I can judge, the opposition such as it is—it does not seem to be based on any solid reasons—comes *principally* from those who use the spirits rather than the mhowra flowers, and does not therefore, perhaps, merit that weight which it otherwise would—of course I say this parenthetically. However, it seems to me to be almost hopeless to attempt to enter into the maze or to penetrate through the haze which has been created by the long—almost too long for business people—discussion which has taken place on the subject, both official and in the Press. To my mind the question depends

on a few simple facts, which, so far as I am aware, will not be disputed by those who are opposed to the Bill. These facts I will very briefly place before the Council, *viz.* :—

1. It is a fact that the revenue derived from *ábkári* is derived from a monopoly which in its character is similar to the monopolies of opium and salt.

2. It is a fact that all monopolies are objectionable as they lead to vexatious *espionage* and interference with the people concerned. We are, however, at present not concerned with the advisability or otherwise of having monopolies. We must take the *ábkári* monopoly as an accomplished fact, and see whether the proposed legislation is or is not necessary to work it.

3. It is also a fact that monopoly laws, specially in their penal provisions, must be severe, as if they are not so, and if any loop-holes exist for evading them, the object of the monopoly is defeated, and not only the State revenue suffers, but demoralization of all concerned ensues as a consequence. Take, for instance, the provision of the law relating to any article of monopoly, *viz.* if any quantity of that article, however small, but legally illicit, is found in a cart or in a sea-going vessel, that cart or that vessel with all the goods in it is liable to be confiscated. One reason, amongst others, for such a provision, is, that when a monopoly law is lax, the smuggler finds it profitable to carry on illicit traffic when the chances of his being detected are so few.

4. It is further a fact, that in the matter of penal provisions, whether general or special, the soundest policy for Government is to do all in its power to prevent offences and to call in the aid of the Magistrate only as a last resort. Even an ardent opponent of the Bill cannot deny the soundness of this policy.

5. Now I desire to call the attention of the Council to the fact that, in the districts to which this Bill is proposed to apply, a strikingly abnormal percentage of people is addicted to drink; also to the fact that in the same districts crime is abnormally prevalent, and we have it on the best authority that this crime is greatly to be attributed to drinking. Then we have the fact that a great portion of the *mhowra* flowers locally produced and imported does not go to the Government distilleries. This is proved not only by the local production and import of *mhowra*, but also by the number of cases of illicit distillation which have been detected, not to speak of those that have escaped detection.

Your Excellency, if what I have just stated are facts, I venture to say that they are such as impose upon us the necessity for minimizing, as far as lies in our hands, the existing evils; nay, as regards the prevalence of drunkenness or crime, Government would at any time have to devise preventive measures independently of any monopoly, and indeed I think that if the measure now before us had been based on the necessity of putting down drunkenness and crime and not been connected with the *ábkári* monopoly, there would have been little or no opposition to it.

From the facts of the case, I feel convinced that the present Bill, greatly modified as it is in the Select Committee, is necessary in the interests of the people themselves, to say nothing of the revenue derived by Government.

The case therefore is reduced to this: on the one hand it has not been proved that the flowers are used as food to any appreciable extent by man or beast in the districts in question, whilst on the other hand Government have proved to the hilt that illicit distillation as well as immoderate consumption of liquor exists; such being the case we must accept the Bill.

I shall therefore certainly vote in favour of the second reading of the Bill.

The Honourable Mr. BEAUFORT said:—Your Excellency—Any ideas I may have had of opposing this Bill, have been completely dispelled by the speeches of the honourable mover and the other gentlemen and I will vote in favour of the Bill. In some of the petitions addressed to this Council I notice one remark which, perhaps, is of more importance than others to merchants, and that is the statement made in regard to the Bill preventing the export of mhowra flowers to foreign countries. I thought that during the last seven years none had been exported, and I looked up the matter and found that the last export was at the end of 1884. Previously, I believe, a patent was taken out in France which enabled the objectionable odour in mhowra liquor to be removed, and a considerable quantity—from two to three thousand tons—were annually exported. The French Government, for some reason or other, put a heavy duty upon the flower, and stopped the trade. I do not think for the past seven years mhowra flowers have been exported to any foreign country.

The Honourable Mr. BIRDWOOD said:—Your Excellency—I have no wish to discuss at any length the reasons for and against the measure now under our consideration, or to go over ground that has already been covered by the honourable member in charge of the Bill and the other members of this Council who have already spoken. Still, in regard to a Bill which has excited much interest outside these walls, I am unwilling to give a silent vote on the motion that it be read a second time, by which we are called upon to affirm its principle. I was not a member of Your Excellency's Government when this Bill was introduced, and approach the consideration of it without bias of any kind. My vote for the second reading will be given because I am satisfied from the evidence that has been placed before the Council and the arguments that have been addressed to it, that the Bill is one which, in the circumstances of the districts to be affected by it, the Council is bound to pass. I cannot suppose that this Government would ever have introduced a Bill of this kind, which interferes to a certain extent with private rights and with the possession of private property, unless the necessity for repressive measures had been made very clear. Now the report of the Select Committee shows clearly the circumstances which have imposed upon the Government the duty of undertaking such measures. It shows the prevalence of gross drunkenness among certain classes of the community in the Northern Konkan. It shows that this state of drunkenness is largely due to the illicit manufacture and consumption of liquor made from mhowra flowers; and it shows incontrovertibly that serious crime has been induced by such drunkenness in that part of the country. There are undoubtedly grave evils to be dealt with; and I agree with those who have spoken before me who think it better that these evils should be checked by a law regulating the possession of mhowra flowers, such as that now before us, than by the continuance of punitive police posts in the districts where crime, due to the immoderate use of liquor, is prevalent; for the cost of such punitive posts falls alike on the innocent as well as the guilty. The Bill before us is distinctly on the side of temperance; and it is a moderate Bill. It has been improved in its passage through the Council. It is free from some of the objections to which it was open when it was introduced. As it stands, it is well calculated, I think, to be of use. Whether it will secure all the objects that are desired, time alone can show. But if it secures for the people of the Thána and Kolába districts one-half of the benefits that are expected from it, then this Council will, in passing it, have earned the gratitude of the people, not of those districts only, but of the whole Presidency.

The Honourable Sir CHARLES PRITCHARD, in reply to the Honourable Mr. Wadia, said : The honourable member has not quite caught the drift of my remarks, which pointed to the fact that those members of his community who have been loud in their opposition to this measure would naturally have had no difficulty in obtaining from him a fair hearing of their objections. I am glad to hear that there are but few Pársis who are hostile to this measure. The honourable member expressed a wish that there should be a clause in this Bill compelling the grant without any restrictions to all owners of mhowra trees of permits for the collection, possession, sale and transport of the flowers produced by their trees. I am afraid we cannot make such a wide concession; if we did so, the object of this Bill would be defeated. As regards his other suggestion, that permits should be granted for the export of the mhowra flowers from one taluka to another, the necessary provision has already been made. Sub-section 3 of section 18A provides for the export of mhowra flowers from one taluka to another during the period of two months, from the 16th February to the 15th of April in each year, or such longer period embracing the said two months as the Governor in Council from time to time in the *Bombay Government Gazette* directs. If the Honourable Mr. Wadia should see fit to move an amendment in furtherance of the views he has expressed, it can be considered in detail on the third reading.

His Excellency the PRESIDENT said :—Under ordinary circumstances I think that a preroration in favour of this Bill would be unnecessary from me, seeing that a Select Committee—composed as my honourable colleague has described—has recorded its opinion, that “after a careful consideration of these several documents, it is convinced that the illicit manufacture of spirit, and the consumption of intoxicating liquor exists in Thána and Kolába to such an extent as to seriously affect the welfare of a large portion of the population of those districts, and they are satisfied that no real or lasting improvements can take place unless steps are taken to prevent illicit distillation and consumption of liquor.” The Select Committee, composed as my honourable colleague has described, has deliberately expressed that opinion, and this Council has unanimously supported it, and I repeat that under ordinary circumstances, a peroration would have been unnecessary. It is impossible, however, to ignore the fact that a considerable opposition has been raised outside of this Council against the principle of this Bill, and I think that it would be regarded as disrespectful to that opinion on my part if I was to allow this debate to conclude without offering some remarks on the opposition. The Bill itself has taken a long time in preparation for various reasons, and as a matter of fact when I arrived in this country I found it on the stocks ready for me to take up, and it was my bounden duty to consider the evidence placed before the Council, voluminous though it was, and I do not think that I complained at the amount of labour entailed upon me in having to scan that evidence, although I observe complaints are now made outside the Council because this Government has endeavoured to keep its promise and lay upon the table all the information it had in its power. Having read that evidence, and having discussed the question with those who had practical experience of the condition of these districts, I have come to the conclusion that the policy which has resulted in placing this Bill before the Council is justified, and I cannot avoid going on with the Bill which, it appeared to me, was absolutely necessary, and which this Council has declared to be absolutely necessary. Now, the opposition the Bill has met with has come from three quarters. It has come from the Press, several Associations, and, in a modified form, from one or two talukas in the affected districts; but it is remarkable that the main opposition has not been from the districts affected, but from the city of Bombay and the city of Poona. Now as re-

gards the opposition from the Press, I should be very sorry if it was thought that I put any depreciatory value upon the criticism passed on the Bill, but I do not think that that Press criticism is exactly of the same character that it would have been in a country, or in those countries in which legislation is proceeded with on somewhat similar lines to that in which legislation is proceeded with here. I mean in this way. This Council legislation in India is proceeded with upon the lines which after centuries of struggle has been won by the people of western countries, and in course of time it has resulted that in those countries two parties or more, as the case may be, have grown up, and attached to each of those parties there is Press representation, and the consequence is that a question of an interesting character is invariably discussed from all points of view at considerable length in each section of the Press before a Bill becomes law. Now the same opportunity hardly exists in this country. Government is without any party Press behind it. There is a Press which I am glad to have the opportunity of saying is upon many questions thoroughly impartial, and is certainly in the majority of cases, so far as I can see, extremely well conducted. But it is a fact that the proposals of Government are, when opposed by the Press, without that consistent support which a party Press gives to the proposals of Government in those western countries to which I have alluded. I am not only thinking of the Press support given in leading articles. I am thinking far more of that independent discussion which takes place upon legislative proposals, and which, I think, every one will admit, produces a careful and critical discussion on the merits, or even the detail of measures that may be proposed by Government. In this country Government itself is so fully occupied—the executive part,—that its officers have not the opportunity of ventilating its side of the question in the Press in the way that the supporters of the Government do ventilate the views of Governments in those other countries I have mentioned. That is what I mean when I say in India when a measure is opposed by the Press there is not that full discussion from both points of view we find elsewhere, and consequently the public has not that opportunity of scanning the arguments of both sides which it has elsewhere. I am not, of course, challenging the right of any paper to take an independent opinion, but I do say under other conditions—those conditions being that parties have grown up—a measure of this kind would have received from the party supporting the Government an amount of ventilation which would have shown the reasons Government had for introducing it in a far more able form than this Executive Council has, and, therefore, I do not attach so much importance to the unanimous opposition—and I must admit it was unanimous—of the Press that we have met with, that I should do in a country where there are separate parties, and where it is obvious that the unanimous opposition of the Press would have at once killed a Bill. The grounds for the opposition are various. I think I have seen it stated that the Bill is unnecessary. At any rate I may take this edition of the quarterly journal of the Pooná *Sárvajanik Sabha* and note what it says. “The Bill, we repeat, is absolutely unjustifiable in principle, and will prove harassing and oppressive in the workings.” That may be the opinion of the Pooná *Sárvajanik Sabha*. I do not question its right to entertain that opinion; but I say that if the Executive Council of Bombay, with the facts and the figures that it has before it, and has placed before this Council, and the opinions of local officers, who have practical acquaintance with the state of drunkenness and crime in Thána and Kolába, if this Executive Government had with these facts before it shirked the responsibility of bringing in this Bill, I have no hesitation in saying I do not think it would have been a Government worthy of that name. Again, it has been said that it is

a Bill that should not be taken up, because a Bill something of the same character was vetoed by a superior authority some ten years ago. I will extend my last remarks, and will say that although this Bill was vetoed by a higher authority it would, if my turn of office would allow of it, and with these facts and figures before me, be the duty of the Bombay Government, if the Bill were again vetoed, conscious of the responsibility of legislating for the improvement of the people of this Presidency, to bring in the Bill again. Therefore, I cast aside as without weight the suggestion that the Bill should be dropped because one of the same character has been vetoed before. Another argument that has been used is that if we prevent the free transport, sale and collection of mhowra flowers we may attempt to do the same with regard to rice and sugar or some other article from which intoxicating liquor may be produced. Why should there be any temptation for the Abkari Department or Government to interfere with the free transfer of these articles when there is no illicit distillation of liquor from them? If there were, then in all probability it would be necessary to bring in legislation of some sort to prevent illicit distillation. But there is no occasion for us at this moment to consider that as an argument of importance, because those articles are not used for illicit distillation; therefore it is not for us to contemplate legislation. The Honourable Mr. Fazulbhoy Visram, in supporting his argument, pointed out that the abkari system was a monopoly and from the point of view of some people was, therefore, objectionable. But, with great respect to him I am inclined to think that that statement rests upon a fallacy. I am prepared to admit, if you like, that abkari, that is the system under which products of the earth capable of being made into intoxicants are taxed, is a monopoly. But whose? Why, the people of India. It does not belong to the Government which exists for the administration of laws. The proceeds from the monopoly return to the people in some form or other, and if revenue was not raised from abkari it is perfectly clear either that some benefits which the people have, the protection of their life and property, or other advantages would have to be given up, or some further taxation put on the people. Again, it is stated that the Bill is unnecessary, because punitive police posts could check the illicit distillation, and the remarks of the late Commissioner of Abkari are quoted in support. Well, Government has shown the esteem it has for Mr. Loch very clearly, but neither the Government esteem for Mr. Loch, or anything else, will make him a prophet, and his expression of gratification that the check which has been placed upon illicit distillation by the punitive police posts, does not involve him in saying that it would be sufficient for the future. I don't see how anyone, looking at the figures which have been quoted by most speakers to-day, can consider for a moment that the condition of affairs in Thana and Kolaba is satisfactory, or that the statement of Mr. Loch is sufficient argument for giving up the Bill. Some writers are inclined to view lightly the imposition of a punitive police post on the people. Well, I am glad to say, Government does not view it in any such manner, for it punishes the innocent as well as the guilty. Since the Bill was introduced, a Parsi Inspector made a seizure in Kalyan and whilst doing so was set upon by forty or fifty men and severely beaten. Thirty-nine men were arrested, and seven sentenced to three years' rigorous imprisonment each. Kalyan is one of those talukas in which a punitive post is placed, and it has not checked altogether illicit distillation, and has resulted in the people being subjected to visits from the police of an irritating character, and resulting in serious crime and attempts to interfere with the action of the officers of the Crown. Well, I am of the opinion that it is not the duty of Government to depend upon punitive police posts, as they are a serious cost, and the innocent have to pay for the prevention of crime, such as

illicit distillation, when it is possible by such legislation as that now introduced to secure a minimum of interference in the transfer of the particular article and thereby, it is to be hoped, do away with the particular offence which leads to crime, such as I have quoted. I have been referring rather generally to the objections I have observed, but I will now take up some of those specifically brought forward by the *Sárvajanik Sabha*; but before I enter into them I would, in a friendly spirit, say to these Associations, which are in the habit of presenting memorials to Government when it is about to legislate, that their representations would, I believe, secure a larger measure of respect and support if they were placed before the public in a more public manner than they are now. I mean if these Associations were to admit, at meetings on important matters, the Press, we could then know what number of members of the Association took an interest in the subject, what discussion took place upon the memorial placed before them, and whether it was unanimously supported or not. I think the public would generally take more interest in them and would give more consideration to their representations. As it is now, they come from the blue, and we have no idea of how many members of this or that association were present when a memorial was discussed, or whether it was unanimously adopted, or opposed in any way. I offer these remarks in a friendly spirit, and I hope they will be accepted in the same way. Returning to the specific objections to the Bill raised by the *Sabha*, on page 29 of their quarterly journal, they give an account of the result of the introduction of the measure in 1882, and they point out that the Bill was approved by the seven official members, and was opposed by the five non-official members. Well how different is the case now. Why should we drop a Bill that has received the unanimous support of the Council upon the recommendation of a Select Committee on which non-official members had a majority? On page 71, the *Sárvajanik Sabha* states: "Because a few individuals dishonestly distil liquor from mhowra flowers, therefore Government propose to shut out all people—and these deeply sunk in poverty—from all legitimate uses of them." How does this Bill shut out people from a legitimate use of these flowers? For two months in the year when the flowers are fresh there is no restriction at all, and for the other ten months when the flowers are dry and fit for distillation, they are able to move them under a permit. The *Sárvajanik Sabha* concludes by saying: "False notions of humiliation may prevent the Bombay Government from dropping the Bill now, but wise statesmanship and genuine regard for the true interests of the people alike dictate the course which we have earnestly and respectfully asked Government to take." Apparently, in the opinion of this Council, it is wiser statesmanship to check an intolerable evil, which exists in Thána and Kolába. In the analysis of the Thána Committee Return, published by the same body, I am struck by this remark, that since 1888 the number of cases has rapidly diminished, and that in the course of a year or two a return to the state of things, which prevailed prior to 1888, might legitimately be looked for. I should regard the conditions of things prior to 1888 as hardly one which we should endeavour to attain to, seeing that prior to 1888 we find that in Thána and Kolába the ábkári offences ran between 356 and 413, and that the total of crime of the population was from 1 in 110 to 1 in 115. I confess I have hopes of reaching even a more desirable state of things than that with the help of this Bill. The analysis also deals at considerable length with the question of the use of the mhowra flowers as food for man and cattle. Well, we have ample evidence to show that it is only used for food by man in very few cases, and for cattle it is only used by the wealthy. But the Bill does not prevent its use as an article of food. My honourable colleague has

challenged the Indian Temperance Association for not having come forward in support of Government, as whatever else the Bill is, it was absolutely impossible for the most critical opponent to say that the Bill is not an attempt to put down intoxication. It seems to me that the Association should have come forward on this occasion and addressed a memorial to Government asking them not to be deterred by the opposition but proceed with the Bill. Those were the only points it is necessary for me to deal with, but, perhaps, I may mention the regret I feel that my honourable colleagues, who are not official members of the Government, should have been subjected to attack in unmeasured terms because they have approved of the Bill. They have, no doubt, discovered before now that gentlemen in public positions have to put up with attacks of that character, and I have no doubt that there are other people in their various communities, who although subjected to the same attacks, would also be prepared to take up an independent position upon matters such as this, and I say this deliberately—because we know that these Councils are shortly to be enlarged, and because it seems to me a matter of urgent importance that gentlemen who are elected or selected for this Council, should be prepared to form independent opinions on the merits of measures placed before them, and not to quail before the criticism passed upon them. In conclusion I would call attention to one paper laid before this Council, a very old one, perhaps, but nevertheless important—seeing the name that is attached to it. Mr. Mulock, who knew the Thána District well, said in 1882: “Those who opposed the Mhowra Bill when before Council had certainly not the real interests of the ryots at heart. It would be infinitely better to have a few rules restricting the possession of mhowra berry, and thus take the means to do ill-deeds out of their hands, than having the inspectors searching their houses and the Magistracy sending them in large numbers to jail. From my experience of nearly fifteen years in the district, I can positively assert that the mhowra berry is never eaten by the poorer classes, as was represented, and as food for cattle it would prove quite as expensive as rice, the basket of mhowra berry costing four annas, or the same as a basket of rice.” In another paper Mr. Spence, Acting Commissioner of Customs, Salt, Opium and Akári, in December 1890, quoted a report from the Collector, as follows:—“I am not surprised at the petition, for which I can assign two adequate causes. First, those who do not engage in illicit distillation are afraid of being harassed by searches, and mulcted for the support of punitive posts; secondly, those who do illicitly distil in some cases, I fear do so under pressure, and would be glad of any measures which would free them from the pressure. I am not much acquainted with Kalyán myself, but I have had a good deal of experience with the western side of this district, and on that side I am convinced that the mhowra importations are viewed with extreme dislike by all except the Pársi landlords, who compel their tenants to illicitly distil with a view to petty gains and enjoyment of the first out-turn of the illicit stills. So strong is the feeling in Umbargaon that the Bráhmín landlords evict tenants who deal with mhowra merchants and who illicitly distil, while in some cases the villagers, to protect themselves, not from Government but from local coercion, combine to suppress spirit-drinking altogether. It seems to me that I am at present almost powerless against Umbarsi and his fellows. All that I can do is to watch and shadow the importer, and by doing so a case of illicit distillation here and there may be fully proved against one of his wretched victims; he will be harassed and annoyed, a customer here and there may be warned off, and possibly a conviction against a purchaser may be snatched. A successful prosecution of a purchaser is, however, a very ticklish affair, as

it risks an authoritative declaration that under no circumstances is mere possession sufficient evidence, and such a declaration would be known far and wide. The subject of the mhowra trade has been fully gone into by Mr. Campbell in his ábkári report, and it is unnecessary to discuss at length the necessity of a Mhowra Bill, which has been urged over and over again. I see no objection to such a Bill if confined to the districts of Surat, Thána and Kolába; the only possible hardship in this district—that on the owners of mhowra trees in the inland tálukas—can be obviated by a permit system.” These opinions I thoroughly endorse, for in this district over which this Act will apply there is not only an intolerable evil, so far as Government is concerned, but an intolerable hardship to a number of persons of this district, and, therefore, Government is justified, apart from its ábkári policy, in introducing this Bill, because it will ameliorate a deplorable condition of things and improve the position of a number of people who are hardly used in consequence of this illicit distillation, and I am glad to find that this opinion has been unanimously endorsed by the Legislative Council.

Bill read a second time.

The Bill then passed its second reading without opposition.

HIS EXCELLENCY :—In case any member wishes to move an amendment, I think it is only fair to set down the Bill in detail for this day week; and if there are no amendments it will be quite possible, I imagine, to proceed right through with the Bill on that day.

THE BOMBAY SALT BILL.

A Bill to amend the Bombay Salt Act, 1890. Second reading.

HIS EXCELLENCY :—The Select Committee has made no alterations and has made no remarks on the Bill. I understand there is no opposition to the Bill either in its original form or as it comes from the Select Committee.

Bill read a second time.

The Bill then passed its second reading.

The Council adjourned until noon, Saturday, July 2nd, 1892.

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.

Poona, 25th June 1892.

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 2nd July 1892, at 12 noon.

PRESENT.

His Excellency the Right Honourable Lord HARRIS, G.C.I.E., Governor of Bombay,
Presiding.

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

The Honourable Sir CHARLES PRITCHARD, K.C.I.E., C.S.I.

The Honourable Mr. H. M. BIRDWOOD, M.A., LL.D.

The Honourable the ADVOCATE GENERAL.

The Honourable Mr. FAZULBOY VISRAM.

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

The Honourable Ráo Bahádur KRISHNAJI LAKSHMAN NULKAR, C.I.E.

The Honourable Ráo Bahádur RUNCHOBELAL CHOTALALL, C.I.E.

The Honourable Mr. A. F. BEAUFORT.

The Honourable Surgeon Major-General JOHN PINKERTON, M.D.

The following paper was presented to the Council :—

Letter from Mr. Pestonji Byramji Dantra, dated the 29th June, 1892—Submitting his opinion on the Bill No. 1 of 1892 to amend the Bombay Abkári Act, 1878.

Paper presented to the Council.

THE MHOWRA BILL.

Consideration of the Bill in detail.

The preamble and title having been postponed, sections 1 and 2 were adopted.

The Honourable Mr. NAVROJI NASARVANJI WADIA had given notice of the following amendment :—In section 2, to add the following clause to sub-section 18A (1) :
“ Provided also that private owners of mhowra trees growing on occupied or alienated land shall, on application, be furnished with a license, permit, or pass, for the collection, transport, sale, or possession of the produce of those trees.”

In moving the adoption of the amendment, he said :—Your Excellency,—When at the second reading. I expressed a wish either to modify section 18A, sub-section 1, or to add a new clause so as to make it perfectly clear that applicants are entitled to get permits on application unless good reasons can be shown that the applicant is a person who cannot be relied upon to possess such a permit, Sir Charles Pritchard replied : “ I am afraid we cannot make such a wide concession ; if we did so, the object of this Bill would be defeated.” Recognising the difficulty pointed out, I promised to lay before this Council an amendment in a definite form when the Bill was to be considered in detail. Accordingly the amendment now before us has been drafted in consultation and with the

consent of my honourable colleagues, Messrs. Nulkar, Chotalall and Fazulbhoy, and it will be observed that it does not ask for any wide power, but only carries out the tenor of the views held in Select Committee, *viz.*, that the rights of the owners of trees to gather their produce, such as they have hitherto enjoyed, should be respected. To deprive them of these invested rights would be unjust. We have all agreed to back up the efforts of Government to put down illicit distillation and its consequent evils, but I trust, it will be admitted, that the privileges of the owners of trees to dispose of their produce to the best advantage should be protected. At the last meeting when criticising the statement of the Poona *Sarvajanik Sabha*, on page 71 of their quarterly journal, your Excellency said: "What an unfair way of putting the case! How does the Bill shut out people from a legitimate use of these flowers? For two months in the year when the flowers are fresh there is no restriction at all, and for the other ten months when the flowers are dry and fit for distillation they are able to move them under a permit." And we only ask this facility on behalf of the owners of trees. I am aware that Sir Charles Pritchard may refer me to paragraph 10 of the Select Committee's report, and say that I should, as named therein, leave to the Executive Government to make such subsidiary rules or orders as may be necessary for giving effect to the Act; but I contend that it was not the intention of the Select Committee to leave to the Executive to make the essential rules, and as this provision may be taken as one of the latter category, I think it should form part of the Act. I have every confidence in Government and in their officers that they desire to make such rules as will operate equitably; but still the tendency with the progress of education and with the experience already gained of enactments, is to have as much as possible defined in the Act itself. The Poona *Sarvajanik Sabha* complains that, at the time of passing the Forest Act, Sir T. Hope promised in the most distinct manner possible that no interference with the private rights and privileges or conveniences of the people was contemplated, and yet, the Sabha says, the pledge has been so completely violated that no one would believe that the promise was ever given. I do not know if what the Sabha says is correct, but feel that this may be possible. At the last meeting I gave my reasons for suggesting this change and pointed out the difficulty the people would have in obtaining passes or permits; so I will not repeat them here, but quote the following extract from a leading article in the *Bombay Gazette* of the 30th June:—"The permits for the possession of mhowra flowers above the prescribed maximum will, it is true, be given without fee; but 'free passes' obtained at the cost of a day's journey to the taluka head-quarters or wherever they may be issued are not free. No one who knows anything of the details of village life, of the relations between the poor and the lower ranks in the Executive, whether in the police department, the *abkari*, or the salt, needs to be told what new opportunities for petty oppression, and worse, are created whenever any new restraint is placed upon trade." This shows how the permit question is viewed outside the Council, and I hope the honourable mover will concede the moderate change I now ask.

The Honourable the ADVOCATE GENERAL:—I think the honourable member's amendment ought not to be accepted, as its effect would be this. If it becomes part of the Bill, it would mean that private owners of mhowra trees would have a statutory right to a license under all circumstances; that is to say, any owner who may have been convicted of illicit distillation of mhowra from the produce of these very trees, or of any other offence against the *abkari* laws, or a breach of any permit, would still be entitled to a permit. I submit that that state of things ought not to exist. If a person, who is the owner of

mhowra trees, does use the produce of those trees for illicit distillation, I think it only right that Government should have the right of revoking his license. The effect of this amendment, if it forms part of the Bill, will be to give him a statutory right to demand a license whatever offence he may have committed. There also may be other circumstances which may make it extremely undesirable that a license should be given to a person, and it is impossible to include in the Bill all the circumstances or the many different contingencies which may arise. Another objection to the amendment is that when you give a right to a person by Act, you can only take away that right by another Act. *Prima facie* the owner of mhowra trees should have a right to a license for the collection, transport, sale, or possession of the produce of his own trees; no one could say that such a person ought not to have a license, but I think the object which is in the mind of the honourable gentleman who has moved this amendment can be obtained in another way, namely, by the rules which the Government have power to make under section 30 of the A'bkári Act, which this Bill is to amend. It appears to me that a rule could be made under which the owners of mhowra trees would under ordinary circumstances have a right to have a permit granted to them which could not be revoked or refused except for good reason. I have no doubt Government will be willing to undertake that such a rule will be made. The amendment would render this Act to a great extent inoperative if every owner, whatever his conduct may be, or whatever use he may put the produce of his trees to, should have a statutory right to demand from Government a permit which is only intended to be granted for mhowra to be used for licit purposes. On these grounds I submit that this amendment should not be accepted.

The Honourable Ráo Bahádúr NULKAR:—Your Excellency, I consider two very good reasons could be advanced in favour of the amendment: the first is that the law without the proposed amendment will interfere with the rights of private property. Every thing which grows on a man's land is his private property under the Survey Act, and I don't think it would be right for this Council to empower Collectors to refuse licenses to owners of mhowra trees and thereby in effect confiscate the products of those trees. As the Bill now stands, if a Collector refuses a permit or license, the owners of the trees could not touch the flowers, but must allow them to lie on the ground and rot. As regards the effect of the amendment that an owner of trees would be entitled to a license, notwithstanding the fact that he had been convicted of an offence against the ábkári laws, I have no objection to accept a limitation to the effect that the owners of private trees forfeit their right on conviction of such an offence. The persons concerned belong to a respectable class of the community, being landholders paying taxes to Government. They have more to lose than to gain by offending against the laws of the land.

The Honourable Ráo Bahádúr RUNCHORELAL CROTALALL:—Your Excellency, I find we have given tálukas two months to collect their flowers, but the privilege is confined to certain tálukas, and there are other tálukas where there are mhowra trees, and the privilege is not to be given. What is to become of the flowers of these trees? Must they lie under the trees and be eaten by the birds or cattle? If they cannot collect it under this Act, it will be extremely hard. There is no provision as to what is to become of the property of these people unless we give them some option to move the flowers.

The Honourable Mr. FAZULBHOY VISRAM:—Your Excellency, it is quite true that I was a party to the drafting of this amendment and I fully intended to have supported it,

but I see the difficulties pointed out by the Honourable the Advocate General, and was going to suggest some such limitation of it as is proposed by Mr. Nulkar which I hope may be agreed to.

The Honourable the ADVOCATE GENERAL :—Your Excellency, I consider it is very difficult indeed to frame a clause which will meet every possible contingency. The case of a man being convicted for having used mhowra flowers for illicit purposes is not the only case which may arise. There may be cases in which owners of trees ought not for good reasons to have the liberty given to them to remove flowers, and it would be extremely difficult indeed to frame an amendment to meet every case. I would again suggest that it be left to the rules which Government have power to frame under section 30 in order to meet the case. *Prima facie* of course the owners have a right to permits, but it ought to be left to the discretion of Government.

His Excellency the PRESIDENT :—Apparently since the Select Committee presented their report, some suspicions have arisen as to the intentions of the Executive Government. It has not been our object to interfere with the licit trade in mhowra flower. I fancy that the question between us is simply this, what is the best way of securing to the owners of mhowra trees reasonable facilities to collect, sell, &c., flowers? And the Honourable Mr. Wadia thinks the best way to do it is by putting in the Bill a section making it a statutory right. The Honourable the Advocate General advises that it would be an unsafe thing to do, and I suggest that the Honourable Mr. Wadia will accept that opinion if we undertake to give the owners of mhowra flowers all reasonable facilities. We shall undertake under the rules to give every reasonable facility, and we think that a better plan than to provide for it in the Act.

The Honourable RAO BAHÁDUR NULKAR :—Your Excellency, I fail to see any other circumstances under which licenses could be refused than where a conviction takes place. Of course, there are departmental circumstances: for instance an Abkari Inspector may make complaints against certain owners, and allege that he has reasonable suspicion that the flower is used for illicit purposes. There is another thing, the expression "flowering season" is vague; some of us in the Select Committee wished to extend the time beyond what was ultimately accepted. It is still an open question what is exactly the flowering season.

The Honourable SIR CHARLES PRITCHARD :—So far as I can see, the object of the honourable mover, and those who support him will be sufficiently secured under this undertaking. A general rule made under the Act is as binding on the executive officers as the Act itself. It has all the force of law.

The Honourable MR. WADIA :—We had no suspicion as to the intention of the Government.

His Excellency the PRESIDENT :—The Select Committee reported that this matter should be left to the Executive.

The Honourable MR. WADIA :—We had, as I said in my opening speech, the utmost confidence in the executive officers, but we must look forward to what may take place in the future. Such a provision as that provided by the amendment may not be thought advisable under other Councils, and then would come a difficulty, because no change could be made without again coming to the Council. I admit that there should be a clause disqualifying a tree-owner, who may have been guilty of transgressions against the abkari rules, from holding "Permits." I think an important principle is involved at

the bottom of the question, and it is this—If a man owns a certain land, and pays his taxes regularly, he is entitled to the produce of that land.

His Excellency the PRESIDENT :—This principle we recognize, and a more definite undertaking that it will be respected than is given in the Bill, is unnecessary. With regard to the suggestion of Mr. Nulkar as to the limitation of the flowering season, we are quite willing to leave the words simply “flowering season.” I do submit, however, to the Honourable Mr. Wadia that it is almost impossible to give the statutory right he asks for. In order to meet your case we will undertake to give the facility I have described. If you wish to go to a division we must, but I must say we have done our best to meet you, and our only objection to accepting the amendment is on legal grounds.

The Honourable Ráo Bahádur NULKAR :—Your Excellency, the rules are liable to be changed.

His Excellency the PRESIDENT :—The undertaking by the executive part of this Government is as binding as anything short of law.

The Honourable Ráo Bahádur NULKAR :—Only a moral binding.

His Excellency the PRESIDENT :—The objection we have is a legal objection and upon that ground we cannot accept the amendment, but we will endeavour to meet it to the fullest extent of our power.

The Honourable Ráo Bahádur RUNCHOBELAL CHOTALALL :—Can it not be specified under what circumstances permits will be granted?

The Honourable the ADVOCATE GENERAL :—This amendment does not allow any condition whatever to be put in a permit to be granted to private owners of mhowra trees, and it must be granted even if there has been a conviction.

The Honourable Ráo Bahádur RUNCHOBELAL CHOTALALL :—There might be terms and conditions made.

The Honourable Mr. WADIA :—The amendment may have added to it as follows :—“Owners of trees who are found guilty of transgressions against the ábkári law shall not be entitled to receive permits.”

The Honourable the ADVOCATE GENERAL :—If a conviction were the only reason for revoking or refusing a license, then it would be easy to frame an amendment to meet that, but there are many other circumstances which might not be contemplated when an amendment was being drawn up.

The Honourable Mr. WADIA :—The difficulty is for the future, not the present.

His Excellency the PRESIDENT :—The point between us is, are we going to accept the Advocate-General's opinion or are we not? So far as the executive part of the Government is concerned, we are bound to take that opinion. The undertaking of Government will be as follows :—“Government will undertake to give to owners of mhowra trees growing outside of the talukas specified in sub-section 3, clause 18A, section 2, all reasonable facilities under permit for the collection and disposal of the produce of their trees for licit purposes.”

The Honourable Ráo Bahádur NULKAR :—Cannot you insert the word “always”?

His Excellency the PRESIDENT :—The honourable member evidently desires to higggle. I cannot bind any future Government. It is impossible to endeavour to put into the Bill anything to limit the power of a future Government to amend the Act: neither can

I consent to insert a word which would be construed as intending to bind future Governments. It is no use asking me to give an undertaking of that kind. I have given my word as far as I can, and I cannot do more.

The Honourable Mr. WADIA :—Since we have been so unanimous in passing a Bill of such a useful character as this, I have no desire to now have a division, and I ask to be allowed to withdraw my amendment.

The amendment was accordingly withdrawn.

The Honourable Mr. WADIA then moved “ That in the same section, sub-section 18 A (3), line 58, between the words ‘ of ’ and ‘ the ’ to insert the words ‘ any of ’.” He said :—My object in putting these words before the words named is that it will make it perfectly clear as to the transport of the flowers from one taluka to another.

The Honourable the ADVOCATE GENERAL :—I don’t think there can be any doubt about the words in the Act as they stand. I don’t think there is any necessity for the amendment, although it will do no harm.

The Honourable Mr. WADIA :—I think it will make it clear.

On the suggestion of the Honourable the Advocate General the wording was altered to “ said talukas, or of any or of either of them.”

The remaining clauses, preamble and title were then adopted.

The Honourable Sir CHARLES PRITCHARD :—Your Excellency—There are one or two points on which I desire to offer a few brief remarks before the discussion of this Bill is closed. I would point out in the first place that the opposition in this Council to the Mhowra Bill of 1881 was based in great part on the supposition that mhowra flowers are used in the Konkan as food for man and beast. That illusion has been dispelled by the reports of the Mhowra Committees which were not drawn up until 1883, after the rejection of the Bill of 1881, and by other more recent inquiries the results of which were laid before this Council at its last sitting. Next, I would explain there is no separate ábkári establishment in this Presidency. There is a separate Abkári Commissioner who directs the whole executive, but the work of the department is entrusted everywhere to the Collectors, and is performed under their orders by their ordinary taluka and village establishments, aided by a few additional Inspectors and policemen. I do not share the apprehension expressed in some quarters that additional excise establishments will be required to work this Bill and that its working will result in any increased annoyance by excisemen to the rural population. Its tendency will be in the opposite direction, as after it has passed but small quantities of mhowra flowers will remain in the villages after the flowering season is over. With reference to the disapproval of the ábkári policy of the Government expressed by the Honourable Mr. Nulkar, in his speech on the second reading, I notice that he favours the adoption of direct repressive measures for checking consumption as soon as illicit distillation has been stopped, and that he suggests as a means to that end that the quantities of liquor issued for sale at the sanctioned shops should be gradually reduced, and that the ábkári farm should be sold by public competition to those who agree to work with a steadily reduced number of shops. I gladly assure my honourable friend that if he will draw up a detailed working scheme to give effect to his views, it shall receive the most careful and favourable attention; but I confess that the task seems to me to present very great difficulties. I don’t quite see how the issues of liquor for sale at each shop are to be

limited without undue interference with the liberty of the subject, or without incitement to unlawful practices. With supplies insufficient to meet the full demand, some customers must be left unsupplied, and I should expect under such circumstances that pressure would be brought to bear on the shopkeepers to exceed the limits prescribed for each month's, or each week's, or each day's, sale, as the case might be, and that the shopkeepers would be surely tempted to sell illicit liquor that could only be procured by means of illicit distillation. That consideration seems to me fatal to the scheme, which starts from the premises that illicit manufacture must be kept in check. All experience that I have gained goes to show that illicit manufacture cannot be stopped unless licit liquor is placed within the reasonable reach of those who want strong drink. Neither can I hold with my honourable friend that the liquor traffic is not a legitimate source of revenue. In all civilised countries in which the consumption of liquor is permitted, revenue is raised from its taxation, and I think that in such matters there can be no safer guide than a concurrence of universal experience. Lastly, as to the letter bearing Mr. Dantra's signature that has been read to us to-day—I will leave the argument, which has already been answered, and will deal only with the remedy proposed in it. That remedy is to prohibit the importation of mhowra flowers into the districts of Thána and Kolába, to cut down all Government mhowra trees growing in those districts, and to leave the produce of private trees unrestricted. My answer is, first, that it would in practice be useless to prohibit importation unless at the same time control were given over the produce grown in the districts—as in that case it would be impossible to stop importation without laying a strong cordon of preventive posts round the boundaries of the districts and examining every package of goods that passes those posts; and, secondly, that there is a large number of private trees in the Thána district the produce of which will inevitably continue to be used for illicit distillation unless it is brought under control soon after it has been gathered. The subject of gradually reducing the number of mhowra trees growing in the Government forests has been for some time under the consideration of the district authorities, but the trees are so numerous that some years must elapse before any great diminution can be effected, and the employment of the jungle tribes who make money by the mhowra harvest has to be borne in mind.

At the close of the debate His Excellency the PRESIDENT said:—I must take this, the only opportunity I shall have of correcting a false impression which my remarks last Saturday on Press opposition appear to have led to. It has been inferred from them that I was advocating for India a system under which Government would be consistently supported by a section of the Press. I do not think my remarks warrant any such construction. I was drawing a comparison between the effect of unanimous Press opposition in this Presidency on the legislative proposals of this Council with what might be expected from unanimous Press opposition in some country where a section of the Press supports Government measures. I offered no opinion as to the respective merits or demerits of the two systems except on one point. The establishment of a Government Press in a country which is already racked with the sectional and sub-sectional divisions of race and of creed, and which is more party-bound than any other portion of Her Majesty's Dominions, might appear to some as not unlikely to worse confound the confusion; but whilst an interesting academical question it is not within the domain of practical politics, and I did not discuss the point, or express a preference for a system under which there would be a Government Press, except on one point, and that was that I think the public are better informed of the merits or demerits of Government proposals where the Press is not all or one

mind. Certainly, we consider rightly or wrongly that the arguments in favour of this legislation and against the *laissez faire* proposals of our critics would have been more fully and more clearly laid before the public if there had been something approaching an equilibrium instead of unanimity of Press opinion. I fancy, too, that I have detected a note of surprise that I should have raised the point at all; but it seemed to me that I was in duty bound to take notice, in defending our position, of a notorious fact; to have omitted to do so would have been to display a disrespect for the Press, and a contemptuous indifference to its criticism,—feelings which I do not entertain. For that reason I raised the point, and gave my reason for declining to yield to an opposition; which would, probably, under such other circumstances as I selected for the purpose of comparison, have enforced acquiescence.

Bill read a third time and passed.

The Bill was then read a third time and passed.

THE SALT BILL.

Bill read a third time and passed.

The Bill to amend the Bombay Salt Act, 1890, was read a third time and passed without observation.

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

C. H. A. HILL,

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

Poona, 2nd July 1892.
