



S U P P L E M E N T
TO THE
BOMBAY GOVERNMENT GAZETTE.

Published by Authority.

WEDNESDAY, 3RD SEPTEMBER 1862.

PROCEEDINGS OF THE LEGISLATIVE DEPARTMENT, BOMBAY.

THE following Extract from the Proceedings of the Council of the Governor of Bombay, assembled for the purpose of making Laws and Regulations under the Provisions of the Act of Parliament, 24 and 25 Victoria, Chapter 67, is published for the information of all whom it may concern :—

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

P R E S E N T :—

His Excellency Sir H. B. E. FRERE, K.C.B., Governor and President in Council, Presiding.
 His Excellency Sir W. R. MANSFIELD, K.C.B.
 The Honorable Mr. FRERE,
 The Honorable Mr. INVERARITY,
 The Honorable Mr. TRISTRAM,
 The Honorable Mr. RUSTOMJEE JAMSETJEE JEJEEBHAY,
 The Honorable Mr. MADHOWROW VITTUL VINCHOORKUR,
 The Honorable Mr. JUGONNATH SUNKERSETT,
 The Honorable Mr. ROBERTSON,
 The Honorable Mr. SCOTT, and
 The DEPUTY SECRETARY.

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

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

Sir W. R. MANSFIELD considered there was a very great difference. The 1st Section had been very carefully worded, and he had more than once pointed out since this discussion arose the distinction between the two classes of prisoners—Natives and British born subjects. He differed entirely from the Honorable the Advocate General, and he trusted that the 2nd Section would be allowed to stand.

Mr. W. E. FRERE observed there was a very marked distinction between the two Clauses.

The ADVOCATE GENERAL said he would not press his objection.

The 2nd and other Sections as amended by the Select Committee were then agreed to, and the Bill, as amended and reported on by the Select Committee, was read a second time and passed.

The "Report of the Select Committee on a Bill for amending the law relating to the Small Cause Court at Kurrachee" was considered.

On Section 1st the PRESIDENT put the following amendment, of which Mr. Frere had given notice:—

"That the first Section stand in the form in which it originally stood, and that the following Section be added to the Bill:—

"Section VI. Words in the singular number, and words in the masculine gender, shall be understood to include several persons as well as one person, and females as well as males, unless there be something in the context repugnant to such construction."

Mr. FRERE said his object was to prevent useless verbiage.

The ADVOCATE GENERAL said that the proposed amendment would introduce about three times the number of words into the Bill. He thought the amendment was a little hypercritical.

The Council then divided on the question that the amendment stand part of the Bill.

Ayes—4.

His Excellency Sir W. R. MANSFIELD, K.C.B.
The Honorable Mr. FRERE.
The Honorable Mr. RUSTOMJEE JAMSETJEE
JEJEEBHOY.
The Honorable Mr. MADHOWROW VITTUL
VINCHOOKUR.

Noes—6.

The Honorable Mr. INVERARITY.
The Honorable The ADVOCATE GENERAL.
The Honorable Mr. TRISTRAM.
The Honorable Mr. JUGONNATH SUNKERSETT.
The Honorable Mr. ROBERTSON.
The Honorable Mr. SCOTT.

The amendment was accordingly negatived.

The question whether Section I., as amended, stand part of the Bill, was then put and carried.

Sections II., III., and IV. were passed.

The following amendment, of which Mr. INVERARITY had given notice, was then put:—

"That the following Section be inserted in the Bill, as amended by the Select Committee, and that the 4th and 5th Sections of the said amended Bill stand respectively the 5th and 6th Sections thereof:—

"There may be appointed one or more Deputies to the Clerk of the said Court as occasion may require; and such Deputy Clerks may perform all or any of the duties of the Clerk of the Court as the Court may direct."

Deputy Clerks may be appointed.

Mr. INVERARITY said, since the Bill was before the Council, a proposition had been forwarded to Government, and favourably entertained by them, of extending the Small Cause Court throughout the Zillah of Kurrachee. A subsequent Act, No. XII. of 1861, "an Act to amend Act XLII. of 1860," provided for the appointment of a Clerk of the Court, and by the 5th Section his duties were defined. It became therefore necessary to introduce a Section having reference to Deputy Clerks.

Sir W. R. MANSFIELD said he did not see that there was any Clause authorising the Small Cause Court Judges to go on circuit. He thought it open to question whether, under the provisions of Act XLII. of 1860, such power was given.

The ADVOCATE GENERAL supported the Clause proposed to be inserted by the amendment, and stated his opinion that the Government had the power, under Sections VII. and VIII. of that Act, to direct the Small Cause Court Judges to go on circuit.

Mr. INVERARITY said he thought that those Sections were amply sufficient to enable the Government to increase the jurisdiction in the manner proposed.

Sir W. R. MANSFIELD said he only wished to guard against the possibility of there being any doubt on the subject, and that if the Council was of opinion that there was no foundation for the objection, he would withdraw it.

The PRESIDENT then put the question whether the Section proposed in the amendment of Mr. INVERARITY stand part of the Bill as Section V., which was carried.

Section V. in the Bill amended by the Select Committee was passed to stand part of the Bill as Section VI.

The second reading of the Bill was then postponed to the next meeting of the Council.

On the "Report of the Select Committee on a Bill to abate the Nuisance arising from the Smoke of Furnaces in the Islands of Bombay and Colaba," being presented, Mr. TRISTRAM said the Report had not been circulated in sufficient time to enable it to be considered this meeting. He had discovered since the Bill was prepared, that it might cause inconvenience if it were to take effect from the 1st August 1863, and therefore proposed to postpone the commencement of the Act till the 1st January 1864.

Mr. W. E. FRERE thought the Committee should state in their report what amendments they had made to avoid the trouble of having to go through a long Act, and compare the Sections word by word, for the purpose of discovering what alterations had been made.

The PRESIDENT said that in future amendments as they were to stand in the text should be printed in italics, and all omissions and alterations as they stood in the original Bill should be printed in the margin opposite in small type.

The consideration of the "Report of the Select Committee on a Bill for further amending Act XXVI. of 1850," was deferred till the next meeting of the Council.

Mr. JUGONNATH SUNKERSETT said the "Report of the Select Committee on a Bill for making better provision for the care of the Persons and Property of Minors in the Presidency of Bombay" was nearly ready, and he asked the Council to extend the time for receiving the Report until the next meeting.

Mr. W. E. FRERE said the Report would be printed, and in the hands of Honorable Members by Saturday next, and it could therefore be considered at the next meeting.

The PRESIDENT put the question, whether the period of reception of the Report be extended to the 27th instant.

Carried.

Mr. SCOTT, in introducing "a Bill to promote the Construction of Lines of Communication as Feeders to Railways, High Roads, Navigable Rivers, and Canals," said—

"The objects and reasons of the Act have already been laid before the Council and the public, and it does not seem necessary that I should say anything in support of them. They speak for themselves. If the provisions of the Act be taken advantage of, as I trust they may, we shall ere long see a marvellous change in the means of transport to the Coast of the bulky and valuable produce of the interior—a change which will greatly cheapen that produce to the consumer, and lead, though indirectly I believe, to its great increase. One of the

great cries of late years has been for improved means of communication in India, and those who have been so loud in uttering these, will, I trust, not be backward in coming forward to supply them, now that Government provides such facilities for their doing so—facilities calculated not only to benefit the public, but to give profit to themselves.

“I will shortly sketch the purport of the Bill. It is provided therein, that any person desirous of constructing any work such as those to which the Act applies, may, on satisfying Government as to the public utility of his scheme, its *bona fide* nature, and his means of carrying it out, obtain, under certain needful restrictions, the land necessary for the construction of the works. This land will be taken by Government under the provisions of Act VI. of 1857, but it shall only be so taken after every facility for objection has been given to parties whose interests may be affected by the proposed works, and after due provision has been made for the satisfaction by the promoter of their just claims for compensation.

“Sundry provisions follow, inserted with a view chiefly to the protection of the interests of the public, and in great measure such as I believe will meet with the unanimous approval of the Council. One or two Clauses, the 15th for instance, will, I think, require careful revision, but this can perhaps be better considered in Committee.

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

The Bill was then read a first time.

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

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

with instructions to report within a week.

Carried.

The PRESIDENT adjourned the meeting till Wednesday next, the 27th August, at 3 o'clock P. M.

By order of His Excellency the Governor in Council,

L. H. BAYLEY,

Deputy Secretary to Government.

Poona, 20th August 1862.

PROCEEDINGS OF THE LEGISLATIVE DEPARTMENT, BOMBAY.

THE following Extract from the Proceedings of the Council of the Governor of Bombay, assembled for the purpose of making Laws and Regulations under the Provisions of the Act of Parliament, 24th and 25th Victoria, Chapter 67, is published for the information of all whom it may concern:—

The Council met on Wednesday, the 27th August 1862.

PRESENT:—

His Excellency Sir H. B. E. FRERE, K.C.B., the Governor of Bombay, presiding.

His Excellency Sir W. R. MANSFIELD, K.C.B.

The Honorable Mr. FRERE,

The Honorable Mr. INVERARITY,

The Honorable Mr. TRISTRAM,

The Honorable Mr. RUSTOMJEE JAMSETJEE JEJEEBHOY,

The Honorable Mr. MADHOWROW VITTUL VINCHOORKUR,

The Honorable Mr. JUGONNATH SUNKERSETT,

The Honorable Mr. ROBERTSON,

The Honorable Mr. SCOTT, and

The DEPUTY SECRETARY.

THE DEPUTY SECRETARY said he had received a Petition signed by 874 persons in Dharwar, praying that a Bill for the abolition of Hindoo and Mahomedan Law Officers in the District Courts be not proceeded with. The Petition was ordered to be transferred for consideration to the Judicial Department.

MR. INVERARITY moved the second reading of the Bill for "amending the Law relating to the Small Cause Court at Kurrachee," which was carried, and the Bill passed.

The report of the Select Committee on "a Bill to abate the Nuisance arising from the smoke of Furnaces in the Islands of Bombay and Colaba" was considered.

On the question whether Section I. stand part of the Bill, MR. W. E. FRERE said he thought it very desirable to leave out the enumeration of the various Manufactories, and he moved by way of amendment that those words be omitted.

THE PRESIDENT put the question that the words be omitted.

The Council then divided.

Ayes—3.

Honorable Mr. FRERE.

Honorable Mr. MADHOWROW VITTUL VINCHOORKUR.

Honorable Mr. ROBERTSON.

Noes—6.

His Excellency Sir W. R. MANSFIELD.

Honorable Mr. INVERARITY.

Honorable Mr. TRISTRAM.

Honorable Mr. RUSTOMJEE JAMSETJEE JEJEEBHOY.

Honorable Mr. JUGONNATH SUNKERSETT.

Honorable Mr. SCOTT.

The amendment was therefore not carried.

At the motion of MR. TRISTRAM, "January 1864" was substituted for "August 1863" in the first line of Section I. of the Bill, and in the 25th line of the same Section.

On the question whether Section III. stand part of the Bill, MR. FRERE said he thought there was a material deficiency in the wording of the Section. He could not understand what the Section meant. The former part contradicted the latter part of the Section.

THE PRESIDENT said he could not see any difficulty in the Section. He thought it sufficient.

On the motion of Mr. FRERE, the President put the question whether the consideration of Section III. be deferred.

The Council divided.

Ayes—3.

His Excellency Sir W. R. MANSFIELD.
Honorable Mr. FRERE.
Honorable Mr. JUGONNATH SUNKERSETT.

Noes—6.

Honorable Mr. INVERARITY.
Honorable Mr. TRISTRAM.
Honorable Mr. RUSTOMJEE JAMSETJEE JEJEE-
BHOY.
Honorable Mr. MAHDOWROW VITTUL VIN-
CHOORKUR.
Honorable Mr. ROBERTSON.
Honorable Mr. SCOTT.

Mr. FRERE then moved that the further consideration of the Bill be adjourned till next meeting.

The question was put and carried.

The report of the Select Committee on "a Bill for further amending Act XXVI. of 1850" was then considered.

Mr. INVERARITY said that before Section II. was considered he wished to call attention to two letters he had received a few hours ago. They were from the Revenue Commissioner Northern Division, and suggested an additional Section to the Bill, providing for the appointment of certain Government Officers as *ex-officio* Members of Municipal Commissioners established under Act XXVI. of 1850. Mr. INVERARITY moved that the following Section be added as Section II. of the Bill.

"II. All Collectors, Sub-Collectors, Assistant and Deputy Collectors, Mamlutdars and Mahalkurrieas shall be *ex-officio* Commissioners of every Municipality within the limits of their local jurisdiction, and the following officers shall be *ex-officio* Commissioners when resident in any City, Town, or Suburb, in which a Municipal Commission is or shall be established, viz:—

The Executive Engineer of the District.
The Civil Surgeon.
The Superintendent of Police.
The Assistant Superintendent of Police.
The Deputy Collector at the Sudder Station.
The City or Town Foujdar."

The PRESIDENT said as no notice had been given of the amendment, he thought it would be better to postpone the consideration of the Bill until the next meeting, which was carried.

The report of the Select Committee on "a Bill for making better provision for the care of the Persons and Property of Minors in the Presidency of Bombay" was then considered.

Mr. JUGONNATH SUNKERSETT said that as the report had not appeared in the public prints, the second reading of the Bill should be deferred to some future period. He therefore moved that the report of the Select Committee with the Bill as amended by them be republished in the *Government Gazette*, and stand for consideration at the first meeting of the Council after the 23rd September next.

Carried.

The report of the Select Committee on "a Bill to promote the Construction of Lines of Communication as Feeders to Railways, High Roads, Navigable Rivers and Canals" was then considered.

On the question whether Section IV. stand part of the Bill, Mr. FRERE proposed that the word "language" be substituted for the word "dialect" in 16th line, which was carried.

On Section VIII. Mr. FRERE suggested that the words "Public Railway Company" in the 6th line be omitted, and the following be inserted—"Companies being owners of the Railway," which was carried.

On Section XIII. Mr. FRERE said he would prefer the omission of the word "private" in the last line but one of the Clause, which was carried.

On Section XVI. being put, Mr. W. E. FRERE thought that there ought to be a penalty provided in cases where the orders of the Government were not obeyed, and on his motion the consideration of Section XVI. was postponed to allow of a Clause being prepared.

On the question whether Section XXI. stand part of the Bill being put, Mr. W. E. FRERE suggested that the word "quarries" between the words "coal" and "or" in the second line of the Section, and the words "or quarry" after the word "mine" in the 10th and 18th lines of the same Section be inserted, which was carried, and the remaining Clauses passed.

Mr. SCOTT said the Committee had not been able to prepare their report on "a Bill to extend the Jurisdiction of the Bombay Court of Small Causes," and he asked that a further week be given, which was carried.

Mr. ROBERTSON in introducing the "Bill to facilitate the adjustment of unsettled Claims to exemption from the payment of Government Land Revenue, and to regulate the succession to, and transfer of, lands wholly or partially exempt from the payment of such Revenue in those parts of the Bombay Presidency which are subject to the operation of Act XI. of 1852 of the Legislative Council of India," said—

"The subject of the Bill which I have the honour to-day to bring before the Council, has been prominently before the public for a considerable period, and its object, as explained in the 'Statement of Objects and Reasons,' published with the Draft, is to legalize a Summary Settlement which has been effected during the past year with those holders of land exempt from the payment of Land Revenue whose lands are not held on political tenure, or subject to conditions of service in those districts to which Act XI. of 1852 is applicable, and whose titles to such exemption remained still to be adjudicated under the provisions of that Act.

"The payment of Land Revenue may be stated to be the normal condition on which land is held in this country; and the right to challenge all exemption from such payments is a right which, not only under Native rule has always been held to be inherent in the Government, but which this Government, in enacting Laws and Regulations, has from the first reserved to itself under certain forms and conditions. In the General Code of 1827, drawn up under the Government of the Honorable Mountstuart Elphinstone, this right was clearly laid down, and if Honorable Members will refer to that Code, they will there find it stated, in Chapter IX. of Regulation XVII., what constituted good and sufficient titles to exemption from the payment of Land Revenue. And I would here desire to remark, that it is important for a right understanding of the present question, to distinctly bear in mind that the inquiries which have been conducted into titles to alienated holdings did not in the least affect the rights of occupancy, but were simply intended to ascertain whether or not the claim to exemption from the payment of the State dues or to receive those dues from the occupants of the land was good and valid.

"But to return, if Honorable Members will refer to Regulation XVII. of 1827, Chapters IX. and X., they will there find stated—

"1stly.—On what grounds titles to the exemption from Land Revenue might be considered admissible,—and

"2ndly.—The Rules under which claims to such exemptions are to be examined and decided upon.

"Not only will it be perceived from this, that it is competent for the Collector of a District to call upon the occupant of land, wholly or partially exempt from the payment of revenue, to prove his title to the exemption, but that the *onus* of establishing his title was thrown upon the holder or claimant, and that ever since the acquisition of the country by the British Government, inquiry and the right to challenge their claims have hung over all holders of rent-free lands who had not obtained the formal adjudication on, and recognition of, their claims provided for in Section XLV. of Regulation XVII. of 1827. The inquiries which it will thus clearly be seen it was intended should be made into each claim to exemp-

tion from Land Revenue demands, were conducted at first, and for a long period, in a desultory manner, cases being taken up from time to time only as the other onerous and numerous pressing duties of the Collectors would permit.

"As an apology for the neglect of inquiry in the earlier years of our administration, I may perhaps be permitted to state, that the collection of the revenue was then a most laborious duty, requiring much personal attention on the part of the Collectors and their Assistants in the supervision of all its details, both to protect the Ryots on the one hand from extortion, and the Government on the other from corrupt influences; and that in addition to the Land Revenue the Collectors had to supervise the collection of the transit and town duties, as also of the Mohturfa and other taxes.

"Consequent on this state of things, a special agency was, in 1843, appointed to conduct the necessary inquiries in the Southern Mahratta Country. This was a step in the right direction, as it not only tended to subject to the payment of revenue all lands unauthorisedly held exempt, but as calculated to offer a speedy removal of doubts and uncertainties with regard to their titles on the part of all whose claims to exemption were good and sufficient.

"The special agency on commencing its duties found that the first thing to be done was to systematically arrange and classify the voluminous State Registers and Accounts of the late Government, which contained a complete record of all the alienations of the public revenues, and furnished the most ample means of testing and verifying the authenticity of all recognised claims—but which records had fallen into much confusion. Owing to the necessity of arranging these records, and in consequence also of the tedious scrutiny which had to be made in each case, to test not only the authenticity of the documentary evidence produced before the Commission, but to obtain evidence if possible also on behalf of those claimants who had no documentary evidence in their possession, or to discover connecting links in the chain of evidence which many were unable to produce, the progress made by the Commission (the extension of whose inquiries throughout the Presidency was approved by the Supreme Government in 1850,) was so slow, that in a general review of the progress, and of the probable future duration of the enquiry which was made at the close of 1856 by this Government, in compliance with a call made upon it by the Supreme Government, this Government came to the conclusion that to bring the inquiry into Inams to a close within a reasonable period, one of two courses only was open to them—viz. either to adopt a plan which had originated with Major Wingate, and to assess the whole of the Inams indiscriminately at 25 per cent. of the Survey Assessment, or to prosecute vigorously and completely the investigations which had for some years been in progress in the six Collectorates of the Deccan, and to do the same in Guzerat and the Concan, foregoing inquiry into those of the lowest value and most numerous class, and contenting themselves with scrutinizing the titles of those which were higher in value and fewer in number.

"Honorable Members will here see the first germs of a Summary Settlement: in consequence, however, of the disturbances which supervened shortly after the submission of these proposals to the Government of India, the question received no further consideration until 1859, when, the Bombay Government, anxious to bring the protracted inquiries of the Inam Commission to a close, and to reduce if possible the expense of this costly agency, submitted to the Supreme Government details of a scheme which finally found shape in the Bill which was laid before the Legislative Council of the Government of India some fifteen months ago, and which was read a second time on the 6th July of last year, at which stage of the proceedings it was referred to a Select Committee for consideration. But before the Committee had made their report, the Act for constituting Local Councils became law, and the question being considered one of a purely local character, the Bill was returned in order that it might be considered by this Council.

"In the meantime, however, the Bombay Government, desirous to lose no unnecessary time in carrying out the measure, wherever it could be carried out in anticipation of the passing of the Bill then before the Government of India, directed the Revenue Commissioner of the Southern Division to make an offer of the Summary Settlement on the terms which had been approved by the Government of India, and sanctioned by Her Majesty's Secretary

of State, to the holders of lands exempt from the payment of revenue in the six Collectorates of his Division, in which the state of the law was considered to be such as to render it unnecessary to wait for legislation in the matter.

"And this leads me to explain that the claims to exemption from the payment of land revenue in this Presidency may be broadly divided into two classes, according to the laws wherewith they may be adjudicated. I have already adverted to the Code of 1827, and shown how it reserved to Government the right to investigate all claims to exemption, and laid down the rules and forms of procedure under which the inquiries were to be conducted. By this law, which is the law in force to the present day with respect to all such claims in Guzerat and the Concan, the adjudication of the claims is vested in the Courts of Civil Justice, the original jurisdiction resting with the Collectors;—but in Khandeish, the Deccan, and the Southern Mahratta Country, which, from the period of their acquisition until 1826, were administered by a separate Commissioner (the first Commissioner being the Honorable Mountstuart Elphinstone), it was specially provided in bringing these Districts under the Regulations of 1827—by Regulation XXIX. of 1827 and Regulation VII. of 1830—that the cognizance of the Civil Courts was not to extend to claims against Government on account of Inams.

"When the working, therefore, of the Inam Commission was fully established, it was found necessary to enact for its guidance a Code of Procedure whereby the Officers of the Commission might regulate their decisions on the cases which might come before them for trial. This led to the enactment of Act XI. of 1852, which is the law at present applicable to the trial and adjudication of claims to exemption from the payment of Land Revenue in the Districts I have just enumerated, and in all Districts which may have been more recently annexed to this Presidency.

"This law, although it has been much decried, will be found by those who will attentively consider its provisions without bias, to be framed in a spirit of great liberality, which throws upon Government the entire *onus* of disproving the title of holders or occupants of rent-free lands.

"As, however, this law will, I trust, shortly be almost a dead letter, I should be uselessly taking up the time of this Council, were I to allude further to it in this place, than is sufficient to enable Honorable Members to understand in what respect the law for the adjudication of claims to exemption in the older Provinces differs from that in force in the Southern Districts, and which differences the Government considered to be such as to allow of their proceeding in the latter Districts with the settlement without delay; and why in consequence of the action thereupon, it is now necessary to introduce a separate Bill for the Districts of the Presidency which are subject to the operation of Act XI. of 1852, leaving the question of the application of a similar measure to the holders of alienated lands in Guzerat and the Concan for separate disposal. The object of the present Bill is simply to give legal effect to the agreements which have on the one part been entered into by the Inamdars, and by Government on the other. It has been explained in the printed 'Statement of Objects and Reasons,' which accompany the Draft Bill, that out of 40,878 holders of land, on whom notices were served, the settlements had, up to the 30th April last, the date of the latest return sent in to the Government, been completed in the case of 38,764 holdings, a result which will, I trust, leave little doubt on the minds of this Council, that the settlement has proved, generally, I may say universally, acceptable to those interested; and in saying this, I beg it may be borne in mind that the option of demanding a formal inquiry, and of obtaining, on establishing a good title, entire exemption from the payments which the compromise imposes, was open to every one.

"The necessity which lay upon the Government to devise some such settlement as that provided by this Bill, in justice to holders of alienated revenue, who have been for a long time kept in a state of uncertainty as to their position owing to the slow progress made in the inquiries into their titles, will be apparent, when I explain that with a Commission costing in round figures a lac of Rupees per annum; the largest number of cases disposed of in any one year in the Southern Division was 1,298, so that at this rate it would have taken thirty years to dispose of the claims of the 38,764 with whom the settlement as above explained has been already completed. To increase the Commission so as to pursue the investigations into rent-free holdings throughout the Presidency, that the inquiries might be completed within a reasonable period, would have required a pressure which would have produced an amount of excitement which it was undesirable to bring about

—and financially such an increase to the establishment was out of the question. The only course therefore left open to the adoption of Government was to effect a summary settlement which should take the form of a compromise of the right of the State to make inquiry into the title of Alienees for a moderate payment.

“It seems hardly necessary to enter into any great detail in respect to the provisions of the Act, as the settlement for which it provides has been almost entirely completed; but there are one or two points on which I will briefly touch. But before doing so, I would observe that the present Bill is substantially the same as the Bill introduced into the Calcutta Council, the alterations now made in the latter consisting merely in the omission of one or two Sections or Clauses which are unnecessary in a settlement, which is, it may be said, already in effect, and Clauses which, although applicable to Guzerat and the Concan, are uncalled for in a Bill intended for the Districts subject only to Act XI. of 1852. To proceed then, taking the first Section, I would notice that the settlement has been confined to unadjudicated cases. I am aware that out of doors it has been strongly advocated that the settlement should have been extended to cases which have already been adjudicated unfavorably to the holders; I cannot, however, see the justice of this, for these claims have been proved to be bad, and it would be unjust towards the general public to burden the State Revenues with charges upon them to the receipt of which the claimants have no good title—and I may add that Her Majesty's Secretary of State has distinctly refused to allow the admission of these claims. But I may state that the Government have under consideration a proposal whereby it is intended to admit to the benefits of a more permanent title those cases in which the enjoyment of Alienated Revenues has been guaranteed for one or more generations only.

“Section II. provides, by the payment of a Nuzzerana, for the conversion of the holdings into hereditary and transferable property. This is a very valuable concession, for under all Native grants succession to Inams and such like holdings are generally restricted to the heirs male of the grantee, or some individual or individuals mentioned in the deed of grant. By the provision in question, however, the inheritance to alienated lands will be extended to collateral heirs, and holders will be able to will away or otherwise dispose of their lands as they may think fit. It may be my duty hereafter to propose an amendment on the Nuzzerana Sections of the Bill, but I reserve for the present further allusion to this point.

“The right to demand a trial and adjudication of their titles is reserved to all holders by Section VI. Opinions have varied as to whether this option should have been given, but this option has been conceded in conjunction with the alteration to which I shall in the next place advert, made by desire of the Government of India and the Secretary of State in Act XI. of 1852, the law applicable to the Districts to which this Bill applies. I confess I myself would have preferred to see no option left, because the object of the measure is summarily to get rid of the necessity of proceeding further with the investigation of claims to exemption from payment of Land Revenue.

“In Section X an important change in the law above referred to, with respect to the adjudication of claims in the Districts to which this Bill applies, has been made. By Act XI. of 1852, as I have already explained, the *onus* of disproving the titles of the holders or occupants of rent-free lands was thrown on the Government; but here a return to the provisions of the Code of 1827 has been made, by throwing the burden of proof, in cases in which the parties may demand inquiry, upon the claimants themselves.

“In conclusion, I may state that in dealing practically with this question, the Government have on all doubtful points leant to the side of liberality—admitting to the settlement all claims in which appeals against decisions adverse to the claimants lay undisposed of before Government, and extending the terms of it to land found to be in the occupation of Inamdars in excess of their recorded holdings, which excess might fairly and without hardship have been at once subjected to the payment of full assessment.

“Begging the Council to pardon me for having occupied so much of their time, I beg to move the first reading of the Bill, viz: ‘A Bill to facilitate the adjustment of unsettled Claims to exemption from the payment of Government Land Revenue, and to regulate the succession to, and transfer of, lands wholly or partially exempt from the payment of such Revenue in those parts of the Bombay Presidency which are subject to the operation of Act XI. of 1852 of the Legislative Council of India.’”

The Bill was then read a first time.

Mr. JUGONNATH SUNKERSETT said that considerable time for discussion should be given, and that if a translation of the Honorable Mover's speech were given, it would be of great service.

On the motion of Mr. ROBERTSON, the Bill was referred to a Select Committee, consisting of

The Honorable Mr. INVERARITY,
The Honorable Mr. MADHOWROW VITTUL VINCHOORKUR,
The Honorable Mr. Tristram,
The Honorable Mr. JUGONNATH SUNKRESETT, and
The Mover,

with instructions to report at the first Meeting after 23rd September 1862; the Report of the Select Committee, together with the speech of the Honorable Mover, being translated into Mahrati and Canarese.

Sir W. R. MANSFIELD said that after what had dropped from Mr. JUGONNATH SUNKERSETT, the public might suppose that a novelty was being introduced, whereas in point of fact the Bill was merely a Bill of indemnity to legalize what had been already carried out during the last eighteen months.

Mr. SCOTT asked whether Government intended to proceed this Session with the Bank Charter Act, or if not, when Government intended to proceed with the matter.

The PRESIDENT stated that no further step could be taken, pending the receipt of instructions from the Secretary of State, to whom the matter had been referred, and under whose consideration it still was.

The PRESIDENT then adjourned the Meeting to Wednesday next, the 3rd September 1862, at 3 P. M.

By order of His Excellency the Governor in Council,

L. H. BAYLEY,

Deputy Secretary to Government.

Poona, 27th August 1862.