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

PRESENT :

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

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

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

The Honourable the ADVOCATE GENERAL.

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

The Honourable Mr. JAVERILAL UMIASHANKAR YAJNIK.

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

The Honourable Mr. FAZULBHOY VISRAM.

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

The Honourable Ráo Bahádúr ODHARAM MULCHAND.

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

Papers presented to the Council.

The following papers were presented to the Council:—

- (1) Report of the Select Committee appointed to consider the Bill (No. 3 of 1891) to prohibit the practice of Inoculation, and to make the Vaccination of Children in certain portions of the Bombay Presidency compulsory.

- (2) Letter from Mr. P. R. Desái, District Pleader, Ratnágiri, dated 15th February 1892—Submitting his opinion on the Bombay District Vaccination Bill.
- (3) Letter from the Honorary Secretaries, Poona Sárvajanick Sabha, No. 40, dated 16th February 1892—Submitting the opinion of the Sabha on the Bombay District Vaccination Bill.
- (4) Letter from the President, Grant College Medical Society, dated 17th February 1892—Submitting the opinion of the Society on the Bombay District Vaccination Bill.
- (5) Letter from Mr. Narayen Bhikaji Joglekar, Pensioned Deputy Collector, dated 17th February 1892—Submitting his opinion on the Bombay District Vaccination Bill.
- (6) Letter from the Secretary, Indian Progress Society, dated 19th February 1892—Submitting the opinion of the Society on the Bombay District Vaccination Bill.
- (7) Letter from the Honorary Secretaries, Bombay Presidency Association, dated 22nd February 1892—Submitting the opinion of the Council of the Association on the Bombay District Vaccination Bill.

The Honourable Sir CHARLES PRITCHARD, whilst moving the second reading of the Bill, said :—The report of the Select Committee that has just been read by the Secretary contains most of the information which it is necessary for me to lay before the Council in moving the second reading of this Bill. The criticisms and opinions that have appeared in the newspapers since the Bill was published,

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

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

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

Another point referred to in the letter of the Poona Sárvajanick Sabha is as follows :—

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

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

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

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

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

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

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

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

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

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

His Excellency the PRESIDENT :—I should think so.

The Honourable Mr. YAJNIK said :—Your Excellency,—It seems to me that section 14 of this Bill contains the crucial point of the whole Bill in regard to the extension of com-

pulsory vaccination in this Presidency. It is divided into three sub-sections. The first sub-section provides that, except under certain circumstances, the vaccination of a child must ordinarily be performed with animal lymph. Your Excellency is aware that the vaccination system at present at work throughout the Presidency is voluntary. In the statement of objects and reasons it is mentioned that the voluntary system is ineffectual, and that the extension of the compulsory system to certain districts in the Presidency, and especially of those in Sind, has become a matter of pressing necessity. It would, I think, have been very satisfactory to this Council and to the public generally if, either in the statement of objects and reasons or in his speech, when moving for the first reading of the Bill, the honourable member in charge of the Bill had been so good as to supply information or facts showing the number of outbreaks of serious epidemics of small-pox or unusual mortality on account of those epidemics under the voluntary system. On the other hand, it appears, from the memorial by the Council of the Bombay Presidency Association, that Government have expressed their satisfaction with the fairly good work which the voluntary system has done. The results, attained so far, show that, under the voluntary system, the average number of persons vaccinated during the five years previous to 1890-91 was 33·44 per 1,000, whereas in the presidency circle or the City of Bombay, where vaccination is compulsory, the average for the same period was 23·34 per 1,000. This might lead to the inference that the voluntary system, measured by results, works much more satisfactorily. I must, at the same time, state for the information of the Council that in Karáchi, where also vaccination is compulsory, the average of successful operations during the same period was 64·61, whereas the average in the whole of the Sind registration district was 36·98 per 1,000. Now, if Government consider that there is room for further extending the Act, such extension should take place, I think, in the direction of animal vaccination under the voluntary system, more especially, because that system, though more costly, is popular throughout the Presidency. Dr. MacRury, the Sanitary Commissioner for the Bombay Presidency, in his annual report on the Vaccination Department for the last year (1890-91), says: "The people greatly appreciate animal vaccination, as it does away with the necessity of their having to allow lymph to be taken from their children, to which they always object." But if Government are of opinion that compulsion must be applied to ensure more satisfactory results, then, I say, it should be applied on the only safe lines on which the Act in Bombay has worked smoothly and successfully during the last fifteen years, namely, by restricting compulsion to cases in which animal lymph alone is used. I say, on the authority of my friend, Dr. Blaney, that the Municipal Corporation of Bombay, who pay the cost of vaccination in Bombay, give their sanction to compulsory vaccination (1) on the clear understanding that animal lymph is to be used, and (2) because they hold the power of making the vaccination grant, which includes hire of calves as one of the chief items. At every budget they have passed the expenditure as right and proper. In fact, it was on that condition, if I am not mistaken, on which the Corporation of Bombay agreed from the first to bear the charges of the Vaccination Department in Bombay.

Now, in extending compulsory vaccination to any area in the Presidency, two important points have, it seems to me, to be borne in mind. One is that in the rural districts of this Presidency you have to deal with people who show a wide disparity in intelligence and civilization and strong prejudices of their own, which it is by no means easy to get over. Too much care, therefore, cannot, in my opinion, be taken in seeing that their prejudices, and, I should say, even their superstitions, are tolerated if the compulsory system is to be made acceptable to them, and the cause of vaccination is to make headway. Another important precaution to be taken is that the zeal of the public vaccinator does not outrun his discretion. I say this with a due sense of responsibility. I consider it my duty, while a member of this honourable board, to endeavour to keep your Excellency and my honourable colleagues informed of what I believe to be the current feeling of the people in respect of a measure pending the consideration of this Legislature. In pointing out these precautions, my Lord, I am borne out by a striking letter I received the other day from a friend in Gujarát. It is from a gentleman now in retirement from the public service, but who was at one time a high officer of Government and had unusual opportunities as administrator in British and Native territories of observing the habits and customs of the people. With your Excellency's permission I will just quote that part of it which bears directly on the points now before the Council. The letter says:—"I am against the introduction of compulsory vaccination among the rural population, particularly such as are backward. When in the Baria (Panch Mahál) districts,

the aboriginals of villages deserted their homes and fled to the hills and jungles at the approach of a *tankania* (literally, a *pfricker* or puncturer), as they styled the vaccinator. Since then they have changed their attitude towards the vaccine department and are gradually being reconciled to the (to them) strange operation of vaccination, but there are yet people who are too indolent, apathetic or superstitious to perceive the advantages of vaccination and to such people,—and they must be many—the new law, if passed, will prove very harsh. Among the upper classes in large towns compulsory vaccination may succeed, but among the lower classes it will give rise to a great deal of annoyance, oppression, and extortion. The vaccinators are very lowly paid, and they, I am afraid, miss no opportunity of filling their pockets. Dr. Colah, the Superintendent of the Northern Division, is, I know, very strict in his dealings with his subordinates, but the latter somehow or other manage to elude his vigilance, and extort some money from simple and ignorant patels, who dread the prospect of being reported on to their superiors. One of their departmental rules is that every vaccinator should submit a monthly return of his work to the Superintendent, and as heavy fines are inflicted on vaccinators whenever the number of children vaccinated by him during the month falls short of the departmental requirement, he is very eager to swell the number as much as he can, and the consequence is that the vaccinators insist upon parents to get their children vaccinated even during the Diváli and Holi holidays.”

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

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

I now come to sub-section 2, which enforces the practice of arm-to-arm vaccination without the assent of the parents or guardians of a child in any vaccination area by notification in the *Government Gazette* if Government are satisfied that animal lymph is not procurable in that vaccination area without dangerous delay. I admit that this provision is intended to meet an emergency. But I would say there was a similar section in the Bombay Compulsory Act of 1877 intended to meet an emergency. But it is a patent fact that during the last fifteen years, for which the Bombay Act has been at work, there has not arisen a single occasion for a resort to arm-to-arm vaccination in our City. This sub-section of section 12 of the Bombay Act has remained practically a dead letter. Fifteen years have made a great change in the condition of things in this Presidency, and I hold that in these days of rapid communication by telegraph and rail the chances of animal lymph failing, even in an outbreak of small-pox epidemic, are every year being too minimized to justify the enforcement of arm-to-arm vaccination. I see that Mr. P. R. Desái, Pleader, District Court, Ratnágiri, considers that the object of the Bill would, to a certain extent, be frustrated if arm-to-arm vaccination was not legalized in case of absolute necessity. “Suppose, for instance,” says he, “small-pox of a virulent type threatens to break out in a vaccination area quite remote in a district, and animal lymph is not procurable in time, what steps will the honourable gentleman recommend to be

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

Having thus shown that the fear in regard to dangerous delay in the supply of animal lymph, especially after the establishment of requisite centres for the cultivation of such lymph, is imaginary, I now proceed to refer to one or two points connected with the passing of the Bill which subsequently became the Act of 1877, merely with a view to indicate the precautions taken at the time. That Bill originally provided for the enforcement of arm-to-arm vaccination, but the Select Committee which was composed of the Honourable Messrs. Gibbs, Marriot, Mandlik, Rogay, Graham, and Bengali, consult-

ed such eminent men as Sir Guyer Hunter, Surgeon-Major Blanc, Surgeon-Major Pinkerton, and Dr. Ananta Chandroba on the point. Of these medical men Dr. Blanc was the officer who first introduced vaccination with animal lymph into Bombay. His opinion as a specialist in vaccination, concurred in by the other medical gentlemen, carried great weight with the Committee. The first conclusion the Select Committee came to, on the advice of these medical men, was that the experience gained in this Presidency during the past five or six years showed that not only is there no difficulty in vaccinating with lymph taken from the animal direct, but that such vaccination is more efficacious than vaccination from arm-to-arm. Their second conclusion was that the system prevalent in Bombay was to use animal lymph and that its extension to outlying districts was merely a matter of expense. The third conclusion the Committee arrived at deserves the earnest attention of this Council. The Committee found that "strong prejudices existed among the people generally, and especially among some particular castes, against vaccination with lymph taken from arm-to-arm, especially against lymph from a child of a different religion or lower caste being used." For these reasons, the Committee was of opinion that these prejudices might be overcome and the operation rendered even popular by limiting compulsory vaccination to animal lymph. They accordingly reported that they "struck out the last sentence of section 8, which gives authority to a public vaccinator if he saw fit to take from a child he had vaccinated lymph for the performance of other vaccinations." Last animal lymph might die out entirely clauses (a) and (b) were added to section 12 for a resort to arm-to-arm vaccination. The Honourable Mr. Gibbs said:—"It might so happen that we should have to send to Belgium and that would occupy upwards of six months before we could renew the supply of animal lymph." Now I venture to say that in these days there is hardly any possibility of failure of a supply of animal lymph. English lymph is and can be imported into Bombay in sixteen days. But apart from that, we know that Bombay has now become a regular centre or dépôt for the collection of animal lymph. Mr. Gibbs concluded by saying that "I think that in the Bill now before the Council, the second reading of which I now move, we in the City of Bombay and in this Legislative Council are taking a course strictly in accordance with the very latest opinions of those who are best qualified to give an opinion on this subject, *viz.*, not only by making vaccination compulsory only as a rule when the vaccine lymph used is taken direct from the animal. The Municipality of Bombay have declared their readiness to meet the required expense, and as the question of animal *versus* arm-to-arm vaccination is simply a matter of money, and the expense being provided I think the other members of Council, who were not on the Select Committee, will agree with members who sat on it in unanimously coming to the conclusion that the Bill as now submitted should become law. I trust that should it so become law, Bombay will receive credit as having been the first city in the whole empire of India in which this very necessary measure has been carried out." Now in extending the scope of this Act to the Mofussil, it seems to me that no procedure is apt to get the generally law-abiding people in the interior of the Presidency against vaccination generally than compulsion in arm-to-arm vaccination when animal lymph is not to be had. I am addressing honourable members who are thoroughly familiar with the habits and customs of the people. I am stating nothing new when I say that a Hindu or a Parsi would object to have his child inoculated with lymph taken from a Mahomedan or a Christian and *vice versa*. A high caste Brahman, who prides on the purity of his blood, would regard the vaccination of his child with lymph (which is not always unmixed with blood) obtained from the arm of a child belonging to a Mahár, Máng, Chambhár, or Dhed, as an act of defilement of its body. His feeling would be very much akin to the feeling with which he would look upon being compelled to take food or water from any of these castes. The whole proceeding would, I am afraid, be resented as an act of unwarrantable interference with his religion and social customs. You may regard such feelings as prejudices, or superstitious if you like, and reasonable or unreasonable, but there they are. The province of the legislator as well as of the statesman is, I humbly submit, to shape his course by the facts as he finds them and not by his wishes as to what those facts might have been. The whole secret of the popularity of British rule in India consists to my mind on the spirit of toleration for the beliefs and habits of the people so long as such beliefs and habits do no injury to others. People hardly dream for one moment that Government would sanction any proceeding in law or administration calculated to hurt their social or religious prejudices. I fail to see therefore why a measure of this legislature, designed avowedly to carry out a purely benevolent object, namely, the protection of children from the evils of small-pox, should, by a side proviso,

sanction a practice which is obviously deemed by the people as obnoxious. The result of it would, in my opinion, be simply to make vaccination operations odious to them.

Leaving prejudices aside, I come to another point. It is the belief of most people in this country that children inherit certain diseases, such as syphilis, tuberculosis, scrofula, leprosy, &c., from their parents, and that vaccinating a child with lymph mixed with blood from such children is one of the means of transmitting those diseases to an otherwise healthy child. This belief seems to have received confirmation from advanced scientific medical opinion in Europe. That advanced opinion is that if nothing but pure and unmingled lymph is taken from a vesicle with a clean lancet there is not much probability of such lymph communicating any disease, but if the vaccinator, while taking lymph from the arm of a child, performs the operation carelessly and takes a portion of the blood with it, then there is a possibility of transmission through that small blood on the lancet of the diseases of the vaccinator to the vaccinated. Now, how can vaccinators on Rs. 15 a month in this Presidency who, it must be borne in mind, are not medical practitioners, be expected to perform the operation with such precision and skill as to take out on the lancet lymph unmingled with blood? But the advantage of animal vaccination is, according to Dr. Barclay, "the diminution of all danger of the accidental inoculation of syphilis, tuberculosis, and other diseases." A danger, which though much smaller than is usually supposed, exists in vaccination with human lymph in spite of every precaution to avoid it. Accordingly, animal vaccination is practised to a larger extent in Brussels and London, where there are regular hospitals for the purpose, but nowhere in Europe has it reached a higher development than in Germany. Owing to the results arrived at in 1885 by an influential Commission appointed in 1884, under the presidency of Dr. Koch, to enquire into the vaccination question, more especially in relation to the guarantees suitable for surrounding the operation of vaccination with the utmost possible safety and propose the measures to be taken with a view to attaining this result eventually by the substitution of animal lymph. The question was also discussed by the Commission as to whether it be not possible to exclude entirely all injury accruing from the operation. The result of the enquiry was that vaccination by means of animal lymph was pointed to as the only safe measure, more especially with a view to avoiding syphilitic lymph. The principal points of the conclusions arrived at by the German Commission are thus summed up in the evidence given in the third report of the Royal Commission appointed by the British Parliament to enquire into the subject of vaccination (page 144):—"Compulsory vaccination can only be continued if damage from vaccination, notably vaccine syphilis, can be avoided. Vaccination with human lymph is unable to comply with this condition. Vaccination with animal lymph, which, in its improved form, comes nearest to the employment of human lymph as to certainty of effect, excludes the occurrence of vaccine syphilis and offers considerably greater security against other damage from vaccine erysipelas, &c., than vaccination with human lymph. For these reasons vaccination with animal lymph must in future take the place of vaccination with human lymph." This recommendation of the Commission was accepted by the German Government, and according to Dr. Barclay the gradual extinction of vaccination with human lymph is progressing in Germany. From the last official report to which Dr. Barclay had access (1888), it appears that the substitution of animal lymph for human lymph has rendered protection against small-pox quicker and much less difficult; that apart from the certainty of its acting and its sufficient durability its use excludes the direct transmissibility of certain other diseases; and with reference to syphilis that this disease is with certainty excluded, as, indeed, is shown by the fact that not a single case of inoculated syphilis was reported among the millions of verified vaccinations already performed with animal lymph. Such being the unquestionable testimony as to the result of substitution of animal for human lymph, I humbly ask, whether in legalising at this stage of the vaccination question in Europe arm-to-arm vaccination in this country, we are not in this Council sanctioning retrograde legislation in the teeth of the soundest scientific medical opinion of the day? It seems to me that the best reform in the Indian vaccination system that this Government can introduce would be to adopt the German system and demolish arm-to-arm vaccination by expunging the sub-sections from the Bill. Scientific medical opinion has also made it clear that leprosy is also inoculable by vaccination. This is what Dr. Robert Francis Black, who for 16 years had resided at Trinidad, says, in a letter to His Excellency the Governor, Sir William Robinson, dated 16th July 1887, referring to the cases of leprosy induced by vaccination, reported in the medical journal, July 11th, 1887:—"I beg to say, for the information of His Excellency the Governor, that my experience agrees with the statement of Professor

Gairdner of Glasgow contained in your circular, and that I am of opinion that the disease in question is communicable by vaccination lymph from healthy vesicles only being used.' With these facts before the Council, how is the public vaccinator to know that vaccination from lymph taken from the arm of a child shall not prove injurious to the vaccinated as provided for in clause (b) of sub-section (2) of section 14?

Coming to sub-section 3, I find that the first safeguard against abuse of arm-to-arm vaccination consists in the granting of the extension of time not exceeding one month within which the parent or guardian is to arrange privately for the vaccination of his child. The parent may be too poor to afford the means of taking his child to Bombay to be vaccinated with animal lymph, or he may have conscientious scruples or fears lest his child should suffer by the transmission of the taint of disease in the act of vaccinating the child with human lymph, and may refuse to take it to the vaccinator for arm-to-arm vaccination. Is it fair, under such circumstances, to subject him to the pains and penalties of the law for not complying with the orders of the vaccinator? The second safeguard provides that lymph shall not be taken from a child who is apparently in good health and free from taint of a disease transmissible by vaccination. To say that a child is in good health is perhaps the most difficult thing to do even for a medical man. On this subject I cannot do better than place before the Council the view of an able and experienced medical gentleman amongst us, Dr. Bahadurji. He says: "In answer to your letter in which you ask me my personal opinion on the arm-to-arm vaccination method which is intended to be enforced by the new Vaccination Bill, I have no hesitation in saying that, besides its being not suited to the peculiar conditions which obtain in this country, on professional grounds the method is objectionable, and for these reasons:—Arm-to-arm vaccination obviously acts as a channel for the transference of some skin diseases, and affords a ready means for propagating such inherited constitutional taints as those of syphilis and leprosy. No doubt, special rules with full details will be framed for the guidance of the operators in their selection of proper subjects, with a view to avoid these mishaps; but, having regard to the class of men from whom the supply of district vaccinators is to be obtained, the detailed rules will be of as much use to them as the paper on which they are printed, for 'whatever is received is received in proportion to the recipient.' Syphilitic taint does not necessarily show itself in ill-health at the early age at which vaccination is practised and demanded by law. A child may be in fair health, and yet have inherited syphilis. Moreover, syphilis does not stamp itself on the face and arms so much as on the back and legs—parts not generally examined by the vaccinator, and thus apt to be overlooked. Only yesterday I was asked to see a case of skin disease in a child. On stripping the child bare I found him fairly healthy to look at, and could see no skin blemish on his person. But closer examination of the hidden parts revealed the presence of unmistakable condylomata (syphilitic). These condylomata unnoticed, I should have passed the child as a very fair specimen of average health, and a fit subject to take the lymph from. Syphilis, as betrayed in obtrusive signs, is not difficult to recognise, but when concealed, as is more often the case, it is by no means easy to detect it. In the case of leprosy, it is still worse. There is no such thing as a leper child or infant. The leper heir does not put on its inherited exterior till youth is reached. And it is by no means possible by any close observation or examination of a child to say that it is free from the leprous taint. Surely, arm-to-arm vaccination will not help to stamp out leprosy. On the contrary, it has been asserted, and not without good reasons, that it has favoured the propagation of the hideous disease. It is acknowledged that extreme care is required in taking out lymph from the vesicles to avoid drawing any blood, for blood contains the germs of disease. Extreme care means great delicacy of manipulation, and delicacy of manipulation with children is not an easy task, and requires some experience and training. Is it to be expected from the class of men who are going to act as public vaccinators in the districts? Supposing a district vaccinator were to acquire it, to some extent, after considerable practice, what about the delicacy of manipulation of one newly put on? Puncturing a vesicle with such delicacy as not to wound its floor and draw blood is one great difficulty. But the selection of a 'proper' vesicle is another as great if not a greater difficulty. Products of inflammation are charged with the germs of disease, the contagion or contamination media, as much as the blood itself is. And the contents of an inflamed vesicle are quite as contaminating as the blood itself of a subject who, though charged with the poison of (inherited) syphilis or leprosy, has none of the obtrusive signs of the taint for identification. And out here, inflamed, *i. e.*, angry-looking vesicles, are not the exception but the

rule, as can be easily told by personal observation and experience, and equally easily surmised if the habits and ways of our poor be duly considered. Thus even if no blood be drawn, the danger of transferring constitutional taints by the arm-to-arm method is by no means small; remembering that leprosy which claims India, and not England, for one of its homes, does not admit of any detection on the person of a subject from whose arm lymph may be taken, and that syphilis is more often difficult to detect than otherwise, and remembering also that both these are often met with largely in some districts."

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

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

The Honourable Ráo Bahádúr RANADE said:—I only wish to make a few remarks in regard to the observations made by the honourable mover to-day that in none of the previous Acts of the Government of Madras or Bengal was any choice given to the parents as to the method in which their children should be vaccinated, and the Government of India in its own general Act allowed a discretion to the local Government as regards the lymph to be used in vaccination. I think in a measure like this the practice of the other presidencies is a matter of no great consequence, when we have our own precedents in previous Acts of this Council to follow, which have allowed free choice to the parents and given decided preference to the use of animal lymph. As far as I understand it, the difference of views in this Council relates solely to the question of the practical advantage or necessity of retaining or omitting certain words in one of the sub-sections of section 14. The Government has no objection to allow the parent of a child full liberty to require that it shall be vaccinated by animal or human lymph according as the parent prefers the one or the other. This is admittedly the principle of the Bill and there is no exception to it in ordinary circumstances. The difference of views relates to extraordinary contingencies when according to one view this freedom of choice allowed on ordinary occasions should be curtailed and arm-to-arm vaccination enforced against the wishes of the parents, while the contingency lasts. This power exists in the Bombay and Karáchi Acts, but there has been no occasion to exercise it, and animal vaccination has been the rule. I contend that if the principle conceded by the honourable mover and sanctioned by the Legislature and by invariable practice be good for ordinary occasions, this liberty of choice should not be curtailed simply on the ground that animal lymph was not procurable without dangerous delay. It is the insertion of these words "without dangerous delay" which appear to have been advisedly put in in this Bill, found no place in the previous Acts, which has created misapprehension in the public mind. In the present circumstances of the country, it can never happen that animal lymph will be unprocurable without dangerous delay. Before Government issues its notification, there must be representation from the Sanitary Department, which representation will have to be considered. Such consideration will necessarily take up some time, at the least a week or two, and there is no part of this presidency where within that interval it will not be possible to make

arrangement for securing a permanent supply of animal lymph. Having made a concession to the prejudices of the people under ordinary circumstances, I contend that it is a question of principle that this concession should not be withdrawn for an alleged reason which has no validity, more especially when expert opinion is distinctly in favour of substituting the use of animal lymph in place of human lymph as a decidedly better protection. I cannot understand how under these circumstances the retention of these words can be made a question of principle. If these words were removed, the whole discussion would drop. Both from a medical and purely social point of view, it is undesirable that Government should ignore in special contingencies on untenable grounds the considerations which it admits are valid in ordinary times. If people in Sind object to the use of animal lymph, the choice allowed to the parent will protect them, and they will have no cause for complaint, if people on this side of India prefer animal to human lymph. By leaving the whole matter to the choice of the parent, the fullest justification is furnished for a compulsory system of vaccination. The use of animal lymph as a rule takes away the ground from all caste or religious objections in this part of the country, and this is not its least recommendation. I would therefore urge upon the honourable mover of the Bill and those who share his views that they should make the principle of the Bill one of free choice to the parent under all circumstances.

Another point on which I wish to make a few observations relates to the memorial from the Poona Sarvajánik Sabha. The honourable mover of this Bill refers to this memorial and observes that the addition made to section 2 would do away with the difficulty suggested by the memorial in regard to the constraint placed upon the action of the municipal and local boards, which will without being previously consulted have to provide the additional funds necessary to maintain the compulsory system in efficiency. I concede that the addition made is of some value, but it is a concession not to local and municipal boards but to the inhabitants of those places in which the compulsory provisions will be applied. These inhabitants will be permitted to submit their objections to Government, but it is plain that these objections can have no reference to the financial side of the question but would be confined to the necessity or otherwise of the compulsory system. In the majority of cases, Government would overrule these objections and issue the notification, and such notification will at once make it obligatory on local and municipal boards to provide the funds. The Poona Sabha suggested that before such notification is issued, the readiness of the local bodies to help Government with additional funds should be ascertained, and their consent secured. I am not at present prepared to suggest any particular modifications. I think municipal and local boards should have some voice in the consideration, not so much of the medical or social aspect of the question as of the financial burdens to which they are likely to be subjected to by the notification when once issued. As a matter of fact, the difference is very considerable between 5 annas per head, the cost at present, and 1 rupee and more the expected costs under the compulsory system. There are many towns and talukas which will not be able to bear this additional cost without impairing their usefulness for the discharge of their other equally pressing duty. From this point of view, it seems desirable that as in the case of Bombay and Karáchi, the local bodies should be consulted before Government issues its final notification under section 2. This was the point which the Sabha's memorial urged upon the consideration of Government, and I fear the addition that has been made in section 2 does not meet the difficulty.

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

since birth. It will therefore be necessary to provide more definitely for the timely if not compulsory registration of births than has been attempted in the Bill.

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

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

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

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

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

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

The argument has been used that there exists amongst natives, and especially in the Hindu community, a strong prejudice against arm-to-arm vaccination; and it has likewise been said that a religious objection is entertained to it. With regard to prejudices I have had some personal experience in the matter. Some of my own children were born in remote up-country districts of this presidency, and during the first few months of their infancy they were, in the usual course of events, subjected to vaccination. In those days animal vaccination was scarcely known in this country. It was all arm-to-arm vaccination. My children were vaccinated in the usual manner and the lymph in each case was taken from a native child. I do not say there was anything singular in that; for I merely

followed what was the general custom, as well with the natives as with the Europeans, and I have known many natives to allow their children to be vaccinated with human lymph without the slightest hesitation. I have had now pretty nearly thirty years' experience of the Mofussil, and in the course of my duties have come across Indian gentlemen of all classes, and I cannot recall a single instance in which I have ever had brought to me a single complaint against the use of human lymph. My duties have also made me acquainted with a large amount of litigation against Government officials and against Government itself, in which persons thinking themselves injured, or in any way aggrieved by the action of Government officers have sought to obtain damages or other redress, but I cannot recall a single instance in which a public vaccinator has been the defendant. I think if we consider who are the public vaccinators, this is easily accounted for. They are men of the people, fathers of families themselves—Hindus, Mahomedans, and Pársis—men of all castes and persuasions, who have the same feelings and are quite as well aware of every popular prejudice as the parents whose children they are called upon to vaccinate. If they have to vaccinate the child of a Bráhman, they are in a position to know whether a Bráhman of his class objects to lymph being taken from the arm of a child who is not also a Bráhman. If they have to vaccinate the children of purdah ladies, they are in a position to know whether those purdah ladies would willingly come to the vaccine-station or not, and being fully acquainted with all the views and prejudices of their fellow-citizens, it is very natural to expect that they should make allowance,—and I think the facts show that they do make allowance—for the prejudices and wishes of the people.

If we turn to other presidencies, we find that the Government of India's Vaccination Act which was passed in the year 1880 was introduced into the Governor General's Council by an Indian gentleman. That gentleman was, it is true, a Mahomedan, but it is obvious that an experienced gentleman of his high position would well know what provisions would be unpalatable to the great Hindu community of India. Had he thought arm-to-arm vaccination would be unpalatable to that community, he would have drafted his measure in a very different form to that in which he introduced and carried it. For what do we find in this Act (an Act which may be applied by the Local Government to any Municipality or Cantonment in any of the provinces of India which has not a local legislature) on the subject of lymph? The Act contains this curious double provision. By section 21 (*j*), the Local Government is empowered to determine what kind of lymph shall be employed. Then in section 15, it is enacted that if a Local Government has prescribed the use of animal lymph, it shall be competent to the parent or guardian of any child to have the child vaccinated with human lymph, if he so desires. That is one provision, and then, on the other hand, if the Local Government has prescribed the use of human lymph, the parent or guardian of a child, if he so desires, may have the child vaccinated with animal lymph, but on payment of such fee as may be prescribed by the Local Government. This double provision in that Act of the Government of India shows clearly that in the mind of the honourable gentleman who brought forward that Act there was no idea that in the large provinces of India in which that Act might be applied, there would be any general objection to the employment of human lymph.

Then with regard to the Bengal presidency, the Honourable Sir Charles Pritchard has already mentioned the Bengal Vaccination Act (Bengal Act V of 1880) and has told us that it also leaves it to the Local Government to prescribe what kind of lymph shall be employed. With regard to that Act I should like further to mention that it also was introduced by an Indian gentleman, a Hindu in this case, the Honourable Mr. Kristodás Pál. The Act makes vaccination compulsory in Calcutta and its provisions may be extended to other local areas in the Bengal presidency. In explaining the provisions of the Bill to the Bengal Council, the Honourable Mr. Kristodás Pál said :—“The Bill did not lay down any hard-and-fast rules about the character of the lymph to be used for vaccination. The subject of the kind of lymph which ought to be used, as the Council was aware, was a matter of much controversy amongst scientific men, both in Europe and America; experiments were going on in several European countries with calf lymph and in the Bombay Act the use of animal lymph had been made obligatory. But the preponderance of medical opinion here seemed to be that it would be best to leave the matter open at present and to let the Government which would supply the lymph supply that kind of lymph which might be in accord with the scientific opinion of the day. He should mention that in Bengal and throughout Upper India he believed arm-to-arm

vaccination was generally practised and human lymph was used." It is right that I should say that the honourable gentleman added that "the ancient books of London medicine were more in favour of calf than human lymph": but I have quoted the passage from his speech to show that arm-to-arm vaccination was general throughout the Bengal presidency and the North-Western Provinces in 1880, and that no prejudice, religious or other, could have existed against it in those provinces, inasmuch as the Hindu gentleman who introduced the Bengal Vaccination Act would not have done so and would not have spoken so unconcernedly of the kind of lymph to be employed, if any such prejudice had existed.

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

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

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

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

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

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

His Excellency the PRESIDENT said :—I agree with the Honourable the Advocate-General that the speeches we have heard to-day have been rather of the character which they should assume when addressed on the occasion of the House being in Committee, or when the Bill is considered in detail, and I also hold with him that it is not convenient to have the two processes mixed up together. I have on one previous occasion drawn attention to the inconvenience which resulted from such a practice, before voting on the second reading of the Bill. I think it is essential for Government to point out in what way they have regarded the introduction of this Bill, and in what way its intentions have been misunderstood. I do not understand why there should be any objection from any honourable member to the second reading of the Bill. What is the principle of the Bill? The

principle of the Bill is compulsory vaccination with animal lymph. That is the principle of the Bill, and I submit that under those circumstances there cannot be any objection in the mind of honourable members to the second reading, and on the Bill being read in detail they will have every opportunity of discussing the amendments placed on the paper by various honourable members, and any other amendments which may be placed on the paper subsequent to the second reading. The Honourable Mr. Javerilal, so far as I can understand him, was inclined to question the expediency of the compulsory system. Well, it appears to me to be a late stage at which to raise that question—possibly he may have been roused by the memorial which has most recently come to our hands, that of the Bombay Presidency Association. All I can say is that I did not recognize that objection in his speech on the first reading, and although he was a member of the Select Committee and raised a dissent, his dissent was not on the compulsory character of the Bill.

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

His Excellency the PRESIDENT, continuing :—If the Honourable Mr. Javerilal had objected to the compulsory system I should have said there is sufficient answer, so far as Government is concerned, in the memorials which have been presented to this Council. If it is asked why Government have introduced the Bill at all, I say there is ample justification for having done so in these memorials. The memorial of Mr. P. R. Desai supports Government without a doubt. The memorial of the Grant College Medical Society says :—“This Society begs, therefore, most respectfully to assure His Excellency the Governor in Council that the Bombay District Vaccination Bill has its entire and cordial sympathy and support, and ventures to hope that it will soon receive the sanction of Government and pass into law.” There is no doubt therefore about the Grant Medical College supporting the compulsory principle. The Poona Sarvajanic Sabha says that their Committee was entirely in accord with the general principle of the Bill. Mr. Joglekar does not deal with the compulsory principle at all. The Indian Progress Society’s memorial approved the principle of the Bill. The Bombay Presidency Association, after requesting that section 14 be expunged, concludes its remarks by saying that “that omission will thus bring proposed legislation in harmony with popular and scientific sentiment, without diminishing the practical utility so widely and benevolently aimed at.” I think that Government may take credit in that from every quarter from which criticism has come there has not been one word implying a doubt but that Government was perfectly right in introducing compulsory vaccination; the only question is whether Government is right or not in including those sections of the Bill which are at present also included in the Bombay Act. The Honourable Mr. Javerilal has dealt at some length with the medical view of arm-to-arm vaccination. If it had been my wish to support arm-to-arm vaccination as against vaccination with animal lymph, I have no doubt I could have brought equally valuable evidence in favour of arm-to-arm vaccination as that which the Honourable Mr. Javerilal has brought forward against it, but as a matter of fact Government is not in the least in favour of it, as is shown by the Bill, and, moreover, it is not the business of the Government to show whether one is better than the other. It could, without difficulty, have produced ample medical evidence to support a belief that the alleged cases of dangerous diseases arising from vaccination are extremely doubtful. I have it on record that the Surgeon-General of the Bombay Government in his report in 1873 and 1874 reported that he had not once seen a case of syphilis brought about by vaccination, that only one case had ever been spoken of, and in that case Dr. Turnbull’s enquiry proved conclusively that vaccination had nothing to do with it. During the past year the medical officers of the Department, inspecting 92,000 children, say the worst things they saw were sores, which I suppose were to be expected. Dr. Pinkerton has recently repeated the statement contained in his report of 1873, and says that he has never seen or heard of a case of syphilis inoculated by vaccination in this Presidency. I merely quote this to show that there is a very strong medical opinion that these alleged communications of disease by vaccination are highly problematical. There is another question which was raised on the first reading, that of the expense. On that occasion I said that possibly the increased cost in Bombay arose from the fact of the establishment here being to some extent a training school. I have made enquiries since then from Surgeon-General MacRury, and he replies that the cost of vaccination in other towns when made compulsory will not rise to the level of the cost in Bombay, as the

staff already exists and only requires some additional supervision. Also that the cost of calves, attendance, feeding, and shelter are what increase the cost in Bombay. All these items are less in up-country towns. The instruction given in Bombay does not increase the cost in any way, and the only real cause of the heavy expenditure was the circumstances above mentioned. I think, therefore, that the figures quoted by the Honourable Mr. Javerilal of the present cost in Bombay City must not be relied upon as indicating what the cost of animal vaccination will be in the mofussil towns. Turning once more to the question of animal vaccination, the intention that Government had when this Bill was introduced, was that vaccination was to be made compulsory primarily so far as animal vaccination was concerned. I cannot see why there can be any objection to the second reading, since the only criticism that has been applied to the Bill is as regards the power given to the Governor in Council to notify arm-to-arm vaccination under section 7. There is a point raised by the Honourable Mr. Ránade as to consulting the wishes of local authorities. Well, the Select Committee were under the impression that by inserting the amendment in section 2 they had given an opportunity to local authorities to represent their case to Government, but if the insertion of any words in that section in the course of consideration of the Bill in detail will strengthen the position of local authorities so as to secure their views of the case being considered by Government, I can promise that Government will give every consideration to such an amendment; but if Government and the general body of opinion consider it right that compulsory vaccination with animal lymph should be introduced, the safety of the public should not be left to the prejudice of this or that small local body who may, by obstruction and various objections, be able to retard the introduction of a measure which Government wishes to introduce, and which public opinion says Government is right in introducing.

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

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

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

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

The Bill was read a second time.

The Council then adjourned until Monday the 29th instant.

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

C. H. A. HILL,

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

Bombay, 23rd February 1892.

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

PRESENT:

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

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

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

The Honourable the ADVOCATE GENERAL.

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

The Honourable Mr. JAVERILAL UMIASHANKAR YAJNIK.

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

The Honourable Mr. FAZULBHOY VISRAM.

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

The Honourable Ráo Bahádur OODHARAM MULCHAND.

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

The following papers were presented to the Council:—

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

THE BOMBAY DISTRICT VACCINATION BILL.

Consideration of the Bombay District Vaccination Bill in detail.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The Honourable Ráo Bahádúr RANADE :—Yes.

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

The amendment was withdrawn.

The Honourable Ráo Bahádur RANADE proposed to insert the following in section 2, sub-section 4, line 39, after the word "aforesaid":—"Provided that no additional charge will by reason of the notification be imposed upon any local or municipal board within which such area may be included without the assent of such board." He said:—My reason for suggesting this is that I do not want any municipality or local board to pit their judgment against the Government as to the desirability of introducing compulsory vaccination or not. Government is the best judge as to its duty, and what those bodies are concerned with is only the question of cost, and even in regard to the question of cost, the arrangement as I have drafted it, only allows them the choice as to saying they are not prepared to saddle themselves with any additional expenditure. At present nearly one-half the total charges are borne by these local and Municipal boards. Regarding municipal boards the position is slightly different. Municipal boards have power to tax, and they can, if necessary, under the circumstances of their situation, go in for new taxes and so increase their resources. If it is contemplated that this Act should be extended both to táluka or district areas as also to municipalities, then the peculiar condition of local boards will have to be borne in mind. Local boards have no power to tax. They only administer an assigned revenue. They have no power to impose additional taxes. Government might overrule any objections to their proposals to extend this compulsory law to any particular area of a district, and if it is found that local boards are not prepared to provide this additional cost then the question would arise how is this additional money to be raised. I think under the circumstances it is only fair that they should be allowed to ask Government to consider the fact that no further burdens should be placed on them, seeing that they have no powers of additional taxation. So much for the táluka and district boards. It is not likely, presided over as they are by District officers, that under ordinary circumstances the district boards would say they are not prepared to bear the additional cost, but circumstances can be imagined where from want of funds they may find themselves crippled for action. Even with regard to Municipalities it is one of the constant complaints in the smaller towns that all their resources are taken up by Educational and Medical charges. Those additional charges having been imposed by Local Government Act, it is not now open to question their propriety until a change is made in one of those Acts. I understand from the Poona Municipality that they actually applied to Government for the extension of the Compulsory Act to their city long before this present Bill was contemplated, so that in the case of a city like Poona there is no difficulty. Government only exercises its power under the Act and the Municipality provides the additional funds. But in the case of smaller towns there should be some provision that these additional charges shall not be put upon them without their consent. I believe the Poona Municipality have expressed their readiness to go in for three times the amount they are now paying, and whenever a Municipality is able to bear such an addition. But there is no question as to the propriety of Government action. But in many other places this happy state of things may not exist; and to sanction a measure which might increase their charges by two or three times would not be quite fair to those municipal bodies. It is on this account I have proposed this amendment.

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

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

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

The Honourable Ráo Bahádur RANADE:—Yes.

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

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

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

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

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

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

The Honourable Ráo Bahádur RANADE:—Supposing Government makes education compulsory, the same argument would make the local board pay for it, for the same Act says they will make adequate provision for education. The words adequate provision must

be interpreted by the practice at the time which did not make vaccination compulsory. Now that you will make vaccination compulsory, Government cannot well say they are not bound to help the local and municipal boards out of the general revenue, even though it involves the maintenance of four times the number of officials now employed. There ought to be some provision especially for bodies which have no power to tax, to enable them to bear the additional burdens. That is my view. I do not want them to say they should not bear their present burdens; but they should have some choice to say whether they accepted these burdens.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

His Excellency the PRESIDENT said:—I do not see why a distinction should be made between the mofussil municipalities and the City of Bombay. Bombay has gone to a con-

siderable expense. Government came forward and paid its part of the cost, and of course found the Sanitary Commissioner and his office. That is approximately the distribution of cost in the City of Bombay at the present moment. There is no suggestion of imposing in the mofussil a heavier expenditure than in the City of Bombay.

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

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

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

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

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

The Honourable Sir RAYMOND WEST:—In the municipalities?

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

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

The amendment was adopted.

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

children with servants to the vaccine station. But we know that most of the people have no servants and it will be very difficult for them to manage to send their children to the station for vaccination and again for inspection. It will be very difficult for the females to carry out the various orders they may receive from the vaccinator. If the amendment is not approved of, the Mahomedans generally will feel the hardship. The Hindus will equally feel it. The hardship will be the more keenly felt when females are taken to Court under the operation of this Act. Christians and others may not feel any difficulty, but the Mahomedans and the Hindus form the bulk of the population of this Presidency, and their feelings ought to be respected. I find that a communication on this subject has been received by this Council from Mr. Joglekar, a pensioned Deputy Collector. He is of opinion that some provision should be made to preserve the respectability and privacy of native women. For reasons that I have given, I quite agree with him, and I hope that the honourable members of this Council will sympathise with the object sought to be secured by this amendment. I trust that the amendment will receive the serious consideration which it deserves.

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

The Honourable Ráo Bahádúr OODHARAM replied :—I think that should be provided for in the word "guardian."

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The amendment was then withdrawn.

The Honourable Ráo Bahádúr RANADE moved amendment 3 as follows :—“In the same section, clause (g), line 48, to omit the words “and the Act is”. After I sent in the amendment the Honourable Mr. Naylor explained to me why the Select Committee had made that addition. I thought that the definition of the expression “vaccination area” as a local area in which the Governor in Council has by notification

declared this Act to be in force, would be quite sufficient. I did not understand at all why "vaccination area" was to be defined as a place to which this Act had not been extended.

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

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

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

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

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

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

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

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

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

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

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

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

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

The Honourable Ráo Bahádur RANADE:—I accept that.

The amendment was adopted.

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

His Excellency the PRESIDENT:—We accept that.

The amendment was carried.

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

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

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

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

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

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

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

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

The Honourable Ráo Bahádúr Oodharam then withdrew his amendment.

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

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

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

His Excellency the PRESIDENT:—It is very odd.

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

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

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

The Honourable Ráo Bahádúr Oodharam accepted the suggestion, and the section was carried as amended.

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

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

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

He said:—The principle of the Bill as stated is compulsory vaccination with animal lymph, and the Bill permits only on extraordinary occasions the use of human lymph. This has been the principle recognized when drafting the Bill. But this section, however, has given rise to an apprehension that animal lymph shall be used only when parents

or guardians require its use. The obligations laid on the vaccinator is that he should perform the vaccination with animal lymph whenever the parents or guardians so require. Though I would myself prefer the general use of animal lymph still I cannot lose sight of the fact that there are parts of the country where the use of animal lymph is not popular. It is with the intention of meeting such cases that I have suggested the addition of the words "provided that if the parent or guardian of the child requires that the child shall be operated upon with human vaccine the operation shall be performed accordingly." This will give an opportunity for the parents and guardians to ask for human or animal lymph, as they wish.

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

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

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

The sub-section as amended was carried.

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

His Excellency the PRESIDENT said:—I have never been able to understand the ground on which the honourable member has opposed this part of the Bill. I think that some part of the misconception which has arisen in public has been due to the objection that the honourable member raised to the report of the Select Committee. I think the public gathered from that protest of his that this Bill, somewhere or other, differed from the Bill actually now existing in Bombay and Karachi. I am quite certain it was no intention of his to give rise to this misconception, but in consequence of the publication of that protest, the public got it into their heads that Government was introducing a Bill different in form from the Bombay and Karachi Bill. I think it is pretty clearly understood in this Council now that there was no intention whatever of that sort on the part of Government; and we, in introducing the Bill, have been guided by a right view, taking two Acts as our precedent which have worked simultaneously and well in two parts of the province. Of course, we know objections have been raised on various grounds and by various bodies, especially to this part of the Bill. I do not wish to underrate the value of the petitions that have been presented; but I think it is justifiable if weight is to be attached to them, to attach most weight, probably, to the body which is connected with the medical profession, than to any other, and in the petition

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

The Honourable Mr. YAJNIK said:—I take leave to assure your Excellency that neither in my minute of dissent nor in my remarks on the second reading of the Bill have I said anything tending to show that a section is inserted in the Bill which was not in the Bombay Act. I have all along maintained that the present Bill is based upon the old Act. What I did say was that the Bombay Act has worked smoothly and successfully, because in the vaccination of children animal lymph alone has been used. The exclusive use of animal lymph has made vaccination simple, and the time has come when those sections in the Bill in regard to arm-to-arm vaccination which have practically remained a dead letter in the Bombay Act should be dispensed with in the extension of the Act to the districts of this Presidency. If compulsion is to be used it should be used in respect of animal lymph only as has been shown by the actual working of the Act during the last 15 years. That is why I contend for the omission of the two sections. I maintain that the use of animal lymph is popular, and while it is clear that under the voluntary system throughout the Presidency this method has worked well, it is just possible that when compulsion is used in respect to arm-to-arm vaccination, certain classes of the community might object to it on the ground of lymph being taken from a low caste to a high caste child. It was in that respect I said that compulsion should be restricted only to animal lymph. I find that even in Europe the best medical opinion, in regard to the safety of vaccination, lies more in the direction of animal vaccination, and that is confirmed by what medical opinion says in Bombay, and I find a body like the Grant Medical Society saying that children are better inoculated with lymph taken directly from the cow, and that in arm-to-arm vaccination disease has been transmitted.

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

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

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

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

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

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

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

This was carried unanimously.

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

The Honourable Ráo Bahádur OODHARAM MULCHAND moved amendment 7, section 14, sub-section (2), clause (b), line 29, after the word "child" to insert the words "but in no case shall more lymph be taken from each vesicle than what is necessary or sufficient to vaccinate one child."

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

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

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

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

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

The amendment was then withdrawn.

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

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

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

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

His Excellency the PRESIDENT:—After notification.

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

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

The Honourable Ráo Bahádúr RANADE moved that in section 16, before line 1, to insert the following clause:—“In the case of all villages included in a vaccination area, it shall be the duty of the Kulkarni or Taláti of each village, or where there is no such officer appointed, of the Pátíl or Khote, or proprietor of a village, to act as Registrar of Births, and to register the births of all children within twelve days after birth. In the case of municipal towns, it shall be the duty of the Secretary or Health Officer, or any other officer appointed by the Municipality to this work, to act as Registrar of Births, and to register the same within twelve days after birth.” If it is not the intention of Government to have the registration of births made compulsory, then my amendment cannot be of use; but as I understand that this legislation is a preliminary step to the compulsory registration of births, I think Government should make some provision whereby the registration of births would be the duty of some one. At present it is not the duty of any particular person either in towns or villages. It is with that view I have made this suggestion and I virtually seek to legalize the existing machinery and thereby make it more effective. Village officers do the work at present, but they do it indifferently in obedience to executive orders, and I want to substitute a legal sanction for this duty. I do not want to press my amendment if my views are not correct. If it is intended to make registration of births compulsory, then it is necessary there should be certain officials empowered by law to perform this particular duty.

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

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

The amendment was accepted.

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

The amendment was accepted.

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

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

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

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

Sections 23 and 24 were adopted.

The Honourable Mr. Yajnik withdrew amendment 7.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

His Excellency the PRESIDENT then adjourned the Council until Friday the 4th March 1892, at 3-30 P.M.

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

C. H. A. HILL,

Secretary to the Council of the Governor of Bombay

for making Laws and Regulations only.

29th February 1892.

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

PRESENT:

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

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

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

The Honourable the ADVOCATE GENERAL.

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

The Honourable Mr. FAZULBHOY VISRAM.

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

The Honourable Ráo Bahádúr OODHARAM MULCHAND.

THE BOMBAY DISTRICT VACCINATION BILL.

Consideration of the Bombay District Vaccination Bill resumed.

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

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

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

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

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

The amendments were withdrawn.

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

The Honourable Sir R. WEST:—Though the Honourable Mr. Ranade is not present, I may as well give the Council the explanation I had meant for him. That explanation is that under the existing jail regulations of this procedure, chapter 5, para. 4, it is the duty of the medical officer, expressed in these words, “he shall vaccinate or cause to be vaccinated every prisoner admitted into the jail,” so that there is no exception whatever; and as to the question raised whether every person besides prisoners who have been convicted should properly be subjected to vaccination, we find that the Government of India have observed on the jail records of 1889-90, that the disease of small-pox appears to be prevalent in a dangerous form in the jails of Bombay, it was therefore considered desirable that proper regulations should be made in order if possible to check any severe outbreak of the disease, though in some of the ordinary jails it was found difficult to get vaccination carried through on account of the absence of regularly qualified medical officers and vaccinators; and some prisoners would get through a short term of imprisonment and escape without vaccination. However, this was the rule, though there was a question as to the strict legality of the application of the rule, and there was another point as to whether anything could be done with untried prisoners. The law-officers said there was no authority over untried prisoners, and it was agreed that what was in the rule should be supported by legislation. We endeavoured to secure prisoners against

contagion from small-pox, and at the same time not to impose any undue harshness on prisoners sent to jail for short periods. It was observed by the Honourable Mr. Ranade that it was very hard that the men whose imprisonment was only for a short time, and the men who could not pay a fine, while perhaps their friends were trying to raise the fine for them, should be subjected to vaccination against their will. Though this is rather a hardship from this point of view, as a matter of necessity they must go to jail, and they thus are exposed to contagion and the risk of communicating it if they themselves are not vaccinated. It is a necessity where a large number of men are crowded together, and all that Government can do has been provided for in the way of indulgence in the several clauses of section 33. It is in that shape it comes before the Council, and it is distinctly lenient as compared with the rules as laid down in the existing regulations. I trust therefore Government will be considered to have dealt with the matter with all the favour possible to the unhappy subjects who must go to jail, and who must, in cases where it is absolutely necessary, be subjected to vaccination, both for their own sakes, and for the sakes of the prisoners with whom they have necessarily to communicate. This conclusion having been come to I trust no objection will be taken to it.

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

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

The amendment was carried.

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

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

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

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

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

Amendment withdrawn.

The Bill as amended was then approved.

THE MHOWRA BILL.

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

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

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

C. H. A. HILL,

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

Bombay, 4th March 1892.

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

PRESENT :

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

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

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

The Honourable the ADVOCATE GENERAL.

The Honourable Mr. JAVERILAL UMIASHANKAR YAJNIK.

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

The Honourable Mr. FAZULBHOY VISRAM.

The Honourable Ráo Bahádur OODHARAM MULCHAND.

THE BOMBAY DISTRICT VACCINATION BILL.

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

The Bill was read a third time and passed.

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

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

C. H. A. HILL,

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

Bombay, 8th March 1892.

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

PRESENT:

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

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

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

The Honourable the ADVOCATE GENERAL.

The Honourable L. R. W. FORREST.

The Honourable FAZULBHOY VISRAM.

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

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

THE MHOWRA BILL.

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

The Honourable Sir CHARLES PRITCHARD then introduced the Bill for the first reading. He said:—Your Lordship and the honourable members of this Council are aware that in 1892 a Bill was introduced and passed amending the Bombay A'bkári Act, 1878, with the main object of empowering the Government to make and enforce necessary rules for regulating and prohibiting the traffic in mhowra flowers in all parts of this Presidency, and thereby to check the illicit distillation of spirit. The Governor-General of India, however, withheld his assent from the Bill, for reasons that are set out in a letter published in the *Government Gazette* of the 4th November, 1882. The main objections taken by His Excellency the Governor-General were directed against the wide scope of the Bill and the possible extension of its provisions to districts in which mhowra flowers are commonly used as food for man and beast, and on the ground of doubt whether a more effective remedy for the evils which the Bill was intended to repress might not be found in some relaxation of the ábkári laws and a reduction in the duty rate on country liquor. I will read the portion of the letter in which the views held by the Government of India were summarised:—"The main objects which the Bombay Government have in view, *viz.*, to check the demoralisation consequent on excessive drinking of illicit spirit in the districts of Thána and Kolába, and to protect the ábkári revenue in these districts might, as it appears to His Excellency, have been perfectly well attained by passing a law of much more restricted scope than the Bill which has now been submitted for his assent, and he has carefully considered whether he could not accord his assent, subject to an understanding that the law should not be put in force beyond the limits of those districts, and that the rules to be made under it should be confined to the single purpose of remedying the evils arising from illicit distillation. But the very wide scope of the Bill makes such a course undesirable, for the Act would create powers which appear to be neither necessary nor expedient; and though these might be left dormant for a time, there could be no permanent guarantee that under other counsels they might not be called into activity. Moreover, it may be doubted whether stringent measures of repression are the only or the best means of remedying the evils of which the Bombay Government complains. The Governor-General observes that some of the non-official members of the Council ascribed those evils to the severity of the present ábkári laws, and to the high tax now placed upon toddy trees. He has not before him sufficient information to enable him to judge what amount of force there may be in this contention,

but the explanation is at least a possible one, and he does not find that it has been examined in such a way as to deprive it of all weight. He is, therefore, of opinion that further enquiry should be made as to whether the high rate of duty charged on licit spirit in the districts of Thána and Kolába has not encouraged smuggling, and the opportunity might, at the same time, be taken to investigate somewhat more closely the question as to whether the mhowra flower is ever used as food in those districts. If, after these enquiries had been made, it was found that the flower was not used as an article of food, and if it were clearly proved that no remedy for the existing state of things in those districts could be found in a relaxation of the present ábkári laws, it might then be considered whether legislation should not be undertaken for the purpose of placing some restriction upon the collection, sale and possession of mhowra flowers in those two districts alone. But, as the case stands now, His Excellency cannot consider that the facts clearly establish the necessity for legislation, even of a much more limited scope than that of the Bill now before him, and that being so, he regrets that he sees no other course open to him than to withhold his assent."

The further inquiry desired by the Government of India into the special circumstances of the districts of Thána and Kolába was made. It is embodied in the reports of the Mhowra Committee of 1883, which have been laid upon the table. I will read at length the principal portions of the resolutions passed on those reports by the Government of Bombay, as they give in a small compass much information that will be useful in throwing light on the subject that this honourable Council has now to deal with. "The evidence as concerns the Thána District recorded by the Committee seems to the Governor in Council to establish four main facts: 1st, that smuggling and illicit distillation of spirit are virtually non-existent in the tálukas (Dáhánu, Máhim, Bassein, and portions of Panvel and Sálsette) where toddy spirit is the liquor consumed; 2nd, that smuggling and illicit distillation of spirit are generally prevalent in all the tálukas (Váda, Sháhápur, Karjat, Murbád, Kalyán, Bhiwandi, and parts of Panvel and Sálsette) where mhowra spirit is drunk; 3rd, that the prevalence of illicit distillation is only rendered possible by the unrestricted collection, sale, and use of mhowra flowers; 4th, that the mhowra flower, as distinct from the mhowra berries and seeds, is nowhere used as a staple article of food, and is only eaten in small quantities and as a relish or addition to their ordinary diet for a brief period of the year by some of the wild tribes. As regards the first point, the evidence shows that, under the system now in force, illicit distillation is virtually impossible without a risk almost approaching to certainty of immediate detection and punishment in those parts of Thána where the spirit used is manufactured from raw toddy. The fear, consequently, of inevitable discovery and punishment deters the villagers from attempting to make spirit from toddy. As concerns the second point, the evidence seems to the Governor in Council to be conclusive. Every disinterested person competent to form an opinion on the point has stated that illicit distillation is rife. Mámaldárs, Inspectors, private individuals, Government pensioners, liquor-farmers, all agree on this subject. The fact is partially denied by a few of the persons whose statements have been recorded, and by certain anonymous writers in the columns of the local vernacular papers, but their statements appear from internal evidence and from the consensus of opinion on the part of credible witnesses to be undeserving of weight. It is sufficient to note that all the persons examined, who are in a position to express a trustworthy opinion on the subject, and who are able to speak from actual experience and without prejudice and bias against any measure, simply because it is undertaken by the Government, unite in holding that illicit distillation prevails to an enormous extent in the six inland tálukas of the Thána District. With reference to the third point, it seems clear that but for the existence, in large numbers, in the Thána District of mhowra trees producing annually an immense crop of flowers, illicit distillation of spirit could not take place. If there were no mhowra trees there would be no contraband manufacture of spirit. As it is, in at least six of the eleven tálukas mhowra flowers are obtainable everywhere and at all times. They can be collected; they can be bought. No restriction is imposed on their retention or on their sale. The result is that they are purchased freely and generally by the cultivating classes, chiefly Kunbis and Agris, and, when bought, are used chiefly, if not exclusively, for illicit distillation of spirit. As regards the fourth point, the evidence proves the following facts:—1st, that only a limited number of persons belonging to the wilder tribes, the aborigines, such as Warlis, one branch of Thákurs, Kathodis, and Dublas, eat

mhowra flowers, and that even they do not eat them as a substitute for other food, but as an addition, mixing occasionally small quantities of the flowers like raisins in their bread; 2nd, that the higher castes do not eat the flowers; 3rd, that even the Kathodis, Warlis, &c., consume the flowers in very small quantities, finding it more profitable and economical to barter or sell the flowers they collect than to eat them; 4th, that mhowra flowers are occasionally, as alleged, used for medicinal purposes, but that the amount consumed for this object is exceedingly small; 5th, that mhowra flowers are sometimes given as a part of their food to cattle. Owing, however, to the costliness of the flowers, it would be a very expensive measure to feed cattle to any appreciable extent on them, and the flowers are generally only given in any quantity to cattle after the spirit has been distilled from them. Mhowra berries may be used as vegetables by the upper classes, and oil may be extracted from the mhowra seeds; but, as far as Government are aware, neither berries nor the seeds can be used for the manufacture of spirits, and consequently any legislative measure which might be passed would not touch them, and would only relate to the mhowra flowers. Almost the entire population of Thána and Kolába is addicted to drink. For very many years past the inhabitants of those two districts have been known to be the most inveterate consumers of spirit in the entire Presidency. Drinking is not confined to one class or one race. The vast majority of the population habitually indulge in intoxicating liquors, and in this respect there is little difference between the Musalmans, the superior Hindu castes, the native Christians, the cultivators, and the wild tribes and hill men. The result is that the mass of crime in the Thána District was immense, and the condition, mental, physical and social, of the population has been steadily deteriorating. Drink was, and is, though to a lesser extent now than formerly, the curse of the Konkan. Any measure, therefore, which would decrease the facilities for obtaining liquor and raise its price, thus checking the inordinate consumption, must of necessity be advantageous, and if at the same time it tended to increase the Government ábkári revenue, a further desirable object would be attained. The results of the ábkári policy followed by Government of late years have been a large increase of ábkári revenue, a diminution of crimes punishable under the Penal Code, a material enhancement of the price of spirits, the cessation of illicit distillation in the palm spirit tálukas, an improvement in the quality of the spirit sold, a better system of ábkári administration, the abolition of the abuses which existed under the old system when each táluka contained several separate petty farms, and each farmer fostered the consumption of liquor and tried to outbid his rivals by selling bad liquor at the cheapest price, and a diminution in the amount of drinking generally. The new system was, of course, however, unpopular. It was only to be expected that it would not meet with general approval. It excited the opposition of the large and influential class which before took, or was interested in, the numerous small liquor farms, now no longer existing. It was strongly disliked by the great body of the consumers, who found that, whilst they could get better spirit than they formerly obtained, they had to pay a materially higher price for it. The cultivators in the six inland tálukas, clinging to their love of drink, but unwilling to pay an augmented price for their liquor, have attempted to solve the difficulty by manufacturing spirit for themselves, utilising for the purpose the large supply of mhowra flower forthcoming throughout those tálukas. There seems to the Governor in Council to be no reasonable doubt but that illicit distillation in all except the coast tálukas is much more prevalent now than it was five, ten, or fifteen years ago. Such a state of affairs as that now described by the officials, who are the best authorities on the subject, was unheard of in Thána some twelve or fourteen years ago. Now, in some tálukas, there would appear to be illicit stills in most of the villages and in almost every house in some villages, and violent and dangerous opposition is offered to the employés of the A'bkári Department. Formerly such a thing was unknown. There was undoubtedly some illicit distillation then, but it was on a small scale, and such as there was generally carried on with the connivance of the farmers themselves, who entered into amicable arrangements with the illicit distillers, keeping on friendly terms with them, and accepting hush-money which compensated them for the loss sustained by the falling off in the sales at their own shops. The farmers themselves often opened unauthorizedly small branch shops, at which their liquor was sold on commission, and for any smuggling which then prevailed they generally were responsible. Under the present system this is impossible. 'The high rate of duty charged on licit spirit' cannot, in the opinion of the Governor in Council, be regarded as the true cause of the extensive manufacture of contraband spirit throughout a large area of the Thána District, nor would 'a relaxation of the present ábkári laws'

prove the best and most appropriate remedy for the existing state of affairs. In view of the established fact that a bottle of mhowra spirit of a strength of 25° U. P., or but little weaker than ordinary brandy, can be purchased for eight or nine annas, or less than a shilling, and that a bottle of toddy of strength equal to the strongest ale can be bought for the equivalent of a penny, it can hardly be suspected or contended that illicit distillation is due to the oppressive incidence of the prices now charged for licit spirit or palm juice. The evidence shows that with the same prices obtaining in all parts of the same district there is no illicit distillation where the production of contraband spirit is difficult and much where it is an easy matter. The logical inference from this fact is that the facility is the cause of the large illicit manufacture. As regards the Kolába district, the Government order runs:—"The increase in the cost to the consumer of licit spirit would not appear in Kolába to have stimulated the illicit production of liquor. The native officials, whose replies have been received to the exhaustive set of questions propounded by the Committee, are almost unanimous in the opinion that formerly there was little illicit distillation in Kolába, and that now clandestine manufacture is, if carried on at all, conducted but rarely, and on an altogether insignificant scale. In this respect there is a marked contrast between the evidence recorded as regards Kolába and that taken concerning Thána. It would seem probable that such illicit distillation as is carried on in Kolába is mainly confined to the Pen Táluka, which borders on the Panvel Táluka, which at the time Messrs. King and Campbell submitted their report, formed part of the Thána district, but has since then been severed from Thána and added to Kolába. It is, however, not surprising that the difference above noted should exist between the facts as reported in Thána and those stated in regard to Kolába. In the former collectorate no contraband manufacture of liquor is found in the coast tálukas, where toddy spirit is almost exclusively consumed, whilst according to the report by Messrs. Mulock and Campbell illicit distillation was rife in the inland tálukas, where mhowra spirit was generally drunk, and owing to the large number of mhowra trees and the unrestricted facilities which exist for the collection, purchase and possession of mhowra flowers, the illegal manufacture of mhowra spirit is a simple and easy process. The same reasons which render the illicit production of toddy spirit difficult and dangerous in the coast tálukas of Thána check the unlawful manufacture of toddy spirit in that portion of the Kolába district where palm trees abound, whilst in the other part of Kolába, as indeed throughout the collectorate, the number of mhowra trees is so small as to afford no local facilities for clandestine distillation of mhowra spirit from flowers gathered from them. Messrs. King and Campbell state that there are now in the Kolába district, excluding Panvel, only 241 trees of an age to flower, though in the Mángaon Táluka alone there are 562 saplings. The aggregate yield of mhowra flowers in Kolába may, therefore, be estimated as being at present about 500 maunds per annum, or about one-eightieth part of the yield in the Thána district, which is calculated to be about 40,000 maunds yearly. With reference to the question as to whether the mhowra flower is used as an article of food in the Kolába Collectorate, the evidence supplied establishes clearly the fact that it is not so used. On this point the Governor in Council entirely concurs in the conclusion arrived at by Messrs. King and Campbell on a careful review of the evidence, that 'the consumption of mhowra flowers for lawful purposes in the Kolába district is *nil*, and no interests which deserve respect are likely to be injured, if mhowra flowers are placed under restrictions.'

A further proposal for legislation to control and regulate the possession of mhowra flowers in the districts of Thána and Kolába *only* was submitted to the Government of India in 1884; but after consideration the Government of India still withheld consent—deprecating resort to legislation, except on the clearest evidence that an intolerable evil exists, and that there are no other means of meeting it. The measure was accordingly deferred for the time, and an attempt was made to put a stop to illicit distillation by the purchase, on Government account, of all mhowra flowers produced in the districts of Thána and Kolába. In the first year, considerable quantities of the local produce of the Government forest were collected departmentally and bought up by the Forest Department. But many of the mhowra trees in Thána are the property of the cultivators in whose holdings they grow, and nothing approaching the entire produce of the district was brought to the Government depôts, although the price offered for it was more than double the rate realised on the re-sale of the Government purchases for export beyond the district. In successive years the quantities brought for sale to Government diminished, until in 1889 no contractor could be found willing to take up the business on any terms. Meanwhile, illicit distillation continued, though to a diminished extent, throughout the tract in which mhowra trees grow.

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

A study of these documents will enable honourable members to inform themselves as to the state of things in Thána and Kolába—to contrast the conditions there with those existing in other parts of the Presidency—and to form a judgment as to the need for the adoption of the special measures contemplated by this Bill in order to diminish the intemperance, the illicit distillation, and the resultant crime, in the districts of Thána and Kolába. I will mention a few of the main points to which I desire to call attention. On page 18 of the printed compilation there is a figured statement showing the number of offences connected with illicit distillation detected in Thána and Kolába and the adjacent districts in each of the last six years. Honourable members will find that the number of such cases occurring in Thána and Kolába amount to five times or six times the number occurring in the rest of the districts mentioned. The district of Thána accounts for nearly 70 per cent. of the illicit distillation cases detected in the whole Presidency. On the next page of the compilation will be found another statement giving details of the punitive police posts imposed throughout the Presidency in the last six years for the repression of offences against the ábkári laws. That statement shows that in 1889-90, while a punitive force of 122 constables and head constables was employed in Thána and Kolába, only one head constable and one constable were similarly employed elsewhere, and that in 1890-91 the punitive police force in Thána and Kolába was increased to 145 men, while only a single post of three men was maintained outside those districts. The cost of the posts in Thána and Kolába in 1890-91, defrayed by the offending communities, amounted to no less than Rs. 20,699. I need scarcely remind honourable members that the quartering of a punitive police post in a village is a very strong and stern measure, and one to which Government is always reluctant to resort, for the reason that it may punish innocent persons along with the guilty. The entire community, or, in the rare cases in which it is possible to differentiate, entire sections of the community are called on to contribute to the maintenance of the police force imposed for the repression of the lawless conduct of perhaps a portion only of the contributories. The succeeding figured statements in the same compilation illustrate the actual consumption, the rates of duty, and the selling prices of licit spirit in each of the last six years in the town and island of Bombay, as well as in the districts of Thána, Kolába, Surat, Násik, Ahmednagar, Poona and Sátára. It will be seen that the rates of duty and the selling prices of

country spirit in Thána are much below those obtaining in other parts of the Presidency, and that no material increase of consumption has occurred in any district except Thána. The point to which I wish to call special attention here is the largely increased licit consumption in the Thána district during the last two years over the consumption of the years immediately preceding the outbreak of illicit distillation in 1888, and this although in the last year of the series (1890-91) the duty rate and the selling prices were the same as in 1885-86 and 1886-87. The licit consumption of Thána has risen from 323,952 gallons in 1885-86 and 327,708 gallons in 1886-87 to 407,154 gallons in 1890-91 with the same selling prices. The average rate of licit consumption per head of population in Thána amounts now to nearly 23 drams, a much higher rate than that reported for any other part of the Presidency, except the district of Surat and the town and island of Bombay, and this although we know that illicit distillation prevails in Thána to an extent entirely unknown elsewhere. To give some idea of the enormous extent to which the illicit manufacture of spirit is carried on in Thána and Kolába I may mention that the local produce of mhowra flowers is estimated at 40,000 maunds a year, and that in the year 1889-90 nearly 30,000 maunds were imported into the districts, and about the same quantity in 1890-91, but only about 2,500 maunds of the local produce were used in the licensed distilleries in 1889-90 and about 50 maunds only 1890-91. Roughly speaking, four gallons of liquor of strength 25° U. P. can be made from a maund of mhowra flowers. The quantities of mhowra flowers known to be within the districts of Thána and Kolába in 1889-90 and in 1890-91 were thus sufficient for the manufacture of from 250,000 to 300,000 gallons of strong spirit, and all the information obtained by the painstaking enquiries instituted, details of which honourable members will find in the papers before them, goes to show that a very small portion of the mhowra flowers produced in and imported into those districts was used for any purpose other than that of illicit distillation.

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

After full and careful consideration of the subject from all sides, of the objections entertained by those opposed to interference with the freedom of trade in mhowra flowers, as well as of the representations of the officers entrusted with the revenue, magisterial, police and ábkári administration of the districts concerned, the Government has arrived at the conclusion that the prevalence of illicit distillation and of intemperance in the districts of Thána and Kolába is an intolerable evil, and that there is no effective means of meeting it other than through legislative measures of the kind which I now seek permission to introduce. We desire, in the best interests of the inhabitants of the districts of Thána and Kolába, in order to diminish intemperance among them, to raise gradually the prices at which liquor can be obtained. We cannot raise the prices unless the illicit manufacture of spirit is repressed. We desire again to raise the price of drink and to repress illicit distillation, in order to ameliorate the comparatively demoralised condition into which parts of those districts have lately fallen, believing that excessive drinking and illicit distillation combined are the chief influencing causes of much of the crime that unhappily is prevalent there. We wish to see the people relieved of the burthen of punitive police posts, and of the frequent visits to their houses of the police and ábkári establishments in search of fermenting mhowra flowers and stills and implements for distillation. Believing that prevention is better than cure, we wish to remove, or at any rate to lessen, the temptation to illicit distillation, by putting a stop to the hawking of mhowra flowers about the countryside,

and its sale at Bannias' shops in villages where it is never used for any purpose except illicit distillation. The Ábkári Department has found by experience that the provision of the Ábkári Act, which makes the owner of each toddy tree ultimately responsible for payment of the tapping tax whenever his tree is tapped, whether licitly or illicitly, operates most effectively in repressing the illicit extraction of toddy and the illicit manufacture of toddy spirit. We desire, in the same way, to place a check on the illicit distillation of mhowra flowers, by making those who collect or keep stocks of mhowra flowers responsible for their exclusive distribution to persons who presumably will put them to licit use, *i.e.*, to persons licensed to possess them or to transport them from one place to another.

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

In conclusion, I may mention that honourable members will find a good deal in the papers that have been laid before the Council that I have not touched on in these already somewhat lengthy remarks. They will find—as bearing on the contention of some persons that mhowra flowers are ordinarily used as food for cattle in Thána and Kolába—that the price of mhowra flowers there is ordinarily about as high as that of unhusked rice; they will find accounts of murders and acts of violence committed on the persons of members of the police and ábkári establishments engaged in making seizures of stills and contraband liquor and materials, as well as on the persons of informers who have given information to the authorities of the commission of offences against the ábkári laws. They will also find that the apparent case for legislation is not as strong as regards the district of Kolába as it is with respect to the district of Thána. The explanation here is that illicit distillation prevails over only a small portion of Kolába, while it extends to the whole of Thána, and that the tálukas of Kolába, in which illicit distillation is most prevalent, have only lately been transferred from the Thána Collectorate to the Kolába Collectorate. They will notice also that in one other district—Surat—there have been many offences against the ábkári laws, that the rate of consumption per head of population is greater even than in Thána, and that the selling prices of country spirit are still unduly low as compared with those obtaining in other districts of the Presidency. The Government is fully alive to the fact that there is need for reformation in Surat as well as in Thána, but the difficulties and

abuses existing in Surat are not such as can be remedied through this Bill, or, indeed, by any legislation, and I need not on this occasion say more concerning them. I shall have opportunity and pleasure, as the Bill proceeds, in affording explanation on any other points which may occur to honourable members as requiring elucidation. As illustrating the effect on consumption of raising the price of licit liquor, when illicit manufacture can be kept in check, I would invite the attention of honourable members to the table given on page 240 of the Blue Book containing the collection of papers relating to the Excise Administration of India. It will be seen that in 1872-73, with a duty of Re. 1 per gallon, 907,445 gallons of liquor of strength 25° U. P. passed into consumption in the town and island of Bombay. In 1876-77 the duty was raised to Rs. 1-12-0 per gallon, the consumption immediately fell to 566,482 gallons, and rose the next year to 653,557 gallons. In 1878-79 the duty-rate was raised to Rs. 2-4-0 per gallon, and the consumption fell to 585,166 gallons, and in the course of the next five years it rose to 698,396 gallons. Turning now to the figures on page 20 of the compilation of printed correspondence on the table, it will be seen that in 1885-86 the duty-rate was again raised to Rs. 2-12-0 per gallon, and the consumption fell to 594,065 gallons. In the course of the next three years it rose to 655,073 gallons, and was again checked in 1889-90 by an increase of the duty-rate to Rs. 3. We have thus by successive enhancements of the duty-rate succeeded in reducing the spirit consumption of Bombay about 30 per cent. below the consumption of 1872-73.

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

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

Continuing his remarks he said—Honourable members will see that we have succeeded in keeping consumption in Bombay at a fairly even level, notwithstanding the progressive increase in the population of the city, since the reform of our ábkári arrangements was taken in hand in 1876-77. These figures illustrate very clearly the aim and object and the working of the general ábkári policy of the Government of Bombay. Consumption in the city of Bombay has been diminished by 30 per cent., and, at the same time, the revenue has grown by nearly 150 per cent. With the aid of this Bill I have no doubt that a very satisfactory diminution of consumption and an equally satisfactory increase of revenue may be produced in the districts of Thána and Kolába. The main object Government has in view in introducing the Bill is the amelioration of the condition of the inhabitants of those districts to which I have already adverted; but the tax-payer will not, I think, have reason to complain that amelioration should be accompanied by an increase in the Government ábkári realisations, which will *pro tanto* relieve him from the impost of additional taxation in other shapes. With these observations I beg leave, Sir, to propose that this Bill to amend the Bombay Ábkári Act, 1878, be read a first time.

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

may be a little inconvenience connected with it, but the people must bear that for the general good. It is to be hoped, however, that this inconvenience may be as little as possible. Therefore, whatever is to be said about the rules will be said at the next meeting. I approve of the first reading of the Bill.

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

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

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

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

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

The Bill was then read for the first time.

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

THE BOMBAY SALT BILL.

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

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

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

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

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

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

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

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

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

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

The Council was then adjourned.

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

C. H. A. HILL,

Secretary to the Council of the Governor of Bombay

for making Laws and Regulations.

5th April 1892.

THE



Bombay Government Gazette.

Published by Authority.

WEDNESDAY, 25TH MAY 1892.

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.

(To be translated into Maráthi, Gujaráti and Kánarese, and the translations to be published in the "Bombay Government Gazette." The dates of publication to be reported.)

The following Report of the Select Committee of the Council of His Excellency the Governor of Bombay on the Bill to amend the Bombay A'bkári Act (Bombay Act V of 1878) and the Bill as amended by the Select Committee are, in accordance with Rule 25 of the Rules for the conduct of Business at Meetings of the Council, published for general information:—

Report of the Select Committee appointed to consider the provisions of the Bill to amend the Bombay A'bkári Act (Bombay Act V of 1878).

We the members of the Select Committee appointed to consider Bill No. 1 of 1892, a Bill to amend the Bombay A'bkári Act, 1878, beg to submit the following report.

2. The Bill was published in English on the 29th January, 1892, and in Gujaráti, Maráthi and Kánarese on the 15th February, 1892, in the *Bombay Government Gazette*.

3. The Committee sat on three occasions to consider the Bill, *viz.*, on the 9th, the 10th and the 12th of May, 1892.

4. We have had before us the official papers which have been placed

* (1). Letter from the Hon'ble the Advocate General, dated the 18th April, 1892, suggesting certain alterations in the form of the Bill.

(2). Letter from Khán Bahádur Cursetji Rustomji Thanawala, late Chief Justice of Baroda, dated 16th April, 1892.

(3). Letter from the Honorary Secretaries, Bombay Presidency Association, dated the 7th May, 1892.

by Government before the Council and the letters noted in the margin.* A careful study and consideration of these several documents has convinced us that the illicit manufacture of spirit and the immoderate consumption of intoxicating liquor are evils which prevail so extensively throughout the district of Thána and in some parts of the

Kolába district as to seriously affect the welfare of a large portion of the population of those two districts. The great amount of crime occurring in those districts is attributable in a large degree to these two evils, and we are satisfied that no real or lasting improvement can take place, unless effective steps are taken for preventing illicit distillation and for restricting the consumption of liquor.

5. It would swell the length of this report unreasonably if we were to attempt to make quotations from the documents before us in support of the above conclusions, but we beg to recommend that the papers named in the margin be published by Government in the *Government Gazette* for the general information of the public, who, we have reason to think, are not fully aware of the gravity of the circumstances which render necessary the control of the traffic in mhowra flowers in the districts of Thána and Kolába.

6. The most practicable means of reducing the consumption of liquor to a reasonable amount is a gradual enhancement of the prices at which intoxicating liquors are made available to consumers. But amongst a population addicted to the use of ardent spirit, the raising of prices operates also to encourage illicit manufacture, more especially where, as in the area with which we have to deal, a material from which spirit can be readily made lies at the doors of the people, or can be obtained by them without any trouble or much expense, and the people have been in the habit for generations of supplying their wants by distilling liquor from that material for themselves. If, therefore, with a view to restricting the amount of liquor consumed in the districts of Thána and Kolába, retail prices of liquor are to be raised, it is imperative that effective measures be simultaneously resorted to for rendering the illicit manufacture of spirit as difficult as possible.

7. The object to be attained in the above districts is, therefore, obviously the removal from the possession of the liquor-consuming classes of mhowra flowers in any but small quantities, and the placing upon the traffic in those flowers of such restrictions as will render it difficult for those classes to obtain or keep possession of them for illicit purposes.

8. We are not unmindful of the objections which exist to restricting the traffic in any trade commodity and more especially in any article of food. The enquiries which have been made, as reported in the papers placed before us, convince us, however, that in the Thána and Kolába districts, mhowra flowers do not form a staple food for man or beast; they are merely given there occasionally to cattle and are also occasionally eaten by men—especially when fresh—as a relish. There is no evidence that they are exported in any considerable amount from these districts; it appears, on the contrary, that the flowers grown there are inferior in quality to those of other provinces and are, therefore, not esteemed for purposes of export. It follows that a very large portion of the mhowra flowers produced in these two districts and of those imported into them must have hitherto been consumed locally in the illicit manufacture of spirit.

9. These facts appear to us to justify the Bill under our consideration, the object of which is to enable Government to control the possession of, and the traffic in mhowra flowers in the Thána and Kolába districts. But whilst feeling constrained, in the interests of the people themselves, to recognise the necessity for this measure, we are impressed with the importance (1) of not depriving the wild tribes and the poorer classes of the tracts in which mhowra trees abound, of the employment which they have hitherto found

every year, during the season in which those trees blossom, in collecting and disposing of the flowers, and (2) of interfering as little as may be with legitimate traffic in the flowers.

10. With these and similar objects in view, we have in a great measure re-cast the Bill and, in doing so, have acted upon the opinion and advice of the Honourable the Advocate General to the effect that the Council should embody in its enactment whatever provisions it intends should be enforced by a penalty, leaving it to the Executive Government to make only such subsidiary rules or orders as may be necessary for giving effect to the Act and for limiting or modifying its operation, whenever and wherever that may appear to the Governor in Council to be possible without danger to its general purposes.

11. In Section 1 A we have introduced a new clause for the purpose of making it quite clear that the provisions of the Bill are not to apply to the berry or seed of the mhowra tree but only to its flowers.

12. The principal change which we have made in the Bill is in re-drafting the proposed new Section 18 A of the A'bkári Act (Section 2 of the Bill). Sub-section (1) of that section, as it now stands, defines the restrictions which we recommend should be placed on the traffic in mhowra flowers and which should be enforceable by the penalty prescribed in section 3 of the Bill; whilst sub-section (2) enables Government, if it thinks fit, to limit from time to time the area within which those restrictions are to operate and to increase the maximum quantity of flowers which a person may possess or sell, &c., without incurring any penalty. Sub-section (3) further places all restrictions in abeyance during two months in each year in the tálukas in which mhowra trees are most abundant and in which many members of the wild tribes and poorer classes are in the habit of collecting and disposing of the flowers as a means of livelihood; the two months specified being the average season for gathering the flowers and power being given to the Government both to enlarge that period and to extend the exemption to other portions of the districts, if it thinks fit.

13. We have considered whether it is necessary to include within the local extent of the Act the district of Kolába. In this connexion it is important to observe that two tálukas have been recently transferred from the Thána to the Kolába district, *viz.*, Panvel in 1883 and Karjat in 1891; and although it is true that up to this time illicit distillation from mhowra flowers in the district of Kolába, as at present constituted, has been practically confined to the tálukas of Karjat and Panvel and a part of Pen, we think it expedient to provide for the possibility of the evil extending in that district, in the event of an increase being made hereafter in the selling price of country spirit, as it is known to have done in recent years in similar circumstances in the Thána district. The power which we propose to vest in Government to prescribe from time to time the portions of either district in which the Act shall operate will enable the Governor in Council to restrict its enforcement to those parts where it is for the time being really needed.

14. By allowing persons to have in their possession up to four sers of flowers without objection, we think that sufficient provision is made for the case of those who use them for medicine or as a relish in their food. The only case in which a permit will be necessary for the use of mhowra flowers for domestic purposes will be in the few instances in which it is desired to feed cattle on them.

15. We are of opinion that with these safeguards and with the further provision which we have inserted in the new Section 2 A of the Bill, that no fee shall be charged in respect of any license, permit or pass granted under Section 18 A, the proposed restrictions will not affect legitimate traffic in mhowra flowers or their legitimate use to any greater degree than is reasonably necessary.

16. As it is not now intended to empower Government to make rules for regulating or prohibiting the traffic in mhowra flowers, Section 4, Section 5 (2) and Section 6 (2) of the Bill are no longer necessary, and we have, therefore, cancelled them.

17. We have thought it necessary to add a section (Section 7) to the Bill to prevent the possibility of its provisions being held to be in conflict with the law contained in the Government of India's Forest Acts regarding forest-produce.

(Signed) C. B. PRITCHARD.
 „ J. R. NAYLOR.
 „ NAVROJI N. WADIA.
 „ K. L. NULKAR.
 „ RUNCHORELAL CHOTALALL.

Mahábaleshvar, 21st May 1892.

Bill No. 1 of 1892.

(As amended by the Select Committee on the 12th May, 1892.)

A Bill to amend the Bombay A'bkári Act, 1878.

WHEREAS it is expedient to amend the
 Preamble. Bombay A'bkári Act,
 1878; It is enacted:

1. This Act may be cited as the
 Short title. "Bombay A'bkári Act
 Amendment Act,
 1892", and shall be construed as part
 of the Bombay A'bkári Act, 1878, herein-
 after referred to as "the said Act."

New clause to sec-
 tion 3.

1 A. To section 3
 of the said Act the
 following clause shall
 be added, viz.:

"(13) 'Mhowra flower' does not include
 the berry or seed of the mhowra tree."

2. Between sections 18 and 19 of the
 said Act the following
 section shall be in-
 serted as section 18-A,
 namely:—

New section after
 section 18 and before
 section 19.

'V-A.—Special provisions as to Mhowra Flowers.'

"18-A. The Governor in Council may
 from time to time by Notification in the
 Bombay Government Gazette:

(a) ~~make rules regulating or prohibit-
 ing the import into, the export from,
 and the collection, transport, carriage,
 transfer, sale and possession of mhowra
 flowers within, the districts of Thana and
 Kolaba and the issue, with or without
 conditions, and the recall or cancellation
 of licenses, permits and passes in respect
 thereof, and~~

(b) ~~vary or rescind any rule so made:~~

~~Provided that no rule under this section
 shall render any person liable to any punish-
 ment under this Act, in respect of any
 mhowra flowers growing on any tree, or
 lying on the ground under any tree from
 which they have fallen."~~

"18A. (1) Save as is provided in sub-
 section (3), no person shall export from or
 import into any prescribed area or collect,
 transport, sell or have in his possession
 within any such area any quantity of mhowra
 flowers exceeding the prescribed limit in
 weight, except under the authority and sub-
 ject to the terms and conditions of a license,
 permit or pass granted by the Collector or
 other officer duly empowered in this behalf.

"(2) In this section 'prescribed area'
 means such area, comprising either the whole
 or some portion of the districts of Thána
 and Kolába, as the Governor in Council
 from time to time notifies in this behalf and
 'prescribed limit' means four sers or such
 greater quantity as the Governor in Council
 from time to time notifies in this behalf;

"(3) Provided that during the period of
 two months from the 16th February to the
 15th April in each year or such longer
 period, embracing the said two months, as
 the Governor in Council from time to time
 by notification in the Bombay Government
 Gazette directs, no license, permit or pass
 shall be necessary for the collection, trans-

port, sale or possession anywhere within the limits of the talukás of Kalyán, Bhiwandi, Karjat, Murbád, Sháhápúr and Váda or within any other portion of a prescribed area which the Governor in Council thinks fit in a notification as aforesaid to specify, of any quantity of mhowra flowers which are the produce of that year and of the said talukás or other portion of a prescribed area, if any, so specified."

2A. To section 30 of the said Act the following proviso shall be added, viz.:—

"Provided that no fee shall be charged on account of any license, permit or pass in respect of mhowra flowers granted under section 18A."

3.—After section 43 of the said Act the following paragraph shall be added, namely:—

"(2) Whoever in contravention of this Act, or of any rule for time being in force under this Act, or otherwise than under the authority, and in accordance with the terms of a license, permit or pass obtained under this Act or under any rule made thereunder, collects, imports, exports, transports, carries, transfers, sells or possesses mhowra flowers shall be punished for each such offence with fine which may extend to five hundred rupees, or with imprisonment for a term which may extend to three months, or with both."

3. The present section 43 of the said Act shall be numbered and cited as sub-section (1) of section 43 and the following shall be added as sub-section (2) of the said section, viz.:—

"(2). Whoever, in contravention of this Act or of any rule or order made under this Act or of any license, permit or pass granted under this Act, imports, exports, collects, transports, sells or has in his possession mhowra flowers shall be punished for each such offence with fine which may extend to five hundred rupees or with imprisonment which may extend to three months or with both: Provided that no person shall be punished in respect of any mhowra flowers which are either growing on a tree or are lying uncollected on the ground as they have fallen from a tree."

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

C. H. A. HILL,

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

Mahábaleshvar, 21st May 1892.

4. In the first paragraph of section 45 of the said Act after the words "pass granted under this Act" there shall be inserted the following—

"or any rule for the time being in force thereunder."

5. (1) In paragraph 1 of section 53 of the said Act, after the words "or intoxicating drugs" and before the words "or any such materials" there shall be inserted the following words:—

"or mhowra flowers".

(2) In the second paragraph of section 53 of the said Act after the words "or pass under this Act" and before the words "shall be responsible" there shall be inserted the following:—

"or under any rule made thereunder."

6. (1) In section 54 of the said Act the words "mhowra flowers" shall be inserted in the following places:—

(a) In paragraph 1 after the words "all liquor" and before the words "or intoxicating drugs";

(b) In paragraph 3 after the words "in addition to any liquor" and before the words "or intoxicating drugs"; and

(c) In the paragraph beginning "the vessels, packages," after the word "liquor" and before the words "intoxicating drugs".

(2) In the same section paragraph 1, after the words "or of any license, permit or pass obtained under this Act" there shall be inserted the following:—

"or under any rule made thereunder."

(3) (2) In paragraph 3 after the words "all liquor, if any" and before the words "and all intoxicating drugs, if any" there shall be inserted the words "all mhowra flowers, if any".

7. Nothing in this Act shall be deemed to affect the operation of any law for the time being in force, or of any rule for the time being having the force of law, relating to mhowra flowers as an article of forest-produce.