



SUPPLEMENT
TO THE
BOMBAY GOVERNMENT GAZETTE.

Published by Authority.

TUESDAY, 10TH FEBRUARY 1863.

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 Bombay, on Saturday, the 31st January 1863.

PRESENT :—

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

The Honorable Mr. W. E. FRERE,
The Honorable Mr. J. D. INVERARITY,
The Honorable Mr. H. L. ANDERSON,
The Honorable Mr. W. B. TRISTRAM,
The Honorable Mr. MADHOWROW VITTUL VINCHOORKUR,
The Honorable Mr. JUGONNATH SUNKERSETT,
The Honorable Mr. PREMABHAI HEMABHAI,
The Honorable Mr. A. D. ROBERTSON,
The Honorable Mr. M. H. SCOTT.

THE UNDER SECRETARY read the assent of His Excellency the Governor General to a Bill for the Registry of Vessels and Levy of Pilotage Fees on the River Indus, and presented a Petition received from the Secretary of the Bombay Association in reference to the "Bill for regulating the Burial and Disposal of the Dead in the Town and Island of Bombay."

The Council then proceeded to consider the report of the Select Committee on a Bill to facilitate the adjustment of unsettled claims to exemption from payment of Land Revenue in the Districts subject to Act XI. of 1852.

MR. ROBERTSON said that with reference to Section IV. the option allowed to the holder of lands subject to the operation of the Section to avail himself of its advantages or not, rendered it necessary that certain changes should be made in the wording of other parts of the Section. He moved the omission of the words between the word "and" in the 23rd line and

the word "are" in the 25th line, and the insertion in their place of the words "in any case of recognition as in this Section aforesaid, lands already adjudicated to be heritable and to which such recognition applies."

This was put and carried.

Mr. FRERE said that it was not provided when or how the landholder's option was to be declared. He would propose that a period of two months from the passing of the Act should be allowed.

Mr. MADHOWROW VITTUL said that unless the landholders received notice from Government, they would not know that they were to make any such declaration.

The PRESIDENT said he would suggest a provision to the effect that the acceptance of the terms proposed by the Section might be assumed, unless within a specified time they were rejected by those to whom it applied.

Mr. ROBERTSON concurred, and moved the addition of the Section of the words "provided that the assent of the holders of all lands adjudicated as aforesaid to the acceptance of such recognition and the payment of such Nuzzurana as in this Section as aforesaid shall be assumed, unless such holders shall within three calendar months from the date on which this Act comes into operation, decline such acceptance by a notice in writing to the Collector of the District."

On the motion of Mr. ROBERTSON, the Bill was read a second time and passed.

The Council then proceeded with the consideration of the Report of the Select Committee on a Bill for regulating the District Police.

On the question that Section XXV. stand part of the Bill, Mr. FRERE moved the insertion of the word "Police" before the word "Patel" in the 7th and the last lines of the Section.

This was put and carried, as was a similar change in line 2 of Clause 2nd.

On the question that Section XXX. stand part of the Bill, Mr. FRERE said that Colonel Bruce wished for the omission of the word "Magistrate" in the first line of the Section, so as to leave the arrangements connected with processions and other assemblages of people to the District Superintendents and Assistant Superintendents alone. The Proviso that the Magistrate alone should have the power of absolutely prohibiting any procession might be retained.

The PRESIDENT said that striking out the Magistrate's name might now lead to the inference that it was intended to divest him of all power of interference. He wished to know whether there was any strong objection to retaining the word.

Mr. FRERE said there was not, and after some further discussion he withdrew the amendment.

On the motion that Section XXXI. stand part of the Bill, Mr. FRERE said that Colonel Bruce wished the addition to the Section of a provision of the preservation of order in the neighbourhood of mosques and temples.

The PRESIDENT suggested that the objects of the Section might perhaps be better attained by the adoption instead of it of Section XXXI. of Act V. of 1861.

Mr. FRERE said he had no objection to adopt those parts of the Section which were not already included.

The question was then put that the words "or in the neighbourhood of places of worship during the time of public worship" be inserted between the word "resort" and "and" in the 7th line of the Section.

Carried.

Section XXXIII. having been put and carried, Mr. FRERE said that as this Section gave the Magistrate all the requisite power, he would now move that the word "Magistrate" be omitted in line 1 of Section XXX.

Carried.

On the question that Section XXXIV. Article 1 stand part of the Bill, Mr. FRERE moved the omission of the word "or" and the insertion of the words "or watering place," between the words "reservoir" and "so" in the fourth line.

Carried.

On the question that Article 3 stand part of the Bill, Mr. FRERE moved the addition of the words "or shall make a bonfire or wantonly let off any firearm or firework within fifty feet of the public road."

Mr. JUGONNATH SUNKERSETT said that such a Regulation might perhaps be required in a crowded city like Bombay, but was needless in the villages to which the Bill was intended to apply. In such places there were not, as in Bombay, horses to be frightened or carriages to be injured. It would inflict a needless annoyance on persons by preventing them from using fireworks in their own compounds.

Mr. FRERE said that the Section would apply only to the places to which it was extended by the Government;—such villages, for instance, as Poona and Ahmedabad.

The amendment was then put and carried.

On the question that the Section as amended stand part of the Bill, Mr. FRERE moved the addition of a 5th article worded as follows:—

"Any person who in any public street, passage, or thoroughfare, keeps any brothel, gaming-house, or other disorderly house, to the annoyance of the neighbouring residents, or of passengers."

Mr. ANDERSON said that he objected to the words "or of passengers;" and Mr. Frere consented to strike them out.

Mr. ROBERTSON said that he considered it highly objectionable to place in the hands of the Police the arbitrary power of arresting people at their discretion on such grounds as these. The proceeding ought to be upon a complaint laid before a Magistrate and supported by evidence.

The amendment was then put and carried.

On the question that Section XXXV. stand part of the Bill, Mr. PREMABHAI HEMABHAI said that it would prevent a person from collecting materials or putting up a scaffolding for the construction of a house. At present, this might be done with the consent of the Municipal Commissioners; but if this Bill were passed, the Commissioners would refuse such permission on the ground that the law had left them no power to grant it.

The PRESIDENT said that the insertion of the words "without the permission of the Magistrate or Municipality" would meet the difficulty raised by the Honorable Member. The insertion of these words between the words "thoroughfare" and "constructs" in the second line of the Clause was then put and carried.

On the question that Section XXXVI. stand part of the Bill, Mr. MADHOWROW observed that the kind of imprisonment to be awarded was not described.

Mr. FRERE proposed the insertion of the word "simple" before the word "imprisonment."

Carried.

Mr. MADHOWROW VITTUL moved the insertion of the words "of lawful orders" in line 3 of the Section.

Carried.

On the question that Section XXXIX. stand part of the Bill, Mr. FRERE moved the omission of the words from "all" to "and inclusive" in the first three lines of the Section.

Carried.

On the question that Section XL. stand part of the Bill, Mr. MADHOWROW VITTUL moved the substitution of the words "Court before which" for the words "Judge before whom" in the last line but one of the Section.

Carried.

On the question that Section XLII. stand part of the Bill, Mr. FRERE moved the omission of the words "the English month" and the substitution therefor of the words "a month according to the English Calendar."

Carried.

Mr. ANDERSON then moved the addition of the words "or local Police authority" after the word "Municipality" in the amendment of the third article of Section XXXIV.

Carried.

Mr. FRERE moved that the Bill as amended be reprinted and circulated to the Honorable members, pending which he would not move a second reading.

Carried.

The Council then proceeded to consider the report of the Select Committee on a Bill for the Regulation of the Village Police.

On the question that Section IV. stand part of the Bill, Mr. INVERARITY moved that its further consideration be postponed until the District Police Bill should be disposed of. He intended to oppose the second reading of the latter Bill, upon which the Village Police Bill in a great measure depended; and it might prove to be a waste of time to consider the Village Police Bill until the other had been approved by the Council.

Mr. FRERE said he had no objection to the postponement; which was put and carried.

Mr. FRERE then moved the postponement of a Bill to enable Magistrates to depute the trial of certain offences to subordinate Magistrates, and of a Bill to entrust Landholders with the charge of the Police within their lands.

Carried.

Mr. ROBERTSON said that the Goozerat Inam Bill, which stood next on the Orders of the Day, would probably give rise to a good deal of discussion. It would not be desirable therefore to proceed with it at such an advanced hour of the day. He would move its postponement until the next meeting of the Council.

Carried.

Mr. TRISTRAM then moved the first reading of the "Bill to regulate the Burial and Disposal of the Dead in the Town of Bombay." It would not now be necessary, he said, to enter into any defence of the principles of the Bill. The facts he had stated in moving for leave to introduce it, must have satisfied the Honorable members, he thought, that some legislation on the subject was imperatively required. The arrangement of details might be effected in Select Committee, but the leading principles of the measure were the health and general convenience of the Public, and strict impartiality to all classes of the community. On these grounds, he would commend the Bill for the acceptance of the Council.

Mr. JUGONNATH SUNKERSETT said:—

"Under Act XIV. of 1856, the Municipal Commissioners are invested with ample powers. If there is any danger to health to be apprehended from the present burial grounds, they are competent to cause them to be cleansed and eventually to be closed.

"They are authorised to make bye-laws for the inspection and regulation of burial and burning grounds, to prescribe rules as to the depth of graves and places of interment, and generally as to all matters connected with the good order of burial and burning grounds. If therefore for the sake of public decency or for purposes of cleanliness any alteration in the present mode of making graves is required, the Commissioners have the power of seeing that it is done. To me it appears that if this Bill be made law, it is tantamount to passing a vote of censure on the Municipal Commissioners. No such act as that proposed is needed. The more appropriate designation of the Bill would be "an Act to take away from the Parsees their Towers of Silence" and from the other sections of the community their present places for disposing of their dead; for this appears to me to be the real object of the Act.

"As regards the Towers of Silence, we all know they stand in pleasant places, and that so long as they remain there the ground in their immediate neighbourhood will not be built upon. We all know that the healthiest part of the whole Island is Malabar Hill, and the parts in the vicinity of these Towers of Silence; the Commissioners therefore could not procure the evidence of competent persons required by the 107th Section of Act XIV. of 1856, to enable them to certify that the Towers of Silence endangered the health of persons living in the neighbourhood.

"But under this Bill, in case it appears to the Governor in Council that for the protection of the public health these Towers of Silence should be abolished, the order for their removal will be made. The rights and the religion of that intelligent, industrious, and wealthy section of the community, the Parsees, ought to be observed and respected, and they should not be subjected to having places which are held so sacred in their eyes taken from them if the Government at any time think fit to do so.

"There is no ground whatever for saying that the practice of Hindoos burning their dead by the sea-side, in Back-bay, is injurious to health. This has been admitted by the Medical Board; in fact it is universally admitted; my Honorable colleague has himself done so. Let any one go and stand near the place when the bodies are being burnt, and I venture to say he will detect no offensive smell beyond that of burning wood. When the burning is not going on there is a far more disagreeable smell arising from the imperfect drainage of the land in the neighbourhood, and this fact has been confirmed by Dr. Broughton in his conversation with me.

"It is hardly necessary for me to point out that if the present Hindoo burning grounds were ordered to be removed, great dissatisfaction would prevail among the Hindoos, and the greatest inconvenience will be felt by that sect. As I have on another occasion remarked, the Hindoos could not adopt any plan of removing their dead where the Railway would have to be used. It is a part of our religion not to allow any but those of the caste to which the deceased belonged to touch the body. The relatives of the deceased must carry the body on their own shoulders until it is placed on the pile, and in the case of the poorer classes, great difficulty is sometimes experienced in procuring a sufficient number of persons to perform this part of the ceremony. It is also a religious custom with us that those who attend the funeral cannot take food until the body has been burnt or buried, nor until they have returned home and washed themselves. The same rule also is observed by the other members of the family, who must fast until the return of the funeral party; a similar custom likewise prevails among the Parsee community.

"Our present highly respected Governor is so well acquainted with the peculiar notions and the religion of the Hindoos, Mahomedans, and Parsees, that he would not, except it were absolutely necessary, disturb the present burial and burning grounds, but who knows what any future Governor might do. We might have one sent out here who was comparatively speaking, unacquainted with our manners, customs, and religion, and who might adopt as his motto: "Let the dead make room for the living;" and at once order that no more bodies should be burned, buried or exposed within a certain distance of the Town. On looking over this Bill, I observe that it does not repeal Sections 106 to 110 of Act XIV. of 1856, which are quite inconsistent with the provisions of this Bill.

"I would here remark, too, that if the Governor make the order contemplated by Section III. every time a family vault is required to be opened, for instance, in the Cathedral or other place, the consent of the Governor, &c. must be previously obtained.

"As to Section III., how is this approval to be obtained? Is it to be in writing?

"But the main objection that I have to this Bill is that it is in no way required. I do not understand what was meant by the Honorable Mr. Tristram when he stated, on moving for leave to bring in this Bill, that the powers of the Municipal Commissioners as relating to burial and burning grounds were confined in their operations to the Town of Bombay, and gave them no jurisdiction beyond its prescribed limits.

"The word Town as used in that Act has a wider meaning than the Honorable Gentleman is perhaps aware of; it is defined by the interpretation Clause (Section II.) to include all places within the local limits of the jurisdiction of Her Majesty's Supreme Court of Judicature. I am told that the jurisdiction thus given is as wide as (if not wider) than that intended to be given by this Act, and that it extends over the Town and Suburbs of Bombay, as defined by the 5th Section of this Bill. If this is so, then I conceive the whole argument of the Honorable Gentleman for the necessity of this Bill falls to the ground."

Mr. ROBERTSON said that although he could not quite concur with the Honorable member who had just spoken as to the objects with which the Bill had been introduced, he still thought that, in its present shape the Bill was not one which could properly be passed until it was clearly seen how the Act was to be worked and what facilities would be afforded for the removal of the dead from the Island. This was an important point, not only because of the speed with which decomposition took place in this Country, but because of the hardship it might inflict on the lower classes. Mr. Tristram had in the speech in which he had moved for leave to introduce the Bill placed before the Council much valuable information as to the overcrowded and offensive state of many of the principal burial grounds in this densely populated Island, and therefore the Honorable Mr. Jugonnath Sunkersett had not been justified, he thought, in alluding to the Bill in such terms as he had done, or in describing it as a Bill to remove the Towers of Silence from Malabar Hill. He thought, however, that further consideration in the matter was necessary before proceeding to legislate in regard to it.

Mr. MADHOWROW VITTUL said that he thought it would inflict hardships on the relatives of deceased persons. It would increase their grief, and in some instances, probably itself occasion more sorrow than the loss of the deceased. It would be regarded as an infraction of the people's religious rites, and had already occasioned a good deal of excitement amongst the poorer population of Bombay.

Mr. SCOTT said he entirely concurred in the remarks that had fallen from the Honorable Mr. ROBERTSON, and would propose the postponement of the Bill until the subject had been more fully investigated, and the necessary arrangements made.

The PRESIDENT said that it appeared to him that the scope of the Bill was considerably larger than the evil to be remedied, or at least than the evil proved to exist. The remains of the dead were disposed of in Bombay according to almost every method known in the world, the most harmless, as well as the most injurious; and the Bill appeared to include them all without discrimination. The Europeans who would be affected by the provisions of the Bill would recognize its advantages, if they were shown the necessity of the measure, and the means for carrying it out. The Honorable member would probably succeed better if he would for the present confine himself to providing for those classes who would hail his intervention. No one, he thought, could have attended an ordinary European burial in Bombay, without being struck with the utter want of solemnity and almost decency of the provision made for a resting place for our dead. If the Honorable member, therefore, would consent to limit his Bill to the prevention only of such burials in the Town of Bombay, he would probably gain as much support as he must now expect opposition. As regards the Mahomedans, their law laid down minute regulations as to the conduct of burials, such as the depth of the grave, &c., which could not now be properly complied with. Many Mahomedans therefore would accept with much thankfulness the provision of a better burial place than they at present possessed. Considering the remarks of the Honorable members who had given attention to the subject, it might be advisable for the Honorable member to postpone the measure until it could be put into a shape in which practical effect could at once be given to it. Should he press it in its present shape, it would probably be so modified in Committee as to deprive it of some important provisions.

Mr. ANDERSON said that he concurred in the remarks of the President. The Bill was too extensive, and was open to the objections raised by the Honorable Mr. Robertson. The population of Bombay was in a peculiar position. The island they occupied was a narrow slip nine miles long from north to south, but the bulk of the population resided in the southern three miles. To remove their dead out of the island, would compel them to traverse the northern six miles. He could not therefore have voted for a provision which rendered the removal of the dead from the island compulsory. Such a provision would impose very great expense on, and cause very great annoyance to, the Hindoo community. They could not make use of Railway Trains for the removal of their dead, without violation of caste rules. And even with regard to Mahomedans, there was this difficulty, that according to their established customs, they too must carry the body of a deceased relative on their own shoulders to the grave. They would not enter a Railway Train or accept hired service for such a purpose. As it was they carried their dead bodies from the Fort to the burial ground, and would not trust their conveyance either to machinery or to hired hands. The proper way of meeting their case, would, he thought, be to grant them a plot of ground for a burial place in some convenient part of the Island. The Honorable Mr. Tristram, in the able speech with which he had introduced the Bill, had admitted that the "Towers of Silence" and cremation were the most harmless methods of disposing of the bodies of the dead. The evil to be remedied had been introduced in some measure by the Europeans, and it would be hard that they who had in part created the nuisance should now in removing it inflict any harassing inconvenience upon those who had in no way contributed to the evil. The Honorable Mr. Tristram had probably proposed to deal with the Hindoo and Parsee modes of disposing of their dead, because he wished his measure to be a general one, and had thought that if the scope of the Bill were confined to the regulation of burials, the Mahomedan community might regard itself as exposed to an interference from which other classes of natives are exempted. However laudable the Honorable Mover's object had been, he (Mr. Anderson) could not think it right, to avoid the appearance of harshness to one class to inflict injury upon other and larger classes. The prejudices of the Mahomedans must be treated with the greatest caution, but he had no doubt that the evils with which the Council had to deal could be removed without offence to those prejudices. He would therefore join in the recommendation to the Honorable member to deal with burials alone, and to reduce his measure to the limits of the evil which could be practically and immediately controlled.

The PRESIDENT wished to add before the Honorable Mr. Tristram replied to the remarks of the Council, that if the Honorable member would consent to withdraw the measure for the present, he should be prepared to promise on behalf of Government, that a Commission should be appointed to examine and report upon the whole subject.

MR. TRISTRAM said that he was rejoiced that the subject had been thus fully discussed, although he would confess that he had anticipated a larger measure of support in his endeavour to remove an evil, the existence of which was hardly questioned by any of those who had declined to assist him in removing it. It had been his object to deal impartially with all classes of the community. The Honorable Mr. Jugonnath Sunkersett seemed to consider that his main object was to procure the removal of the Towers of Silence from Malabar Hill; he disclaimed any such motive, his object being to secure, as far as possible, the health of the community. Nor could he admit that he had entertained any idea of hurting the prejudices, or inflicting pain upon any class in Bombay. As to the cremation of the dead, he had hoped that his speech in moving for leave to introduce the Bill had made his views on that subject sufficiently clear; but though the cremation of the dead was comparatively harmless, the burial of the dead in a crowded city was quite the reverse; and it was surely desirable to get rid of so great an evil. Cremation he might observe, was but very partially practised. Sufficient attention, he thought, had not been given to the fact of the great number of burials amongst Hindoos of the lower caste. The Honorable Mr. Sunkersett, in his speech, seemed to have studiously omitted attention to this branch of the subject, and while enforcing with weight, the two points which he (Mr. Tristram) had previously conceded as being innocuous, viz. cremation and exposure, omitted mention of Hindoo burials and quite ignored the rites of the Mahomedan community. They vastly outnumbered the cremations, while every burial, whether of Hindoo, Mahomedan, or Christian, increased the risk of pestilence. He was however content to leave the measure in the hands of the Council. He had not thought it necessary at the first reading of the Bill, to go into all the details by which its effective working was to be secured. They were properly a subject for consideration when its principles had been admitted. He felt strongly that the day would come when the people of Bombay, looking back on the present state of this question, would wonder how an evil so monstrous could have been suffered to remain so long; and what ingenuity could have devised arguments against its removal. He would not trouble the Council with the details by which, as he conceived, the working of the Bill might readily be carried out. It would be sufficient to remark that similar provisions were, as a matter of fact, carried out in the much larger City of London. The principle of the Bill once admitted, its details might be arranged in Committee, and in that investigation all that Railways could effect and Engineers could suggest, might be examined and ascertained. Still he would bow to the expressed wish of the President and majority of the Council, and would withdraw the Bill on the understanding that the Commission promised by His Excellency the President should be appointed.

MR. JUGONNATH SUNKERSETT said that he had spoken of the "Towers of Silence" because though if they were a nuisance to the residents in the neighbourhood, they might be dealt with by the Municipal Commissioners, no occasion had arisen for interference, and because, though the Honorable member had disclaimed the idea of having any special wish to remove them, or of their being injurious, they were not excluded from the operation of the Bill.

The PRESIDENT said that he and the Council were greatly obliged to the Honorable Mr. Tristram, both for bringing the subject forward and for the manner in which he had dealt with it. It was obvious that a great evil had to be dealt with; there was a general agreement as to desirableness of having it removed, the only doubt was as to the best means for effecting that removal; and he trusted the course suggested would enable the Honorable member hereafter to proceed to deal with it more effectively than was at present possible.

MR. TRISTRAM then withdrew the Bill.

MR. FRERE then moved the first reading of a "Bill for regulating Public Conveyances in the Town, Island, and Harbour of Bombay." He said that it was not necessary to dwell at any length on the principle of the Bill which was very similar to a Bengal Act on the same subject. Some necessary changes and additions had been made to adapt the Bill to the peculiar circumstances of Bombay, and it was very possible that in Committee some further changes might be suggested; for instance, in an English Act on the same subject, penalties were provided for the case of a cabman withdrawing from his stand for two successive days; and a similar provision might perhaps be introduced with a view to preventing strikes amongst the Buggy drivers of Bombay. It had been suggested that a penalty should be attached to the putting into public conveyances of persons labouring under infectious diseases. That he

considered as rather a measure of Police, which however would be open to consideration in Committee. He had introduced a provision for the protection of persons about to leave the Island against the exactions to which they were sometimes subjected at the Bunders, owing to the impossibility of their going to settle their dispute with a driver before the competent tribunal ; and a similar provision for preventing the extortion to which those who required Bunder-boats on particular occasions, had to submit. His attempts to deal with these cases, would, he doubted not, with the aid of the Committee, assume a practical form. He would therefore move the first reading of the Bill and its reference to a Select Committee composed of—

The Honorable Mr. JUGGONNATH SUNKERSETT, the Honorable Mr. SCOTT, and the MOVER.

Carried.

The President then adjourned the Council until Wednesday, the 4th proximo, at 2 P.M.

By order of His Excellency the Governor in Council,

R. WEST,

Officiating Under-Secretary to Government.

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 Bombay, on Wednesday, the 4th February 1863.

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

The Honorable Mr. W. E. FRERE,
 The Honorable Mr. J. D. INVERARITY,
 The Honorable the ADVOCATE GENERAL,
 The Honorable Mr. H. L. ANDERSON,
 The Honorable Mr. W. B. TRISTRAM,
 The Honorable Mr. MADHOWROW VITTUL VINCHOORKUR,
 The Honorable Mr. JUGONNATH SUNKERSETT,
 The Honorable Mr. PREMABHAI HEMABHAI,
 The Honorable Mr. A. D. ROBERTSON,
 The Honorable Mr. M. H. SCOTT.

The UNDER-SECRETARY presented a Petition from Dayaram Bhugwandas, praying that an explanatory enactment might be passed declaring that when a Petition for the execution of a decree was presented in the Court of one Zillah against property situated in another Zillah, it might have priority over any application presented in any Court of the latter Zillah subsequent in date to itself; though presented before the prior application transmitted by the Judge of the former Zillah should reach the Court of the latter.

The PRESIDENT said that this, as involving a change in the Code of Civil Procedure, was a subject for the consideration of the Government of India, to which the Petition might be sent when a further report was made of the working of the Code of Civil Procedure in this Presidency.

The Council then proceeded to consider the Report of the Select Committee on a "Bill for regulating the District Police in the Presidency of Bombay."

Mr. FRERE said that since the last meeting of the Council he had seen a long and detailed minute of His Honorable colleague, Mr. Inverarity, criticising the Bill. This it would be desirable to take into mature consideration, along with such remarks as the Police Commissioners might have to offer upon it before proceeding further with the measure. He would therefore move the postponement of this, and of the three Bills which stood next in the Orders of the Day.

This was put and carried.

The Council then proceeded to consider the report of the Select Committee upon a Bill for the summary settlement of claims to exemption from Land Revenue in the Districts not subject to Act XI. of 1852.

On the question that Section II., Clause 1 stand part of the Bill, Mr. PREMABHAI HEMABHAI moved the insertion of the words "by Sunnud" after the word "guarantee" in the 14th line.

Carried.

On the question that Clause 4 stand part of the Bill, Mr. FRERE moved the omission of the word "question" and the substitution therefor of the words "suit or action" in the first line of the Clause.

Carried.

The ADVOCATE GENERAL said he wished to inquire whether the power of interpretation, under this Clause, of a Treaty under which lands were held was intended to rest with the Government alone. It appeared to him that where a treaty was not between mutually independent States able to enforce respect for each other, but between the powerful British

Government on the one hand and a petty landholder on the other, there was a great risk of the latter suffering injustice from the decision being wholly in the hands of the Government. It was desirable, he thought, that there should be some intermediate tribunal vested with power to settle disputes as to interpretation, without the prejudice which would naturally hamper Government itself in the disposal of such cases.

The PRESIDENT said that the question was one of those difficult ones which constantly arose in the administration of India by a paramount power, unwilling to exercise its force to the prejudice of those dependent upon it. The right of decision must rest somewhere, and the only practicable way of dealing with such questions, was by the exercise of a prerogative right. It was obvious that they could not be dealt with by any ordinary judicial tribunal, like the cases between private individuals, where both parties acknowledged the authority of the Judge. The present course was, so far as he could see, the only one possible, unless the Crown should constitute itself a Court of Appeal from decisions of the several Indian Governments upon questions arising out of treaties.

Mr. FRERE then moved the insertion of the words "in regard to the tenure of such lands" between the words "service" and "shall" in the last line but one of the Clause.

Carried.

On the question that Section IV. Clause 1 stand part of the Bill, Mr. FRERE moved the insertion of the word "Revenue" before the word "Survey," in the 11th line of the Clause.

Carried.

On the question that Section V. stand part of the Bill, Mr. FRERE moved the insertion of the word "Revenue" between the words "of" and "Survey" in the 13th line, and of the word "annual" between the words "ordinary" and "assessment" in the 21st line.

Carried.

On the question that Section VI. stand part of the Bill, Mr. PREMABHAI HEMABHAI said that it had been suggested to him that a provision might be introduced into Section VI. by which a landholder accepting the alternative offered by Government under that Section of paying one-eighth of the assessment might, if he preferred, pay all at once an amount for a specific number of years, calculated at one-eighth of the assessment, but deducting the interest of the portion paid in advance. The object of this provision was to free the landholder from the Government demand for the payment of his portion every year. It was urged in support of this, that Government would get in a lump sum, an amount the several portions of which would otherwise have to be demanded year by year. The suggestion, he thought, was not unworthy of the consideration of the Honorable Council. The principal point to be looked to was the question of interest. If Government allowed a landholder to pay in advance for a certain number of years less the interest for those years, it would be in appearance less than it was entitled to. But against this, it was urged that the sum actually placed in the hands of Government, after deduction on account of interest, would be accumulating at interest for those years. It was simply a question of account, which he laid before the Council with the arguments *pro* and *con*.

Mr. ROBERTSON said that this proposal lay entirely apart from the principle and objects of the Bill, which were simply to cure the defects of title by a compromise. The question was one which ought to be settled in each case after an ascertainment of the current rate of interest, and a calculation based on that rate. It was as the Honorable member had observed, a mere matter of account, and for that reason, ought to be left entirely to the executive Government and not imported into a legislative enactment.

Mr. PREMABHAI HEMABHAI declined to press the amendment.

On the question that Section IX. Clause 1 stand part of the Bill, Mr. FRERE moved the omission of the words "of Government" in the 10th line, and "in that behalf" in the 11th line, and the substitution for the latter of the words "by him."

Carried.

On the question that Section IX. Clause 8 stand part of the Bill, Mr. PREMABHAI HEMABHAI said that with regard to this Clause limiting the period within which a landholder was required to make his reply to a notice served upon him to two calendar months, the observations of the Surat Petitioners deserved the consideration of the Honorable Council. Two months was, he thought, too short a period for a landholder to state whether he accepted the settlement or demanded an inquiry into his title. It should be extended, in his opinion, to six months, and in case of unavoidable circumstances, for which satisfactory reasons should be shown, to nine months. The reasons of this were obvious.

It not unfrequently happened that a landholder held his land conjointly with two or more persons, in which case the person upon whom the notice was served, must consult his partners before he was able to give a definite reply. These might perhaps be living at a distance which would make it difficult for them all, in the short space of two months, to come to unanimity as to what reply should be made. Delay might also occur in finding out Sunnuds or other documents which might have been laid aside. He might further add, that Section XLII. Clause 6, of Regulation XVII. of 1827 provided for a period of one year within which a landholder was required to make his reply.

Mr. ROBERTSON said he could not consent to the appeal proposed, for in a matter of this sort, the Collector's decision might well be accepted as final; the dispute would not be as to the Collector's own acts, but against those of his subordinates. It was easy to conceive that by a combination on the part of the alienees if appeals were allowed, as suggested, to the Revenue Commissioner, that officer might be overwhelmed with an amount of business of which he could not possibly dispose. He would also beg to point out the inconsistency of the Petitioners who, whilst they asked to be allowed two years to make up their minds, yet requested in another paragraph that with a view to relieve them from suspense and anxiety of mind as early as possible, the Collector should be bound to proceed with and conclude the adjudication of their claims, within one year. It was with the very object of relieving all parties from anxiety and suspense that the Clause had been introduced, and it would be seen that its real effect was to meet the expressed wishes of the Petitioners, which would be practically defeated if Mr. Premabhai Hemabhai's proposed amendment took effect.

Mr. JUGONNATH SUNKERSETT said that he thought six months would be a reasonable period.

The question was then put that the word "six" be substituted for the word "two" in line 1 of the Clause.

Carried.

Mr. FRERE moved the substitution of the words "an answer in writing" for the words "a reply" in lines 66 and 67, and of the word "answer" for the word "reply" in line 68.

Carried.

On the question that Clause 9 stand part of the Bill, Mr. PREMABHAI HEMABHAI said that this Clause constituted the Collector or any other officer appointed for the purpose by the Governor in Council the sole and final Judge as to the sufficiency of the service of any notice or of reply thereto. It appeared to him that the objections set forth by the Surat Petitioners with regard to this were not unreasonable. It would not, he thought, be fair to make a Collector the sole and final Judge as to the regularity or sufficiency of his own acts, he would beg to propose that a power of reviewing his decisions might be vested in the Revenue Commissioner, whose judgment should be final.

Mr. FRERE said that the appeal ought, in his opinion, to lie to the Collector or to the officer nominated by Government under Section XII.

Mr. JUGONNATH SUNKERSETT said that what Mr. Premabhai Hemabhai wanted, was not an appeal to the Collector against his own acts, or the acts of those serving under him, but an appeal to some higher authority.

Mr. ROBERTSON said that the further appeal thus claimed, might have the effect of postponing indefinitely the settlement which it was the object of the Bill to bring about. The Revenue Commissioner had already plenty of work on his hands. To make him an appellate Court for the thousands of notices which would have to be served under the Act, would be to invite every one who had anything to gain by delay to dispute the service of the notice upon him. The Revenue Commissioner would in fact be overwhelmed with appeals, and the action of the law practically defeated. The power should be left to the Collector as in analogous cases it was left to the Judges of the Civil Courts.

Mr. ANDERSON said that much more than a technical point was involved in this motion, as upon the determination of the sufficiency or due service of the notice might depend a man's title to his land. By the first Clause, the Collectors would serve notices, and by the ninth they would sit in judgment on their own acts in that service. He thought that it would be an improvement to omit the word "Collector" in the first Clause also.

The PRESIDENT suggested that the evil might be met by a proviso to prevent any officer sitting in judgment on a service made by himself in any case.

holding exempted lands to register their respective Sunnuds. The Notifications, it would be seen, had been issued before 1827, while the Bill allowed the admission as evidence of Sunnuds which had been produced within a year after 1827, and was, therefore, more liberal than the existing law. Nothing more than this could, he thought, fairly be claimed, nor could it be asked with any fairness on behalf of people who had neglected their own interests by not registering their Sunnuds, after ample notice that they would be required to do so, that they should now be allowed to bring forward anything professing to be a Sunnud as *prima facie* evidence of title. Such a provision would hold out the strongest temptation to forgery.

The amendment was then and put and negatived without a division.

Mr. FRERE then moved the omission of the words "be bound to" in lines 1 and 2 of the Section.

Mr. JUGGONNATH SUNKERSETT said that the omission of these words would make the Section still harsher to the landholders than it already was.

Mr. FRERE said that the objection to the words was, that their retention would make it necessary for the trying officer to give his reasons in full in every case for the rejection of any paper professing to be a Sunnud, by which proceedings would be considerably lengthened.

The amendment was then put and the Council divided :—

Ayes—4.

Honorable Mr. FRERE,
Honorable Mr. LEWIS,
Honorable Mr. ROBERTSON,
Honorable Mr. SCOTT.

Noes—6.

Honorable Mr. INVERARITY,
Honorable Mr. ANDERSON,
Honorable Mr. TRISTRAM,
Honorable Mr. JUGONNATH SUNKERSETT,
Honorable Mr. MADHOWROW VITTUL,
Honorable Mr. PREMABHAI HEMABHAI.

The amendment therefore was lost.

On the question that Section XIX. Clause 2 stand part of the Bill, Mr. PREMABHAI HEMABHAI said he thought it desirable to make the right of appeal general and not to confine it to those whose annual income was Rs. 50 or upwards.

Mr. ROBERTSON said that the object of the Clause was not to deprive the smaller landholders of any right they might justly claim, but merely to prevent protracted litigation, which in such cases must always or nearly always cost a great deal more than the sum at stake.

Mr. ANDERSON said that the principle was obviously the same as that which had been adopted in the Small Cause Courts Act and in other recent limitations of the right of appeal, which was in cases of small amount rather a misfortune than an advantage.

The question was then put that the words "the annual value of the exemption decided against be Rs. 50 or upwards," in lines 15 and 16 of the Clause be omitted.

The Council divided :—

Ayes—3.

Honorable Mr. JUGONNATH SUNKERSETT,
Honorable Mr. MADHOWROW VITTUL,
Honorable Mr. PREMABHAI HEMABHAI.

Noes—7.

Honorable Mr. FRERE,
Honorable Mr. INVERARITY,
Honorable Mr. LEWIS,
Honorable Mr. ANDERSON,
Honorable Mr. TRISTRAM,
Honorable Mr. ROBERTSON,
Honorable Mr. SCOTT.

The amendment therefore was lost.

On the question that Clause 3 stand part of the Bill, Mr. FRERE moved the omission of the words "the Clause aforesaid" in the last line of the Clause, and substitution therefor of the words "Section X. Clause 4."

This was carried, as was a similar substitution in the last line of Clause 4.

On the question that Section XX. Clause 1 stand part of the Bill, Mr. ROBERTSON moved the omission of the words "remained unfulfilled or was subsequently" in line 10 of the Clause, and the insertion of the words "did not take effect or was subsequently modified."

Carried.

On the question that Section XXXI. stand part of the Bill, Mr. FRERE said that the expression "any duly authorized officer of Government" appeared to him to be too loose, he would move the substitution for it of the words "the Collector, or officer duly authorized by him."

This was put and carried.

On the question that Section XXXII. stand part of the Bill, Mr. PREMABHAI HEMABHAI said that he would propose the restriction of the word "land" by adding the following words at the end of the Clause; namely "provided that this interpretation shall not apply to freehold land situated in cities or towns, and used for dwelling houses, buildings, compounds, &c., and in respect of which no assessment is paid to Government."

Mr. ROBERTSON said he opposed this change, because within the limits of such towns as Surat and Ahmedabad there were large areas of cultivated ground which were equally liable to assessment with other lands. Any claims to exemption from the payment of revenue in respect of them, should, therefore, be subject to inquiry as in the case of other lands.

After some further discussion Mr. PREMABHAI HEMABHAI withdrew the amendment.

Mr. ROBERTSON then moved that the Bill as amended be reprinted and circulated. He would not at present move the second reading of the Bill, but would ask to have its consideration postponed to the next meeting of the Council.

This was put and carried.

Mr. ROBERTSON then proposed the first reading of the Bill for the re-incorporation and re-constitution of the Bank of Bombay. The Honorable Gentleman in introducing the Bill said :—

"The object of the Bill as stated in the Preamble is to re-constitute and re-incorporate the Bank of Bombay. This Bank, as most of the Council are perhaps aware, was formed in 1839; and the shareholders obtained a Charter by Act III. of 1840.

"Among other powers conferred by that Charter, the Bank were empowered to issue Promissory Notes, commonly known as Bank Notes. Power however was reserved to the Government under the Act to dissolve or modify the Charter on twelve months notice being given. Among the several financial measures of the late Mr. Wilson was one for the issue by the Government of a Paper Currency. This measure, after being considerably modified by the Secretary of State, and Mr. Wilson's successor, Mr. Laing, was passed into law by Act XIX. of 1861, by which the issue of Promissory Notes by any Banking Corporation was prohibited excepting the Banks of Bengal, Madras, and Bombay up to the 1st March 1862, on which date the Banks had received notices in accordance with the provisions of their Charter, that their powers to issue Promissory Notes would be modified.

"Subsequently, by Act XXIV. of 1861, powers were conferred on the Banks to enter into agreement with Government to take upon themselves the office of Agents for the payment and exchange of the Government Currency Notes, and for transacting any part of the business of, or generally transacted at, the General Treasury of the Presidency.

"The principal changes now proposed are as follows :—

"By sections V. and VI. the Directors of the Bank are to have power to increase to Two Crores and Ten Lacs of Rupees the capital, which by the existing Charter is limited to Fifty Lacs.

"By Section IX. Trustees are not to be recognized, and by Section X. transfers of shares are to be either by separate Deed, or Deed endorsed on the Share Certificate, and to be registered.

"Section XIV. provides that there shall be ten Directors instead of nine as at present. Of the ten Directors four are to be appointed and removable by Government, and the remaining six by the majority of a General Meeting.

"By Section XXXI. alterations are provided for with respect to the business of the Bank, viz. in addition to the existing power (excepting that of issuing notes), the Bank is empowered to grant loans and advances on goods, wares, and merchandize, or other property, acting as Agents in commission, &c. The Bank may issue Post Bills and Letters of Credit payable in India, but the Bank is not to deal in Foreign Bills, unless specially authorized by Government to draw or buy Bills, &c. payable out of India for the use of their own constituents. With respect to the latter provision, I beg to explain that it was originally intended to

give the Bank power to deal in Foreign Exchanges, but the Secretary of State in a Despatch recently received has objected to the grant of this privilege. On Sir Charles Wood's instructions being communicated to the Directors, they submitted a representation, explaining the nature of the powers in this respect which they desired to obtain, and pointing out that they did not come within the scope of the observations made in the Despatch of Sir Charles Wood. This explanation has been forwarded to the Home Government, and it is with the view of enabling the Government to grant the Bank the powers they seek, should the Secretary of State see fit to concede them, that the concluding words of this Clause have been inserted.

"Section XXXII. has reference to the taking over by the Bank of the business of Her Majesty's General Treasury at the Presidency on the terms agreed upon between the Directors and the Government, and to the Bank's conducting the issue and payment of Government Currency Notes as provided for by Act XXIV. of 1861; which by Section XL. Branch Offices may be established at Mofussil Stations, with the sanction of Government, to conduct similar business upon conditions to be agreed on.

"Power is also given to the Bank by Section XLI. to take over the business of any other Bank.

"The above are the principal alterations made by the new Charter. Before closing these remarks, I however consider it necessary to state in explanation of the delay which has occurred in bringing forward this Bill, that it was originally forwarded to the Government of India for the purpose of being placed before the Legislative Council of India, but was returned by them, so that it might be introduced into this Council. It would have been brought forward last Sessions, but instructions were received to await the expression of the views of the Secretary of State on the measure.

"I now beg to move that the Bill be read a first time."

Mr. TRISTRAM said that in the Bill as it was now presented, he noticed several variances, and some of them important ones, from the original draft. By Section V. for instance, as it now stood, it would be open to the Directors to increase their capital, without any notice to the shareholders, at an Ordinary General Meeting. He thought that the provision which required the sanction of a Special Meeting to any increase of capital ought to be preserved.

In Section IX. it was first provided that no notice of any trust should be received or registered by the Bank; but a few lines further on it was provided that such notice should be received with respect to any person in whose name a share should be registered. This he considered made the former part of the Section to a great extent nugatory. Referring to Section XXVIII., he found that the Secretary, Treasurers, &c. of the Bank were prohibited from engaging in any other business, but the case of officers of the proposed Branch Banks appeared to be overlooked; something explicit ought to be laid down, with regard to the employés at the branches as well as at the Presidency establishment.

In Clause 8 of Section XXXI. the words "when specially authorised so to do by the Governor in Council of Bombay" would make it incumbent on the Bank, whenever it wished to accommodate a customer with a Bill of Exchange or Letter of Credit, to obtain the special sanction of the Governor in Council to the transaction; such a cumbrous and round-about process must, he thought, be fatal to business, and the words he had quoted should be omitted. He hoped to see these defects remedied before the Bill became law.

The question was then put that the Bill be read a first time.

Carried.

Mr. ROBERTSON then moved the reference of the Bill to a Select Committee consisting of—

The Honorable Mr. TRISTRAM,
The Honorable the ADVOCATE GENERAL,
And the MOVER.

Carried.

Mr. SCOTT then moved for the first reading of a Bill for the "Better suppression of Fraud in the Cotton Trade in the Presidency of Bombay. Mr. SCOTT said:—

"Sir,—When I asked leave four months ago to bring forward the Bill, which I am now about to introduce, I endeavoured to impress upon the Council the magnitude of the

evils which I desired to check. I thought then that I knew something of the matter, but the experience I have since gained, and the information I have since obtained, have proved to me that even I did not fully appreciate the extent and dangerous nature of these evils. They are tenfold worse than I believed they were.

"It will be in the recollection of the Council that at the close of the last Session, His Excellency the Commander in Chief proposed that a Commission should be appointed to inquire into the matter. I have to thank His Excellency for this most valuable suggestion. The Commission have gone very fully into the whole question. Their reports are now before the Council and the Public, and I can appeal to them as more than bearing out all that I have ever stated here.

"The labours of the Commission have already, I am glad to say, borne good fruit; they have checked a system of villainy which had for two years reigned rampant in Broach; by the force of one wholesome example they have elicited from the Broach and Compta dealers, not only a confession of their guilt in this matter, but an expression of their opinion, honest I believe for once, as to the best means for checking adulteration; not only an expression of their opinion, but an actual petition that these means should be adopted. I may mention that so great was the effect of the one example to which I have alluded, that the last bales of the season's crop, generally by far the worst, came forward purer and better than almost any which had preceded them.

"I have already endeavoured to convince the Council that in this matter I am advocating no *class* interest, and perhaps this much may be conceded to me; if not, I am quite ready to argue the question. It is a great *national* interest which is at stake, and it is this which I am endeavouring to protect.

"Granted then, as I trust it is, that I am advocating no *class* interest, I can appeal to these Reports of the Commission as convincing proof that I am expressing no *class* opinion. I have not only the support of, as I believe, the mercantile community of Bombay, and of the up-country dealers, but I have that of most experienced officers of Government; of Mr. Inverarity, the present Commissioner of Customs, who is intimately acquainted with the Northern Cotton Districts; of Dr. Forbes, who probably brings to the consideration of this question a greater amount of information than any other man in India possesses; and of Mr. Forjett, whose experience both here and up-country, renders his advice on such a subject peculiarly valuable.

"But I claim from Officers of Government even greater support than this; in the very interesting series of papers lately published in No. 67 of the New Series of Selections from the Records of the Government of Bombay, I find Dr. Forbes, almost at the very moment when I was last addressing the Council on this subject, reporting to the Collector of Dharwar as follows:—

"The above-mentioned adulteration and admixture of inferior native cotton with the American variety during the process of cleaning is carried on openly and undisguisedly at all the cleaning establishments of the soucars and dealers throughout these districts. Though aware of the practise I had no idea of the extent to which it was pushed, until I paid these places a visit last season when they were at work.

"A description of one of them (a large native cleaning establishment at Guddug) will serve as a general sample of the whole. On entering the court-yard, which was enclosed by a high wall on one side, was seen a large heap of very inferior and trashy looking native kuppas, and near to it a pile of about the same bulk of very fair American seed cotton. The space in front of the gin-room was covered with a mixture of these two heaps, spread out to the sun to dry, and upon this mixture the gins were at work.

"The injury which this nefarious practice inflicts upon the character of this produce in the home market, and consequently upon the interests of this part of the country, does not require comment."

And again—

"The prevention or suppression of this fraud becomes therefore one of the most essential measures for the welfare of the cotton interests of these parts. Clause 2 of a Bill read before the Legislative Council of India on the 16th January 1858, for the better suppression of frauds in the cotton trade of the Bombay Presidency, makes the fraudulent mixing of good and bad cotton in the same bale a penal offence.

This appears to me to apply exactly to the case under notice, which can bear no other interpretation than a wilful admixture of an inferior with a superior article with fraudulent intent.

"The parties by whom this fraud is perpetrated are quite aware of the illegality of their proceedings, and have nothing to say in defence, except that they do not think it can be of much importance, as no notice is taken of it.

"The cultivator is in no way concerned, and any measures taken for its suppression would be a matter of indifference to him. If therefore the local Government is pleased to view the evil in the light in which I have represented it, and to bring forward a legislative enactment declaring such admixture of these two varieties of cotton to be illegal in terms of Clause 2 of the said Bill of the Legislative Council, I believe that a proclamation to that effect, distributed amongst the dealers, would of itself suffice in a great measure to put a stop to the practise."

"At all events it would rarely, if ever, be necessary to resort to any of the severe penalties of fine, imprisonment, &c., provided for by the above-mentioned Bill."

I find Mr. Gordon, the Collector of Dharwar, reporting as follows to the Revenue Commissioner Southern Division :—

"I take this opportunity of stating my conviction of the necessity for speedily applying some remedy for the evils which the wholesale adulteration of the Dharwar grown exotic cotton will certainly produce.

"I am sure that a moderately stringent law could be worked successfully and without oppression, and if its operation were restricted to three years, I think all the objects for which we contend would have been secured.

"Every rise in price causes an increase of adulteration ; accordingly I have been told that the cotton sold during the past season was much of it execrable.

"In my opinion nothing but the direct interference of Government can prevent this. European agency cannot prevent it, for the agents must execute the orders they receive, and must buy the best cotton they can procure in the market. The mere personal influence of the Collector and his Assistants cannot affect the present enormous trade, though it was, no doubt, sufficient in its earlier stages. A rise of prices tends rather to increase adulteration."

And I find Mr. Hart reporting as follows:—

"The extent to which the adulteration of the cotton, on which the credit of the Dharwar cotton market depends, with inferior staple, is described in paragraphs 45 and 46 of Dr. Forbes' letter, and in his 47th paragraph he briefly adverts to the consideration which forms, I think, the only reasonable ground for the interference of the legislature to prohibit the intermixture of good and inferior cotton while being prepared for the market. Were the interests of individuals only concerned, I should be inclined to leave them to take care of them ; but there is no doubt that the future well-being of a whole country suffers by the practise described by Dr. Forbes, which is one that the efforts of individuals are not likely to correct.

"I am therefore obliged to agree with Messrs. Gordon and Forbes that the action of the law is necessary to prevent the adulteration of cotton, on the purity of which so many interests depend.

"In the preamble of Regulation III. of 1829, the evil which it was intended to counteract is described to be the 'numerous and various kinds of frauds committed in the *packing* and *preparation* of cotton for sale, to the great detriment and injury of the trade in that staple commodity ;' but by a manifest and absurd oversight, the law passed to remedy this evil is so worded that no offence is declared to have been committed till the adulterated cotton is *sold* or *offered* for sale, though there can be no doubt that cotton is not packed in the manner described except for sale thereafter, and that the evil described in the preamble of the law has been completed in its packing."

When I first broached this subject, I had no idea that the Records of Government would afford one such support as this.

"Since the time, to which Dr. Forbes refers, no improvement whatever has taken place, for, in a letter which I received the other day from him, the following passage occurs :—

"At present I may with safety say that the admixture of the two kinds of cuppas before ginning is openly and systematically carried on, and I am under the mark when I say, in equal proportions; the preponderance being on the side of the native variety, and generally it is the *very worst* description of it that it is selected for this purpose. It is true that occasionally the dealer will tell you that it is the ryot's fault, but most of them will own that they regularly do it themselves, and those who will say the reverse do so only to make you believe that they are better than their neighbours.

"I had an instance of this the other day in Hooblee: one of the lot I had up to talk to blamed the ryots; I discovered that his cleaning was then going on, so I walked down to his establishment along with the Police Superintendent and the Mamlutdar. I have now in my possession a sample of the seed taken from under his gins, which I can send to you if you like. On examining the stock in the cleaning room, we found on one side sacks of really very fine American cuppas, with scarcely a trace of native admixture. On the other side was a large quantity of villainous native stuff, and the space between these was occupied with the mixture as prepared for the gin; the proof was complete, and the owner had not a word to say for the lie he had told."

"I will take the liberty of reading to the Council also part of a letter, which I have just received from Mr. Everitt, a merchant in Dharwar, who for the past few years has manfully struggled to establish direct relations between the European buyer and the Native grower of cotton. Mr. Everitt writes :—

"I have read with much interest the draft of a Bill for the suppression of fraudulent practices in the Cotton trade, which you propose bringing before the Legislative Council, and the several Sections of it so fully meet all the requirements of the case, that I find little room left for any suggestions.

"I have watched adulteration of Cotton in my own districts most carefully. My attention having been first drawn to it by finding the two kinds growing together in one field, from whence to trace it mixed into one gin was not very difficult. This year the evil has gained such magnitude, and to such an extent of shamelessness has it been carried, that it was the rule and not the exception to find the two qualities being ginned together; the natives making no secret of it, knowing full well that a market existed, where they could get the full price of sawginned Dharwar for it, and in our own personal case we have been coolly told that we may please ourselves in taking either this Cotton, or none. Being under heavy advances, we have, consequently, been obliged to shut our eyes to practices we could not justify, rather than take the case into a Mofussil Court, the organization of which you know fully as well as I do. We have now been obliged, as in your case in Khandeish, to abandon in a great measure our up-country business. Arrangements for this are now in progress, and simply because we find it impossible to make head against the growing evil of adulteration of Cotton * * * * * Until some remedial measure be adopted by Government, the natives must have a monopoly, and the favourite theory of European settlement, circulation of European capital up-country, &c. remain as much the laughing stock of every well-informed man as it is to this day.

"And here I would make one remark, with reference to an argument, (or assertion I should rather say, for there has been no argument in the matter,) which has frequently in the public prints and elsewhere been brought against my reasoning with reference to this Bill. When last addressing the Council I instanced the case of my own firm, and the causes of its failure in attempting to establish direct relations between the European merchant and the native grower. It has been asserted that I spoke of ten years ago; that what I stated might perhaps, have been true then, but that the country had changed, the laws had changed, the condition of the people had changed, in short, that it was not true now. Now, Sir, I instance the case of the only other English merchant who, on a large scale, has made the same attempt. What is his experience—just what ours was. He abandons the attempt, and why? simply because of the inadequacy of the law for his protection. I submit, Sir, that facts such as these are worth any amount of theory.

“Dr. Forbes and Mr. Everitt speak of the Southern Mahratta Country and of the system of adulteration as there practised, but much of what they say is true of the whole Presidency. From Broach I have received letters anxiously inquiring whether this Bill or any Bill is likely to be passed, and stating that the dealers there are preparing to resume their old system of adulteration. From Dhollera, I learn that the sand ballast of return Cotton-boats is being purchased for admixture with the cotton being pressed there, and as regards Bombay itself, a new trade has been called into existence to supply new means of adulteration. Bombay used to supply China with Cotton, but China and Bengal have both been called upon to supply Cotton with which to adulterate the greatly superior Cottons of this Presidency.

“I need hardly say more to show the necessity of some action in the matter. The Bill, which I now bring forward, is to all intents and purposes, identical with that recommended by Dr. Forbes in the extracts which I have quoted from his reports. Only one or two provisions, such as that authorising Government to resume the inspection of Cotton, have been inserted.

“Before concluding, I may perhaps be allowed to quote the remarks of one or two well known merchants, intimately connected with, and acquainted with, Bombay Trade; one I find saying—

“*The late supplies of cotton from India are so poor in staple, short and irregular, in fibre, and dirty in condition, that amendment is imperatively called for to prevent the abandonment of the use of Indian cotton when American supplies are again offered.* With the evidence that India can produce excellent cotton, it will be a national disgrace if, after pleading for large supplies from her, and when she seems to be yielding to our entreaties, we should be compelled, by inferior, dirty, and faulty cotton, to be obliged again to desert her produce. It is as much the interest of India to give, as it is the interest of Great Britain to receive, good cotton. Europe, besides this country, has to be supplied with cotton; and now the opportunity is offered for the productions of British foreign possessions which has never previously been, and may never more be presented. Inferior Indian cotton is opposed to the true interests of the work people and of their employers; the former can only earn upon it low and unsatisfactory wages, and the latter has the mortification of obtaining a diminished production of yarn and cloth which must be disposed of under great disadvantages in the market, from their flagrant imperfections.”

“Another writes:—

“It pains me greatly to hear of such wholesale adulteration as you describe, as I feel the natives are throwing away India's great chance. Spinners are completely disgusted with Indian cotton, and will look for supplies to anywhere, but India, which in their great need sends them only trash. Strong measures to prevent and punish adulteration would, at this juncture, be particularly valuable, and I hope the efforts to check frauds have not been confined to Guzerat only, but that some action also has been taken in the Southern Mahratta Country.”

“And another—

“India is throwing away her chance, and once gone it will in all probability never return. I don't know that Manchester deserved much from India, but in her own interest, India might have tried to secure for the future a sure market for her produce, by showing now that she can supply in great measure the American deficiency of cotton. We know that she can send us good useful cotton, but she has taken advantage of our greatest necessities to force perfect rubbish on us; the late Broach shipments are perfect trash, it is the old native short sighted policy—never mind the future, so long as a little more profit can be made to-day. The result, in this case, will inevitably be that Indian cotton will sink back to its old position whenever supplies can be got elsewhere,—more than this, England will strain every effort to get those supplies elsewhere.

Your dreams of a tremendous future for your cotton trade are all very well, but you are not going the right way to work now.”

“These, Sir, are the opinions of men who know India, who have freely spent, and are still spending time and money in the attempt to do what in them lies, to remove, in so far as such may be possible, without the aid of Government, the great evils of which they complain.

"I need not take up the time of the Council, by going through the provisions of the Bill seriatim, the Bill has been sent up by the Commission in the form which seemed to them best adapted to the requirements of the case, and I have not felt myself competent to make any of the changes which, your Excellency and others for whose opinion I have a great respect, have suggested as desirable. The late Government Resolution on the subject states that amendment is necessary in some points, and with regard to this, all that I can say is, that I am willing, in Committee, to adopt any improvements which may be suggested, and to admit any changes which do not impair the efficiency of the measure. The provisions must, I believe, be stringent and framed to embrace all the various ingenious systems of adulteration which may be invented, but I am convinced that it will rarely be necessary to put them in force. The mere existence of such a law will, I believe, after one or two examples have been made, suffice to put a stop to adulteration; this, I have been glad to find, is also the conviction of those Government officers whose reports I have quoted.

"With these remarks, I beg to move the first reading of this Bill."

Mr. ROBERTSON said :—

"I regret to have to dissent from the principles of this Bill, I am fully alive to the importance to this Country of its Cotton trade, which it can alone permanently maintain by an improvement in the quality of the staple, and by greater cleanliness and care in the picking and packing of the Cotton, and although I concur with my Honorable friend in the necessity for the adoption of some measures which shall ensure this result, yet I consider this Bill objectionable—

1stly.—Because it must fail in attaining the objects it has in view without special machinery to check and supervise its working.

2ndly.—Because for the proceedings it desires to render punishable, which have for their object deceit and fraud, these are already punishable by the laws at present on the statute book.

3rdly.—Because no such extraordinary measures as are here proposed are found necessary to protect dealers in other articles of produce or goods; and

4thly.—Because I believe the remedy for the evils of which the Honorable mover and his brethren complain lies in their own hands.

"All such evils I maintain work, or ought to work, their own cure, for there is no principle in the economy of trade more certain in its operation than that prices adjust themselves to the supply of the demand both as regards quality and quantity.

"But if the evils complained of do not work their own remedy, there is then evidently some (Cotton) screw loose in the manner in which the trade is carried on, and the merchants clearly neglect to do what they themselves ought to do for their own protection against fraud, if they are defrauded.

"Will the Wine merchant or the Opium merchant for instance purchase Wine or Opium without having it tasted by competent judges; and would the Honorable mover purchase ungarbled coffee or seeds for garbled, or would he purchase piece goods or any other manufactured article except on sample; and if the goods be not when delivered according to sample, would he not return them or hold a survey upon them, and have them sold for whatever they will fetch on account of the parties concerned? and why cannot the Cotton merchant follow this course in respect to Cotton? I shall, I believe, be told that this is done, but that nevertheless the merchant is obliged to take whatever stuff he can get, and I believe that when our merchants here purchase and ship home dirty Cotton, they are quite aware of the extent to which the article is adulterated and dirty, and do not consider or allow themselves to be defrauded in the matter, but that owing to the excessive fluctuations in prices, they are afraid to throw the article if not delivered according to sample back on the sellers hands, because if sold on his account, he would probably receive a higher price than they have contracted with him for.

"Thus it will be seen that it is the interest of the merchants to take this stuff, and that they are not defrauded. I therefore do not see how the act as it now stands will effect the object in view, for the misdeeds of the up-country dealers are committed as openly as the transactions of the merchants themselves on the Bombay Green, and I venture to ask whether the parties whom it is the desire vainly to reach by this Bill, are more culpable than the Bombay merchants, or whether these latter are not as guilty as the dealers of Broach

and Coompta in perpetuating the evils against which they complain? And ought not the remedy, which is to be applied, whatever it may be, in order to be effectual, made as applicable to the former as to the latter? I however would ask, whether we should not be unwise to reverse all the recognized principles of Political Economy and put into law such a peculiar and special enactment as this is?

"There are, I will admit, some of its provisions judicious and useful, as for instance the compelling all places for the packing of Cotton, as well as all presses and screws, to be licensed, and whilst I would be prepared to go so far as to make the wilful adulteration of Cotton, as also the offering for sale an adulterated article as unadulterated, unlawful and punishable, for this would apply to the great as well as the small traders; I nevertheless think that the true remedy for all that is complained of is to be found in the enactment of a set of laws (bye-laws if I may so call them) for the Cotton trade, which shall strengthen the dealer's hands in effecting his purchases according to sample, and enable him speedily and in a simple manner to obtain a decision by competent judges on the question of quality in cases of dispute, and which decision shall be binding on both parties, and may be enforced by the levy of the difference in price between that agreed to be given for the sample and the estimated value of the Cotton actually delivered. Here we would have the evil met by its corresponding and appropriate remedy, and as cheating would then be no longer a profitable business, it would be abandoned. With respect to such offences as mixing foreign substances with Cotton, or putting in stones and dirt to add to its weight, or wetting it, and exposing it to the night dews for the same purpose; these offences are all sufficiently met by the laws already on the statute book, viz: Regulation III. of 1829, Act XV. of 1851, and the chapter on cheating in the Penal Code.

"It has, however, been complained that the first two of these laws are almost inoperative, for it is next to impossible to obtain evidence against the person who actually commits the adulteration, it is therefore desired to make the offence one less difficult of proof, but I think it would be as reasonable to indict the merchants of Bombay for purchasing, and shipping home, Cotton which they know to be dirty and adulterated, as punish the dealers under the proposed law, if the want of proof of a fraudulent motive is to be dispensed with, which I take to be the real object aimed at by this Bill.

"If the act of adulteration is not to be treated simply as unlawful, but as a fraud, the offence can, I think, be charged only against those who commit it, and if this be the case, the laws go in this respect as far as we can desire."

Mr. Scott said:—

"I would not detain the Council at this late period of the evening by making any further remarks, were it not that silence on my part might be construed into acquiescence in the justice of Mr. Robertson's arguments: this I desire to avoid.

"I was not wrong in imagining that the old argument of *class* interest might be brought against me.

"Mr. Robertson states that I am advocating the interests of Bombay merchants; that the law as it at present exists is sufficient for their protection; and that even if it were not, they have the remedy in their own hands for the evils of which they complain. I distinctly deny the justice of every one of those statements.

"This is not a question affecting only Bombay merchants—it affects all India, and all England in their most vital interests; it is the fact, Sir, that with our countrymen starving for the want of it, there are thousands of bales of Cotton lying in Liverpool, and lying in this Country, which have been so terribly adulterated as to be practically useless; the fact of these bales lying untouched is a convincing proof that Bombay merchants will not buy any rubbish. I hardly deserved this imputation of *class* interest at Mr. Robertson's hands.

"As regards the existing law, it has been found to be insufficient, and its insufficiency is confessed by Government officers. See the Reports which I have read.

"Now as regards the remedy being in our own hands Mr. Robertson says, you need not buy adulterated cotton, and you need not therefore be defrauded; you do buy adulterated cotton, and in so doing you encourage the frauds.

"Mr. Robertson speaks from theory in this matter; I claim to speak from long experience; it requires a long apprenticeship to the Cotton trade to discover in all cases that which is perhaps the worst of all the descriptions of adulteration, the admixture for instance of New

Orleans with native saw-ginned Cotton ; this is found out when the Cotton comes to be worked up, and careful examination discovers it here, but the time necessary for such very careful examination of every docra would put a stop to trade. Some descriptions of adulteration we can all readily recognize ; we all know stones, seed and sand when we see them, and in so far as Mr. Robertson accuses us of buying Cotton thus adulterated, I admit the charge ; to tell us not to do so, when not a bale of unadulterated Cotton is to be found, is to tell us to stop business altogether.

"But, Sir, granted for the sake of argument that merchants could protect themselves, what then ? the trade is not in the hands of Bombay merchants alone ; at present not half of it is, and for the past five years I find that the average shipments by European merchants have only been 289,971 bales against 332,496 bales by natives. Seeing the possibility of having to meet such an argument as that which Mr. Robertson has brought forward, I prepared before coming to Council a statement of these exports. Bombay merchants then cannot remedy the evils of which I complain, but Bombay merchants are doing what they can, and as I had the pleasure of mentioning to your Excellency a few hours ago, a powerful Company is now being formed for the purpose of establishing Presses throughout the Cotton Districts. In this many of our native merchants will be interested, and its first rule will be, that no adulterated Cotton shall be pressed. We would do more than this if we could, and when the law affords us adequate protection, many of us will again commence business up-country, and deal direct with the ryot. This, however, is opening up a large question on which I will not now enter.

"I beg to press for the first reading of the Bill."

MR. FRERE said, that at that late hour, he would not detain the Council with any lengthened discussion of the principles of the Bill. He had always been anxious to put an end to the adulteration of Cotton, which he felt had a most pernicious effect upon the staple trade of this Presidency. The evil must, he thought, be dealt with in some effectual way. The Bill proposed by the Honorable Mr. Scott, would not, he thought, stand, yet he could not agree with the Honorable Mr. Robertson that no measure of this kind was required. Great interests were at stake, and he hoped that if he were a member of the Select Committee to which the Bill would be referred, a method might be devised, not entirely in the interest of any dealer or class of dealers, but for preserving the great staple of India free from an adulteration, which if not checked, must eventually drive it from all the markets of the world.

MR. MADHOWROW VITUL said that the Penal Code already provided for the punishment of fraudulent adulteration of produce ; and there were besides two special enactments to prevent the deterioration of Cotton. With these remedies to resort to, he thought that traders were quite in a position to guard their own interests, and it was always impolitic to multiply legislation without the strongest possible reasons.

MR. PREMABHAI HEMABHAI said that it was true that there were laws in existence for the suppression of Cotton frauds, but they were in practice quite ineffective. Something more was required, and he would therefore support the proposed measure.

The PRESIDENT said that he would state what the general views of the Bombay Government were on this subject. It was their desire to promote the ends of the Bill as far as was possible without the introduction of other evils. The preservation of the staple of this Presidency from adulteration was an object of the highest importance, and one which no one interested in its welfare, could overlook. It was evident from all that had been said that there was a general concurrence of opinion as to the almost universal practice of adulteration and the necessity of suppressing it by fresh legislation. The Bill proceeded on that principle ; and as it was necessary at present to discuss no more than the principle, no obstacle he thought should be thrown in the way of the first reading. As to the details of the measure it was probable that considerable alterations would be necessary. All Acts containing penal clauses must henceforth be regarded with reference to the Penal Code ; a comprehensive enactment which was intended to embody all the received principles of criminal jurisprudence as applied to the circumstances of India. To enact any thing in opposition to that Code was beyond the competence of the Council ; and whatever was further proposed in the way of penal legislation should appear as a development of the principles of the Code or at most as a supplement to its provisions. If therefore, as he thought was probable, some portions of the proposed measure should be found to be inconsistent with the provisions of the Code, an alteration on these points would be absolutely necessary. The object of the Bill before the Council, was

to make him who wilfully deteriorated Cotton, or caused it to assume a false appearance, subject to severe penalties. It was a matter of some difficulty to determine how these objects were to be attained with the least possible interference with the free course of trade, but he had little doubt that by the aid of the experience and ability which would be brought to bear on the subject, the difficulty might be overcome. If this were so, an efficient law for the prevention of adulteration, would promote the interest alike of the honest dealer and of the ryot. Without some such measure, he feared that India's opportunity might not only pass away without improvement, but that its result would be to ruin the repute of Indian Cotton in the market of the world, and in the estimation of manufacturers. Such a Bill he thought must be framed as would do for Indian Cotton what had been done for American Cotton, that merchants might safely deal in the article without fear of taking in their European customers. Accepting this general principle, he thought that in sending the Bill to a Select Committee, the members of the Committee ought not to be tied down by conditions as the Honorable mover of the Bill had felt himself bound by the opinions of his fellow-Commissioners who aided him to draw up the Bill. The object of the Committee should be so to amend the Bill, where necessary, that it might be likely at once to meet the approval of authorities at a distance, and to answer the important purpose which all agreed in desiring to attain.

The first reading of the Bill was then put and carried.

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

The Honorable Mr. FRERE,
The Honorable Mr. TRISTRAM,
The Honorable Mr. ANDERSON,
The Honorable Mr. RUSTOMJEE JAMSETJEE,
The Honorable the ADVOCATE GENERAL,
And the MOVER.

Carried.

Mr. SCOTT then presented the Report of the Select Committee on a Bill to promote the construction of lines of communication as Feeders to Railways, &c., recommending the withdrawal of the Bill, and moved that it be adopted.

This was put and carried, and the Bill was withdrawn.

The PRESIDENT said that according to the present rules of the Council, as six weeks had now elapsed since they had assembled for Legislative purposes, the Session should end with the present meeting. Under instructions recently received from the Secretary of State, and which it would be necessary shortly to take into consideration, the holding of Sessions would be dispensed with, but as the rules stood at present, it was necessary that he should specially notify the continuance of their sittings, and adjourn the Council to Wednesday the 11th instant, at 2 P.M.

The Council was then adjourned accordingly.

By order of His Excellency the Governor in Council,

R. WEST,

Officiating Under-Secretary to Government.