

THE



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Separate paging is given to this Part, in order that it may be filed as a separate compilation.

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 Thursday, the 25th September 1873, at noon.

PRESENT:

His Excellency the Honorable Sir PHILIP EDMOND WODEHOUSE, K.C.B., Governor of Bombay, *Presiding*.

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 NARAYAN VASUDEVJEE,

The Honourable J. K. BYTHELL.

The Honourable GUNPUTRAO TATYA SAHIB PUTWURDHUN.

The Honourable Colonel W. C. ANDERSON.

Papers presented to the Council.

The following papers were presented to the Council:—

1. Letter from the Superintendent, P. and O. Steam Navigation Company, bringing to notice certain defects in the "Steam Vessels Survey Act Amendment Bill."
2. Letter from the Secretary to the Government of India, conveying the assent of His Excellency the Viceroy and Governor-General to the "Bill to alter and amend the Bombay Municipal Act of 1872."

Before the Council proceeded to consider the Bills and Orders of the day, the Honourable Mr. Bythell said that up to the 22nd instant an

Mr. Bythell suggests the publication of Bills as amended in Council.

amended copy of the Steam Boilers Bill, as considered and amended in Council, had not been published in the Govern-

ment Gazette, and people who were interested in the Bill were unable to obtain a copy of it. He therefore begged respectfully to suggest that the third reading of the Bill ought to be postponed until it was published anew in the *Government Gazette*.

His Excellency the PRESIDENT reminded the honourable member that there was no rule to make Government publish Bills before they came on for the third reading. To publish Bills each time that they were amended would be exceedingly inconvenient, besides leading to great expense.

The Honourable Mr. BYTHELL was aware that there was no rule to that effect, but when considerable alterations had been made upon a Bill at its second reading, he considered that it would be only just to those whose interests were affected if amended copies of the Bill were published. In that way only could people make representations upon the Bill before it was too late.

His Excellency the PRESIDENT said that the only rule relating to the publication of Bills was, that wherein it was laid down, with reference to the introduction of a Bill, that no motion that it be read a first time shall be made until seven days after a copy of the Bill and of the Statement of Objects and Reasons had been furnished to each member.

The Honourable Mr. BYTHELL repeated that he was aware there was no rule relating to what he desired, but nevertheless as a matter of policy it would be better to republish a Bill upon which extensive alterations have been made, so that those whose interests were concerned might have an opportunity of knowing what was actually proposed to be done.

The Honourable Mr. GIBBS said he thought he was in a position to say that the public in Bombay were aware of what had been settled regarding the Steam Boilers Bill and Steamers Inspection Bill at the second reading, because he had had interviews with two gentlemen who had come to Poona to consult him upon changes which had been effected upon these Bills on the second reading.

The Honourable Mr. BYTHELL repeated his views, and the subject dropped.

The Council then proceeded to the third reading of 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).

His Excellency the PRESIDENT, before the Bill was read a third time, moved a series of Amendments proposed in the 23rd line of Section I. "then the same shall be registered" was inserted before "by." In line 28, Section II., "not exceeding" was substituted for "which may extend."

In line 55, Section III., "and shall register such place in the book ordered to be kept in accordance with Section I. of this Act" was added after "purposes."

His Excellency the PRESIDENT thought that in lines 42, 43, 44, and 45 these words were unnecessary:—"and when there shall be no public place available for the purposes above-mentioned, situated within a convenient distance."

The Honourable Mr. MUNGULDASS—I believe that the public places here meant are the public places used for the burning and burial of the dead of the different communities; because the Hindoos as well as the Mahomedans have public as well as private burning and burial places. In public places any member of a community has a right to burn or bury, while in a private burning or burial place only the particular parties to whom the place may belong are allowed to burn or bury.

After some remarks from the honourable members, the amendment was not pressed.

In line 9, Section V., "and every place so provided shall be registered in the book ordered to be kept in accordance with Section I. of this Act" was added after "dead."

In line 6, Section VI., "to" was substituted for "in"; line 8 was deleted, and these words were substituted: "or any other Act for the time being in force for the regulation of Municipalities in the Presidency of Bombay applies a."

In line 12, Section VII., "to" was substituted for "in"; in line 13, "has not been introduced" was deleted, and these words were substituted; "or any other Act for the time being in force for the regulation of Municipalities in the Presidency of Bombay does not apply."

His Excellency the PRESIDENT mentioned that he had that morning received a letter pointing out the painful position in which certain Christian families were placed with respect to burials in vaults already partially occupied by members of the families. As the

law stood at present, it appeared to His Excellency that the prohibition to open vaults for a new burial was peremptory.

The Honourable Mr. GIBBS said that the Governor in Council could give permission in certain cases. Already permission had been granted for three burials per annum in the Roman Catholic Cathedral of Bombay.

The Honourable MESSRS. NARAYAN and MUNGULDASS pointed out that by the last Municipal Act power was given to grant licences to bury in certain cases.

His Excellency the PRESIDENT remarked that at all events none of the suggestions in the letter could be acted upon at present, because the Bill before the Council did not relate to Bombay.

The Honourable Mr. GIBBS asked if it would not be necessary to insert in the second section words to the effect that licenses to bury in churches might be granted not only by the special sanction of the Governor in Council but also by some officer "authorized by him to give it." The reason for this alteration was that in some up-country stations where there was no telegraph it would be practically impossible to obtain the sanction of the Governor in Council in time to allow of a burial in a church taking place.

The Honourable Mr. ROGERS thought that Tanna was the only place in the mofussil where burials in churches had ever taken place.

The Honourable Mr. GIBBS said that Sir Edward West, a former Chief Justice of Bombay, and Sir Robert Grant were buried in St. Mary's Church, Poona.

The Honourable the ADVOCATE-GENERAL said that it would often be as difficult to find the Collector as the Governor in Council, and that if any emergency did arise to necessitate a vault burial it would be unlikely that Government would enforce the penalty of Rs. 500.

His Excellency the PRESIDENT thought that it was very advisable to retain the power in the hands of the Governor in Council, because the pressure which parties might bring to bear upon an official in such cases would be very great.

The Council concurred.

Bill read a third time and passed.

His Excellency the PRESIDENT then put the motion—that this Bill be read a third time.

The motion was agreed to, and the Bill was then passed.

The Council then proceeded to the third reading of Bill No. 7 of 1873—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.

Third reading of the Boilers Inspection Bill proposed.

districts in the Presidency of Bombay.

A telegram which had been received from Mr. J. A. Forbes, Bombay, embodying resolutions passed at a meeting held in Bombay on the 24th September of persons interested in steam machinery was presented to the Council. The resolutions suggested to His Excellency the President the advisability of postponing the third reading of the Bill for a period of three months, and in the meantime appointing a Commission to inquire into how the Boilers Inspection Act of 1869 had worked since its introduction. The resolutionists believed that much irregularity and corruption had arisen out of the working of the Boilers Inspection Act of 1869, and suggested that a Commission of Inquiry by Government should be appointed for the purpose of thoroughly investigating the matter, and that in order to make that inquiry as complete as possible Government ought to assist those persons who were desirous of giving evidence, and who may have entered into questionable transactions with the present Boilers Act Inspector.

His Excellency the PRESIDENT—The Council can hardly fail to observe that this Bill has now been a long time before the public, and that the objections which have now been made by this meeting in Bombay could just as easily and more appropriately have been made when the Bill was first published and it became known that Government was going to legislate upon the subject. Yet we find the meeting I am referring to actually, when the Bill is about to be read a third time—at the very last moment in fact—telegraphing to us to stop the Bill for three months and appoint a Commission of Inquiry into so-called irregular transactions which have been entered into by certain persons in Bombay with the present Inspector. We have no definite evidence before us that these irregularities exist, and we know that the case mentioned by the Honourable Mr. Bythell did not turn out upon further explanations to be of the nature which we understood him to represent it to

be. In the course of our careful consideration of this Bill, we have come to the understanding that an Inspector must not take private work of the description alluded to by the adopters of these resolutions. For my part I would rather agree to give the Inspector a proper salary than allow him to enter into arrangements with those whose boilers or machinery he has to inspect. We are asked here to promise to indemnify people who have bribed the Inspector—at least, that is my I understanding of the resolutions. But I do not think we could agree to invite everybody to come forward to a Commission and tell any story he pleases against the Inspector, and at the same time promise to indemnify him for doing so.

The Honourable Mr. BYTHELL said:—Why no representations were made by the Chamber of Commerce arose in this way. Several suggestions were sent into the Committee of the Chamber by various members, who asked the Committee to oppose the Bill. I brought up some of these proposed alterations to the Select Committee meeting in Poona. I afterwards handed them over to the Secretary of the Chamber, and they were again subsequently discussed at a Committee meeting of the Chamber. At that meeting it was understood that the Secretary should go through the recommendations and embody the sense of them in a letter. I was asked at the same time to endeavour to get the Bill thrown out. When the Secretary's letter came up to me here, however, I found that it simply asked for the delay of the Bill. As the Bill had been before the public for some weeks, I thought it most advisable not to hand the letter to the Council—a discretion which, as Chairman of the Chamber, I thought I would be justified in exercising. The meeting which adopted these resolutions which have been sent to us by telegram was a public meeting, and not specially a Chamber of Commerce meeting.

His Excellency the PRESIDENT—At all events we have heard from the honourable member the objections raised by the Chamber of Commerce to the Bill, whose views he has, I presume, expounded here. That being the case, and the Chamber of Commerce having, as we have heard, had the Bill under their consideration for a considerable time past, it seems to me that it would be very unadvisable to adopt the suggestions of those who attended the public meeting in Bombay. That meeting should, I think, have been held at an earlier stage if those of whom it was composed really had the interests of the public at heart.

The Honourable Mr. MUNGULDASS—Although I cannot urge that this Bill should be postponed for so long a time as three months, or even that a Commission should be appointed, yet I would submit that the Council cannot suffer any inconvenience if the passing of the Bill is delayed until the first meeting of the Council next week. A few days more or less will not make much difference; neither a special meeting of the Council will be necessary for the passing of this Bill, as we are going to sit consecutively for some time. I am therefore encouraged to submit that the applicants for the postponement may be informed that they may send their representation without delay; and the Bill need not be passed to-day.

His Excellency the PRESIDENT—I think it is our duty here to proceed with the business as quickly as possible consistent with due care. What we are now asked for is not a delay of simply a day or two, but a delay of three months in order that a Commission of Inquiry be appointed.

The Honourable Mr. BYTHELL—I think, as the Honourable Mr. Munguldass suggested, that it would not produce any inconvenience if the Council were to postpone the third reading of the Bill for a day or two, in order that we may obtain fuller information from Bombay.

The Honourable Colonel KENNEDY—The telegram is very full, and I see no middle course allowed us between proceeding at once with the Bill and postponing its final reading for three months.

The Honourable Mr. GIBBS—The telegram says: "It is the opinion of the meeting that if Government were to adjourn the third reading of the Bill for a period of three months and issue a commission of inquiry upon the working of the old Act much valuable information would be obtained, especially as it is currently reported that great irregularities and much corruption have arisen." The telegram goes on to say that the meeting is of opinion that a Commission should be appointed for the purpose of investigating the charges against the Inspector, and for that purpose that all persons who have rendered themselves liable to a certain section in the Penal Code shall have indemnity given them by Government, and that they shall not be prosecuted if they prove the case against somebody else who takes a bribe. This telegram leaves us to do one of two things—either to adjourn the consideration of the third reading for three months or to proceed with it at once. There is no middle course asked for, and for my part I do not think any grounds have been shown to us why we should adjourn the third read-

ing for three months. The purport of the meeting is evidently to get a Court of Inquiry appointed into the charges brought against the Inspector by the Honourable Mr. Bythell.

The Honourable the ADVOCATE-GENERAL—I may point out that this Commission of Inquiry has nothing to do with the principle of the Bill, because a Commission may be granted after this Bill is passed quite as well as before it is passed. The gentlemen who have met at the Chamber of Commerce seem themselves to admit that that Act for the Inspection of Boilers is necessary, because they tell us that if a Commission is appointed “certain useful information” may be obtained as to the working of the present Act. As this meeting did not choose to meet until the last moment, although the Bill has been before the public for so many weeks, I must say that it does not appear that they could have much to say against the Bill, otherwise they would have said it sooner. I do not think there is any good reason for postponing the third reading of this Bill.

His Excellency the PRESIDENT—The Honourable Mr. Munguldass has suggested that, for some reason or other which does not appear plain to me, we should put off the third reading of this Bill for a day or two, a course which he thinks can do no harm. But I think if he considers the circumstances for a moment, he will admit that there is something due to the credit of this Council and the way it conducts business, and that it will not be to its credit if it keeps wavering, afraid to act, in deference to the opinion of certain people whose opinions are not advanced until the very last moment.

The Honourable Mr. MUNGULDASS—After such a strong expression of opinion from His Excellency I am afraid there is very little chance of my suggestion being agreed to; still, I would repeat that as this Council will be sitting from day to day for the consideration of other measures, the Council will suffer no inconvenience if we delay the passing of this Bill and allow an opportunity to the owners of boilers to make their representation.

The Honourable Mr. GIBBS intimated that an alteration would be made upon the shape of the Bill similar to what had been made upon the Steam Boilers Inspection Bill—that is a re-arrangement into parts, &c.

The Honourable Mr. ROGERS desired the following section to be entered in the Bill declaratory that no Inspector appointed under its provisions should be permitted to take private work or enter into private contracts, as Clause 2nd of Section IV. of the Bill:—“Clause 2.—Such Inspectors, if Government shall see fit so to direct, shall not be engaged in any trade connected with the manufacture or sale of steam boilers or machinery worked by steam, and unless in the service of a Railway or other Company shall not practise as engineers.”

The Honourable the ADVOCATE-GENERAL considered that such a section was unnecessary, because what was wanted could be made a matter of stipulation with an Inspector before his appointment.

The Honourable Mr. ROGERS agreed with the Honourable the Advocate-General, and said he only wished the section introduced to make the intention of Government more clear, in consequence of remarks which had been made in the Press and elsewhere.

His Excellency the PRESIDENT was of opinion that a Boiler Inspector would be a public servant, and as such would come under the terms of the Penal Code if he abused his trust. He mentioned that he had had an opportunity of talking upon this point with a gentleman who believed himself rather hardly used by Mr. Moylan. He pointed out to him that the new Bill would put the Inspector under the Collector, and that where there were any disputes a Commission would be called in to adjudicate. The gentleman thereupon expressed himself quite satisfied.

The Honourable Mr. GIBBS—And, moreover, that gentleman said he was very glad to hear that by this Bill the Inspector would be made the servant of the public and not the master, and that he would now have no power to shut up a whole mill if he chose.

The Honourable Mr. ROGERS said he would not press his amendment if it was to be understood that Government would make an arrangement with the Inspector which would make the section unnecessary.

The Honourable Mr. BYTHILL trusted that such an arrangement would be made by Government, for nothing could be more objectionable than for an Inspector to be allowed to enter into arrangements whereby certain boiler-owners were given more advantages than others.

The Honourable Mr. GIBBS was certain that Government would never fail to make the stipulation.

The motion was then put to the Council—that this Bill be read a third time.

The motion was agreed to, and His Excellency the President declared the Bill to be passed.

The Council then proceeded to the next order of the day, namely, the *Third Reading* of Bill No. 9 of 1873 (a 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).

The Honourable Colonel KENNEDY intimated that a communication had been received from the Government of India, in consequence of which it would be advisable to postpone the third reading of the Bill for a short time.

Colonel Kennedy advises postponement of the third reading of the Survey of Steam Vessels Bill.

The Honourable Mr. GIBBS said he had thought that the alterations which had been made in this Bill would be sufficient to justify proceeding at once with the third reading, but since he had come into the room the Under Secretary had showed him a letter from the Government of India, in which, while they sanction the principle of the Bill, they notice one section regarding the certificates of engineers which it would be advisable to see does not clash with Acts XXV. and XXVI. Vic., Cap. 63. That Act is not in Poona; therefore he thought it would hardly be wise to proceed with the third reading until the Council could see that they do not raise the difficulty the Government of India points out.

The Honourable the ADVOCATE-GENERAL agreed with the Honourable Mr. Gibbs that it would be very desirable to see the exact provisions of the English Act referred to before they proceed to legislate upon the subject further.

The third reading of the Bill postponed.

The Council then agreed to postpone the third reading of the Bill.

The Honourable Mr. GIBBS—It is now my duty to bring forward a more serious objection to the Bill in its present shape than the technical difficulty which has been started by the Government of India. His Excellency will remember that during the discussion on the second reading I, with the view of satisfying myself about the value of the certificates of the Lloyds' Association and the Liverpool Association, asked the Honourable Mr. Bythell, when he proposed his additions to the second and third sections, whether these certificates were as good as those which the Board of Trade issues. I understood the honourable member to reply affirmatively, and I then agreed to the alterations on the understanding that in the eyes of the mercantile

community a cargo vessel possessed with a Lloyds' or a Liverpool Association certificate was as secure as though it possessed a Board of Trade certificate, and was considered by gentlemen who wished to ship their goods upon it, and those who wished to underwrite it, to require no further survey. Since the honourable member's alterations were agreed to, however, I have received a letter from Captain Morland, one of the Dockyard officers, and I have also had an interview with Mr. Wadia, the Master Builder, and in consequence I have seen reason to doubt the advisability of confirming those alterations. I will put before the Council the facts of one instructive case as given me by the Government surveyors—it is the latest which has occurred; but I am sorry to say that from what I hear, similar cases are not unfrequent in Bombay. I think that the case I refer to will show the Council that the certificates granted by the Lloyds' Association and the Liverpool Association are often hardly worth the paper upon which they are written. This Council must bear in mind that one of the objects of the Bill we have now before us is not only to preserve the lives of passengers and the safety of property, but also the lives of the crews. In the early part of this year the steamer "John Adamson" arrived in Bombay from Liverpool. She was a new steamer, and this was her first voyage. After discharging her cargo she came under the operation of the present Act and was surveyed. She received a certificate which was of force for six months. She was laden here and proceeded upon her return voyage to England. When she arrived at Aden a common cargo boat or small dhow ran into her, and the result was that this newly-built vessel, Classed A 1 for twenty-one years, received such a blow from this small vessel, that an important plate in her fore part was cracked. She was patched at Aden and went on to England, where she was put into dock. She then received a certificate from the Liverpool Association of Underwriters, upon which she proceeded to sea again with a cargo which was insured. In England the small patch which

had been put on at Aden was taken off and a larger one put on. When she arrived in Bombay a dispute arose because the consignees alleged that a large portion of the cargo was damaged. A survey was called for, and she was surveyed as she lay in the harbour. The surveyors found it would be necessary to take her into the dry dock. The surveyors were Mr. Jamsetjee Wadia, Mr. John Dixon, Mr. Thomas Lidbetter, and Mr. Mathews. I will read extracts to the Council from their certificate, and these will show the condition in which the "John Adamson" was found:—

*** "On examining the bow of the vessel, on the outside, the general appearance of the plating rivets, frame rivets, keel rivets, and stem, also several seams and butts, bore evident symptoms of having leaked: this extended only from the collision bulkhead to the stem. We found a large number of rivets to be slack and leaking up to the level of the water remaining in the collision compartment. After further consideration we deemed it advisable that the collision compartment and the forewater ballast tank should be filled with water in order to show distinctly on the outer plating where the defects and leakage existed." *** "This was done, and we again proceeded on survey, and on both sides of the bow we found water issuing from the rivets, butts, and landings of the plates, comprised between the collision bulkhead and the stem, and more particularly from the fifth plate above the garboard plate: this leaked almost throughout its entire length, and is single rivetted. We found the single rivetted plating to be generally in defective condition within the above-mentioned limits. We found some of the keel rivets slack and leaking." *** "We next proceeded to examine the inside of the vessel, forward, and applied the hose of the steam fire-engine to the patch on the damaged plate on the starboard side of the forehold and alluded to in our former survey report. We found the water came into the vessel with a rush, streaming in all round the patch and running down on the water ballast tank flooring. The landings of several plates in the collision bulkhead were found to be leaking, as also a number of rivets of the shoe plates to the stringers on both sides, passing through the collision bulkhead from the fore hold and above the fore ballast tank. The water rushed through these leakages in force into the fore hold; in fact it appears to us that the vessel is badly strained in every way, from the collision bulkhead forward."

Now if this Bill as it is now amended had been in force when the "John Adamson" arrived we would not have been able to examine her.

The Honourable Mr. BYTHELL—If a vessel is found to be unseaworthy on her arrival here she is not to be exempted from survey. Therefore I say this Bill would apply to such a case as that of the "John Adamson."

The Honourable Mr. GIBBS—The Bill might, if the vessel bore signs of her condition; but the "John Adamson" had met with only ordinary weather on her voyage out, and as she was provided with a certificate from the Liverpool Association nothing could have discovered her state but actual survey. The fact is that a number of vessels are built nowadays for about £16 a ton which are not fitted to encounter rough weather, and which must be sharply looked after. Here is a vessel coming here with a Liverpool Association certificate granted after repairs which were of the very imperfect nature mentioned in the certificate; and now that the honourable members are aware of her condition it is a question for this Council whether they are prepared to exempt from survey all vessels provided with similar certificates. I may mention regarding the "John Adamson" that I believe that an action is now before the Bombay High Court, in which the owners are sued for about £27,000 for damaged cargo. I understand that although Board of Trade certificates are not absolutely necessary for vessels unless they carry passengers, yet as a matter of fact many cargo vessels are in the habit of carrying Board of Trade certificates; and as far as I can learn there is no reason why every vessel arriving here should not be possessed of a Board of Trade certificate. I am informed that from the competition of insurance companies at home, inspections are sometimes made in a skimpy and unsatisfactory manner, and I think that no certificates from private or semi-private insurance companies ought to be accepted on a legislative enactment as sufficient to exempt a vessel from inspection when it arrives in Bombay. I met a friend the other night, who is connected with one of the largest mercantile firms of Bombay, and on my happening to mention that vessels carrying certificates from the Lloyds' Association and the Liverpool Association were to be treated on the same footing as if they were provided with Board of Trade certificates, he remarked that he did not remember any vessel which his firm had to do with not having a Board of Trade certificate. I think, on the whole, that we ought to be very careful before we endorse the Honourable Mr. Bythell's amendments. There is nothing in the Bengal Acts granting the exemptions which he lays claim to, and I would draw the Council's attention to a resolution of the Bengal Government published in the *Bombay Gazette* of Tuesday, the

23rd September, in which the Lieutenant-Governor points out some important facts relating to steamers leaving Calcutta. One vessel which had been surveyed by one of the insurance companies in Calcutta had proceeded on her voyage but a little way, when it was found she could go no further, and it was only with the utmost difficulty that she got back again to Calcutta. Another vessel which His Honour mentions is one which put back to Calcutta and was found on a more careful survey to be rotten. A third vessel went to sea with a certificate of this description, but she has never been heard of since, though she had many emigrants on board. I think this is a most serious matter, and one regarding which we should be most careful. Notwithstanding, therefore, what the Honourable Mr. Bythell, as representing the Chamber of Commerce, has said in pressing his amendments, I beg to move that this Bill be re-amended, and that the words "or by Lloyds' Association of Underwriters, or by the Liverpool Association of Underwriters" be struck out of Sections 1 and 2 of the Bill as printed.

The Honourable Mr. BYTHELL—My opinion that many steamers do come to Bombay unprovided with Board of Trade certificates is founded upon information given to me by the P. and O. Company, Captain Dixon, who is Lloyds' Surveyor, and other gentlemen possessing an equal amount of experience. As regards the certificates which are granted by the two Associations of Underwriters I have mentioned, the Honourable Mr. Gibbs seems to be mistaken in imagining that they are granted by rival insurance companies.

The Honourable Mr. GIBBS—I never for one moment imagined that Lloyds' and the Liverpool Association of Underwriters were rivals.

The Honourable Mr. BYTHELL—I certainly understood the honourable member to say that every steamer which went to Lloyds' and could not get a certificate would go to the Liverpool Association, the Bureau Veritas, or some other Association, and would be sure to get a certificate at last, and that therefore such certificates were not of much value. Now the subscribers to Lloyds' Association include almost every person interested in shipping or insuring cargo in the United Kingdom, and vessels classed in Lloyds' are examined in the most rigorous possible manner under rules laid down in the book which that Association publishes annually. No question of rates of premium, or of interested underwriters, or interested insurance companies, can possibly be or is ever taken into account by the Association when making these examinations. In the same way with the Liverpool Association. The underwriters have clubbed together and formed that Association to protect their own interests as a body. They have rules providing that every vessel must be thoroughly examined before being furnished with one of their certificates. It cannot in fact be said with truth that any question of competition in insurance has anything to do with the granting of certificates by either the Lloyds' or the Liverpool Association. As regards the statement to the effect that merchants are not guided by the certificates granted by these Associations in shipping their cargoes, the Honourable Mr. Gibbs is entirely mistaken.

The Honourable Mr. GIBBS—I merely said that one merchant in Bombay told me he was not aware that the firm he was connected with had had anything to do with vessels which were not provided with a Board of Trade certificate.

The Honourable Mr. BYTHELL—I understood the Honourable Mr. Gibbs to say that he had been informed that merchants and underwriters were not mainly guided by these certificates of Lloyds' Association and the Liverpool Association. I can, however, say that almost all shippers look at Lloyds' register or the Liverpool register for the name of a vessel they are thinking of shipping goods upon, and if they find there her certificate is still in force, and that she is high-classed, they ship their goods without further references. Some of the underwriters in Bombay have, however, a surveyor who sees that the vessel has sustained no damage on her voyage, and grant a certificate to the effect that she is still seaworthy. Lloyds' Association have an agent in Bombay (Captain Dixon) who visits vessels as they arrive here and grants certificates to them if they are all right, and his certificates are used by many insurers. With regard to the one special case mentioned, the "John Adamson," I should say that the fact of a forward plate being cracked by a large dhow running into her bows is not by any means a proof that the plate was either of bad metal or was too thin. I did not gather either from anything the honourable member said that the plates of the steamer as a whole were either of bad quality or too thin. But even though they were, cases like the "John Adamson" would be met under this Bill as it now stands, because we have provided that if vessels on arriving here appear to be unseaworthy they shall be examined. When a vessel is unseaworthy on arrival here the fact soon becomes known among all persons who are connected with the

shipping trade, and the Government surveyors would know also, so that under the Bill as it now stands I repeat that the "John Adamson" would certainly have been surveyed and repaired under the Government surveyors' superintendence. It was well known that she was in a leaky state. If the honourable member would take the trouble to look at the instructions which are laid down in the book of rules published by the Lloyds' Association or the Liverpool Association, he would see that the fact of one vessel coming out here in a defective state, although provided with a certificate from either of these associations, is no reason for concluding that all the certificates of these Associations are less trustworthy than those which are granted by the Board of Trade.

His Excellency the PRESIDENT—I think it must be remembered that we have done all that we were asked to do by the Board of Trade, and we have done even more, because we also extended the exemption of vessels from examination to vessels which may be provided with certificates granted by the British Indian or British Colonial Governments. We also did what we were asked to do to the Bill by the North of England Association, which only objected to surveys being enforced upon vessels arriving in Bombay with a Board of Trade certificate. At the second reading of the Bill I pointed these facts out when the Honourable Mr. Bythell's amendments were under consideration, because I was afraid that in an unguarded moment we would be putting the certificates of the Liverpool Association and Lloyds' upon an equal footing with those of the Board of Trade. The Board of Trade, I was aware, had no interest in the matter, nor had the British Indian or Colonial Governments, beyond the preservation of life, and I very seriously doubted the wisdom of extending the privilege of exemption to vessels provided simply with certificates from the two other associations.

The Honourable Mr. GIBBS—The Honourable Mr. Bythell has referred frequently to the value of the certificates granted by the Lloyds' Association, but my Honourable friend Mr. Narayan has drawn my attention to a telegram the existence of which probably the Honourable Mr. Bythell was not aware of when he addressed the Council. The telegram is from the Lloyds' Association and is addressed to the Bombay Dockyard authorities, and runs thus—"Steamers are leaving Bombay for Suez dangerously overloaded and *otherwise unfit*. Cannot steps be taken to prevent this risk of life and property? Please telegraph information. Reply paid." Thus it will be seen that by leaving the Honourable Mr. Bythell's amendments we would be doing exactly what the Lloyds' Association wish us to do.

The Honourable Mr. BYTHELL—That telegram was directed more especially against the overloading of ships. Really there is more danger to ships from overloading in Bombay harbour than from anything else. Steamers clear out drawing very much more water than they ought to do, and I would have no objection to seeing a clause inserted in this Bill providing against overloading.

The Honourable Colonel KENNEDY—Since my Honourable friend Mr. Gibbs has read that telegram from the Lloyds' Association, in which they themselves seem to be calling for help, I am inclined to think it would be unadvisable to adhere to the words the insertion of which the Honourable Mr. Bythell obtained in the Bill at the second reading.

The Honourable Mr. NARAYAN—Besides, if we adopt them, we will be making an invidious distinction between insurance associations. The Bombay Association might, for instance, lay claim to the exemption here laid down.

The Honourable Mr. GIBBS—That very point was brought to my notice this morning in a communication which I received from a gentleman who is interested in this Bill. He says that if we exempt the certificates of the Lloyds' and Liverpool Associations other associations will cry out and say it is unjust.

The Honourable Mr. BYTHELL enquired what other associations would cry out.

The Honourable Mr. GIBBS replied—The Bureau Veritas, for instance, and the Bombay Association.

The Honourable Mr. BYTHELL—The Bombay Association of Underwriters have no fixed rule of survey and do not profess to grant certificates and publish registers of shipping. The only two associations in England are, I believe, those which I have mentioned; and as to the Bureau Veritas and other foreign associations, there is no need to legislate for them, because foreign vessels are exempt from the operations of this Bill, and British vessels classed in foreign registers I would not propose to exempt specially.

The Honourable Colonel ANDERSON—The Underwriters' Association certificates appear to me to refer only to cargo, whilst the Board of Trade certificates refer to cargo

as well as to life. In justice to life, I think we are entitled to ask for the highest kind of certificate that can be got, instead of trusting to the certificates of inferior private associations. Regarding the remark I have just made about slipshod certificates the Honourable Mr. Bythell was inclined to attribute the state of the "John Adamson" solely to the effects of the collision at Aden; but that accident could not, I think, make 500 rivets which were in her so bad that they fell out when struck with a hammer, as stated in the report of Survey read by the Honourable Mr. Gibbs.

The Honourable Mr. GIBBS—We must also remember that after the collision the "John Adamson" went home and got repaired, after which she received her certificate.

The Honourable Mr. BYTHELL protested against what had been said by the Honourable Colonel Anderson. He said he (Colonel Anderson) was not justified in calling Lloyds' and the Liverpool Associations "inferior associations of underwriters."

His Excellency the PRESIDENT remarked that the associations were both speculative companies.

The Honourable Mr. BYTHELL said they were not and added:—They are composed of underwriters and insurance companies desirous of protecting themselves from risks, and of merchants who are interested in obtaining correct knowledge of the character of vessels before shipping in them. The members of the associations pay an annual subscription, and in return each get a book with the character of every ship in the associations written in. The books also contain the rules under which vessels are examined. These associations do not look after the interests of any particular insurers, but form a register that may be and is confidently trusted by all interests. The annual subscriptions and the heavy survey fees charged to the ships go towards keeping a most efficient staff of inspectors. Vessels go voluntarily to very great expense and pay heavy fees in order to have the advantage of having their character thus certified.

The Honourable the ADVOCATE-GENERAL—I believe that the surveys made by the Lloyds' Association are as careful as those which are made by the Board of Trade, and perhaps those which are made by the Liverpool Association are equally careful; but the difficulty which occurs to my mind is the expediency of making the certificates of these two private bodies binding upon this Government. They may be useful documents and to a certain extent a guarantee of safety, but supposing any other respectable associations come forward and claim exemption for their certificates, are we to exempt them? I think that it would be much the safer and more satisfactory course to adhere to the certificates granted by the Governments mentioned in these sections and the Board of Trade, and to omit those granted by Lloyds' and the Liverpool Association.

The Honourable Mr. GIBBS—There is also another point which I would mention. I believe that when a vessel at home is built, examined for the first time, and classed, the inquiry is very careful and minute, but re-examinations are not always made with the same attention as the examination in the first instance.

The Honourable Mr. BYTHELL—The honourable member is quite mistaken in his supposition. There are certain examination rules to be followed which are laid down by the Lloyds' and Liverpool Associations, and nothing, I think, could be more stringent than these rules. The fact that the "John Adamson" may have escaped detection does not prove that all the certificates granted by these associations are worthless, because it can easily be proved that vessels with a Board of Trade certificate have often been found to be in a very unsatisfactory condition. Not very long ago a P. and O. Steamer was reported in the public prints to have sprung a serious leak in some unaccountable manner, but the honourable member would not, I presume, argue from that fact that the P. and O. Company habitually worked unseaworthy vessels.

The Honourable Mr. GIBBS—It is a curious fact that the two cases I have gone into—that of the "Neera" and the "John Adamson"—showed the necessity for re-survey in Bombay.

The Honourable Mr. BYTHELL—I may state that the firm I am connected with have shipped produce largely for some years past, that we have trusted entirely to certificates granted either by the Lloyds' Association or the Liverpool Association, and that we have not lost a single pound of produce since 1866.

His Excellency the PRESIDENT suggested that it would be better to take the vote. His own opinion was in favour of striking out the words introduced by the Honourable Mr. Bythell at the second reading.

The Honourable Mr. GIBBS then moved the omission of the words "Lloyds' Association of Underwriters or Liverpool Association of Underwriters" in Sections IV., V. and XV.

The Council divided :—

Ayes—9.

The Honourable J. GIBBS.

The Honourable A. ROGERS.

The Honourable the ADVOCATE-GENERAL.

The Honourable MUNGULDASS NUTHOOBHOY.

The Honourable Colonel M. K. KENNEDY.

The Honourable Sir JAMSETJEE JEJEEBHOY.

The Honourable NARAYAN VASUDEVJEE.

The Honourable GUNPUTRAO TATYA SAHIB.

The Honourable Colonel W. C. ANDERSON.

No—1.

The Honourable J. K. BYTHELL.

The motion was therefore lost.

The Honourable Mr. BYTHELL objected to the scale of fees appended to the Bill, and proposed that the scale of fees levied under Act II. of 1864 be substituted. The new scale made fees a good deal higher than they were formerly, and this he considered inadvisable.

The Honourable Colonel KENNEDY mentioned that the Honourable Sir Jamsetjee Jejeebhoy had just stated his opinion to be that the fees were too low.

The Honourable Mr. NARAYAN—Under this Bill the surveyors will have a very great deal of work to do gratuitously, and I approve of this schedule as it stands in the Bill.

The Honourable Mr. BYTHELL—The honourable member's argument amounts to this, that steamers which ought not to be surveyed must pay for those which ought.

The Honourable Mr. NARAYAN observed that the intention of Government was to make this Act self-supporting.

The Honourable Mr. BYTHELL—Whatever the intention may be, it is scarcely fair to the vessels exempted to advance such an argument.

The Honourable Mr. NARAYAN—The scale charged in Calcutta is much higher, and vessels there lie across the pier, whereas in Bombay the surveyors must incur the expense of boats.

The Honourable Colonel ANDERSON was of opinion that as the Act must be self-supporting, every vessel with a Board of Trade certificate should be called upon to pay some small sum.

The Honourable Mr. GIBBS said that he was told the other day that a captain of a steamer which arrived in Bombay had had to pay, together with port dues, a sum of Rs. 340; and he went on to Calcutta where he was charged Rs. 2,500; and to Moulmein, where he paid Rs. 1,240. This showed, at all events, that Bombay harbour charges were comparatively light.

The Honourable Mr. BYTHELL said the honourable member's statement could hardly be accepted, because it was notorious that Calcutta and Moulmein were about the most expensive ports in the East in consequence of the extensive dredging operations which were carried on in their vicinity, the difficulty of navigation and long pilotage. In Bombay, however, literally nothing had been spent to improve the entrance to the harbour or the anchorage.

The Honourable Mr. GIBBS—With regard to Section XVII. as printed, which states that it shall be competent to the Governor in Council to exempt from the operation of this Act steam tugs, steam barges, and steam launches, I wish to bring to the notice of the Council some facts which were sent to me to-day. It appears that the steam launches which now run about the harbour are many of them about six or seven years old, and the state in which not only their hulks but their engines and boilers are at present requires that there should be some examination of them. They are as a rule badly looked after and owned by persons who work them as much as possible. It is therefore suggested by some of the officers connected with the Government survey that these vessels should be surveyed. Captain Henry, of the P. and O. Co., wishes the steam launches and barges of that Company to be exempted from this Act, and I think his wishes may be agreed to, since the P. and O. and some other large Companies see the wisdom of keeping their launches and

gigs in the best possible condition ; but we cannot look upon these nated-owned small steam craft in the same light, some of which appear to be really in a dangerous state.

The Honourable Mr. BRYHELL said that if these vessels were to be examined a reduction in the scale of fees must be made so far as they were concerned, because the survey charges would amount as a rule to one per cent. upon their total value.

His Excellency the PRESIDENT thought that the power ought to be given to Government to exempt partially or wholly from the operation of the Act steam tugs, steam barges or steam launches. If this were agreed to examinations would not be very frequent, and therefore there would be no necessity for reducing the survey fees regarding these small vessels. He moved that in line three of Section XVII. "either wholly or partially" should be inserted between "exempt" and "from"; that "any" should be inserted after "Act" in line four; and that "and" in the fifth line should be altered to "or."

The amendments were agreed to.

No alterations were made upon the schedule as printed in the Bill.

The Honourable Mr. ROGERS, in moving the first reading of Bill No. 11. of 1873—

Mr. Rogers moves the first reading of the Jails Bill.

(A Bill for the Regulation of Jails in the City and Presidency of Bombay, and the enforcement of discipline therein), said :—Although honourable members will find the reasons for the introduction of this Bill in the Statement of Objects and Reasons, yet I may add a few words of further explanation on the subject. The jails in the city of Bombay are now exempted from the control of the Inspector General of Prisons, and one of the chief reasons for introducing this measure is to bring these jails under his charge. To effect this the Acts which bear upon the subject of jails in Bombay itself and in the Mofussil will be consolidated and one general Act passed. The present Committee of Management of the House of Correction will no longer be necessary, and the Regulation No. III. of 1827, under which that Committee was constituted, will no longer be necessary. Another point which has been frequently urged upon the Executive Government is, that the law, as it at present stands, does not authorize the punishment of whipping in the County Jail ; in the House of Correction whipping is authorized by a special Act. With the view of enforcing proper discipline this Bill will provide for the infliction of that punishment in both these jails and also for the punishment of penal diet—a punishment which has been found to be very efficacious in other parts of India and in England. Under Act IV. of 1865 as it stands at present prisoners sentenced to imprisonment for terms not exceeding one month must be sent to a subordinate jail, if a jail of that description is nearer to the place where sentence is passed upon them than is the district jail. Subordinate jails have hitherto been nothing more than Mamlutdar's lock-ups, and no proper means could be provided in them for enforcing rigorous imprisonment. It is proposed in this Bill to shorten the period of maximum imprisonment which a prisoner can undergo in subordinate jails from one month to fourteen days. It is found at present, in consequence of the position in which magistrates are often placed in going about from place to place, that they frequently have to send prisoners to a subordinate jail when it would be advisable to send them to the district jail, and this reduction in the period of imprisonment will enable a number of prisoners to be sent to the district jail, where they may be subjected to proper discipline. Other minor points will come before the Council on the consideration of the Bill in detail, and with these remarks I beg to propose the first reading of this Bill.

The Honourable the ADVOCATE-GENERAL—The leading principle of this Bill appears to be to bring under the operation of the general law the County Jail and the House of Correction in Bombay, and place them under the supervision of the Inspector General of Prisons. The House of Correction is under the management of a Committee appointed by Government according to certain ordinances, and no doubt there will be no difficulty in dealing with that institution. But the case may be different with the County Jail. That institution has been for a very long time considered to be under the immediate supervision of the Judges of the old Supreme Court, and upon the establishment of the High Court, that supervision appears to have been transferred to the Judges of the High Court. I remember, when I was Sheriff of Bombay, continual references had to be made to the Judges regarding discipline—it being considered at that time that they had power to enforce discipline within the prison. I should like to know if there has been any communication with the Judges with regard to what was at least their traditional jurisdiction over the County Jail.

The Honourable Mr. GIBBS—This Bill has been referred to the High Court, and the Chief Justice Sir Michael Westropp has no objection to it, nor have the other Judges of the High Court.

His Excellency the PRESIDENT declared the motion to read the Bill a first time carried.

On the motion of the Honourable Mr. Rogers the Bill was referred to a Select Committee, consisting of the Honourable Mr. Gibbs, the Honourable the Advocate-General, the Honourable Mr. Narayan Vasudevjee, and the Honourable Mover, with instructions to report on or before the 1st of December.

The Honourable Mr. ROGERS, in moving the first reading of Bill No. 12 of 1873 (A Bill to amend the law relating to Hereditary Offices) said :—
 This Bill, as the Council will see, has been substituted for Bill No. 2 of 1873, which has been withdrawn. The new Bill differs from the former one in that the old Bill referred only to hereditary village officers, whereas this one being worded in more general terms, may be taken to relate to district officers as well as to district village officers. It was agreed, however, the other day, that when the new Bill was introduced the question of whether it should be made applicable to district as well as village officers should be left for discussion by the full Council. Before speaking further on this point, I merely wish to say that generally this Bill is the same in principle as the one which has been withdrawn. The former Bill was fully considered by the Select Committee, and I think that everything requiring consideration has already been attended to by that Committee. At all events more information cannot be placed before the Council than has already been laid before the Select Committee. I will now say a few words upon the question whether this Bill should be applicable to district as well as village officers. The Committee of Collectors and Revenue Commissioners who have lately sat and considered this Bill, appear to be of opinion that the Bill should be framed in such a manner as to be applicable to the two kinds of hereditary officers. I myself am of a different opinion. One or two legal questions are involved, upon which I would like to get the Honourable the Advocate-General's opinion. The present Act under which all hereditary offices are settled is Act XI. of 1843, which applies to both village and district offices. I presume it is known to most of the members of Council that in the case of hereditary district officers almost throughout the Presidency a settlement has been come to, by which the services of these officers have been dispensed with on the condition that a portion of the emoluments of their offices should be kept by Government while the officers should be allowed to retain the remainder. Such settlements have been made upon an equitable basis, the value of the services hitherto rendered by these hereditary district officers having been carefully considered, and the balance to which they were entitled guaranteed to them by sunnuds from Government. The members of the late Committee, in their opinion that it would be better to make this Act applicable to both village and district officers, seem to me to be rather unmindful of the settlements which have been come to with the majority of the latter. I think that in consequence of these settlements the two classes of hereditary officers should not be mixed up in this Bill. These settlements are of the nature of a contract between Government and these hereditary district officers, and of course so far as Government is concerned they are binding. The chief part of each contract is that we shall hereafter take no services from these officers, and therefore I think that no law under which they be considered liable to perform service should be passed. There are one or two collectorates in the Presidency in which this settlement has not been come to; but when the whole of the settlements are complete it will not be necessary to make any law upon the subject, and then Act XI. of 1843 could be repealed without any difficulty. The present Bill will of course be in that case purely applicable to village officers. I believe that some of the wuttundars with whom these contracts have been made are now bringing forward the point that, whereas a hereditary office is of the nature of an entail, it was not competent for Government to enter into any contract with the present holders to the exclusion of their heirs and successors. That is one reason why the Committee of Revenue officers think that provision should be made in this Act for continuing the powers given to Government with regard to District Officers by Act XI. of 1843. With regard to the point of the necessity for laying down in this Act certain powers by which these settlements should be legalised, I beg to point out that in my opinion the present Pensions Act XXIII. of 1871 distinctly exempts from the jurisdiction of Civil Courts all questions relating to any pension or grant or land revenue made by the British or any former Government, whatever may have been the consideration for which such pension or grant, or the nature of the claim for which such pension or grant has been substituted. It appears to me, therefore, that as any question regarding these settlements is kept out of court by the Pensions Act, Government having made an equitable bargain with the hereditary district

officers, we cannot now interfere with them by this Bill. I would therefore like to hear from the honorable the Advocate-General his opinion whether cases of disputes with these hereditary district officers can (bearing in mind the present law) come under the jurisdiction of the Civil Courts. If they do not, then there is no occasion for introducing any provision here relating to hereditary district officers. The Committee make an objection with regard to the use of the words "lump sum" in Section 10 of Act XXIII. of 1871. I presume however, that these words would not bring under the jurisdiction of the Civil Courts what has been exempted by a previous section of the same Act. There will certainly be one advantage in repealing Act XI. of 1843, that is, to get rid of it from the statute-book; but considering that it is only applicable now to one or two collectorates, the hereditary district officers in the whole of the rest of the Presidency having been settled with, I do not consider it to be necessary to introduce legislation for the control of officers who in the course of a short time, when the settlements are extended, will be entirely out of the control of Government. Under the arrangements which have been made by the Revenue Survey Officers we find that the services of these hereditary officers are really not necessary, and that it is better to pension them off and retain only a portion of their emoluments. With these remarks I beg to move that the bill be read a first time.

The Honourable the ADVOCATE-GENERAL:—Sir, it is rather hard to be called upon to give a legal opinion upon a case without having all the particulars of the case before me. I would require to have before me all the matters of agreement between these district officers and the Government representatives, before I could say whether or not their complaints would come under the Pensions Act. I would certainly decline to give any positive opinion as to the validity of these settlements until I have seen them, for they may contain provisions which take them entirely out of the operation of Act XXIII. of 1871. On the first view of the matter I do not know that this Act will take from the cognizance of the Civil Court a case in which Government has made an arrangement admittedly only of tenant for life by which the claims of successors shall be settled forever. I therefore, not having these settlements before me, and not being cognizant of the details of these settlements, must respectfully decline to give any opinion as to whether or not these settlements would come under Act XXIII. of 1871. I think that the doubt which I feel is enough to justify me in differing with the Honourable Mr. Rogers on the point as to whether hereditary district officers should be excluded from the operations of this Bill. I rather think that, instead of trusting to the chapter of accidents and leaving the son of one of these wuttundars to raise an action in a Civil Court, the better course to pursue would be to put the matter beyond doubt by at once making arrangements to meet the case in this Bill. I also see a great deal of advantage in getting rid of Act XI. of 1843, and including all hereditary officers, whether of districts or of villages, in one Act, so that the officers who have to administer the law may know where to find it instead of being banded about from one Act to another. I am therefore inclined to agree with the Committee of Revenue Officers who have reported upon this Bill, that it would be desirable to include hereditary district officers in the Bill which is now before the Council. I do not know whether any universal system of commutation has been established, but it must be remembered that a number of decisions have shown that these wuttundars are only life tenants.

The Honourable Mr. ROGERS—Is it necessary to legalise these settlements in this Act?

The Honourable the ADVOCATE-GENERAL—If they require to be legalised I think it is desirable to legalise them then—that is all I can say.

His Excellency the PRESIDENT—The honourable member means that there should be no question in the Act the validity of which is doubtful?

The Honourable the ADVOCATE-GENERAL having answered in the affirmative;

The Honourable Mr. ROGERS enquired what was the advantage of making this Act apply to hereditary village officers when their services would soon be done away with altogether?

The Honourable the ADVOCATE-GENERAL—I think it is better to put the question beyond all doubt so far as this Act is concerned.

His Excellency the PRESIDENT—Admitting in the broadest sense that the Civil Courts are barred from the consideration of this matter, still I suppose it is to be implied that the Government having for its own convenience put an interdict upon civil suits, will be bound to treat cases according to the ordinary rules of law. The question comes to this, whether you are to allow a man in possession to make away with the rights of the heir in succession. A wuttundar, if I understand the matter rightly, is in possession of an entailed

estate and nothing but an entailed estate. Negotiations have taken place—which may be perfectly right and proper in the condition of the country; but it seems to me that if the next heir is a minor these negotiations must have been made without his consent, and therefore there may be a difficulty about the legality of the arrangements. You cannot get over the question that the heir-at-law has not been consulted. That is not a legal question, but one of right.

The Honourable the ADVOCATE-GENERAL—Under Act XXXI. of 1854 the entail may be cut off by any person who is merely a landholder under the general territorial law of the country.

The Honourable Mr. GIBBS—I was trustee on an estate the other day in which the entail was cut off under that Act. Upon the general question whether district officers should be included in this Act, I must say that my opinion does not coincide with that of the Honourable Mr. Rogers. I think there are many reasons for which it would be advisable to make all that description of officers come within one enactment. With regard to whether the Pensions Act applies or not, I think that the Honourable the Advocate-General has exercised that discretion which he possesses in declining to give an opinion until he is placed in full possession of all the facts. Although the Honourable Mr. Rogers is of opinion that that Act will be sufficient to prevent any difficulties arising, two Revenue Officers have arrived at a different conclusion, and therefore this Council will be justified in assuming that the decision in a court of law would be at all events doubtful. Under these circumstances, and to avoid litigation, I think it would be as well to make the Bill before us as complete as possible. I shall support the proposition that the Bill should be made to apply to district hereditary officers as well as hereditary village officers.

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

The Bill read a first time.

The motion was agreed to.

The Honourable the ADVOCATE-GENERAL—I wish to call the attention of the honourable member in charge of the Bill to two points to which my attention has been drawn with the view that he may consider how far they are worth consideration. The first is as to the definition of "hereditary office." It has been suggested that the definition which is given in this Bill goes further than that which is given in Act XI. of 1843, and that it may be construed to include in the operation of this Act all the inferior kind of officers, such as carpenters, barbers, and so forth, whose offices were practically abolished by Act XI. of 1843. The chief reason why this doubt has been raised is because of the words "or village administration" which occur in the fifteenth line of the third section. These words do not occur at all in Act XI. of 1843, and if we agree to adopt them here we may be reviving the rights of all the old inferior officers of a village.

The Honourable Mr. GIBBS—There is no doubt that this Act was never intended to apply to these people.

The Honourable the ADVOCATE-GENERAL—The objection was made to me by a gentleman in the Civil Service who is a Collector of the District, and therefore I think it only right that the question should be distinctly brought forward. The other point I have to allude to is with reference to Part VII. of the Bill. As far as I can ascertain, there is a considerable difference of opinion, with reference to that part, between the officers of the northern part of the Presidency and those of the south. In the northern part, the general opinion is very strongly against having certain periods of service, and a gentleman connected with its revenue administration has favoured me with his views against the system of rotation, a system which he thinks it would be exceedingly undesirable to perpetuate. It seems to me that it may even be necessary to draw a distinction between the northern and southern parts of the Presidency, the latter being the only part which looks upon the rotation system of service with favour.

The Advocate-General disapproves of the definition of "Hereditary offices" as too wide, and also doubts the expediency of agreeing to that part of the Bill which concerns the system of service by rotation.

The Honourable Mr. ROGERS—These two points, especially the latter one, have had most anxious consideration, and I shall be prepared to enter more fully into them when we come to the parts of the Bill comprising them.

The Bill considered in detail. The Council then proceeded to consider the Bill in detail.

Consideration of the 1st and 2nd sections was postponed.

The words "held, acquired, or" were inserted after "property," in line 4 of Section 3.

The Honourable the ADVOCATE-GENERAL—In the definition of hereditary office, the words occur which I have just objected to. I would suggest that the words used in the Act of 1843 should be reverted to.

The Honourable Mr. NARAYAN objected to the expression "hereditary office" including an office held hereditarily, even where the right to demand the service originally appertaining to it has ceased. If a man has ceased to perform service why should the Act apply to him?

The Honourable Mr. GIBBS said it was necessary to provide against the whole question being re-opened by an adverse decision in a court of law. In his opinion, moreover, a man might still be a hereditary officer although his services had not been called upon for some time.

The Honourable Mr. MUNGULDASS asked whether a wuttun assigned sixty years ago could be taken away under the Collector's certificate?

The Honourable Mr. GIBBS was of opinion that the section before the Council did not contain any such power, it merely declaring a person's title to be called a hereditary officer. This title was in many cases purely honorary, many persons never having done anything at all in the way of services.

His Excellency the PRESIDENT—Will these hereditary officers be wuttundars?

The Honourable Mr. GIBBS answered in the affirmative.

His Excellency the PRESIDENT—Yet the Bill, in Section IV., goes on to say that no wuttundar shall sell, mortgage, or otherwise alienate or assign any wuttun or part thereof to any person not a wuttundar of the same wuttun estate, without the sanction of Government.

The Honourable Mr. GIBBS—The hereditary officers whom I referred to will be wuttundars in one sense, though not in another.

The Honourable the ADVOCATE-GENERAL considered the definition to be vague and unsatisfactory.

The Council then decided to insert "or collection of public revenue" after "administration" in line 12; to strike out "of the land" from lines 12 and 13; to substitute "with" for "of" in line 14; to strike out "or village" from line 15; to strike out "the right to demand" from line 17; to substitute "have" for "has" in line 18; and in the same line to insert "to be demanded" after "ceased."

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, 25th September 1873,