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PART V.

PROCEEDINGS OF THE LEGISLATIVE DEPARTMENT, BOMBAY.

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

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

The Council met at Poona on Monday, the 8th September 1873, at noon.

PRESENT:

His Excellency the Honourable SIR PHILIP EDMOND WODEHOUSE, K.C.B., Governor of Bombay, *Presiding.*
His Excellency the Honourable SIR AUGUSTUS ALMERIC SPENCER, K.C.B.
The Honourable A. ROGERS.
The Honourable J. GIBBS.
The Honourable the ADVOCATE-GENERAL.
The Honourable MUNGULDASS NUTHOOBHOY, C.S.I.
The Honourable COLONEL M. K. KENNEDY.
The Honourable SIR JAMSETJEE JEJEEBHOY, Bart., C.S.I.
The Honourable E. W. RAVENSCROFT.
The Honourable NARAYAN VASUDEVJEE.
The Honourable J. K. BYTHELL.
The Honourable GUNPUTRAO TATYA SAHIB PUTWURDHUN.
The Honourable Colonel W. C. ANDERSON.

Affirmation of Office, &c., taken by Colonel Anderson.

The Honourable Colonel W. C. Anderson took the usual affirmation of Office and declaration of allegiance to Her Majesty.

The following papers were presented to the Council :—

1. Report of the Select Committee appointed to consider the " Bill for enabling Government to levy Tolls on Public Roads and Bridges in the Presidency of Bombay."

2. Report of the Select Committee appointed to consider the "Bill to provide for the periodical inspection and the management by competent Engineers of Steam Boilers, and Prime Movers attached thereto, in the City of Bombay and within certain districts in the Presidency of Bombay."

3. Report of the Select Committee appointed to consider the "Bill to amend Bombay Act No. II. of 1864, providing for the Periodical Survey of Steam Vessels, and to provide for the examination of Engineers of Steam Vessels."

Mr. Rogers asks for extension of time to present the report of the Select Committee on the Hereditary Village Offices Bill.

The Honourable Mr. ROGERS, referring to the Report of the Select Committee appointed to consider the "Bill to amend the law relating to Hereditary Village Officers," said—I have to ask for further time on behalf of the Committee who are engaged with this report. We have lately had a new draft of the Bill made out which, although not differing from the principle of the original Bill, differs considerably in the definitions and actual words employed—in fact, it differs so much in this respect that it has been proposed to recast the old Bill entirely, or even to withdraw it and substitute the draft. Before, however, we can decide upon this course, it will be necessary for the Committee to compare the draft and the old Bill carefully, and it is to permit this to be done that more time is now asked for the preparation of the report. I think the Council might agree to grant us an additional fortnight.

Mr. Rogers alludes to the possible withdrawal of the original Bill and the substitution of a new draft Bill.

His Excellency the PRESIDENT—Am I to understand that the Bill now before the Council is to be withdrawn?

The Honourable Mr. ROGERS—The extension of time is asked in order to give time to submit the new draft to the Select Committee, and obtain their opinion as to whether it would be advisable to withdraw the present Bill.

The Honourable the ADVOCATE-GENERAL—I understand it is the opinion of a great many of the revenue officers of the Presidency that the Bill should be made applicable to hereditary district as well as hereditary village officers; and it is this question probably which the Committee would chiefly have to consider if the new draft were submitted to them.

The Honourable Mr. ROGERS—That question has already been considered by the Select Committee, and so far as we have gone yet, we are not of opinion that it will be necessary to include district officers in the operation of the Bill.

His Excellent the PRESIDENT—I think that there are very grave objections to withdrawing the present Bill, and this ought not to be done, except in a case of extreme necessity. Since I have assumed the Governorship of this Presidency, I have been repeatedly told that there is the greatest need for speedy legislation upon this subject. Most of the Collectors have told me so. It appears to me that whatever shape the present Bill may assume there must be a very long discussion in this Council upon its details, no matter what the result of the deliberations of the Select Committee may be. Therefore I think it would be extremely undesirable to withdraw this Bill, as the Honourable Mr. Rogers hints that the Select Committee may do. Such a course ought to be avoided, for to follow it would be practically to put the Bill out of this session altogether, notwithstanding that it is of such extreme urgency as it has been represented to be on all sides.

The Honourable Mr. GIBBS—I have seen the draft Bill and the original one, and I think the draft is much the more intelligible of the two. It is put forward in the form which Bills of this nature take in the Legislative Council of the Government of India, and being divided into parts it will be of much easier reference. The definitions in the proposed draft are also, I think, much more clear than the definitions in the new one. In a Bill which is designed to affect so many persons throughout the country, the simpler the form of the Bill the better; and if it is permissible for a Select Committee to recast a Bill which has been placed before them, I would prefer the Council to consider the new draft.

The Honourable Mr. RAVENSCROFT—I think there is one material difference between the two Bills, which is that the new one proposes to regulate district hereditary officers.

The Honourable Mr. GIBBS—If the Select Committee consider that the Bill to be placed before the Council should not apply to district officers, all they have to do is to leave out of the new draft Bill the sections which apply to these officers.

His Excellency the PRESIDENT—Are the proposed alterations so extensive that they so completely overthrow the old Bill as to prevent us from looking at them simply as amendment.s

The Honourable the ADVOCATE-GENERAL pointed out that if the Bill was to be a new one it would require to be published in the *Government Gazette*.

His Excellency the PRESIDENT—In that case nothing could be done with this Bill until next year. I think we might have the Bill and the Report from the Committee within a week from this time, and in another week we shall take them up for consideration. If they have to be translated, this might be done after the discussions and amendments in Council, so that the Bill would go forth to the public in the state in which it would be proposed to read it a third time. We must not stand still with this measure, and I think that what I have suggested would save a great deal of time.

The Honourable Mr. MUNGULDASS said that if the third reading of the Bill were postponed until the meeting of the Council in Bombay, he would have no objections to the course proposed by His Excellency.

His Excellency the PRESIDENT had no objections to the course suggested by the Honourable Mr. Munguldass.

The Council then agreed that the Bill should be prepared in English on or before the 16th instant and that translations should not be published until after the discussion.

The Honourable Mr. ROGERS said that as the Honourable Mr. Ravenscroft had to go to Bombay on urgent business it would be inconvenient for him to attend the meetings of the Select Committee upon the Salt Bill. He therefore begged to propose that the Honourable Colonel Anderson should be added to the Committee instead of the Honourable Mr. Ravenscroft.

This was agreed to.

The Secretary then presented the Report of the Select Committee appointed to report on the petitions relating to Bill No. 7 of 1870 (a Bill for the Regulation of Burial Grounds and Burning Grounds and places for the exposure of the dead in the territories subject to the Government of Bombay, without the limits of the city of Bombay), and a petition from the Poona Survajanik Subha, dated 12th August 1873, on the subject of the Burial and Burning Grounds Bill.

Mr. Rogers moves the third reading of the Bill to regulate Burial Grounds, Burning Grounds, and places for the exposure of the dead.

The Honourable Mr. ROGERS, in moving the third reading of the Burial Ground and Buring Ground Bill, said :—Sir, I beg to propose the third reading of Bill No. 7 of 1870. The number attached to it shows how long it has already been under consideration, and I dare say it is within the recollection of several members of this Council that it was thoroughly discussed last year by the full Committee of the Council, and by the Select Committee which went through it clause by clause, with the effect of several modifications being made upon it—such modifications as in the opinion of the Committee of the Council did away with all the objections that had been urged against the measure. Shortly afterwards a number of petitions were received from various bodies of the native community against the Bill, and at the commencement of this session it was considered expedient to send these petitions back to the Select Committee, to be considered in detail. The Select Committee have done so, and the result is shown in the Report which has just been presented to the Council. As stated in the petition of the Poona Survajanik Subha, three (native) members of the Committee were in favour of the chief allegations against the Bill contained in the petitions, whereas the two European members, the Honourable Colonel Kennedy and myself, were in favour of continuing the principle of the Bill with certain modifications. The chief reason that appears to me to have been urged against the third reading of the Bill hitherto is that it is unnecessary, because the provisions of the Penal Code already give sufficient powers to District Magistrates to regulate burning and burial places and places for the exposure of the dead. This matter was considered when the Bill was first brought before the Council, when the subject arose

from a case which had just taken place before the Magistrate at Tanna. The case was referred to the Honourable Mr. White, who was then Advocate-General, and he pointed out a certain procedure to be taken by the Magistrate, but at the same time expressed a doubt whether that procedure would be upheld on an appeal to the High Court. His advice was that the Magis trate should issue an injunction according to the terms of the Penal Code. Had there been no doubt about the correctness of this mode of procedure, of course, there would have been no necessity for further legislation on the subject, but seeing that there was a doubt the Committee thought it advisable to proceed with the measure. In the statement of objects and reasons attached to the Bill, which are under the Honourable Mr. Mansfield's signature, you will find a further assurance of the necessity for the Bill. Another objection urged against the Bill is that it would interfere to some extent with the religious customs and prejudices of the native community. It is improbable that the Government of India would agree to any violation of the proclamation of Her Majesty to the inhabitants of India, and yet we obtained its sanction to introduce this Bill. I need hardly say that the local Government never had the slightest idea of interfering with any such customs or prejudices; its sole object was to provide against injury to human life in consequence of burial and similar places being in such a position as to interfere with health, and to provide means by which remedies might be applied. It will be remembered that when the Bill was in Committee last year provisions were introduced by which all undue interference would be put a stop to. In the Bill, as it was first drafted, the Magistrate, I believe, was authorised to close burial or burning grounds, but the Committee, to prevent any inconvenience arising from the exercise of this power, altered the Bill to the effect that no burying or burning ground or place for the exposure of the dead should be closed until a new one was provided; and further, that in case any portion of the community should be found not to be in a position to go to the expense of providing a new place, the local or municipal funds should provide means for the purpose. The present Municipal Act (Act XXVI. of 1850) which applies to the mofussil generally, contains no provisions by which any such places can be regulated, and, as I have said, the provisions relating to the subject in the Criminal Procedure Code are very doubtful. Such provisions are contained in the present Bombay Municipal Act; they were also contained in the Act which that one superseded; but if any honourable member will take the trouble to compare the provisions in that Act with those in the Bill now before the Council, I think he will agree that the latter are far the more lenient and suitable, inasmuch as every precaution has been taken in them to prevent undue hardship to any section of the community. The Act will not be extended except as Government may direct, and I think that the Council may take it for granted that it will take no measures which will in any way affect the liberties or religious convictions of its subjects. With these remarks I beg to propose the third reading of the Bill.

The Honourable Mr. NARAYAN VASUDEVJI—Until the other day I was under the impression that, as considerable time had elapsed since the introduction of this Bill, it had been abandoned on the score of its inexpediency. As however the honourable member has thought fit to bring it on for the third reading now, I must solicit your forbearance in allowing me to state a few of the objections I have against a measure which, in my opinion, directly interferes with the customs and usages of the Hindoo, Mahomedan, and Parsee community in contravention of the repeated pledges of Government. It is a well known fact that amongst the Hindoos certain persons who have renounced worldly concerns and entered into a life of asceticism obtain certain privileges of sepulture not enjoyed by the common people. The Swamies, Sanyasis, Mahants, and Gosais, who are the gooroos or spiritual guides of the people, come under quite a different category from the ordinary multitude. They must be buried, not burnt, in the places, muths as they are called, suitable to their rank or designation. Any interference therefore with the funeral rites of such persons is to be deprecated. Take for example the case of the Shankeracharya, who is well known to be the great gooroo or religious head of the entire Marathi Hindoo population. By this Bill, his corpse must be disposed of in the ordinary burial or burning ground, unless the sanction of the Governor in Council can be obtained to his interment in the proper muth, temple, or place of worship. To render the sanction of Government necessary in such a case is simply to deny, in the particular instance, those rights of sepulture which the holy seer of religion is entitled to by the law and usage of his country. According to our usage his corpse must be disposed of within a few hours after death. None of his followers can take food or water whilst the corpse is above ground. The climate is such that decomposition sets in within say eighteen to twenty-four hours,

Mr. Narayan Vasudev objects to the Bill because of its tendency to interfere with the customs of certain sects.

or even earlier, according to the nature of the disease resulting in death. And yet it would be a crime under this Bill to bury him with the solemnity and in the consecrated place due to his position, according to the practice observed and accorded for centuries past in the case of his predecessors! The simple announcement that such an interference with the corpse of the great Shankeracharya is contemplated would, to use the mildest term, be repulsive to the entire Hindoo population. With regard to the Mahomedan community, the consequences of interference with the rites of sepulture which they are wont to bestow upon their Syeds, Peerjadas, Moollas and the like, who are held in special veneration, might be even more disastrous. Hence it would, to say the least of it, be politic to respect the prejudices of the people, whether Hindoo or Mahomedan, in a matter of this kind, wherein their dearest sympathies are bound up with deep religious feelings. It may be replied that the honourable mover of the Bill has shown his readiness to enact an exemption from the operation of the Bill in favour of Gosais and old Mahomedans, including Borah families, but I submit that this does not meet the cases to which I have just referred. Every caste of the Hindoos has a gooroo of its own, for whom this privilege will be claimed, and therefore the concession must be more widely extended than would seem to be contemplated by the honourable member in charge of the Bill. It may not be out of place for me to remark in passing, that the Honourable Mr. Tucker, who was in charge of this Bill last year, led me to believe that one of his principal reasons for urging its adoption was to put a stop to the practice of the Gosais burying their dead in populous parts of the town. I therefore submit that, if nothing else, the concession now offered by the honourable member is fatal to the principle of the Bill.

His Excellency the PRESIDENT—The honourable member refers to the principle as enunciated by the Honourable Mr. Tucker, but we have yet to determine the principle of theBill here.

The Honourable Mr. NARAYAN—I am assuming the principle of the Bill to be that which the Council affirmed at the second reading. A similar Bill for the town and island of Bombay was in 1863 introduced into this Council by the Hon'ble Mr. Tristram, who had to withdraw it owing to the opposition which the measure met with. Again in 1864 Sir Cecil Beadon, then Lieutenant-Governor of Bengal, being of opinion that a certainHindoo burning ghat, at Nimtolah in Calcutta, was dangerous to public health on account of its close proximity to the town, ordered it to be closed. The Hindoos then memorialized the then Secretary of State, Sir Charles Wood, now Lord Halifax, who, notwithstanding the support which the measure had received from the Viceroy, not only ordered a peremptory restoration of the ghat but strongly deprecated the introduction of any measure likely to create dissatisfaction among the masses of the people. Nearly the whole of the English press condemned the conduct of the Bengal Government, and the subject was brought forward in the House of Commons by Lord Stanley, now Lord Derby, and in the Upper House by the late Lord Ellenborough. From a reply which the able Under-Secretary of State, Mr. Grant Duff, gave to an honourable member, Mr. Stapleton, the other day in the House of Commons, it is evident that the policy of the Home Government towards their Indian subjects in these matters has not been changed. I am not aware that the cemeteries throughout the mofussil have become so dangerous to public health as to call for legislative interference, and even if they were so, I submit that the new Code of Criminal Procedure which came into operation at the beginning of this year provides ample remedies for the abatement of local nuisances. I should be sorry to oppose any measure which may tend to ensure the good of the people; but I am strongly impressed with the conviction that if this Bill is enacted into law it is likely to create a great amount of irritation and discontent among the masses of the people. I therefore feel compelled to oppose the measure, and would earnestly invite the Council to reject it.

Sir Jamsetjee Jejeebhoy objects to the Bill, and objects to the power being given to Collectors to interfere in burial, burning, or exposing places for the dead.

The Honourable Sir JAMSETJEE JEJEEBHOY—I have no hesitation in stating that the different sections of the native community would hail the withdrawal of this Burial Bill as a very considerate concession to their ardent wishes and anxious fears. The people in every part of the country, I believe, look upon this measure with much alarm. I conceive that no better proof of this fact can be had than that given by the number and contents of the petitions before your Excellency. One very important objection is that this Bill gives a very large discretionary power to the Collector and other Government officials who may be invested with power under this Act. The exercise of this power may often prove most mischievous to the interests,

feelings, conveniences, and comforts of a whole town or village. Suppose the Collector chooses to appoint a place for burial or burning at an unreasonable distance, say three or five miles from a village or town, or away from a river-side or sea-shore or a place with a well or tank, which the Hindoos or Mahomedan population desire for such purposes to suit their ablutions and religious rites, who can come to their rescue? It is all very well to say that they may apply to Government; but every body knows how difficult it is for the poor and ignorant people to pass a petition through all the regular channels and ultimately to reach the Government; or again, even if they did reach Government, how hard is it for them to make head against the doings and decisions of the Collector? The vesting of such practically unlimited power in an individual officer is, especially to the Parsee community, a source of singularly great anxiety and trouble, for they cannot be sure when it will please the Collector to close their Towers of Silence or how long they will be allowed to hold them on. These Towers are well known to be works of very costly construction and consecration, and no power ought to be given to any official which might be lightly or inconsiderately exercised. I am persuaded also that the religion of other classes of the community will be affected by the provisions of this Bill—I mean the Hindoos and the Mahomedans. It is manifest that according to their religious precepts and practices they are required to bury their d ead under certain circumstances, within the precincts of a muth or mosque, and the tombs so erected themselves are regarded as shrines. About the end of last year a case came before the High Court and was published in the newspapers of the day, from which it appear that the Collector and Magistrate of Dharwar had issued a general order to the effect that as it was probable that the health of the community would be affected by the continuance of the practice of burying the dead in muths and mukans (shrines and mosques) certain places had been marked off where the different castes might burn or bury their dead, and that all burning and burial was to be performed at these particular spots from the 1st June 1869 on pain of punishment. There was nothing whatever to show that the existing burial places had proved a nuisance and injurious to the health of the neighbourhood, or that there was danger of such consequences ensuing, only the Collector and Magistrate thought they might ensue. The District Court, therefore, in an action against the Collector and Magistrate by some of the people of Dharwar set aside the general order I have mentioned. The Judge remarked—"That the evidence for the plaintiffs conclusively proved that their people had exercised the right from time immemorial of burying in mosques and muckans. It is also shown," added the Judge "that it is considered among the Mahomedan community to be a spiritual advantage to be buried by the side of their ancestors; and that a universal belief exists that the dead derive great benefits by being laid within the sound of the prayers offered up daily at the mosques and muckans. The order therefore extinguishes a right which the plaintiffs' caste has always enjoyed. It deprives plaintiffs of a cherished privilege and of a benefit which their religion teaches they would participate in after death." The High Court upheld the judgment of the District Court. This case shows at once how dangerous it is to give large discretionary powers into the hands of individual officers, specially in matters affecting religion, and not only that, but that this Bill trenches directly upon the religion of the people. This was shown there by reliable sworn testimony. Upon the deepest consideration that I have been able to bestow upon this Bill, I am convinced that it would be a blessing to the people to withdraw this Bill altogether rather than proceed with it. It contemplates nothing like giving a voice to the people in the selection, or the ceasingor continuing of their burial or burning places. No such general necessity has arisen as calls for the promulgation of such a measure. No case has been made out to show that the existing laws for the suppression of nuisances is, and has proved, so defective as to cripple the hands of the district authorities. Nothing, indeed, appears to have occurred to justify the enactment of a special law giving extraordinary power to individual officers to meddle with matters which are cherished by the people as most dear and sacred. The general voice of the people is against the enactment being introduced; and I trust your Excellency will deem it right to listen to it. The Bill as it stands is certainly calculated to operate, except when worked out by very discreet, mild, and forbearing officials, in a most harsh and oppressive manner. In the hands of an over-zealous or impetuous official it will prove a most powerful engine for creating immense mischief and discontent. A reference to chapter 39 of the Code of Criminal Procedure (Sections 518 to 529) will show that it contains abundant provision for the removal of local nuisances; and gives the party proceeded against the opportunity of obtaining a trial by jury, or of showing cause in a judical manner against an order by a Magistrate for the removal of a nuisance. This Bill contains nothing of the kind: it gives the party proceeded

against no voice of any kind; whilst the supreme Council in the matter of the most ordinary local nuisances show such deference to private rights and private feelings and such a desire to deal out even-handed justice between the public on the one hand and the private individual on the other, this Council is asked to entertain a Bill which does not contemplate any judicial proceeding of such kind at all, in respect of property of the most cherished kind—connected with the most sacred and religious performance of the people. Considered from every point of view, therefore, this Bill appears to me fraught with serious evil, and I trust his Excellency will be pleased to withhold his countenance from it.

The Honourable Mr. MUNGULDASS NATHOOBHOY—SIR,—After what has been said by the two honourable members who preceded me, I would only say that I concur with what they have stated; and in addition to the reasons given by them I would submit that the District Municipal Bill which is now before the Council makes up every deficiency, if any, in the power of the authorities to prevent burial grounds and places for the exposure of the dead from becoming a public nuisance in cities and towns. It is needless for me to say that such a measure is not required for villages and hamlets. I therefore hope that in this kind of legislation, which is so intimately connected with the religion of the people, the Honourable Council will not persist in carrying out a measure against the unanimous opinion of all the native members.

His Excellency the PRESIDENT considers that the Bill may be altered so that certain burial customs may not be prejudicially interfered with.

His Excellency the PRESIDENT—I take it for granted that the honourable gentlemen who have just spoken do not for a moment think that Government has the slightest wish to intrude upon their religious feelings or customs. Of the urgent necessity for this Bill I am not so well able to speak as other members of this Council, because it was introduced before I came to the country. The honourable mover has explained to the honorable gentlemen the necessity for the measure: he has also pointed out that the discussions of last year were the means of certain alterations being made upon it to check the injudicious exercise of powers granted by it. As the Bill originally stood, the Collector had absolute power to refuse or grant a license for a place for the reception of the dead, but that power has since been made subject to the general control of Government. And, again, it was declared that the Bill should not come into operation in any part of the country without the direct sanction of Government. These concessions show that Government has no desire to oppress any portion of the community by this measure. It remains to be seen whether any further concessions can be made in order to meet the objections raised to-day. One of the objections prominently brought forward appears to me to be with regard to the power of survey and measurement of places for the exposure of the dead mentioned in the Bill. It has been alleged that this power if exercised would be a violation of the religious views of the Parsees, inasmuch as the very touching of a Tower of Silence by a stranger amounts to a pollution of it. But for myself, I must say that I do not think this is a serious objection, because although we may retain the power of measuring and surveying, there is no necessity whatever for touching the building to be measured or even for going near it at all. I can imagine no necessity for a Collector touching a Tower of Silence at all. If any honourable members are still afraid of this power, it can be distinctly stated in the Bill that such places are not to be touched. Another objection to the Bill is that it will prejudicially affect the sacred individuals of the various castes. Would not the views of the honourable gentlemen who oppose the Bill be met if we were to allow the burial of these sacred individuals to continue according to the manner prescribed by their religion, Government only retaining power to regulate the depth and the description of graves in which they must be placed? (The Honourable Messrs. Narayan and Munguldass here signified assent.) That might be more fully laid down in the rules which are to be published by Government, and copies of which may be sent to the managers of places for burning, burying, or exposing the dead. I can see no violation of religious feeling in that direction if this proposal were carried out. (Hear, hear.) It has also been objected to the Bill that the Collector may choose a new burial place without the slightest reference to the views or necessities of the community. But I can see no reason for the Collector not being compelled to consult first with the local or municipal committees of a place, and then come before Government if a settlement of the case cannot be obtained. Do this, and I cannot see how any injustice will be done to any part of the community. A question has been raised whether it would be better for Government to regulate burials in cases of necessity. Looking to the extremely delicate nature of this measure and the extent to which people's feelings are concerned, I am inclined to think that it is better that Government should maintain this control in its own hands rather than give it to a divided authority in the shape of a municipality.

The Honourable Mr. GIBBS was about to address the Council, when

A question of order raised.

The Honourable Mr. BYTHELL raised the question of order whether amendments of which notice had been given should not be discussed before the debate on the third reading, because after the Bill had been read a third time, it appeared to him that subsequent discussion of amendments would be irregular.

The Honourable Mr. GIBBS thought that a discussion upon the motion for the third reading first and a discussion upon amendments afterwards was the correct course, because if the motion were rejected then there would be no necessity for discussing amendments.

The Honourable Mr. BYTHELL recalled the cases of the discussions on the Bombay Municipal Bill and the Port Trust Bill. On these occasions amendments were discussed first and then the Council proceeded to discuss the question whether the Bill should be read a third time or not.

His Excellency the PRESIDENT thought that the mode of procedure now being followed was right, and the question dropped.

Mr. Gibbs gives examples of cases of insufficient burial in the mofussil, to show the urgent necessity for the Bill.

The Honourable Mr. GIBBS—There seem to me to be two questions to consider—first, whether a Bill of this description is necessary (the previous question being decided in the affirmative), and secondly the plan best adapted to carry out that measure so as to injure the feelings of the general community as little as possible. With regard to the first question, the members of the Executive Government, before I had the honour of being a member, doubtless proceeding upon sufficient reasons, declared that the Bill was necessary; and, guided by the experience which personally I have had in various parts of the country, I must entirely concur with the view of the matter taken by these gentlemen. I well remember on one occasion, when I was in the neighbourhood of a very holy place—Sooklatirth on the Nerbudda, within the shadow of whose temple it is considered extremely beneficial to be burned. I came upon a funeral pyre, the fire was extinguished, but the head and legs of the corpse were left lying unconsumed by the river-side, waiting for the rising waters of the Nerbudda or the alligators to carry off. That sight was not an agreeable one. A friend of mine informed me a short time ago that he was one day riding in the vicinity of a native village, when his horse seemed to make a false step or to put his foot into a hole in the ground—but on looking closely he found that his horse's foot had actually sunk into a decomposing corpse buried just beneath the ground. Such circumstances tend to show the necessity for some measure to regulate the burying and burning of natives in the mofussil of this Presidency. I mentioned these two facts to the Honourable Mr. Munguldass. He was very much shocked, and could hardly believe them, and told me it was quite contrary to religion to burn or bury in such an imperfect manner, and admitted such irregularities should be prevented. I suggested that perhaps it was his want of knowledge of the manner in which such things are conducted in the mofussil that made him oppose this Bill as he did. As to the general principle of such Bills, I may add that I remember when in England it was considered advisable to prohibit intermural interments, and that by the measure the feelings of a great many elderly people of the day were very much injured. I know of relations of my own who felt deeply the prohibition which prevented their being buried in the vault where those near and dear to them lay. The feelings excited then in England are very similar to those which are now commented on by honourable members, but just as the suppression of intermural interments at home was required as being necessary to the public health, so regulations regarding the burial, burning, or exposure of persons in this country are now, with our advanced civilization, regarded as not only as very wholesome but absolutly necessary. It is, I think, the general opinion that steps of some description ought to be taken in the matter; even the petitions do not go so far as to say that no steps at all are needed. I look upon this Bill then as one of the necessary measures which improved sanitation in India requires. I admit that the subject is a very delicate one to handle—one requiring great care to be taken with it in order that the feelings of the natives may be injured as little as possible. For these reasons I agree with His Excellency that a special Bill is better for dealing with the subject than leaving it to the less careful consideration which it would receive if mixed among the other matters legislated upon in the Mofussil Municipalities Bill. I trust that the people of this country, and especially the native members of this Council, have sufficient confidence in the Government to believe that it has no

wish to hurt the religious sympathies of the people, and that it will take the greatest possible care to prevent injury to the feelings of any portion of the community. His Excellency in Council will have power to make rules for the purposes of the Act and to limit its extension save in fit places, and I feel certain that Government will frame those rules in such a manner as will meet the exceptional cases which have been mentioned to-day. With regard to the burial of the heads of religious and other sects, the honourable gentleman who advocated their cause so eloquently confined his advocacy to one particular sect of Hindoos; but he omitted to mention that Gosais, who although traders, money makers, hold as peculiar views upon the subject of burial as Swamees do, while the majority of them have just as much to do with the religious education of their countrymen as I have. Under these circumstances, surely it could do no harm to legislate for the proper disposal of the bodies of such persons, since no religious feeling could be excited thereby. However, these matters may safely be left to be regulated by the rules which His Excellency the Governor in Council will prepare. With regard to Towers of Silence, I do not think there can be any objection to what is laid down concerning them in the Bill if the understanding about leaving them untouched, which was referred to by His Excellency the President, is agreed to. In Bombay, I am, I believe, the nearest resident to the Towers of Silence, and I must say that I have not had the slightest inconvenience or annoyance from them. There is no occasion to touch a dokhma—that is the actual tower—at all, because I believe it is a rule among Parsees that dokhmas must be placed within an enclosure of thirty peculiar measures of space measured from the base of the tower wall, and it will not offend their religious scruples if a measurement or survey were made of this outer enclosure, which could be done from the outside—and this is all that is needed. With regard to Mahomedans, I am aware that a very great desire exists among them, especially among Syeds and the heads of religious sects, to be buried in certain places, but as there are not many heads in each community or many deaths in each year, the occasional burial in the way they desire need not, if properly arranged, be objected to upon sanitary grounds. For these reasons, I beg to support the motion for the third reading of the Bill.

The Honourable the ADVOCATE-GENERAL—Sir,—The very strong opinions expressed by the honourable Native members of this Council ought to make us pause before we pass this Bill. It is not a measure which will effect all that the promoters of it desire. A case of imperfect cremation cannot be dealt with under this Bill. The Bill relates in the first place to the registration of places of interment, exposure, or cremation, and the licensing of them, and in the second place it refers to punishments for the exposure of corpses in places not so licensed. You will observe, however, that it does not regulate the internal arrangements of a burying or burning ground; and irregularities could only be prevented under the section which provides that unless the place is licensed no burial shall take place. Now, on consideration of the legal enactments which already exist, I would ask whether there is any absolute necessity for this Bill. Under the Code of Criminal Procedure any nuisance—that is, any state of things which a Magistrate may consider likely to occasion danger to human life, health, or safety—may be dealt with by the Magistrate under certain conditions laid down in the Code; and as the object of forbidding the disposal of dead bodies in places other than those licensed and registered under the Act is to prevent those places which are so used from being dangerous to health, it is perfectly clear that to a certain extent what is contemplated by this Bill is already provided for by the general law. If any other nuisance is occasioned which is likely to produce danger to human life, health, or safety, and the Magistrate issues an order for the stoppage of such nuisance, the person affected must obey or claim the interference of a jury; and I confess that this provision in the general law I should like to see followed in this Bill. I think that in the delicate matters treated of in this Bill the community should not be placed in a worse position than they are under the general law of the country with regard to other alleged nuisances. I think that the Magistrate has powers under the 518th section of the Criminal Procedure Code to make the necessary salutary orders regarding improper burial, burning, or exposure of a body. In case of any person whose friends desired his interment in any particular locality, or muth, or place of that description, no doubt there might be difficulty in summoning a jury immediately, but in the rare cases likely to arise a jury might be empannelled in the same way as a Coroner's Jury.

The Advocate General thinks the Bill unnecessary in consequence of the state of the present law regarding the powers of Magistrates to remove nuisances.

The Honourable Mr. NARAYAN observed that under the Code the Magistrate has summary powers.

The Honourable the ADVOCATE-GENERAL—That is if he considers the cause shown to be sufficient. I observe that according to the 26th section of the Municipalities Bill, which is in charge of the Honourable Mr. Gibbs, one of the objects which Municipalities will have to attend to is that of regulating places for the disposal of the dead and the removal of and providing of sites for the same. Therefore, considering this fact, and the existing state of the law, I repeat that I am extremely doubtful whether there is any necessity for this Bill. My own opinion inclines to the belief that there is no such necessity. As the matter is one which has caused a great deal of excitement among the Native community, I do not think the Council or the public would gain by the passing of this Bill until it is shown that the existing legislation or that which is contemplated regarding municipalities generally, will not be sufficient to provide all that is wanted. With regard to what the Honourable Mr. Rogers said about the opinion of the Honourable Mr. White, who was represented as being doubtful about a conviction being upheld by the High Court, I must say that I read his opinion as in favour of the view that a conviction for disobedience of a Magistrate's order in cases of this kind would be upheld by the High Court.

His Excellency the PRESIDENT—I think that the arguments of the Honourable the Advocate-General should induce us to go on with the Bill. He says that under the Code a Magistrate has already powers to do what this Bill contemplates. Thus any Magistrate entertaining extreme sanitary views may step in and prohibit as a nuisance the burial of any person, even though he might be considered the most holy man in all the surrounding district. What is to be done instead, if the Magistrate does so nobody knows—in fact, the whole thing is to be left to chance! The whole populace of a district is to be thrown by a Magistrate into a violent state of excitement for which there is no remedy by law! This seems to me to be a direct argument pointing out the propriety of our legislating in a moderate respectful way such as this Bill proposes. Let us define a proper course to be followed, and not leave such matters to the final decision of Magistrates, and by all means make the Bill as little offensive as possible.

The Honourable Mr. NARAYAN—Under the present law, if a Magistrate does not make an order which is reasonable and proper, he leaves himself open to an action for damages.

His Excellency the PRESIDENT—It would be very difficult to prosecute him under the circumstances.

The Honourable Mr. NARAYAN—Perhaps His Excellency would allow me to remind the Honourable Mr. Gibbs of the observation he himself made when this Bill was before Council the other day. From the official report of the proceedings which I have now before me it appears that "He thought that the contemplated Mofussil Municipalities Bill would render this Burial and Burning Ground Bill unnecessary." In an able speech which the Under Secretary of State, Mr. Grant Duff, made in the House of Commons a short time ago, he said that India was always in a certain sense in a critical situation, for the rule of two hundred millions of men by a hundred thousand aliens was and must for ever continue a matter of extreme difficulty. By passing unnecessary and vexatious measures of this sort the affections of the people are alienated and dissatisfaction created.

The Honourable Mr. GIBBS—I am aware that I said what the honourable member has quoted, but further consideration has induced me to come to the opinion that a matter so important as this is should be specially dealt with.

The Honourable Colonel KENNEDY expressed himself in favour of Native communities being permitted to have a voice in cases where the Collector desired to take action.

The Honourable Mr. MUNGULDASS said that under the Bill the whole power was given to the Collector. He would prefer the power to be vested in the Municipalities affected.

The Honourable Mr. GIBBS remarked that it was a peculiar fact that most of the petitions received against the Bill were from Parsees.

The Honourable Mr. NARAYAN—The Council would have had more petitions, but it refused to receive vernacular petitions from the mofussil. These petitions were sent back to the senders, and their attention was drawn to Rule 41 of the Council rules, which sets forth that vernacular petitions must be accompanied by translations. If such petitions as these are returned, the people have no remedy, because translators are not to be easily had in many parts of the mofussil.

The Honourable Mr. ROGERS—Before the motion for the third reading is put, I would like to add a few words to what I have already said. A great deal has been said about the powers contained in the new Mofussil Municipalities Bill which is about to be enact-

ed; but honourable members must have forgotten that that Bill is not to be of universal application, but will only apply to such places as Government may think require it. Besides, what particular matters they have opposed in this Bill, they would also oppose if they were to find a place in the Municipalities Bill.

The Honourable Mr. NARAYAN—Certainly I would not adopt all the sections in this Bill if they were in the Mofussil Municipalities Bill, but I might support a provision in it giving authorities certain powers in the regulation of burying grounds.

The third reading agreed to.

After some further discussion the Honourable Mr. Rogers' motion for the third reading of the Bill was put to the vote and carried :—

Ayes—7.	*Noes*—5.
His Excellency the Honourable Sir AUGUSTUS ALMERIC SPENCER.	The Honourable the ADVOCATE-GENERAL.
The Honourable A. ROGERS.	The Honourable MUNGULDASS NATHOOBHOY.
The Honourable J. GIBBS.	The Honourable SIR JAMSETJEE JEJEEBHOY.
The Honourable Colonel M. K. KENNEDY.	The Honourable NARAYAN VASUDEVJEE.
The Honourable E. W. RAVENSCROFT.	The Honourable GUNPUTRAO TATYA SAHIB PUTWARDHUN.
The Honourable J. K. BYTHELL, and	
The Honourable Colonel W. C. ANDERSON.	

The Council then proceeded to consider the Bill in detail.

The Honourable Mr. NARAYAN read the motions of which he had given notice regarding section one, and which were as follows :—

That the words "or if such owner or person fail to register the same within such period then" be inserted between the words "same" and "by," occurring in lines 19 and 20 of Section I.

That the words "after the expiration of the same term," occurring in lines 21 and 22 of Section I. be omitted, and the following words inserted in their stead :—"After the registration as aforesaid of such burial-ground, burning-ground, or place for the exposure of the dead."

That the words "except as provided in the Section next following" be inserted between the words "term" and "wilfully," occurring in lines 22 and 23 of Section I.

After a brief discussion, His Excellency the PRESIDENT suggested certain alterations, and finally the section was submitted in the following shape by the Honourable the Advocate-General :—

"The Collector of a district or other officer specially appointed by Government for the purposes of this Act may, if he think fit, cause a survey and measurement to be made of any burial ground or burning ground or other place for the burial or burning of the dead, and every place for the exposure of the dead, existing at the time this Act shall have come into operation, as hereinafter provided, shall, within three months after this Act shall have come into operation, be registered by the owner or the person having the control thereof, or if there be no owner or person authorized to control the same, or if such owner fail to register the same within such period, by order of the Collector or other officer as aforesaid in a book to be kept by him for the purpose : and whoever after the registration as aforesaid of such burial ground, burning ground, or place for the exposure of the dead, buries, burns, or exposes, or causes, or procures, or suffers to be buried, burned, or exposed any corpse in or on any ground other than such registered burial or burning ground or place for the exposure of the dead, shall be liable to a penalty not exceeding Rs. 100 for each offence."

The Honourable Mr. NARAYAN remarked that the effect of these amendments would be good for this reason, that in the case of places of burial or exposure belonging to private individuals, if these persons neglected to register, the Collector would be able to do so, and thus the community would not suffer.

The section was then passed as amended.

The Honourable Mr. NARAYAN's next motion was considered—"that the following proviso be added to Section 2 :—Provided that nothing herein contained shall be held to

apply to the case of any person who by reason of his belonging to a religious order is entitled to be buried in a sanctified place."

The Honourable the ADVOCATE-GENERAL asked if the first part of the section as it stood was meant to apply to temples, mosques, or agiaries. He did not think it was, but nevertheless the words used gave some reason for the Honourable Mr. Narayan introducing his amendment.

His Excellency the PRESIDENT said he thought it was only Christian places of worship that were intended to be referred to.

It was then agreed to place the word "Christian" before "worship" in the 7th line, and to add in line 26 "such special sanction or" before "license." The Honourable Mr. Narayan withdrew his amendment.

The Honourable Mr. NARAYAN brought forward his next motion—"That the words 'if after such inquiry as may be deemed necessary it shall appear to Government that,' occurring in lines 1 to 4 of Section 3, be omitted, and the word 'whenever' substituted." His reason was that already the Supreme Legislature recognised the right of private individuals to be heard in matters concerning them, but as the section now stood nobody had any guarantee that the people would be consulted at all by Government.

His Excellency the PRESIDENT concurred that the words objected to by the Honourable Mr. Narayan were vague.

After some conversation the words from the beginning of the section to "that" in the 4th line were struck out and the following substituted: "Whenever it shall appear to the Collector or other officer as aforesaid."

The Honourable Mr. NARAYAN moved his next amendment, which was as follows:—

That the following proviso be added to Section 3 after the word "relates," occurring in line 21:—

"Provided that such notification shall not be issued in towns, villages, or suburbs, in which Act XXVI. of 1850 has not been introduced, unless the Collector or other officer as aforesaid shall have previously issued a proclamation to the inhabitants, or to the class or community who use such place, ground, church, or place of worship for the purposes aforesaid, notifying that it is intended to prohibit such use of the same, and calling upon them to attend at a place and upon a day specified, to show cause why the order of prohibition as aforesaid should not be made, and shall have heard the cause shown by the parties concerned or their representatives, and shall have transmitted the record of his proceedings with his opinion thereon to Government, and that in the case of towns, villages, or suburbs, in which Act XXVI. of 1850 has been introduced, such notification shall not be issued without the concurrence of the Municipal Commissioners of such town, village, or suburb."

The Honourable the ADVOCATE-GENERAL suggested that it would be better if the following words were inserted after "thereto" in line 17:—"the Collector or other officer as aforesaid shall issue a proclamation to the class or community who use such burial or burning ground or place used for the burial or burning or exposure of the dead, notifying that it is intended to prohibit such use of the same, and calling upon them to attend before him at a place and upon a day specified to show cause why the order of prohibition as aforesaid should not be made, and after hearing the cause shown by the parties concerned or their representatives the Collector or other officer as aforesaid shall transmit the record of his proceedings to Government, and it shall thereupon be lawful for Government," &c.

The Honourable Mr. NARAYAN had no objection to this amendment and withdrew his own.

"Christian" was substituted for "public" in line 11 and placed before "worship" in line 23.

"Of publication" was omitted in line 3 of fourth section: "wilfully" in line 7; "Christian" inserted before "worship" in line 9; "three" substituted for "six," "not exceeding 200 rupees" added after "fine," and "with" struck out between "or" and "both"—all in line 13. Section 4 was then passed.

Between "the" and "registration," in line 5 of Section 8 "survey" was inserted.

The Honourable Mr. MUNGULDASS NATHOOBHOY proposed that to the end of the first

paragraph of the section the following words should be added :—" Provided that a draft of all such rules, alterations, and additions shall be first published in the *Government Gazette* for general information, and the Governor in Council may, after hearing such representations as may be made with regard thereto one month after the publication of such draft rules, settle the terms in which such rules shall be published."

The amendment was agreed to.

In the first line of the second paragraph " such " was deleted, and in the second line " when finally determined upon by Government " was inserted before " shall."

On the suggestion of His Excellency the PRESIDENT the following section was added to the Bill as Section 9 :—

9. And whereas, it is required by the religious tenets and customs of certain sections of the community that certain members of the same shall be buried within the precincts of their dwelling houses, or places of worship, and it is necessary to protect the public from any evil consequences arising from such burials, it is hereby enacted that it shall be lawful for the Governor in Council, by rules to be published in the *Government Gazette*, to declare in what cases such burials shall be permitted, at what depth and in what description of graves any such person shall be buried. And if any such person shall be buried otherwise than in conformity with such rules the person conducting such burial shall be subject to imprisonment of either description not exceeding three months, or to a fine not exceeding Rs. 200, or both.

No further amendments were made in the Bill.

The Secretary presented to the Council petitions from the Bhewndy and Poona Survajanik Subhas against Bill No. 6 of 1873 (a Bill for enabling Government to levy Tolls on public roads and bridges in the Presidency of Bombay).

Colonel Kennedy moves the second reading of the Road Tolls Bill.

The Honourable Colonel KENNEDY, in moving the second reading of Bill No. 6 of 1873 (Road Toll Bill), said—Sir,—There appears to have been a great deal of misapprehension regarding this measure. In the discussions which have taken place elsewhere, it seems to have been regarded as a new Bill, and that tolls were a new source of revenue. There is nothing new, however, in this Bill either in its principles or details, and if it had never been introduced at all the law upon the subject would be precisely the same, and tolls would still be leviable under Act VIII. of 1851 and Act XV. of 1864. Under these Acts tolls are levied throughout the Presidency, and it cannot be said now that the people are taken by surprise with this Bill, for they have been paying these tolls for a number of years without any more objections than they would have had to the payment of any other tax or impost. I am not, I confess, prepared to approve in the abstract of tolls as a means of raising revenue, but let us remember that this is not an abstract question, but a very practical one. If tolls are to be abandoned, as many people would seem to desire, the public communications throughout this Presidency would suffer very seriously. Government has only a limited sum of money at its disposal for public works of all descriptions, and if the tolls upon roads are struck off and that sum diminished by so much, public works must be curtailed, or a fresh tax must be discovered. Tolls seem to me to have this recommendation, at all events, in their favour, that they are in force for actual services rendered, because the net proceeds under the law must be devoted to the maintenance of the roads and bridges upon which they are collected. It has been asserted by some public writers that the object of Government in proposing this measure is to raise a large sum which is to be lavished upon public works, such as docks, &c., but as I have just observed, it would be illegal to spend any of the money upon such works. I stated, in the few remarks I made when introducing the Bill, that the sum raised from these toll bars is not sufficient to maintain the roads upon which they are situated. I said that these proceeds were about 7 lakhs per annum, while, as appeared from the Budget of the current year, the total proposed expenditure upon road-maintenance amounts to between 13 and 14 lakhs; and this being the case, provincial and local funds will have to provide between 6 and 7 lakhs in addition to the total proceeds from tolls in order to maintain the roads. The Select Committee approved of the principle of the Bill and made some slight alterations upon the schedule, which as it stands even now contains rates which are higher than they have ever been worked up to. We retain these rates, however, in order to meet exceptional circumstances. To those who entertain great apprehensions regarding these rates I would observe that none of them

are higher, while many are lower, than those which are levied elsewhere in India. I think that the local Government has shown by its actions hitherto that it has no desire to oppress people by working up to these rates. There was only one point upon which the Select Committee had any difference of opinion, that was with reference to the toll on foot passengers not carrying loads. We have all along possessed the power to levy such a toll, but we have never yet exercised it. Further, this Act does not make it compulsory for persons to make use of the roads, bridges, and communications which are provided. People may use them or not just as they please. We have retained the power because cases might arise, such for instance as the bridge now proposed to be erected at Surat to connect two towns, where it would be very desirable to levy the foot-passenger tax. At the same time, if a coolie does not choose to make use of that bridge he is quite at liberty to wade through the mud or pay for a boat, or waste his physical energies in going round by a ford, or even (as the Hon'ble the Advocate-General suggested at last meeting) the coolie may swim if he prefer to save his three pies. At Nasik a bridge is much required, and if one were built there it would be a work of great public utility, inasmuch as there is at present very great difficulty in passing from one part of the town to another. I am sure the inhabitants of Nasik would willingly pay a trifling sum for the use of a bridge, and this shows how desirable it is that Government should possess the power which this Bill contains. The cases of Nasik and Surat are only two out of many, and if you strike this power out of the Bill the result will be that many works of public utility will not be undertaken at all. In the neighbourhood of Surat there is a railway bridge over which the Railway Company have constructed a foot-way which has been in existence for several years. This bridge is farmed out to a contractor, whose contract provides that railway employés passing over the bridge are not to be taxed at all, while all other foot passengers shall be taxed at a rate not exceeding 4 pies per head. Last year this contract was sold for Rs. 1,650. Taking these figures my honourable and learned friend the Advocate-General may by a very simple calculation (which I see he is now making) ascertain that at least 100,000 coolies, or persons at all events chiefly coolies, male and female, use the bridge in the course of a year. This calculation does not take into consideration the contractor's profit, and as a matter of fact I believe that about 200,000 coolies use the bridge in preference either to swimming across the river or going round by the two adjoining fords. This, I think, is an illustration which will show that there are certain cases when the toll-levying process will not be so distasteful as some honourable members of this Council imagine. I have only seen this petition of the Poona Survajanik Subha to-day, and I will make a few remarks upon the summary of its contents. I agree that a new enactment is not necessary if His Excellency chooses to exercise the powers given him by previous Acts. But the chief object of this Bill was to legalise what had been done since 1864, and this was considered to be a good opportunity for consolidating the various existing laws. As for their plea for foot passengers, I have already given my opinions on the subject; and regarding their request that sheep and cattle should be omitted from the schedule, I beg to say simply as a matter of professional evidence, that there is nothing which destroys a road so much as flocks of sheep or cattle. That is a well-known fact. As to their desire that rates should be taken off the lower class of vehicles and transferred to those which they call "vehicles of luxury," used only by rich persons, my answer is that it is the so-called poor person's vehicle which carries the merchandise throughout the country. As to the fourth section I am not prepared to say that its terms may not be modified. As to the statement about the number of tolls which there ought to be in one zilla, I have before me a number of returns which give that information to a very considerable extent, and I believe I may say that the rule is that tolls must be apart from each other at least a day's journey of a bullock cart—say fourteen or fifteen miles. With these remarks, Sir, I beg to move the second reading of this Bill.

The Honourable the ADVOCATE-GENERAL—SIR,—Before this motion is put to the Council I wish to say a few words upon what the honourable mover has just stated regarding this Bill. It is, no doubt, perfectly true, as the Hon'ble Colonel Kennedy has observed, that this Bill is not introducing any new form of taxation, inasmuch as the system of tolls has been sanctioned by two preceding Acts, and that this Bill is simply meant to legalise what had been somewhat irregularly done under these two Acts. But as this is the time when expressions of opinion upon the principle of the Bill are called for, I beg to say that I do not approve of that principle—and that I think it would be an exceedingly desirable policy to abandon the collection of tolls in this Presidency altogether. There is no analogy whatever between

The Advocate General disapproves of the principle of levying tolls, and (judging by the state of the local funds balances) considers the Bill to be unnecessary.

the circumstances, in this particular matter, of our own country and those of India. In England roads were chiefly constructed by turnpike trusts, and bridges built by means of private companies, and therefore tolls were necessarily resorted to in order to repay the original adventurers the money which they had advanced upon their undertakings. But in India the state of things is entirely different. Here roads are constructed either out of general revenue or from local funds, and in the designation "local funds" I include tolls, as I find they are so included in the last Adminstration Report of the Bombay Presidency. Now, the general revenue is mainly derived from three sources—the land tax, the salt tax, and the opium tax,—and of these the duty on opium is the only source of revenue which does not directly come from the pockets of the people of this country. The local funds depend upon and vary with the assessment of the land—one anna on every rupee of land assessment. Therefore it may, I think, fairly be said that from whatever source the funds for constructing and maintaining roads are provided, whether in the shape of general revenue or of local taxation, the tillers of the soil, whom Mr. Grant Duff recently described so happily as the *misera contribuens plebs*, are the people from whose earnings these funds are raised. That being the case, I do not think it equitable that the very people who pay for the construction and repair of the roads should also have to pay for the privilege of using them. I know it may be said that the purchasers of produce are the people who mainly use these roads and not the actual cultivators; but it after all comes to the same thing, for the man who purchases has to consider the cost of carrying his merchandise to market, and that consideration naturally affects the price which he agrees to pay, and so the toll comes indirectly out of the pocket of the producer. I cannot, for my own part, consider the collection of tolls satisfactory in principle, and if the question of imposing tolls were now introduced here for the first time, I should most assuredly vote against the second reading of this Bill. We have been told by the Honourable Colonel Kennedy that a necessity exists for continuing this source of revenue. That is a matter which, no doubt, admits of very easy proof, although, I am sorry to say, no such proof has been placed before the Council either by the Select Committee or the Honourable Colonel Kennedy. In looking at a source of information which I always consult on points like these—namely, the Administration Report—I find that the unexpended balances of local funds for the year 1871-72 is, if I may judge from the report of the Southern Division, considerably more than the whole sums realized from tolls. From the different way in which the accounts are prepared for the two Divisions I am unable to give the exact total for both of them, but I find that in the Southern Division the balance in hand last year in the Public Works account was Rs. 5,63,538-12-7. I cannot give the sum in the Northern Division, but taking the unexpended balance there to be only one-half of that shown for the Southern Division—and I do not think that is an unfair estimate—there is an unexpended balance of local funds in the two divisions amounting to at least as much as the whole sum raised from tolls, which the Honourable Colonel Kennedy told us, when he introduced the Bill, was about seven lakhs and a half. If this is the case, what is the necessity for tolls? While money which has been paid by people for whose benefit the roads are constructed remains in the Treasury, I do not see why the annoyance and vexation and expense of paying tolls whenever the roads are used should be permited.

The local funds balances not generally available.

The Honourable Colonel KENNEDY—Perhaps it may be as well to explain that the local funds balances are not legally available for the maintenance of provincial roads.

The Honourable the ADVOCATE-GENERAL—I was just going to make a remark upon that point. I find that under the provisions of Act III. of 1869 an assessment of one anna upon every rupee of revenue of land assessment shall be raised for works of public utility and convenience, including roads, schools, hospitals, and so forth. Now, no doubt, the repair of a road is a work quite as much for public convenience as making a road is, and I do not see why these balances which I have alluded to should not be applied to that purpose. We all know from daily experience that the repair of existing communications is as important as the construction of a new road. No doubt local funds make a very important element in the provincial budget and have risen to a magnitude which could scarcely have been anticipated. Some years ago we were informed in this Council that the local funds were to be put upon a better footing, and I well remember my honourable friend Colonel Kennedy expressing his hope that the day would soon come when local funds would be administered in a more methodical, economical, and satisfactory way than they are at present. Looking at the present balances, it seems to me that it would be an additional reason for the abolition of tolls in the Presidency if the funds available for roads could be largely increased by the

realization of the improvements which the honourable gentleman hoped for. I find at page 299 of the Administration Report a tabular statement showing the actual income spent under different heads of service. From imperial funds proper the also *nil*; sore upon communications is *nil*; repairs to communications under imperial funds, expenditu that the whole cost of the construction and repair of communications for the year under review was borne from the two sources of provincial or local funds. Provincial funds seem to have been chiefly spent on maintenance of roads; and local funds show the balance to which I have already referred. Under these circumstances it does not appear to me desirable to affirm the principle that tolls should continue to be levied. With regard to bridges the case is perhaps different from that of roads. The Honourable Colonel Kennedy has cited the case of the bridge at Surat, and by the statement which has been made I find that if the full amount of four pies were levied, 79,200 passengers would be sufficient to pay the full amount of the contract.

The Honourable Colonel KENNEDY—Although the limit of four pies is given to the contractor as the condition of his contract, I find that he only levies three pies.

The Honourable the ADVOCATE-GENERAL—That would only make the number of passengers a little more—say 100,000 in the course of the year. No doubt this case is to some extent an argument in favour of the principle for which my honourable friend contends. But that bridge is built neither out of local nor imperial funds, but out of the funds of a private company, which is simply endeavouring to get some interest on the sum it expended upon the construction of the bridge. But I go further than this. I say it would be better to spend seven lakhs less a year in making and repairing communications than to receive those seven lakhs from tolls; I think that ten lakhs spent upon free roads is better than twenty lakhs spent on roads and bridges upon which tolls have to be paid. There is certainly this to be considered, that those who do not wish to pay can go off the highways into the byways, or anywhere that will avoid the toll, but that does not appear to me desirable. The Honourable Colonel Kennedy says that a coolie may swim if he likes; and no doubt the liberty of the subject is not intended to be so much restricted that a man may not swim if he chooses. But that liberty in my humble opinion is a questionable benefit. Where there are bridges over rivers where tolls upon ferries have long been levied it may perhaps be fair to make a charge, but I do not think a charge ought to be made upon foot passengers upon a road at all, and I hope the Council will expunge from the Bill that last item in the schedule of three pies upon every foot passenger. As to the fourth section relating to the confiscatory procedure in the event of non-payment of tolls, it appears to me that it is oppressive in the extreme. It gives a power to the turnpike man altogether excessive; but as Colonel Kennedy has said that that section may be modified I reserve any further observations upon that point. I cannot for the reasons I have stated assent to the principle of the Bill so far as the levying of tolls is concerned. I have no special information upon the financial matters concerned, but from what I have pointed out in the Administration Report it does not appear to me desirable or necessary that tolls should be imposed. No doubt a plea of established usage may be urged in favour of the continuance of these tolls, but that plea does not appear to me to be sufficient, and I should gladly see all but the first two sections struck out of the Bill.

The Honourable Mr. ROGERS—The Honourable the Advocate-General has referred to the Administration Report, and deduced from it that no imperial funds are used upon the repairs of roads. If he had gone a little further, and looked at the provincial funds, he would have found a different state of matters.

The Honourable the ADVOCATE-GENERAL having replied that he referred to the provincial funds,

The Honourable Mr. ROGERS continued—These provincial funds are allotted to the Presidency Government for expenditure upon the matters mentioned in the Administration Report, and under another name they are imperial monies.

The Honourable the ADVOCATE-GENERAL—I am aware of that. In saying that no portion of the imperial funds has been spent upon either the making or repairing of roads, I wished to draw attention to the fact that the provincial allotment seems to have been spent entirely upon post and military roads.

Mr. Rogers urges the necessity of a toll to repay outlay upon certain requisite means of communication.

The Honourable Mr. ROGERS—Another objection which the honourable and learned member made to the Bill was the difference which prevails between the Indian and the English systems, it seeming that in England it is necessary to levy tolls for the purpose of repaying a private company, or turnpike trust, for executing certain

works. The honourable member seems to be under the impression that the local funds as at present levied would be sufficient to cover all the expenses upon the public roads in the Presidency; but I assure him that such is not the case, and that local funds are expended not only upon communications but on many other objects—such as making wells, building dhurrumsallas, and constructing tanks, &c.—and the balance which he has referred to as standing at the credit of the Local Fund is not one balance but an aggregate from every district in the Presidency. He says that in the Southern Division accounts there is a balance of about five lakhs, but if the details were gone into, I believe it would be found that it is composed of the balances of all the districts. It must not be forgotten that it would be illegal to appropriate the balance of one district to carry out the requirements of another. Therefore, it would be impossible to apply this balance in the way the honourable member suggests. The funds levied in each district must be spent in that district, and no other. Even if that balance were available it would not go very far in a large undertaking. Supposing that the Krishna were to be bridged, such a balance would never be sufficient for the purpose. With regard to the bridge at Surat, I think the building of a means of communication between the towns on each side of the river would be almost on the same footing as a similar undertaking by a turnpike trust in England. Since the local funds of one district must be applied in that district only, it would be perfectly impossible to build this bridge at Surat except by loans, and in such a case it would be necessary to make a levy in order to pay the interest. I do not mean to uphold the principle of levying tolls upon foot passengers, but if it is necessary to obtain certain communications we must have the power, at all events, to levy such a toll. The Honourable Colonel Kennedy has explained to the Council that we have had power to levy these tolls since 1864, and we have not yet had occasion to use it, and I think Government may still be trusted not to put the power in force unless it is actually necessary to do so.

The Honourable the ADVOCATE-GENERAL—Looking through the statements of the Southern Division part of the Administration Report, I find that in nearly every district the amount on hand for public works exceeds the amounts received from tolls in each district. The Honourable Mr. Rogers has argued that the surpluses in particular zillahs must be carried to the credit of these zillahs. Well, I see here (Administration Report) that the balances in nearly all the zillahs exceed the amount of tolls collected in them.

His Excellency the PRESIDENT—These balances must surely be liable to meet many claims.

The Honourable Mr. GIBBS—I believe they are simply balances which though unexpended are appropriated.

The Honourable Mr. BYTHELL—As we are given to understand that Government cannot do without the tolls and as there is at present no Act in force under which they can be collected, I am inclined to vote for the second reading of the Bill. At the same time, I must say that I think charges upon bullock carts that are laden with merchandise are simply transit dues in another shape and I cannot but regret that the British Government, while using every possible endeavour to induce Native rulers to abolish transit dues in their territories, should seek to perpetuate the same system under the name of tolls. There are many suggestions in the petition from the Poona Survajanik Subha which merit careful consideration by this Council. As we shall meet these in the course of going through the Bill in detail I will not detain the Council by stating them specifically, but I may say generally that I sympathise with most of the arguments adduced in that petition.

His Excellency the PRESIDENT—Tolls are not transit dues. Transit dues are collected according to the nature and value of the commodities put into the cart; but tolls are levied upon the cart carrying a load without any reference to the value of that load, and simply as a recompense for wear-and-tear of roads. To my mind, therefore, it is a mistake to call tolls transit dues in the ordinary sense of the term. With reference to the question of tolls, I may say that I know it has been proposed to attach a license to each cart, but I have been told that in the Presidency there is an universal consensus of opinion against the license system, inasmuch as it would fall very heavily upon the small agricultural classes.

The Honourable Mr. GIBBS—Sir,—I have a few observations to make upon this subject before the vote is taken. I was not a member of the Government when the principle of this Bill was settled and the care of it handed over to the charge of my

honourable and gallant friend Colonel Kennedy, who, I may here mention, is as much responsible for its contents as I am for the Mofussil Municipalities Bill. Both these Bills were handed over to us by the Executive Government and we are now simply acting as dry nurses for them. When the Tolls Bill first appeared in print I found a number of Native papers, and also some European, writing against the Honourable Colonel Kennedy, for introducing a novelty and going back to the dark ages before civilisation; but directly I perused the Bill I found it contained references to former Acts, and if the writers against Colonel Kennedy had adopted a similar course they would have found that really and truly the Bill before the Council is no new Act, but that its purposes are simply to clear away a doubt about the legality of this Government's proceedings in levying tolls for the last nine years under these Acts without a formal notification of the Government of India previously issued and to combine in one Act for the sake of convenient reference Acts XV. of 1864 and VIII. of 1851. I find that nearly all the present sections of this Bill are already part of the general law of the Presidency:—

Section III. is Section II. of Act VIII. of 1851.

Sections IV., V., VI., VII. and VIII. are Sections III., IV., V., VI. and VII. of Act VIII. of 1851.

Section IX. is Section II. of Act XV. of 1864.

Section X. is Section VIII. of Act VIII. of 1851.

So that really we are now seeking only to indemnify ourselves for the past, and to add that roads and bridges made from local funds shall also be liable to tolls if His Excellency the Governor in Council thinks fit. We are asking the Council to adopt no new principle; the principle has already been adopted by the Government of India. The public press are pleased to comment upon our proceedings, and I for one have no objection to their doing so, but I wish they would take a leaf out of our book, and, when such matters as this come before them, refer to "F. P."—that is former Proceedings and get up the subject before they comment thereon. I must say I agree that it would be a very nice thing if there were no tolls on our roads. I remember, when I had to travel through some of the districts of this Presidency, as a Judge of the High Court on tour of inspection, that I had to pay tolls in every direction. Certainly it was rather a nuisance to be compelled on a cold morning to fumble in one's pockets for the wherewithal to pay the tollman, but when I remembered the execrable roads over which I had jolted with difficulty in a bullock cart in former years and compared them with the capital road over which I was driving in a four-wheeled carriage and pair of horses my antipathy to the tolls vanished. There can be no doubt that the repairs of the communications generally throughout the Presidency amount to a very large sum in the course of a year, but if we do away with these tolls, the roads, especially those special roads over the many small ghauts which were formerly impassable, will fall into disrepair, and the consequence will be that carts will be smashed and ryots will be sadly out of pocket. I am not aware that objections to the present system are numerous. I never remember any case connected with the present Acts coming before the High Court during the eight years I have sat as a judge in it. The only opposition seems to come from my honourable and learned friend the Advocate-General and the Poona and Bhewndy Associations and until this Bill was published I never heard anybody object to having to pay tolls in the Presidency. With reference more particularly to the pedestrian tax, notwithstanding that Government has possessed the power for such a length of time—nearly 25 years—to impose such a toll I believe it has never done so, save in exceptional cases, Matheran or Khandalla ghauts to a limited extent occur to me, and I think it will never be called into play except in such exceptional cases or, for instance, the proposed bridge across the Taptee at Surat, or that other bridge at Nasik alluded to by my honourable friend Mr. Narayan Vasudevjee, the want of which at present is felt to be a serious inconvenience. So far as my experience of the pedestrian classes of this country goes, I think they would be extremely glad, as in the case of the Railway Company's bridge at Surat, to pay even three pies to get across a river without inconvenience rather than have to ford or to get into a ferry-boat and run the risk of both their goods and their lives being lost. Under these circumstances I shall vote for the motion.

The Honourable Colonel KENNEDY—I would only add to what has been said by honourable members, that if this Bill were not to pass it would not affect the law upon the subject which already exists. Before the Council could alter that law, it would have to alter the Acts of the Governor General.

His Excellency the PRESIDENT put the motion, that this Bill be read a second time.

Bill read a second time and considered in detail.

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

His Excellency the PRESIDENT called attention to the fact that although section three legalised what Government had done up to that time in the collection of tolls, it contained no provision for the legalisation of future proceedings of Government in the same direction.

To the end of the first clause of the section the following sentence was added :— "Until such rates of tolls shall be fixed by the Governor in Council, the tolls now levied shall continue to be levied by the persons under whose management the same are now collected, who shall be held to have been appointed under the provisions of this Act."

The Honourable Mr. BYTHELL asked if there was any foundation for the statement in one of the petitions which had just been read to the Council, that tolls were levied upon roads which had not been constructed out of imperial funds—that money had been made by Government out of roads which had been constructed by private individuals?

The Honourable Colonel KENNEDY said he knew of no foundation for such a statement.

Section four was then considered.

The Honourable Colonel KENNEDY said that this clause was section of Act VIII. of 1851. He had received a letter from the Collector of Ahmedabad who wished to make the evasion of a toll penal. He meant his amendment to apply chiefly to Europeans, because the collection of tolls would become a farce where the toll-keeper was a Native and the person refusing to pay a European.

The Honourable Mr. MUNGULDASS said he would rather see European gentlemen allowed to go free than see their refusal to pay a toll made a penal offence, because the penalty would be practically inoperative where a Native tollman and a European passenger were concerned.

His Excellency the PRESIDENT said that the whole section appeared to him to be terribly stringent as it stood.

The Honourable Colonel KENNEDY had no objections to the section being modified. It might be sufficient simply to bar the passage of non-payers.

The Honourable Mr. GIBBS mentioned that during his experience in the High Court he had never heard of there being any occasion to review any proceedings under the Act containing this section.

His Excellency the PRESIDENT—Nevertheless, it does appear to me to be an enormous power to give to a toll-keeper. He is allowed to seize property and sell it without anybody interfering with him. He might seize a man's cart and bullocks and sell them to his next door neighbour for almost nothing.

The Honourable Colonel ANDERSON mentioned that Hindoos were very averse to complaining and toll-collectors knew this. The latter might seize the headdress of an unfortunate Native, and then turn upon him saying "go and complain," knowing very well that before the Native would consent to be stopped upon his journey and have all the annoyance of proving his case in cutcherry, he would rather submit to lose his headdress quietly.

His Excellency the PRESIDENT remarked that he certainly was of opinion that toll-collectors would take care of themselves, because last season, when he was going to Mahableshwur, one of them made a complaint to the Revenue Survey Collector that he (His Excellency) had not paid the toll.

The Honourable Colonel ANDERSON wished something to be put in the Bill rendering it punishable for a toll-keeper to be absent from his duty. He had known of a string of carts being kept at a toll-bar for two hours because the toll-keeper had chosen to be absent from his post.

After some further discussion, consideration of Sections IV. and VII. stood over, and Sections V., VI., VIII., and IX. were agreed to.

The Honourable Colonel KENNEDY said he had received suggestions regarding Section X. from Mr. Hope, Surat, and Mr. Borrodaile, Ahmedabad. As the section stood all the tolls might be deemed "public revenue" and used as such, but these gentlemen wished it to be expressed in the Bill that local funds should be spent only in the locality in which they were raised.

The Honourable Mr. RAVENSCROFT thought that if the suggestion of Messrs. Hope and Borrodaile were adopted, the Council would be alienating a portion of the imperial revenue.

The Honourable Mr. GIBBS was of opinion that tolls at present were imperial revenue and could not be made otherwise without the consent of the Government of India.

The Honourable Colonel KENNEDY said that tolls even now were not public imperial revenue.

After a few remarks from honourable gentlemen, the section was altered to read as follows :—

"The net proceeds of the tolls levied under this Act shall be applied wholly to the construction, repair, and maintenance of roads and bridges within the Presidency of Bombay: Provided that the net proceeds of tolls levied on roads or bridges constructed by or belonging to any local fund committee shall be applied to the construction and maintenance of roads or bridges in the district under the superintendence of such local fund committee."

His Excellency the President then adjourned the Council.

By order of His Excellency the Governor in Council,

JOHN NUGENT,

Acting Under Secretary to Government.

Poona, 8th September 1873.

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

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

The Council met at Poona on Tuesday, the 9th September 1873, at noon.

PRESENT:

His Excellency the Honourable SIR PHILIP EDMOND WODEHOUSE, K.C.B., Governor of Bombay, *Presiding.*
His Excellency the Honourable SIR AUGUSTUS ALMERIC SPENCER, K.C.B.
The Honourable A. ROGERS.
The Honourable J. GIBBS.
The Honourable the ADVOCATE-GENERAL.
The Honourable MUNGULDASS NUTHOOBHOY, C.S.I.
The Honourable COLONEL M. K. KENNEDY.
The Honourable SIR JAMSETJEE JEJEEBHOY, Bart., C.S.I.
The Honourable E. W. RAVENSCROFT.
The Honourable NARAYAN VASUDEVJEE.
The Honourable J. K. BYTHELL.
The Honourable GUNPUTRAO TATYA SAHIB PUTWURDHUN.
The Honourable COLONEL W. C. ANDERSON.

The rule of procedure regarding amendments proposed on the third reading of the Burial Ground Bill.

His Excellency the PRESIDENT—Before we begin with the order of the day, I may mention what occurred to me yesterday evening after leaving the Council with respect to that part of our proceedings the propriety of which the Honourable Mr. Bythell expressed a doubt about when we were considering the amendments on the Burial Ground Bill. It seems to me that the course which we adopted was opposed to the seventeenth rule of Council, which says—" Every Bill will be read three times before it can be passed, and if the motion for the third reading be carried, the Bill on being so read shall be considered as passed." We, however, agreed to the third reading, and then began to consider amendments, but that course was clearly not intended by the rule just read. With reference to the Wuttundars' Bill I think the course we shall have to pursue in Bombay, is to take up the amendments first and then go on with the third reading. If any member wishes a third reading not to be proceeded with he may secure the adjournment of the subject under discussion by the third or fourth rule of Council. When this Tolls Bill is considered in Bombay the order of the day shall be the third reading. The record now should be amended to the effect that the third reading of the Bill was postponed. The spirit of the seventeenth rule is clearly that amendments must be proposed before the third reading of the Bill.

The Honourable Mr. BYTHELL concurred with His Excellency that this was the proper course, and what His Excellency suggested was adopted.

The Road Tolls Bills considered in detail.

The Council then proceeded with the consideration of the Road Tolls Bill in detail.

The Honourable Colonel KENNEDY drew attention to section four, relating to the proceedings which may be adopted by a toll-collector in the event of a person refusing or being unable to pay a toll. It had been proposed, he said, that the section should declare it penal for any one to evade a toll, but there were a number of practical difficulties in the way of this being done, magistrates often being a long way off where tolls were collected. The clause as it stood was the law as it is at present, and, therefore, as a matter of expediency it might be better to allow the section to stand as it was.

The Honourable Mr. GIBBS enquired whether any body had ever heard of a case of a toll-man selling up property he had seized ?

The Honourable Colonel ANDERSON said in all his experience he never heard of such a case, but probably as Natives would sooner go on their journey than complain, it was probable enough that arbitrary measures were sometimes adopted by toll-men to recover their tolls.

The Honourable Colonel KENNEDY—When a man refuses to pay, the toll-man seizes his puggaree. That seems to me to be a very quick and effectual proceeding.

The Honourable Mr. ROGERS affirmed that he had never heard any complaint in respect of the working of this section.

The Honourable the ADVOCATE-GENERAL—It seems to me to be a choice of evils, and the question is, whether it is better to leave an evil which exists or create a new one.

The section was finally agreed to unaltered.

The Honourable Colonel KENNEDY then called attention to section seven, relating to the penalty for demanding illegal tolls.

The Honourable Colonel ANDERSON suggested that an addition should be made to the section, making it a criminal offence, and liable to a term of imprisonment for six months or a fine of Rs. 200, for a toll-collector to be absent from his post and thereby cause unreasonable detention to people anxious to pass on their way.

The Honourable Mr. GIBBS thought a penalty of Rs. 200 for such an offence would be absurd.

The Honourable Mr. RAVENSCROFT considered that the offence should be merely departmental and ought not to be treated criminally.

The Honourable the ADVOCATE-GENERAL—Moreover, there would be created a new offence, and I doubt whether that would be permissible.

The Honourable Mr. GIBBS—At all events, the previous sanction of the Governor General will be required before a new offence can be created.

The Honourable Mr. Rogers thought it would be much better to make it a provision in the contract that if the toll-collector did not do his duty a fine would be imposed.

The majority of the Council concurred with the Honourable Mr. Rogers, and the subject dropped.

The Council then proceeded to the consideration of the schedule.

The Honourable Mr. RAVENSCROFT demurred to the first item—"On every four-wheeled carriage on springs, Rs. 1-8-0." The highest toll ever paid for a carriage and pair in England was 1*s.*, and, in his opinion, it was ridiculous to charge three times that amount in India.

The Honourable Colonel KENNEDY—The toll has been in existence for nine years, and we have never levied this maximum.

His Excellency the PRESIDENT—Then why keep such a high maximum ?

The Honourable Mr. GIBBS—There is a question, with regard to this schedule, whether the Council can reduce the amounts stated in it. As the Act stands, these tolls appear to me to be public revenue, and unless the Government of India give us authority to reduce the rates I do not think we have power to do so.

His Excellency the PRESIDENT—We have assumed a greater power than that in declaring that all tolls levied in the Presidency must be expended upon roads and bridges in the Presidency.

The Honourable Mr. GIBBS—That was practically in the original Act.

His Excellency the PRESIDENT—Then surely if we have power to deal with the whole of the tolls we have power to deal with a portion.

The Honourable the ADVOCATE-GENERAL was of opinion that the limitation imposed upon local Governments by the Government of India referred only to taxes and duties imposed by the Government of India "for the general purposes of such Government." Now it could not be said that these tolls, if they were to be spent upon roads and bridges in the Presidency, could be held to come under the phrase "for the general purposes of the Government of India."

The Honourable Mr. GIBBS—Nevertheless, I am inclined to think we have no power to alter this schedule, because we have taken it from the original Act.

The Honourable the ADVOCATE-GENERAL—I do not think that this Council is debarred from dealing with this schedule by the terms of the Indian Councils' Act.

The Honourable Mr. GIBBS called attention to the letter of the Bombay Government asking sanction to introduce this Bill from the Government of India, and to the Government of India's reply (which are read), and contended that the terms of the former letter did not justify the opinion that the Government of Bombay wanted permission to alter the schedule which was contained in the previous Acts upon the subject.

A long discussion took place upon the point here raised, and finally

The Honourable Mr. GIBBS moved that the schedule be allowed to stand as it formerly stood before the Select Committee made alterations upon it.

The Council divided on the Honourable Mr. GIBBS' motion:—

Ayes—4.	*Noes*—8.
His Excellency the Honourable Sir AUGUSTUS ALMERIC SPENCER.	The Honourable the ADVOCATE-GENERAL.
The Honourable A. ROGERS.	The Honourable MUNGULDASS NUTHOOBHOY.
The Honourable J. GIBBS.	The Honourable Sir JAMSETJEE JEJEEBHOY.
The Honourable Colonel KENNEDY.	The Honourable E. W. RAVENSCROFT.
	The Honourable NARAYAN VASUDEVJEE.
	The Honourable J. K. BYTHELL.
	The Honourable GUNPUTRAO TATYA SAHEB.
	The Honourable W. C. ANDERSON.

The motion was lost.

The schedule was then gone into.

The maximum on "every four-wheeled carriage on springs" was reduced from Rs. 1-8 to Rs. 1; on every two-wheeled carriage on springs from 12 annas to 8 annas; the rate upon "every ekka" was struck out and 2 annas was declared to be the rate "on every ekka or hackery on springs"; the rate upon every cart and hackery not on springs drawn by 8 bullocks, buffaloes, horses, ponies, asses, or mules, if laden, was reduced from Rs. 1-8 to Rs. 1; on "every camel if laden" from 8 annas to 4 annas, and on every camel if not laden from 4 annas to 2 annas.

The Honourable Mr. NARAYAN was of opinion that if foot passengers were to be charged 3 pies, the cases in which that toll might be exacted should be laid down in the Act.

The Honourable Mr. BYTHELL thought that if any great expense had at any time to be incurred for the building of particular bridges, a short Act legalizing a toll to provide for the expense might be passed, just as was done when similar emergencies occurred in England. It had been admitted by the Honourable Colonel Kennedy that the pedestrian toll would only be levied in particular cases, and if that were the case nothing could be better than for the Council to adopt what he (the honourable speaker) proposed.

The Honourable Mr. GIBBS considered that it would be very unwise to cancel this item from the schedule, and mentioned the advantages which were gained at Matheran Ghaut by the levy of the toll, the roads there being kept in good repair by means of the impost.

Some slight discussion followed on the subject, and finally it was agreed to allow the item to stand in the schedule.

The schedule was then agreed to as amended; as also the preamble.

Petition from the Ahmedabad Association regarding the Boiler Inspection Bill presented to the Council.

Before the second reading of the Boiler Inspection Bill (No. 7 of 1873) was moved, the Secretary read a petition which had been received from the Ahmedabad Association regarding Bill No. 7—a Bill to provide for the Periodical Inspection and the Management by competent Engineers of Steam Boilers, and Prime Movers attached thereto, in the City of Bombay, and within certain districts in the Presidency of Bombay. He also read some remarks on the same subject which had been addressed by Mr. Moylan, Boiler Inspector, Bombay, to Mr. Souter, Chairman of the Committee of Boiler Inspection, Bombay.

Mr. Rogers moves the second reading of the Boiler Inspection Bill.

The Honourable Mr. ROGERS then, in moving the second reading of the Bill, said—Sir, —I beg to move the second reading of this Bill. There has been a good deal of discussion on the subject of the Bill in the public prints, but so far as I am able to judge opinions are very fairly divided—those who desire to see Government take proper measures to protect the lives of its subjects wishing that the Bill should pass,

and those who care nothing for the subject, or wish only to be left to their own devices or to the tender mercies of incompetent men, saying, there ought to be no inspection. This state of public opinion shows, I think, that boiler inspection and engineer inspection ought to be taken by Government into its own hands. Considering all the circumstances which were brought to light before this Bill was introduced here, I think very few people will be found who seriously could say that Government ought not to take any measures to protect lives from being lost through bad boilers or the incompetence of the men in charge of them. I see that the Honourable Mr. Bythell has a motion upon the notice paper to reject all the sections from 14 to 22—that is those sections referring to the examination of engineers. I am not aware exactly of what arguments my honourable friend will introduce in order to support his motion, but I think none of them can be of such a nature that it cannot be met. I may anticipate one of them perhaps—that it has not been necessary to have these examinations in England; therefore there is no necessity for them in India. But I think it will be generally allowed that the circumstances of this country are very different from those of England. Although there may not be a regular inspection of steam boilers, and engineers are not obliged to possess certificates of competence, I believe that there are other associations in England which practically take those matters into their own hands.

The Honourable Mr. BYTHELL said that only Insurance Companies did so.

The Honourable Mr. ROGERS continued—Well, I believe, that as a general rule there are very few manufacturers in England who do not insure their boilers, and Insurance Companies are not likely to insure boilers that are defective. Private enterprise thus carries out in England the object which we seek, and in this country Government must take the place of private enterprise. The Bill has been carefully considered in Select Committee, and provisions have been introduced to prevent any inconvenience which might have been experienced had the Bill passed as it stood originally, and (as the honourable member must have heard just now) the petition from the Ahmedabad Association says that these alterations are considered very great improvements. For instance, we have provided that no engine of less than 10 horse nominal power shall be subject to inspection. The reason of this is that there are such things as steam pumps, irrigation projects, paper manufactories, and so forth, with which steam boilers are connected, and it would be scarcely necessary to inspect these. By thus limiting the class of boilers which we shall have to inspect, I think we have provided against any indue interference with the development of industry. One of the petitions received against the Bill says that it will be quite sufficient to leave the protection of people's lives to the power possessed by Magistrates under the Penal Code to punish in case of negligence. But the provisions of the Penal law will not always effect this. Although a manager of a factory may be competent enough for his duties, yet he may not always have time to look after all the details of his machinery, and unless the person directly in charge of an engine or boiler is in some way examined to prove his competence, accidents will be continually happening. On the whole, I think, the balance of opinion will be found to be in favour of the examination of engineers as well as their boilers or engines. Of what nature that examination will be has been left as vague as possible in the Bill, as the Council may see by a perusal of Sections 14 and 15. In framing rules His Excellency the Governor in Council may find it necessary to make rules for different parts of the country, so that it does not follow there shall be one fixed rule for examination, it may be written in some cases, and in others it may be oral. By this means we may avoid any difficulties from stopping works at factories suddenly, unless for some very good reason. With these remarks I beg to move the second reading of this Bill.

Mr. Bythell disapproves of the Bill, thinking it unnecessary.

The Honourable Mr. BYTHELL—Sir,—Although upon the first perusal of this Bill I was inclined to approve of its principle, yet further consideration of its terms and careful inquiries, both in Bombay and in the Mofussil, as to the working of steam boilers and machinery, have induced me to resolve to vote against the second reading of the Bill as it now stands. It does, of course, seem reasonable for Government to endeavour to protect the lives of its subjects from any danger that may be preventible, but, I think, we ought first to take into consideration the question whether such prevention is possible without exercising hardship, injustice, or oppression, and we ought also to consider whether the number of casualties which have occurred in this Presidency within the last few years is large in proportion to the number of steam boilers in use. If this number is found not to be large, then I must say that I agree with the petition from the Ahmedabad Association that

a provision which has not been found necessary in England, where there are so many steam boilers and so many machines, cannot be necessary here where there are comparatively so few. Even with the very best machinery and the very best men in charge, we all know that fearful accidents will happen occasionally, and, therefore, I think special legislation now upon the subject would be a mistake, unless it could be proved that the number of casualties are exceptionally numerous. I must say that nothing adduced by the Honourable Mr. Rogers has caused me to change my mind upon the subject. I have no statistics before me, but from all that I can hear the number of accidents in Bombay Presidency has been anything but large. Of course a bad case has just occurred at Broach—at all events, I suppose it must be a bad case, judging by the fact that the proprietor has been committed to take his trial. But in my opinion this very prosecution shows that the Bill is quite unnecessary. Government has power under the Penal Code to punish people who endanger human life, and I think the deterrent effects of that law are more likely than this legislation to prevent the recurrence of accidents in future. It may be said, however, that it is more the province of a Government to legislate for the prevention of accidents to its subjects than to punish those who cause the accidents, and I am glad to see from Section 518 of the Criminal Procedure Code—a section to which our attention was drawn by the Honourable the Advocate-General in another matter—that it is stipulated that the Magistrate of a district or other Magistrate "may by written order direct any person to abstain from a certain act * * * * whenever he thinks such direction is likely to prevent danger to human life." The power contained in this section was prominently brought to my notice a short time ago when a friend wrote to me from Broach that under the Penal Code a Magistrate had actually prohibited an owner of a steam boiler from working it beyond a particular pressure until it was examined. I may also remark that this same gentleman told me that the examination justified that boiler being worked at a higher pressure than that which the Magistrate ordered. This being the case, I repeat that I think such legislation as this superfluous. The honourable mover of the Bill has referred to the fact that native-owned and native-managed factories are already spread over the whole of Guzerat, and from what he said I imagine that the provisions of this Bill are intended specially to apply to those factories. We are informed, however, in the petition of the Ahmedabad Association that not one life has ever been lost at a single one of these factories, and therefore we cannot use as an argument for the necessity of this Bill the fact of factories being owned or managed by natives.

Here the Honourable Mr. ROGERS said that two lives were lost at Ahmedabad.

The Honourable Mr. BYTHELL—In that case, Europeans were in charge, and I am now referring particularly to native-owned and native-managed factories. It appears to me that if Government is going to legislate whenever the lives of its subjects are in danger from accidents, this Council will have a very wide sphere of duty to attend to. If the principle that Government interference is necessary in this case, I would like to ask (and I see Mr. Moylan has also asked the question) upon what principle Railway Companies are to be exempted from the operation of this Act. Locomotive accidents have happened even in England, where there is no special legislation on the matter, and some of these accidents have been very disastrous to life and property. We know too that many of these accidents have happened through the negligence of railway officials, and in this country, considering how miserably engine-drivers and other railway officials are sometimes paid, it is wonderful that Government can rest content with the present state of matters; it must be admitted that the danger to human life in connection with railways is very great compared with the small amount of danger which experience has taught us to expect from the stationary boilers or prime movers employed in this Presidency. Had accidents here been so numerous as to give boilers an unenviable notoriety above all other causes of violent death, then I might think legislation upon the subject necessary. To give a strong example—how many thousand of miserable deaths take place annually from snake-bite apparently almost unheeded by Government, which takes no preventive measures, or at all events only does so on a small scale in certain districts.

The Honourable Mr. GIBBS—I think that Government gives a reward for poisonous snakes over the whole of the Presidency and large amounts of ammonia are also distributed by Government for cures.

The Honourable Mr. BYTHELL—I do not know what the present custom is exactly, but I remember seeing it stated in the newspapers, not very long ago, that the Government of India had cancelled the order to pay 4 annas for each snake killed in a certain district because the result of the increase was that a very large sum had to be paid.

The Honourable Mr. GIBBS—The order to pay 4 annas may have been cancelled, but not so an order to pay 2 annas, and that smaller reward has been in existence for many years.

The Honourable Mr. BYTHELL—Well, seeing that so many accidents occur yearly from snake-bite, it is difficult to see why Government should think the subject of so little importance as to reduce the amount of reward for killing a snake as soon as a large expenditure had to be met. Yet if a man in charge of a boiler happens to blow it up and kills himself a Government inquiry is immediately ordered, and report after report ends in special legislation like this.

The Honourable Mr. ROGERS—We can scarcely legislate to prevent cobras from biting.

The Honourable Mr. BYTHELL—But you do not send a set of men, or call them inspectors, about the country to destroy snakes although their bite is so fatal to human life. Yet this is what you are proposing to do in the case of the boilers, with which only very few deaths take place every year. We might get a hundred other examples, if you interfere with boilers, where you ought to introduce special legislation. Take, for instance, boating accidents. Many hundreds of people die annually from boating accidents in India, but you notwithstanding never think of making the owner of a boat liable to a penalty of Rs. 500 every time he lets his boat out without a certificated boatman in charge. Legislation in such special cases can only be justifiable if the evil to be remedied be very great and if the remedy be simple and efficacious. Now I say that if you exercise the remedy which you already possess in the Penal Code there is no occasion for this Bill, and, moreover, the evil that you propose to legislate for is by no means formidable. The remedy which you propose has not the advantage of simplicity; and I am afraid that under it mills in many parts of the mofussil will be compelled to stand idle for several days until the inspector chooses to call, otherwise Government will be compelled to employ a very large staff. As to the examination of engineers I agree entirely with what has been urged in this petition from Ahmedabad. The thing might do very well to commence with, but as time wore on the owner of mill property would be subject to losses because, supposing the time were the busy cotton season, when each mill must be kept hard at work every day, and supposing the certificated engineer were to fall sick or to die, it is probable that the mill-owner would be compelled to close his mill for several days before he could obtain the services of another properly certificated engineer, or pay the heavy penalty fixed by the Bill if he chose to break the law. Then the system will probably expose proprietors to the insolence of inspectors and other inconveniences. From inquiries I have made, I do sincerely believe that the Act could not be worked without the most objectionable practices creeping in. If complaints are so rife in Bombay, where there is a strong public opinion about the unsatisfactory working of the Act, what may we not expect in the mofussil? Government cannot afford to give a very high salary to an inspector, and we know that it is the case that unfortunately many poorly paid Europeans fall in with the prevalent customs of dustoor and bribery. An inspector under this Act will have almost unlimited power in his hands in the mofussil and he may line his pockets to an almost unlimited extent. It is true the Bill provides that there must be an appeal in certain cases where owners of boilers consider themselves aggrieved, but we must all know that in the busy season an owner would submit a great deal to an inspector rather than have his boiler fires put out and his mill stopped. Therefore I say that the inspector will have almost unlimited power by this Bill. He may say that a boiler must not be worked beyond a certain pressure—a pressure which may make the driving of the machinery impossible. I hope this Council will hesitate before enacting a system of inspection which has not been found necessary in England. The Honourable Mr. Rogers adduced one instance which he thought to be in favour of the Bill, but I think it is really a very strong argument against it. He mentioned that there was no private inspection of boilers in this country and stated that boilers in England were mostly subject to private insurance companies' inspection. In spite of the opinion of the honourable member that most boilers are insured in England, I am inclined to differ with him. Lancashire, my native county, is a large steam boiler county, and I think I am right in saying that it is not by any means the universal custom there to insure steam boilers. The fact of there being no custom of insurance here shows that the owners have every possible inducement to guard against accidents. We might also remember that boilers which are brought out to this country are, as a rule, of the very highest class, and the few accidents that have occurred in Broach and elsewhere are only the exceptions which prove the rule. Though you inaugurate the most perfect policy of inspection, you may depend upon it that now and then an accident will occur from a bad boiler

escaping detection. There is another remark in the Ahmedabad petition which deserves attention. I agree with it that this country requires the extension of the use of private capital and scientific means in order that its enormous resources may be developed. Take the case of the district of Guzerat against which this measure appears to be specially levelled. A few years ago Broach cotton was so badly prepared by native means that it was almost unsaleable; but in consequence of the introduction of steam factories all over the country, and the erection of gins peculiarly suitable for the staple, ginned Broach now brings a higher price than any other cotton in India except Hinghunghat. That can be shown by a reference to Liverpool price currents of the last few years. And I say it is a great pity indeed that this Government, when there is no crying need for interference, should now interfere, merely for the sake of an idea, in a way calculated to check the extension of private enterprise in the direction of introducing machinery. A great many of these factories in Guzerat are not in British territory, many being in the Gaekwar's territory, and to put the present Bill into operation will be to handicap the British territory manufacturers in favour of the others. I repeat, I believe that the Bill if made law will be productive of hardship and must tend to foster the objectionable practice of bribery which permeates the country and that under no circumstances can any good result from the Bill commensurate with the evils it will bring about. For these reasons, Sir, I shall vote against the second reading of the Bill.

The Honourable Mr. MUNGULDASS—I certainly concur in what the Honourable Mr. Bythell has just said regarding the inadvisability of passing such a measure as this. I would add to what he has said that if my information is correct all the accidents which have happened up to this time in Bombay as well as in the mofussil, were in those factories which were under European superintendence and management. If this Bill is meant only to inaugurate a better system of native management of engines and boilers, I cannot see the expediency of the measure. As to the Honourable Mr. Rogers' statement that boilers in Bombay are not insured, I think I am correct in saying that almost all the Bombay factories with the exception of one or two are insured.

The Honourable Mr. BYTHELL observed that they are insured against fire only.

The Honourable Mr. MUNGULDASS—I mean so. However, for the reasons I have given, and for those advanced by the Honourable Mr. Bythell, I must oppose this Bill as it now stands.

The Honourable the ADVOCATE-GENERAL—I would like to know whether there are any provisions in this Bill to provide for the periodical inspection of boilers. Mr. Moylan has made an important reference to this point. There is no use in inspecting a boiler and giving a certificate if during the period covered by the certificate no further inspection can take place. Yet, so far as I have seen, there is no periodical inspection provided for, and apparently an inspector may grant a certificate for an unlimited period if he pleases.

His Excellency the PRESIDENT observed that that would be a gross breach of duty.

The Honourable Mr. ROGERS—I would like to say a few words in answer to the Honourable Mr. Bythell. The pith of his remarks was that because there have been very few accidents hitherto, therefore it is not worth while to take any measure at all to prevent them. But I am not of opinion that the question can be settled in that way. By great good luck—I cannot say by good management—such accidents have been rare. We must also take this fact into consideration, that though factories are few in number yet they are increasing every day, and this measure will therefore be much more useful in the future than it would be thought from the past. As to the argument that the Bill is unnecessary by reason of the present powers which magistrates possess under the Criminal Procedure Code, I think we may use the same argument which was used in regard to the Burials Bill. It is decidedly unsafe to leave such important matters to a magistrate, who may be capricious, or without sufficient technical knowledge to decide on them. Even though magistrates were to be allowed to exercise this power they would surely require the assistance or advice of some practical person, and this person we propose to make the inspector. The honourable member used as an argument for his case the fact that many deaths take place from incompetent boatmen and snake-bite. Government is perfectly aware that a great many lives are lost in the course of the year from the latter cause, and for this reason it has instituted a system of rewards to persons who kill snakes, and also distributed antidotes. Beyond this Government can scarcely go. It cannot legislate to prevent cobras from biting nor persons from dying after they have been bitten. But accidents from bad boilers come under the heading "preventible accidents," and by this Bill we seek to pre

vent their occurrence as much as possible. As to the honourable member's remark that this Bill will handicap unfairly British manufacturers in Guzerat I think he will find, if he makes inquiry, that in nine cases out of ten the manufactories are in British territory. With regard to the oppression that may occasionally accrue from unprincipled *employés* under this Act taking blacknail for the examination of boilers, and so on, I think that state of matters will be preventible by the provisions of the Penal Code.

The Honourable Mr. BYTHELL—Perhaps I may be allowed to make a few remarks in reply to the honourable member. He seems to think my argument regarding deaths from snake-bite weak, but I may repeat the reply which I gave to the Honourable Mr. Gibbs. The sum of two annas as a reward for killing a snake was found to be less effectual than could be desired, and in certain districts the reward was raised to 4 annas. Immediately this was done, however, the number of snakes killed was apparently so great, that the reward was reduced to two annas—showing that Government is not doing all it can to prevent deaths. With regard to the working of the Act, I have made inquiries both of Europeans and Natives, and I find they are inclined to think that oppression would result. Many Natives have come to me to talk over the subject, and I have not found any one person to say that at the present time oppression and injustice do not exist. On the contrary they say that they do exist—that oppression is carried on in a most objectionable manner. Many of these men mentioned circumstances which, as they were not substantiated, I cannot bring before the Council; but I heard of one case which I think I am justified in mentioning, because it was told to me without any secrecy and without hesitation. I was told it by a gentleman who is Agent of the Bombay Press Company. This Company has six large boilers and twelve presses, and Mr. Moylan gave a certificate to the effect that it would not be safe to work the boilers beyond 40 lbs. pressure. Soon after this, the Company engaged Mr. Moylan to manage the machinery, Mr. Moylan then put a cheap man in to work it, under his inspection, and this cheap man immediately worked the boilers up, it is said, to a pressure of between 45 and 50 lbs., and within a few months he reduced the presses to such a disgraceful state—breaking three out of twelve, in fact—that the presses were not capable of turning out more than sixty bales per day, whereas formerly they used to turn out one hundred bales per day. This arrangement with Mr. Moylan was very soon cancelled, and then things were put in better order. Now, that is one example of how the present Act may be worked.

His Excellency the PRESIDENT enquired whether this transaction took place with the Government Inspector; and

The Honourable Mr. BYTHELL having answered in the affirmative;

His Excellency the PRESIDENT asked whether the Company made no report of the transaction to Government.

The Honourable Mr. BYTHELL—No; I believe not. Although the Press is nominally under European management it is actually managed by natives—some of the principal natives of Bombay.

His Excellency the PRESIDENT—And the honourable member says they made no report of the transaction to Government. Well, I think, they have no one to blame but themselves.

The Honourable Mr. BYTHELL—That is the point—natives as a rule will not complain. They will pay and lose rather than take all the trouble of petitioning and so forth.

His Excellency the PRESIDENT—Then the honourable member's argument amounts to this, that any Government servant, even at the capital of the Presidency, can be guilty of any misconduct or any degree of corruption, and no one will say a word. These were people who had the greatest facilities for complaining; they had plenty of opportunity; and yet they held their tongue. Perhaps they got this man to be their manager in order to make it square with him about their boilers, and that probably accounts for their silence. The honourable member now brings this case up as an argument against the Bill, but it appears to me that it is a strong argument in favour of the Bill that even independent natives in Bombay, who had nothing to fear, cannot protect themselves. It hardly can be said that we are inaugurating a new system of interference, because it is quite possible that our immunity from accidents is in consequence of Act VI. of 1869, and, as I understand it, the object of the present legislation is simply to extend to the mofussil a similar protection to the manufacturing classes of the lower orders as is at present enjoyed in Bombay. I may say that it is but fair to this Inspector in Bombay that such

charges as this one which has been mentioned should be investigated; and if the honourable member will give me the name of the manager or secretary of the Bombiy Press Company, we may be in a position to get at the facts of the case.

The Honourable Mr. BYTHELL—I was told of the affair by Mr. Brice, the manager of the Press Company.

His Excellency the PRESIDENT—And the honourable member says that these boilers were worked up to between 50 and 60 lbs., although Mr. Moylan said they ought not to be worked above 40 lbs. pressure? That is a very serious charge.

The Honourable Mr. BYTHELL—In any case, even supposing the charge were unfounded, it is objectionable that this man should put in his own nominee.

His Excellency the PRESIDENT—It is equally objectionable for the Company to have employed Mr. Moylan in the way they did.

The Honourable the ADVOCATE-GENERAL—There might be a clause in the Act that the inspectors shall not be employed otherwise than as inspectors, and that they shall be liable to the penalty imposed upon public servants for taking illegal gratifications.

The Honourable Colonel ANDERSON remarked that as magistrates, if left to act regarding boilers and machinery under the Penal Code, would be open to the advice of every spiteful person, this Bill in appointing competent inspectors would be a step in the right direction. If the Bill were not passed, he believed that the *adhawat* system would simply be encouraged.

The Council divided on the Honourable Mr. ROGERS' motion:—

Ayes—10.	*Noes*—2.
His Excellency the Honourable Sir AUGUSTUS ALMERIC SPENCER.	The Honourable MUNGULDASS NATHOOBHOY.
The Honourable A. ROGERS.	The Honourable J. K. BYTHELL.
The Honourable J. GIBBS.	
The Honourable the ADVOCATE-GENERAL.	
The Honourable Colonel M. K. KENNEDY.	
The Honourable Sir JAMSETJEE JEJEEBHOY.	
The Honourable E. W. RAVENSCROFT.	
The Honourable NARAYAN VASUDEVJEE.	
The Honourable GUNPUTRAO TATYA SAHIB PUTWURDHUN.	
The Honourable W. C. ANDERSON.	

Bill read a second time.

The motion was therefore carried.

Bill considered in detail.

The Council then proceeded to consider the Bill in detail.

The Honourable Mr. RAVENSCROFT asked if Section five were meant to apply to locomotives.

The Honourable Mr. BYTHELL—No; yet, that is one of the points on which Mr. Moylan has expressed an opinion.

His Excellency the PRESIDENT—I think that to make railway companies amenable would be unnecessary, because they have their own locomotive superintendents.

The words: "or to work it at a pressure higher than that stated in the certificate" were added to Section 5; and in Section 6, line 30, "10" was substituted for "15".

The Honourable the ADVOCATE-GENERAL remarked that at present there was no provision in the Bill providing for a boiler being examined during the pendency of a certificate, which apparently might be granted by the inspector for as long a period as he chose. He begged to move that these words be added to Section 7:—"Provided that no such certificate shall be granted for a longer period than twelve months; and provided also that it shall be the duty of the inspector, on the request of the owner of any boiler or prime-mover in respect of which a certificate has been granted at any time before the expiration of such certificate, to inspect the boiler or prime-mover in respect to which the request is preferred, and, on being satisfied that the same is in good condition, to renew the said certificate for a further period not exceeding twelve months at his discretion." The honourable and learned member, in supporting his amendment, said he could quite imagine a case occur-

ring in which four boilers attached to a certain mill would have their certificates all running out on the same day; but if this amendment were agreed to the owner might call in the inspector for one boiler at a time, and thus the whole mill would not be brought to a stand-still in consequence of every boiler fire being put out.

The Honourable Mr. MUNGULDASS—At present an owner is completely at the mercy of the inspector regarding the examination of boilers. If he chooses he may refuse to examine one boiler at a time, and insist upon examining all the boilers in an establishment at once, the result of which will be a great pecuniary loss and annoyance to the manufacturer. I personally have nothing to complain about the present inspector in this respect; but still I have heard complaints that the owners of other Spinning Mills are not so fortunate, and I am told that on one occasion a factory was closed for twenty or thirty days simply because the inspector insisted upon examining all the boilers at once instead of one at a time.

The Honourable Mr. GIBBS—The important question arises, is one inspector sufficient?

The Honourable the ADVOCATE-GENERAL—There is power in the Bill to appoint more than one inspector.

The Honourable the Advocate-General's amendment was agreed to.

The Honourable Mr. BYTHELL called the Council's attention to Section six, and remarked that, as in Bombay the inspector had to give notice when he was coming to inspect a boiler, a similar rule should prevail for the mofussil. He begged to move the insertion of the following words after "notice" in line thirty: "and shall inform the owner of the date on which the said inspection will take place."

The amendment was agreed to.

The Honourable the ADVOCATE-GENERAL's amendment was also agreed to.

The Honourable Colonel KENNEDY thought it would be better to alter Section 8 so as to leave it open to Government to appoint a commission when necessary.

A series of alterations were then made upon the section after which it read thus:—"Government shall as occasion may require appoint commissions for hearing appeals preferred by owners as provided by this Act, or for conducting inquiries on applications made by Collectors under Section IV. of this Act, and such commissions shall consist of such person or persons as the Government from time to time shall nominate, and shall endure for such term as the Government shall appoint."

The section was agreed to.

The Honourable Mr. BYTHELL said section nine was vague, in consequence of no time being stated within which an inspector should be bound to give an owner his reasons for refusing to grant him a certificate for his boiler.

The Honourable the ADVOCATE-GENERAL suggested that the inspector be made to give his reasons within twenty-four hours from the time he inspected the boiler.

The Honourable Mr. RAVENSCROFT considered that it might prove very oppressive also to a boiler-owner if it were not laid down within what time a commission should inquire into an appeal lodged against the decision of an inspector.

His Excellency the PRESIDENT concurred.

The section was then amended by the Honourable ADVOCATE-GENERAL to run thus—"If an inspector refuse to give a certificate to the owner of any boiler or prime mover under Section VII. of this Act, he shall be bound to give to such owner in writing, within twenty-four hours, his reasons for said refusal, and any owner aggrieved by the decision of the inspector may, within one month from the date of said refusal, lodge with the Collector an appeal to be heard by a commission appointed under Section VIII. of this Act. The Collector shall thereupon forthwith forward to the commission the petition of appeal, and the said commission shall within four days after the date of the receipt of such petition of appeal, if such boiler or prime mover be situated in the city of Bombay, and within ten days after the date of the receipt of such petition of appeal, if such boiler or prime mover be situated elsewhere than in the city of Bombay, inquire into and determine such appeal, and shall, if it think fit, grant a certificate;" &c.

His Excellency the PRESIDENT asked if the commission were to be paid.

The Honourable Mr. BYTHELL said that the present commission in Bombay get fees.

The Honourable the ADVOCATE-GENERAL said the question would settle itself, because if a member of a commission were a Government servant his right to remuneration would be determined by Government, whereas if he were not a Government servant he would refuse to do the work unless he was paid.

The section was then agreed to.

In line six of Section VI. "periodical or otherwise" was deleted.

It was decided that the emoluments of commissioners and inspectors should be fixed by rules framed by Government, and in the sixth line of Section XI. "of," after "duties," was struck out, and these words substituted for the end of the section:—"and emoluments of commissioners and inspectors appointed under this Act."

Regarding Section XII. the Honourable the ADVOCATE-GENERAL doubted the utility of providing that owners of boiler certificates should be compelled, when necessary, to show their certificates to a magistrate.

In lines seven and eight of Section XIII.,."five hundred rupees" was deleted and these words inserted after "exceeding" in line seven:—"Rs. 100 for every day that he shall use the said boiler or prime mover without such certificate." In line fourteen, "one" was substituted for "five," and after "rupees" these words were inserted:—"for each day after the first conviction during which the offence is continued, and in like manner after each subsequent conviction."

His Excellency the PRESIDENT then adjourned the Council.

By order of His Excellency the Governor in Council,

JOHN NUGENT,
Acting Under Secretary to Government.

Poona, 9th September 1873.

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

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

The Council met at Poona on Wednesday, the 10th September 1873, at noon.

PRESENT.

His Excellency the Honourable SIR PHILLIP EDMOND WODEHOUSE, K.C.B., Governor of Bombay, *Presiding.*

His Excellency the Honourable SIR AUGUSTUS ALMERIC SPENCER, K.C.B.

The Honourable A. ROGERS.

The Honourable J. GIBBS.

The Honourable MUNGULDASS NUTHOOBHOY, C.S.I.

The Honourable COLONEL M. K. KENNEDY.

The Honourable SIR JAMSETJEE JEJEEBHOY, Bart., C.S.I.

The Honourable E. W. RAVENSCROFT.

The Honourable NARAYAN VASUDEVJEE.

The Honourable J. K. BYTHELL.

The Honourable COLONEL W. C. ANDERSON.

The Boiler Inspection Bill considered in detail.

The Council proceeded with the consideration of the Boiler Inspection Bill.

The Honourable Mr. BYTHELL—The motion of which I have given notice is that all the sections from fourteen to the twenty-second be expunged, but as I only wish to object to those sections which declare that no boiler shall be in charge of any person not a certificated engineer, perhaps I may be allowed to amend my motion to that effect.

Section XIV. was then agreed to.

On the suggestion of His Excellency the PRESIDENT, Section XV. was amended as follows:—all the words after "Council," in the second line, to and including "behalf," in the sixth, were deleted; "two" in the seventh line was made "one"; and in line ten "from time to time make rules which shall be published in the *Government Gazette*" was inserted after "may" and the words "make rules" struck out.

The Honourable Colonel KENNEDY—I may mention here that it has been suggested to me that it would be better to have a provision inserted here similar to the provision in the Steam Vessels Bill, that any person who has served a certain time in charge of a steam boiler shall *ipso facto* be granted a certificate of competency.

A discussion here took place as to whether inspectors should be under a Collector or that of the Commission, and it was decided to abide by the rule of procedure laid down by the amendments in Section IX.

The Honourable Mr. GIBBS agreed with what the Honourable Colonel Kennedy had said, because the whole object of Government was to get competent men to look after boilers, and it did not care where that competency was obtained so long as they had it.

The Honourable Mr. NARAYAN concurred, and referred to the intimation of Mr. Cursetjee Cowasjee, of Bhandoop, that he had a man who had worked his boilers for forty-two years, who was a very good practical engineer, and it would be a hardship for him to lose his situation because he was not possessed of a certificate.

The Honourable Mr. BYTHELL and the Honourable Mr. MUNGULDASS also concurred.

The first part of Section XVI. down to "every," in the fourth line, was then deleted and the whole section was amended to read thus—"Every applicant who is reported by the examiners to have passed the examination shall receive a certificate of competency to the effect that he is competent to act as engineer, signed by the examiners and countersigned by a Secretary to Government; and every person who shall satisfy the said examiners that he has before the passing of this Act efficiently served for a period of not less than one year as first or only engineer in charge of any steam boiler or prime mover of more than 10 horse-power nominal, shall be entitled to a certificate of competency."

Engineers with a year's experience to be granted a certificate.

Section XVI. was then agreed to as amended.

His Excellency the PRESIDENT suggested a series of amendments upon Section XVII., relating chiefly to penalties upon engineers in the event of their misconduct. The first part of the section was struck out and, as a whole, it was altered to read as follows :—

"If by means of any inquiry, conducted under the provisions of this Act, the misconduct, negligence, or incompetency of any Engineer possessing a certificate of competency is established to the satisfaction of the Governor in Council, it shall be lawful for the said Governor in Council to cancel such certificate or to suspend the same for such time as to him shall seem fit."

The question was raised whether the certificates of competency of foreign engineers could be cancelled by the Governor in Council, and the Council inclined to the belief that the Governor in Council had power to suspend these foreign certificates in India, but not to cancel them.

The Honourable Mr. GIBBS asked what constituted a "competent authority" to grant certificates.

The Honourable Mr. ROGERS—That question has been found one of so difficult a nature that we could not exactly define it, and the matter will probably have to be left to the discretion of examiners.

Section XVII. as amended was then agreed to.

Section XVIII. was agreed to after being altered to the following shape :—"A certificate of competency shall be granted by the examiners to any engineer in possession of a certificate of competency granted by any competent authority in the United Kingdom or in British India or in any British Colonial possession, and the certificate so granted by the examiners shall be liable to be cancelled or suspended as provided in the preceding section."

The words "or of such commission as aforesaid" were struck out of lines four and five of Section XIX.

Regarding Section XXI., the Honourable Mr. BYTHELL said—The alterations which have been made upon Section XVI. so completely take the sting out of this section that I withdraw the amendment which I proposed upon it. At the same time, it appears to me that what we ought to endeavour to prevent is not so much incompetence on the part of the engineer as drunkenness or inattention on the part of the firemen. An engineer may be in charge of a spinning mill containing perhaps half-a-dozen boilers and a pair of large engines. He only visits the boiler house once or twice a day because the rest of the machinery is so complicated as to demand most of his attention, and yet the fireman, or the man practically in charge of the boilers, may cause an accident by his negligence or intemperance.

His Excellency the PRESIDENT—Yesterday the honourable member said that a very respectable establishment in Bombay thought it desirable to bribe a Government officer in order to work the boilers at a higher pressure than he said they could bear; and that this inspector put in a cheap engineer, who at once caused accidents among the machinery.

The Honourable Mr. BYTHELL—I think His Excellency must have misunderstood what I said yesterday. I said this company made an arrangement with this Government inspector to work the whole concern.

His Excellency the PRESIDENT—And that he first obstructed the company by saying they must not work their boilers beyond a pressure of 40 lbs. ?

The Honourable Mr. BYTHELL—No, Sir. The man previously employed by the company having had the offer of a better situation had gone up-country; but it was certainly prior to the date of this man leaving the company's employment that the inspector said the boilers could not be worked beyond a pressure of 40 lbs. On this man leaving, the

directors wished to appoint somebody to the vacancy, and, I suppose, they must have had an application from Mr. Moylan because they appointed him, and then he put in his own man. My statement was that I was told that this man actually did work the boilers to a higher pressure than 40 lbs.

His Excellency the PRESIDENT—I understood the honourable member to say yesterday, as an instance of the corruption that at present went on, that this inspector said these boilers would not carry more than 40 lbs. to the square inch, and subsequently this same inspector became manager of the concern; put in his own man; the boilers were worked beyond 40 lbs.; and gave way.

The Honourable Mr. BYTHELL—I referred to the machinery. I said that I had noticed that the new engineer in charge was not able to work the presses so effectually as his predecessor, and as a matter-of-fact he broke three machines out of twelve. I saw from actual observation that he was not able to work the presses so well as his predecessor. I never heard or said that there was any question of arrangement with Mr. Moylan as to the pressure the boilers should be worked at.

The Honourable Mr. GIBBS—I thought the honourable member said so, at all events, that the boilers were worked at a higher pressure than that which was stated in Mr. Moylan's certificate, and by the man he had put in.

His Excellency the PRESIDENT—I must say that I was given the distinct impression yesterday that the company's arrangement was an arrangement to be improperly accommodated by Mr. Moylan with respect to their boilers.

In line 18 of Section XXIV., "64" was substituted for "63." In line 24, "fees payable and all" was inserted before "fines."

"Commission appointed under this Act or of the" was struck out, and "Collector of Bombay or" substituted in lines 8 and 9 of Section XXV.

The Honourable Mr. BYTHELL wished it to be laid down that no inspector should be allowed to be interested in any factory or machine or boiler agency.

The Honourable Mr. NARAYAN said that the inspector would be amenable to the rules affecting public servants.

The Honourable Mr. GIBBS observed that any man can be at once removed who does not do his duty properly.

Schedule A was agreed to.

To the heading of the seventh column in Schedule B these words were added "and maximum pressure at which the boiler may be worked."

The preamble and title were also agreed to.

Colonel Anderson added to the Select Commitee on the Mofussil Municipalities Bill.

On the motion of the Honourable Mr. GIBBS, the Honourable Colonel Anderson was added to the Select Committee on the Mofussil Municipalities Bill in addition to those already appointed, as the Honourable Mr. Ravenscroft was compelled to leave Poona for Bombay on business.

Petitions to Council.

The Honourable Mr. BYTHELL said that he should like if it were agreed to that petitions regarding any of the Bills before the Council should be printed and circulated among honourable members. Many of these petitions were of great interest, and when they were read just before the consideration of a Bill, it was impossible for honourable members to get the full value of the suggestions in the petitions.

The Honourable Mr. MUNGULDASS suggested that all such petitions should be printed.

His Excellency the PRESIDENT thought it would lead to a great deal of unnecessary expense if every petition received by Government were to be printed, but he suggested that members of Select Committees might decide upon the circulation of petitions which appeared to them to be important.

The Honourable Mr. ROGERS said he would be happy to furnish members with the more important petitions upon the Salt Bill.

The Honourable Mr. GIBBS said the same with regard to petitions about the Mofussil Municipalities Bill.

Colonel Kennedy moves the second reading of Steam Vessels Survey Act Amendment Bill.

The Honourable Colonel KENNEDY, in moving the second reading of the "Bill to amend Bombay Act No. II. of 1864, providing for the periodical Survey of Steam Vessels, and to provide for the examination of Engineers of Steam vessels," said:—When this Bill was before the Select Committee, the Honourable Mr. Bythell gave us a number of communications on the subject from the Bombay Chamber of Commerce, and these were duly considered. There seems to me to be a difference of opinion as to the necessity or non-necessity of the Bill, but upon the whole I think it is considered necessary by those gentlemen who have given their attention to the subject. The chief point of contention was, that certificates should be granted to those vessels armed with certificates from Colonial and British Indian Governments as well as from the Board of Trade. A suggestion had been made by one or more letters to newspapers that it would not be fair for us to make this Bill applicable to British vessels and allow foreign vessels to go free, but regarding this point, the Committee did not feel competent to decide the question whether this Government had any power to apply the Act to vessels sailing under a foreign flag. The Bill was therefore left as it stood originally—only applicable to British steam vessels.

The Secretary here read a petition regarding the Bill which had been received from the Secretary of the Bombay Chamber of Commerce.

The Honourable Colonel KENNEDY said that that petition did not offer any great objection to the Bill as it stood. If cargo steamers were provided with proper certificates, he thought there would be no objection to granting the immunity asked for them. As regards the examination of native engineers in charge of small craft, he was of opinion that Section XI. provided for their case. As regards the examination of steam-tugs, launches, &c., he did not see what more the Chamber of Commerce required.

His Excellency the PRESIDENT remarked that the Chamber of Commerce did not wish these to come under the action of the Bill at all.

The Honourable Colonel KENNEDY—In that case, we can have no objections to meet them.

His Excellency the PRESIDENT—This is just the same principle as we adopted in the Boilers Bill when we exempted machines under 10 horse-power.

The Honourable Colonel KENNEDY—Just so. As regards foreign vessels, I have already explained that the Committee thought such a question had better be left to the full Council. With these remarks I beg to propose the second reading of this Bill.

Bill read a second time and considered in detail,

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

The Honourable Mr. BYTHELL—Sir,—I think there ought to be some amendment made upon this first section. As already pointed out in the letter of the Chamber of Commerce many vessels coming direct to Bombay do not carry a Board of Trade certificate; and some gentlemen have pointed out to me that the section as it now stands would not exempt from survey here a new ship of the best class in Lloyds' and just off the stocks, because such a ship immediately upon its arrival in Bombay, a comparatively small port, would be boarded by Indian surveyors. I understand that one of the objects for which this Bill was introduced was to remove such cases of hardship as this. The amendment I beg to propose is that no vessel arriving in Bombay from Great Britain or Ireland which has not been absent from port in either of these places for a period longer than six months shall be liable to be surveyed in Bombay. I do not think this amendment could lead to any injurious effects.

Mr. Bythell thinks that vessels provided with insurance certificates ought to be exempted from liability to survey in Bombay.

The Honourable Mr. GIBBS—Supposing a vessel leaves, say, Liverpool without a Board of Trade certificate, is it examined at all in Liverpool before it sails?

The Honourable Mr. BYTHELL—Yes; vessels are examined by the Underwriters' Association. A ship is always insured, but neither her cargo nor hull can be insured unless she has a certificate from the Underwriters.

The Honourable Mr. GIBBS—Then would it not be better simply to exempt vessels with a Board of Trade or an insurance certificate?

The Honourable Mr. BYTHELL—Yes—if the certificates were granted by certain Underwriters' Associations.

The Honourable Mr. GIBBS—Do accidents never occur to steamers between Britain and Bombay ?

The Honourable Mr. BYTHELL—Very few.

The Honourable Colonel KENNEDY—I have a list of such accidents before me, and I think they have been more numerous than the honourable gentleman is aware of.

The Honourable Mr. NARAYAN—I think that Mr. Plimsoll has pointed out that proper precautions are not taken with a good many steamers which leave England.

His Excellency the PRESIDENT—I have seen a good deal connected with shipping, and I have not the least doubt of there being a great necessity for reform.

The Honourable Mr. BYTHELL—If the Council adopts the principle—as it will if it declares that after a short thirty days' run from England a steamer may be surveyed upon arrival here—of vessels having to be surveyed at whatever port may be their destination, there will be nothing to hinder every little port in the Mediterranean from seting up a right to survey British steamers.

His Excellency the PRESIDENT—The matters treated of in this Bill have been all laid before the Board of Trade, which doubtless is desirous of removing restrictions from British shipping as much possible, and therefore I think this Council ought to be very cautious in proceeding in this matter. I believe that everything which the Board of Trade asked us for is already granted in the Bill, and I repeat we ought to be very cautious before acting in the direction desired by the Honourable Mr. Bythell.

The Honourable Mr. GIBBS— I certainly think that steamers with no certificate at all ought to be surveyed.

Vessels provided with certificates granted by the Lloyds' Association or by the Liverpool Association of Underwriters to be exempted.

After some further consideration, "or by Lloyds' Association of Underwriters or by the Liverpool Association of Underwriters" was inserted between "Government" and "shall" in line 21.

Section I. was then agreed to.

The same words were placed after 'Government' in line eleven of Section II.

His Excellency the PRESIDENT said he could not see the force of the Chamber of Commerce's objection to the third section.

The Honourable Mr. BYTHELL could not remember the reasons which induced the Chamber to make the objection.

Sections relating to the examination of engineers made similar to the amended sections on the same subject in Steam Boilers Inspection Bill.

The Council then proceeded to make alterations upon the remaining sections—relating to the examination of engineers—similar to those which were made upon the corresponding sections in the Steam Boilers Inspection Bill.

In Section IX., "or any Board or officer duly authorised by him in that behalf" was struck out from lines 2, 3, 4, and 5; in line 5 "one" was substituted for "two"; in line 8, "which shall be published in the *Government Gazette*" was inserted after "rules."

In Section X., "The Governor in Council, or such Board or officer as aforesaid, shall deliver to" was struck out from lines 1, 2, 3, and 4, "Every" commencing the section; "shall receive" was inserted after "satisfactorily" in line 6; and the following words were added after "Engineer" in the 9th line—"signed by the examiners and countersigned by a Secretary to Government."

In line one, Section XI., "shall satisfy the examiners that" was placed after "who"; "he" was placed before "has" in line three; "competency" was substituted for "service" in line nine. The remainder of the section from "Each" downwards was deleted.

In Section XII., the following words were inserted before "unless" in the third line—"other than steam vessel holding a certificate granted by the British Board of Trade or by any British Indian or British Colonial Government, or by Lloyds' Association of Underwriters, or by the Liverpool Association of Underwriters"; and in line nine "or a certificate of service" was struck out.

Section XIV. was agreed to after the last three lines were made to read as follows:—"operation of this Act, steam tugs steam barges, and steam launches."

The first three lines and " of " in the fourth line were struck out of Section XV., and these words substituted—" If by means of any inquiry conducted under the provisions of this Act" ; and in lines six and seven " is established to the satisfaction of the Governor in Council it shall be lawful for the said Governor in Council," was substituted for " or a certificate of service." Section XV. was then agreed to.

Section XVI. was deleted as being unnecessary in consequence of alterations upon previous sections.

In Section XVII., " whether " was struck out of the first line, and " or service " from the second.

In Section XVIII., " or of such other authority as aforesaid" was struck out of lines 4 and 5.

In Section XX. " from such date as the Governor in Council may determine by notification in the *Government Gazette*," was inserted after " effect " in the second line, and the remainder of the section was struck out.

The Honourable Mr. GIBBS suggested that the shape of the Bill should be made similar to that of the Bengal Acts—that is divided into " parts" for each separate subject treated of.

The suggestion was agreed to, and the last three sections of the Act were carried to the front of the Bill, where their numbering was reversed, the last going first. " Part I.—Preliminary " was placed after the title ; and " Part II.—Examination of Engineers " was placed before what was Section VIII. as the Bill originally stood. In consequence of these alterations the whole of the numbering of the sections in the Bill was altered and the preamble and title of the Bill were then agreed to.

His Excellency the PRESIDENT then adjourned the Council till the 25th September 1873.

By order of His Excellency the Governor in Council,

JOHN NUGENT,

Acting Under Secretary to Government.

Poona, 10*th September* 1873.

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

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

The Council met at Poona on Wednesday, the 17th September 1873, at noon.

PRESENT:

His Excellency the Honourable SIR PHILIP EDMOND WODEHOUSE, K.C.B., Governor of Bombay, *Presiding.*
The Honourable A. ROGERS.
The Honourable J. GIBBS.
The Honourable MUNGULDASS NUTHOOBHOY, C.S.I.
The Honourable COLONEL M. K. KENNEDY.
The Honourable SIR JAMSETJEE JEJEEBHOY, Bart., C.S.I.
The Honourable NARAYAN VASUDEVJEE.
The Honourable GUNPUTRAO TATYA SAHIB PUTWARDHUN.
The Honourable COLONEL W. C. ANDERSON.

Mr. Rogers moves for permission to withdraw the Bill to amend the Law relating to Hereditary Village Offices.

The Honourable Mr. ROGERS, in moving for permission to withdraw the Bill to amend the Law relating to Hereditary Village Offices (Bill No. 2 of 1873), remarked that it would be within the recollection of the Council that at the last meeting he asked for an extension of the time granted to the Select Committee in which to present their report on this Bill, in order to enable him to place before the Select Committee a new draft Bill prepared by Mr. Jardine. The Select Committee had fully considered the Bill referred to them by the Council before the new Bill was submitted to them. On deliberation, however, it was considered impracticable for the Select Committee to submit to the Council as the Bill amended and improved by them the draft Bill prepared by Mr. Jardine, as that Bill had not been published or formally introduced and had not been actually referred to the Select Committee by the Council in conformity with the Rules. It was therefore deemed advisable to ask for permission to withdraw Bill No. 2 with a view to introducing at once the new Bill on the subject of Hereditary Offices. This Bill had been drafted with much care and ability by Mr. Jardine, and was in several respects superior to the Bill now proposed to be withdrawn. Its phraseology was more distinct, legal and concise: and in the classification of its provisions and the arrangement of its sections it was also better than Bill No. 2. Its provisions and principles differed in some respects from those of the Bill first introduced, but in the main it was the same measure in an altered form.

Bill withdrawn.

His Excellency the PRESIDENT then observed that as no honourable member appeared to object to the proposal, the permission applied for might be concluded to be given and the motion held to be assented to. He would propose that the new Bill should be introduced and read a first time at the earliest possible date, and that then the Bill should be read a second time and considered in detail by the Council. It would not be necessary to refer it to a Select Committee, as the Bill now withdrawn which dealt with the same subject in a somewhat similar manner had been fully discussed by the members of the Select Committee, and no further advantage would seem likely to accrue from and no additional information would be obtained by referring this Bill to a Select Committee. After the Bill had been read a second time and its provisions fully considered by the Council, the third reading would be deferred until the Council met in Bombay in the cold season, and in the meantime translations of the Bill as amended in Council would be published for the information of the public.

After a few remarks by the Honourable Messrs. GIBBS and MUNGULDASS NUTHOOBHOY expressive of their concurrence in the course proposed to be adopted by His Excellency the President, the Council was adjourned.

By order of His Excellency the Governor in Council,

JOHN NUGENT,

Poona, 17th September 1873. Acting Under Secretary to Government.

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