

THE



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

PART V.

PROCEEDINGS OF THE LEGISLATIVE DEPARTMENT, BOMBAY.

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

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

The Council met at Bombay on Thursday the 3rd April 1890, at 3-30 P.M.

PRESENT.

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

His Excellency Lieut.-General the Honourable Sir GEORGE R. GREAVES, K.C.B., K.C.M.G., Commander-in-Chief.

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

The Honourable J. G. MOORE.

The Honourable the ADVOCATE GENERAL.

The Honourable RAHIMTULA MAHAMED SAYANI, M.A., LL.B.

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

The Honourable T. D. LITTLE, M.I.C.E.

The Honourable A. F. BEAUFORT.

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

THE DISTRICT POLICE BILL.

The Honourable Sir RAYMOND WEST moved the insertion in Section 3 (a), line 5, of "Deputy Inspector-General" after "Inspector-General".

Consideration of the Bill in detail. He said:—This introduction is necessary so as to make provision, should it be necessary in course of time to appoint a Deputy Inspector-General of Police. The necessity does not appear at present, but in future it may be found necessary; and then the rules in connection with the Act will necessarily apply to the Deputy Inspector-General. It is merely a formal amendment.

The Honourable the ADVOCATE GENERAL:—This matter was not brought before the Select Committee in any way, and I do not think it has their recommendation.

The Honourable Sir RAYMOND WEST :—The honourable members of the Select Committee will remember I mentioned we had written to the Government of India with respect to the Deputy Inspector-General, but there was some little delay in the arrival of the answer. It was not until the Select Committee had finished their sitting that it came; but the fact that there ought to be a Deputy Inspector-General was mentioned; the idea was approved, and the Select Committee were aware I had prepared a section to meet that contingency.

The Honourable the ADVOCATE GENERAL :—I was not aware of the fact until I saw the amendment. I think that the appointment of a Deputy Inspector-General might be left for future legislation, till such time as it becomes necessary.

The Honourable Mr. MOORE :—I think the matter may be left to the Government of India. The appointment of a Deputy Inspector-General of Police would involve enormous expense, and until we see it is required, I do not think it is necessary to provide for his appointment; and I hope it will not be required for a long time to come.

The Honourable Mr. SAYANI :—I understand that such an officer will only be appointed if it is necessary to appoint one. If we once accept the principle, we may leave it to Government, should necessity arise, to appoint the Deputy Inspector-General; therefore it will be better to make provision for his appointment. I was present on two occasions when the honourable mover said a Deputy Inspector-General would have to be appointed, and that application had been made to Government.

The Honourable Sir RAYMOND WEST :—If we are to have the Act at all, we must make it complete, but Government would not appoint a Deputy Inspector-General unless they found it necessary to appoint one, and even if they were anxious to make the appointment, their wishes would not be enough, they would have to make an application to the Government of India. No function can, according to the provisions of the Bill, be given to a Deputy Inspector-General that does not devolve on the Inspector-General, for he would necessarily be subordinate to the latter. He will merely take up a portion of the work of the Inspector-General. As to how the Magistrate could be overridden by such a functionary, I cannot understand; and so far as expense is concerned, it will be a matter of consideration whether a Deputy should be appointed. It will be a matter for consideration by the Government whether on the whole it is expedient to appoint a Deputy Inspector-General or not. If it be necessary, why should not Government bear the expense? The sole effect of this addition to the section will be this, that if it is necessary it will be open to Government, not simply at its own pleasure, but with the sanction of the Government of India, to appoint a Deputy Inspector-General. It will interfere in no way with the Magistrates of the District. I think the amendment is so necessary, that I leave it to the common sense of the Council to judge.

The Honourable RAO BAHÁDUR RANADE :—My own view of the matter is that if the Inspector-General is to be a permanent officer in charge of the entire direction of the Police, a time may come when he will require assistance; but that time has admittedly not yet come. The published correspondence shows clearly that Government only desired one Inspector-General to control the police and advise it in police matters in place of the three Police Commissioners. Even in those provinces where the Inspector-General has charge of the police there have been differences of opinion about the necessity and usefulness of these Deputy Inspectors-General, and Sir Barrow Ellis said that they were the fifth wheel in a coach. His exact words are to the following effect :—“The Deputy Inspectors-General have proved a failure elsewhere, and in some provinces, Oudh for instance, they have been abolished.” If this is so, I do not see the utility of taking power to appoint them. At any rate no case has been made out for their appointment, the only reason given by the honourable mover being that the insertion of the name of the official at this stage would save legislation hereafter. My own fear is that such additional power to appoint Deputy Inspectors-General will only strengthen the feeling that there is an intention in the Bill to sever the Executive District Officers entirely from any connection with the Police, and that is what I do not approve of. Deputy Inspectors-General may not be required for some years to come, and I think it is best to wait till they are required, when a small Bill might be introduced for their appointment. Centralization of power and responsibility is what is to be aimed at, and the appointment of an officer of this sort will tend to create an

hierarchy which, while diffusing and diluting responsibility, might come into frequent conflict with the existing state of things. For these reasons I think the amendment should not be accepted at this stage.

His Excellency the COMMANDER-IN-CHIEF:—I think it would be useful to have provision in the Bill as it is. It says distinctly that it cannot be brought into use until the Government of India has approved of it. I think this provision is a very desirable one, and the Government of India can settle hereafter whether it is wanted or not.

The Honourable Mr. LITTLE:—My opinion is that it would lead to extra expense, and therefore I am against the Deputy Inspectors-General.

The Honourable Sir RAYMOND WEST:—I thought I had already been asked to reply. It is a somewhat inconvenient thing to have to reply in a fragmentary way to the speeches that are made when a discussion has apparently closed. With regard to the somewhat elaborate remarks made by the Honourable Mr. Ranade, the honourable member will find a little lower down the page in which he read from Sir Barrow Ellis—

“I quite concur in His Excellency’s remarks that the Commissioner would derive great advantage from assistants to look after the details of Police organization”. Now an Inspector-General may at times equally want assistance in details. Sir Bartle Frere said, “No Government of Bombay would be able to maintain the Police in a state of efficiency without an officer analogous to the Inspector-General provided by Act V of 1861. This opinion is not altered by the fact that Inspectors-General and Deputy Inspectors-General are said not to have improved the Police in other parts of India”.

How it is possible out of the appointment of a Deputy exercising some of the powers of an Inspector-General to set up a hierarchy with an entirely different set of powers I am at a loss to conceive. A little further study of the documents will show the honourable member that the view of the subject taken by Mr. Ellis was not agreed in by the other Commissioner Mr. Hart, and in those provinces where a Deputy Inspector-General was thought by Mr. Ellis to have been found useless he has in fact been found indispensable, and is at this moment an integral part of the Police system. Supposing a period of riot or tumult occurred, it would not be the time then to pass an Act for the appointment of a Deputy Inspector-General. An incident of this kind occurred only recently in one of our large towns where an unfortunate animosity exists between Mahomedans and Hindus. Suppose this feeling to extend, and then the duties cast on the Police would become heavier and more urgent. Men might have to be moved from division to division, and a more complete organization would be needed than in quiet times. In such a state of things, legislation would be ineffectual, because it would be too slow; but the approval of the Government of India could be very promptly obtained if necessary.

The amendment was then put to the vote and carried by the casting vote of His Excellency the President.

The Honourable Sir RAYMOND WEST next moved:—In Section 3 (a); line 10, insert “Deputy Inspector-General of Police” after “Inspector-General of Police”. This, he said, naturally follows in the wake of the other, and needs no discussion.

The amendment was carried.

The Honourable Mr. LITTLE:—Your Excellency—The amendment I propose is the substitution of the word “may” for “shall” in line 6 of Section 5 (1) of the Bill under discussion. I admit that the modification will not be complete in itself and it will be necessary to supplement it by alterations in other sections, in order to carry out the object I have in view, which is to leave latitude in regard to the supervision of the Police to the Government of the day. The method of carrying out the subsidiary modifications would require detailed consideration, but it seems to me that the difficulty might be met by repealing certain sections of Act VII of 1867, conditionally only and not finally. A somewhat similar course was followed in Section 3 of the Village Sanitation Act, which repeals certain enactments, not absolutely, but only so long as Parts II or III of the Act in question continue to be in force. I was under the impression at the last meeting, and I believe a number of honourable members of this Council shared my views, that the discussion of this Bill would be postponed for a longer period, probably until the monsoon, and I had hoped that the suggestion of supplying the Council with opinions of the various officers consulted would

have been adopted, as well as another suggestion, that more information should be called for from responsible officers connected with district administration. The postponement has been for a fortnight only, and that at a time of great official and social pressure, when we have all been endeavouring to do honour to the high personages who have lately departed or are about to depart. The Police force is a very important factor in Indian administration, and necessarily and properly so. It wields great power and the liberties of the people are in its keeping to a considerable extent, and the question as to whether it is to remain, as heretofore, a body directly subordinate to the divisional officers responsible for the ordinary civil administration, or whether it is to become a separate department with its own complete organization, is one of considerable importance. The latter course has many able advocates, but in India there is some risk of a Police under its own rules and rulers eventually developing into a separate class or caste, and this risk is particularly great in the mofussil where there is no strong public opinion to show up abuses. The Bombay system, which it is now proposed to supersede, has, I submit, done very good work in the past and is capable of equally good results in the future. In English counties and boroughs the Police are managed locally and are controlled by the town and county authorities, and the duties of the Inspector-General under the Home Office are, I believe, confined to inspection and do not extend to detailed direction and supervision. Sir James Fergusson, in January 1881, apparently desired an Inspector-General with only a limited sphere of this kind, for he wrote that "the Revenue Commissioners, though the proper heads of the Police, can hardly be expected to be efficient inspectors of drill and organization". Later on, Sir James was in favour of relieving the Commissioners altogether of their Police duties, leaving the position of the District Magistrate untouched, while the Honourable Sir Raymond West in 1888 was of opinion that the District Magistrate as well as the Commissioner should be "critics only" of the force.

The Honourable Sir RAYMOND WEST:—That is a fragmentary quotation from a fragmentary extract. A few lines higher up in the same page I say the Police should be a force 'to be used when he will, and as he will, by the District Magistrate'.

The Honourable Mr. LITTLE:—It seems to me that a Bill that revolutionizes the present Police system and relegates the present chief controlling authorities to the position of critics requires and demands patient and deliberate attention, and I, in common, I believe, with some other members of this honourable Council, regret that it has been thought desirable to devote two days out of the gazetted Easter holidays in order to pass such a Bill in a Council in which nearly half the members are new and have been appointed during the past few weeks and long after the introduction of the Bill and its Select Committee stage. The sacrifice of the holidays is not, I am sure, grudged by any honourable member, but some of us grudge the sacrifice for the purpose of a Bill which we would prefer to postpone. It is an open secret that the provisional member of Council does not agree in the weakening of the responsibility and supervision of Commissioners, and the honourable member who is acting for him has shown his opinions by the amendments of which he had given notice, and it is well known that many experienced District Magistrates who will be concerned in the working of the new Act are not in favour of this portion of it. One of my main reasons for proposing to make Section 6 permissive instead of imperative is my fear that history may in this case repeat itself, and as Lord Elphinstone and his Council had in 1860, after five years' experience, to abolish the separate head of the Police, so some future Government may find it desirable to disestablish the authority it is now proposed to create, or at least to modify his position and functions. The results of the experimental Inspector-General have not so far, I believe, been such as to show that the system can be worked without friction, and its success is challenged by many officers of experience, and this being the case I think we should not tie the hands of future Governments.

But even if the new Act is found to work satisfactorily it may still be a question as to whether its advantages are commensurate with its cost. As originally drafted and as submitted to the Select Committee of this Honourable Council, the Bill only provided for an Inspector-General as contemplated by Sir James Fergusson, but it is now proposed to introduce amendments providing for Deputy Inspectors-General. The Inspector-General and his office, I believe, cost between Rs. 40,000 and Rs. 50,000 per annum instead of about half that sum as anticipated by Sir James Fergusson, and it seems to me that as the Deputy Inspectors must, on an average, receive about Rs. 1,500 per mensem *plus* office

and travelling charges, the total for a single Deputy Inspector-General and his establishment will, including pension charges, amount to from Rs. 25,000 to Rs. 30,000 per annum. Including Sind it will probably be necessary to employ at least three Deputies, and the proposals which when before the Select Committee involved a cost of less than half a lăkh of rupees have now been so extended that they may, and probably will, involve an expenditure of double that sum. Whether the Select Committee would have approved of a Bill which involved so large a cost is a question which cannot be answered, but it will, I hope, be remembered that the Bill as submitted to the Select Committee varies on this very important point from the Bill which it is now proposed to pass into law. The approval of a scheme for controlling the Police of the Presidency by one officer at a cost of half a lăkh does not necessarily carry with it the same approval when it is found that the one officer will require several Deputies and that the half a lăkh is likely to develop into a lăkh and probably more. For some time past Government and the Finance Committee have in various departments been endeavouring to amalgamate offices and to reduce expenditure, but in the Police Department the very opposite course is now being followed, for the department is to be developed and new appointments are to be created. I am in favour of more liberal treatment of the Police, and I think that both in the lower and higher ranks some additional expenditure is necessary, but I doubt if the best method of improving the force is the formation of these new posts to relieve Commissioners who would rather not be relieved and to construct an organization which many experienced authorities look on as doomed to failure. For these and other reasons I submit my amendment to the consideration of this Honourable Council.

The Honourable Sir RAYMOND WEST:—The speech of the honourable member is one which should more properly have been read to the Council on the occasion of the second reading. It is a speech against the whole principle of the Bill, as indeed the honourable member admits. In reading the Bill a second time the Council agreed with the unanimous decision of the Select Committee. The Select Committee had the contingent appointment of a Deputy Inspector-General before it, and yet unanimously approved the provision to which the honourable member objects. The striking out of a provision for the appointment of an Inspector General, and leaving it purely optional, would be extremely like proposing to have the play of *Hamlet* with the part of *Hamlet* left out; or, to take an illustration within the ordinary sphere of the honourable member, such as if, after a committee on a public building had determined to have a particular arch, an opponent of that plan should propose to leave it optional to put in a key-stone or keep it out. I take it that having acceded to the principle of this Bill, it follows, as a matter of course, we must have an Inspector-General. And if by the substitution of the word "may" for "shall" you leave the position of the Inspector-General precarious, you will not have so good men; for good men will not take up a precarious position. If one of the honourable member's arguments is well founded, there is a doubly strong reason for making the Inspector-General's position stable and removed from the influence of individual whims and prejudices. Therefore, I say, it being a matter of such importance that the appointment of an Inspector-General should not be left optional, the word "may" is not the proper word here; and, having accepted the principle on the second reading, the Council are bound to accept the word "shall" as it is in the section, rather than the word "may", which will leave everything floating and uncertain.

His Excellency the PRESIDENT:—The honourable member has said that the present system is a failure. With the practical experience of the past to guide me, I must distinctly deny that it is a failure. That the appointment of an Inspector-General must necessarily lead to friction with the Commissioners, is a proposition for which I can find no evidence in the administrative record of past years. On the contrary, I think the Commissioners will derive as much benefit as Government has derived from an expert at the head of the Police. The late Colonel Wise, an officer of great experience and tact, rendered services which I have much pleasure in publicly acknowledging. His successor I have no doubt will find it quite easy to limit himself to his proper sphere, and in that sphere there is scope enough for the display of activity not to encroach upon forbidden ground. If you want a well-disciplined and efficient Police force you must have a responsible officer in command, and Government must oppose the amendment of the honourable member which strikes at the principle of the Bill.

On a vote being taken the Honourable Mr. Little's amendment was lost.

The Honourable Sir RAYMOND WEST proposed the following amendment :—In Section 5 insert the following as sub-section (2) :—

“(2) Subject to the previous approval of the Governor-General in Council, the Government may appoint one or more Deputy Inspectors-General of Police, to whom Government may assign such duties, being amongst the lawful duties of the Inspector-General of Police or in aid and furtherance thereof, as shall to Government seem expedient.”

He said :—This is an amendment which has been discussed and disposed of in connexion with Section 3, therefore I will propose it without making any remark.

The amendment was carried.

The Honourable Sir RAYMOND WEST next proposed :—In Section 8, lines 1 and 2, after “subject to the” insert “rules and”. This alteration will make the power of the Governor in Council somewhat more extensive. It is a suggestion I received from the Honourable Mr. Moore, and as it is obviously right, I propose it be adopted.

The amendment was carried.

The Honourable Sir RAYMOND WEST moved :—In Section 13, line 14, insert “shall” between “and” and “be”.

The Honourable Ráo Bahádúr RANADE :—I find that notice of motion was given with regard to Sections 8 and 9 by the Honourable Mr. Moore. I understand that it has been withdrawn. I wish to know what is the effect of such a withdrawal.

The Honourable Mr. MOORE :—I may explain that a copy of my proposed amendment was circulated to the honourable members, and in conversation with Sir Raymond West he has embodied my amendment in his. Therefore my amendment was withdrawn.

The Honourable Ráo Bahádúr RANADE :—Which is the amendment in which it is embodied?

His Excellency the PRESIDENT :—This amendment having been withdrawn is no longer before the Council.

The Honourable Sir Raymond West's amendment was then put to the vote and carried.

The Honourable Sir RAYMOND WEST :—In Section 14, line 10, I propose to insert the words “and subject to the orders of Government” between “possible” and “comply”. It makes it more clear that the Inspector-General is subject to the order of Government. It has no other effect than that.

The amendment was carried.

The Honourable Sir RAYMOND WEST :—I propose in Section 15, line 8, to substitute “disorder” for “disorders”. This merely corrects a typographical error.

The amendment was carried.

The Honourable Sir RAYMOND WEST then proposed the omission of the words “the employment of” in Section 17 (1), lines 3 and 4. He said :—The section will now read thus : “A Commissioner may make any order with respect to the Police force in any district,” and so on. It has been suggested that the words “the employment of” placed an undue restriction on the authority of the Commissioner, and in order to meet that view it has been determined to strike out the words. It is obvious this does in terms widen to a certain extent the authority of the Commissioner, although it does not make it any wider than it was intended to be. This amendment must be considered with the amendment which follows; and with Your Excellency's permission I will speak on that amendment which was arranged after most careful consideration by my honourable colleague Mr. Moore and myself. It is, in Section 17, line 8, to insert after the word “make” the words “and any order which he may be authorised to make by any rule lawfully made by Government under the provisions of this Act or other law in force.” The section, as it stands, appears to some persons to unduly restrain the authority of the Commissioner in issuing orders which should be obeyed in the district under his command. That was never intended by the Act, as it was drafted; and Section 5 and other sections of the Act, if they are carefully looked into, will show that everything would have to be done subject to such rules and orders as might be made by Government. This shows

the intention was that Government should have power to invest the Commissioners with such authority as was consistent with the Criminal Procedure Code. But as some views have been expressed pointing to this, that if the section were left as it was, the Magistrates or the Police authorities might consider that the Commissioner's power was much restricted as to the Police force, so in Section 17 it has been thought expedient, and especially by the Honourable Mr. Moore, that this alteration should be made. It has been made after conversation with him; and I believe now it would be impossible to take exception to Section 17 as not enabling the Commissioners to discharge such duties as may be lawfully imposed upon them in the management of the Police in their several divisions.

The amendment was carried.

The Honourable Sir RAYMOND WEST then moved, with the assent of His Excellency the President, to amend Section 18 as follows:—By inserting the words “in every such case” after the word “general” in line 11; by omitting the words “to give” down to “may be” in lines 11 to 13; by omitting the word “and” in line 14; and by adding after the word “complaint” in the same line the words “and to conform to the requests of the Commissioner where the same shall be lawful and consistent with the orders of Government and other lawful commands, requests and instructions.”

He said:—The object of inserting these words was for the benefit of an Inspector-General who might receive orders from two Commissioners at the same time, or a requisition from a Magistrate contrary to orders sent him by the Commissioner. In order to meet that difficulty it was originally proposed that an Inspector-General should conform “as far as may be” to the Commissioner's direction. But another means to the same end having been found, it has been proposed to omit these words. The insertion of the words to be introduced after the word “complaint” in line 14 will make it perfectly clear to the Commissioner what authority he has, and will make it impossible for the Commissioner to say he has not ample authority for the working of the Police in his own division.

The amendment was carried.

The Honourable Sir RAYMOND WEST then proposed the following amendments in Section 22:—

In sub-section (1) omit the first eleven words.

„ (2), line 17, omit “Magistrate of the District or”.

„ (3), line 24 and line 30, omit “Magistrate of the District or the”.

These amendments were carried.

The Honourable Sir RAYMOND WEST moved:—In Section 22 add the following sub-section:—

“(4) In acting under this section the District Superintendent shall be subject to the provisions of Section 13 (1).”

He said:—Under Section 22 as it was drafted, some words which belonged to the earlier Act of 1867 were retained which did not fit in so well with the general scheme of the Bill as it stands now, for you will observe the Superintendent is made subject to the “general direction of the Magistrate of the District,” whereas under Section 13 (1) the District Superintendent and the Police force of a district shall be under the “command and control of the Magistrate of the District.” If we left Section 22 as it now stands, it might lead to some confusion or friction to say that there was but a general control when elsewhere it is declared that the Superintendent is without qualification subject to the command and control of the Magistrate of the District; so it was proposed to strike out the words which have that tendency, and in lieu thereof to put in Clause 4. The effect of it is to render the Magistrate's control more decisive than it is.

The amendment was carried.

The Honourable Sir RAYMOND WEST moved:—Section 23 (3) should be numbered Section 23 A.

The amendment was carried.

The Honourable Sir RAYMOND WEST next moved:—In Section 24 (1), lines 2 and 5, omit “in the *Bombay Government Gazette*”. It is proposed to omit these words merely

because the Bombay General Clauses Act makes "notification" equivalent to notification in the *Bombay Government Gazette*: so these words here are superfluous. They are not without sense, but they are needless.

The amendment was carried.

The Honourable Sir RAYMOND WEST:—I propose to omit all the italicized words beginning with "*and shall be levied*" in Section 24 (3), because with the provision of Section 25 as it is to be amended the words are superfluous.

The amendment was carried.

The Honourable Sir RAYMOND WEST moved the following amendments:—To Section 25 (1) add the words "due by him".

In Section 25 (2), line 9, insert the words "as aforesaid" after the word "Collector".

In Section 25, line 10, omit the words "under the said section".

He said:—This is connected with what I said just now. If you add the words "due by him" to clause 1, it follows the words "as aforesaid" must be added in line 9. Then by omitting the words "under the said section" in line 10 the clause will read thus:—

"Every rate assessed by the Collector as aforesaid shall be recoverable by the Collector as if it were an arrear of land revenue due by the person answerable therefor."

This is really a re-adjustment of expression without the slightest change in the sense.

The amendments were carried.

The Honourable Sir RAYMOND WEST:—I move to insert in Section 26 (a) the word "recruitment" before "organization". I propose to insert this word, so that the matter may be more clearly under the control of the Inspector-General. It was thought the word *organization* included *recruitment*, but I saw in reading some papers that a question had been raised about that, and therefore, to stop the gap, I thought it expedient to put in the word "recruitment".

The amendment was carried.

The Honourable Sir RAYMOND WEST proposed that to Section 31 a second sub-section should be added as follows:—"(2) Timely intimation shall, except in cases of extreme urgency, be given to the Commissioner and Magistrate of the District by the Inspector-General of any proposed transfer under this section, and, except where secrecy is necessary, the reasons for the transfer shall be explained; whereupon the officers aforesaid and their subordinates shall give all reasonable furtherance to such transfer."

He said:—Your Excellency will remember it was previously intended that this as a matter of detail should be settled by rules to be made by Government, but in order to satisfy official sensibilities it has now been thought necessary to make the courteousness and deference due to the Commissioner a part of the Act rather than leave it to a mere rule. I may mention to the honourable members of Council that this clause has been carefully considered in conversation between myself and my honourable colleague who has so recently come from a Commissioner's administration of the existing Police Act, and he considers the arguments advanced by some critics of the Act will be met by the clause as it now stands. The Honourable Mr. Moore suggested the modification in the clause I have now read; and I trust, therefore, it will be adopted. It makes no difference in the principle of the Act. It merely lays down, if there is to be any removal or transferring of Police, the Commissioner and the Magistrate of the District are to be made aware of it in time.

The amendment was carried.

The Honourable Sir RAYMOND WEST:—I propose in Section 33 (1), between Clauses (a) and (b) to insert the word "and". This requires no remark; it is only a matter of symmetry.

The amendment was carried.

The Honourable Sir RAYMOND WEST:—I propose that in Section 35, before sub-section (1), should be inserted the following:—"Any person who makes a false statement or uses a false document for the purpose of obtaining employment or release from employment as a Police officer, or". The section goes on as it stands. It is not a matter which would readily occur to the mind that the section, as it was originally drafted, was not sufficient; but it has happened, while the Bill has been in course of consideration, that

a case has arisen in another part of India in which a man did make a false statement to get employment, and on the matter being referred to the Advocate General, it was found the rules were couched in such terms that not being a Police officer he could not be prosecuted. In order to stop that gap we have thought it expedient to introduce this clause.

His Excellency the COMMANDER-IN-CHIEF:—We have had a case of the same kind in the army too.

The Honourable the ADVOCATE GENERAL:—Taking a recent conviction in the High Court as a case in point, I do not think the amendment is required.

The Honourable Sir RAYMOND WEST:—If the Honourable the Advocate General desires it, I will have the correspondence on which this was based got out and read it at the third reading, but I can tell the honourable member what the substance of the decision was. A man in the Bombay case had forged a certificate to obtain employment, and it was held by the Bombay High Court that he was subject to punishment under the Penal Code. But in a recent case in the North-West, where a man had obtained employment in the Police by making false representations, the opinion, as I said before, of the Advocate General was obtained, and he said that the man could not be punished for that false statement, as he was not a Police officer. The papers were circulated to the various local bodies by the Government of India; and it so occurred to me to stop up this little gap by proposing this amendment. Even if the Penal Code had provided for it, it would do no harm to insert the proposed clause here.

The Honourable the ADVOCATE GENERAL:—I think this ought to be made clear before the third reading.

The Honourable Sir RAYMOND WEST:—If the Honourable the Advocate General will allow this to stand over, I will confer with him between now and the third reading.

The discussion on the amendment here dropped, the consideration of it being reserved.

The Honourable Sir RAYMOND WEST:—I propose in Section 35, lines 16 and 17, to omit all words except "or". I have no remark to make except that, as Your Excellency will observe, the words are not necessary.

The amendment was carried.

The Honourable Sir RAYMOND WEST moved:—In Section 35, lines 24 and 25, substitute the words "one hundred rupees" for the words "three months' pay of such officer". It seems desirable to substitute the words "one hundred rupees" for "three months' pay", especially with reference to the new clause which I have just proposed, because if the man seeking employment has made a false statement, there would be no three months' pay. Besides, Rs. 100 is a usual maximum fine for offences of this kind.

The amendment was carried.

The Honourable Sir RAYMOND WEST moved:—After Section 36 insert the following:—

"36 A. Government whenever it shall seem necessary may by notification make an order to such effect as any order which, if made by a Magistrate under Section 144 of the Code of Criminal Procedure, could be continued in force by Government under the enactment aforesaid."

He said:—This is also a case in which, owing to the progress of events, the law calls for some slight modification. A case has lately arisen which showed this; and other cases might arise in which there would be a difference of opinion in regard to Section 144 of the Code of Criminal Procedure between the Magistrate of the District and the Commissioner. It is obviously desirable that Government should also have an opportunity of making an order on its own account. The order is one to be made only in order to guard the public health or safety and in an urgent case. If the Magistrate makes an order, the Government can continue it, yet it cannot make any original order, or decide between a District Magistrate and a Commissioner, as the law stands at present. This is the substance of the clause we propose to introduce.

The Honourable the ADVOCATE GENERAL:—This is really an amendment of the Code of Criminal Procedure. I do not think it is a clause that can be inserted for the benefit of the Government of Bombay alone. I think the power ought to be given to every

Government throughout India; and I think it is somewhat objectionable in principle to introduce a clause like this into this Bill.

The Honourable Sir RAYMOND WEST:—I do not think the Government of India would take exception to our adopting any measure for our own purposes which does not detract from the operations of the Criminal Procedure Code. It gives to Government no power new in its nature; only one which now on the initiative of the District Magistrate it can exercise under the Code; but it gives to Government authority to exercise it in case of necessity on its own responsibility. I think this is a very useful clause. I submit it for the consideration of Council in order to prevent clashing of authorities, and I think the honourable members will see that such a power in the hands of the Government is necessary. On the next occasion when the Criminal Procedure Code is revised, the section that I am proposing at present will be repealed and be embodied in the new Criminal Procedure Code; but in the meanwhile I do not see why we should not provide for our necessities by a useful little clause like this.

The Honourable Ráo Bahádúr RANADE:—I think cases might well be imagined in which Government, having no direct knowledge of the locality, may not be in a position to take action on its own account, and overlook the District Magistrate's view of the matter.

The Honourable Sir RAYMOND WEST:—We have heard a great deal about the necessity of upholding the authority of the Commissioner, and now we have it urged that we must disregard him and uphold the Magistrate.

The Honourable Ráo Bahádúr RANADE:—There are many local nuisances in which I think the district authorities are more competent to know how matters stand than the Government at a distance.

His Excellency the PRESIDENT:—My experience hardly bears out the assertion of the honourable member. Government often receives appeals from orders passed by local officers, and the intervention of Government is, I think, considered by the public an additional safeguard against the possibility of arbitrary action. I do not think that the exercise of such powers by Government need inspire any apprehension.

The amendment was carried.

The Honourable Sir RAYMOND WEST:—In Section 37, line 125, I wish to insert, between the words "clause" and "(l)" the words "(g); or made under clause." Clause (l) relates to two or three different subjects and it was thought desirable to make the application clearer to have it expressed thus. It is merely a verbal amendment in order to make the sense clear. With Your Excellency's permission I will go through the whole of the amendments in this section. In line 128 I wish to substitute the words "ordinary and established" for "caste". There are usages amongst certain people who are of no caste, and some objection might be taken and has been taken if the clause remained as it was. If these words are inserted, it will run thus:—"Every regulation made under clause (g) or made under clause (l) with respect to the use of a place for the disposal of the dead shall be framed with due regard to ordinary and established usages and to the necessities of prompt disposal of the dead in certain cases." . . . So that in making these provisions by which quarrels and disputes at burning and burial grounds might be prevented, the Magistrate will be bound to have due regard to the usages of castes and classes. Then in line 134 there is a verbal change. I wish the word "or" to be omitted and "or (h)" to be inserted after "(g)"; and to omit the words beginning "it shall be the duty" down to "thereto" in lines 144 and 145. It will be observed that the rule imposing on the subjects of Her Majesty conformity with the preceding rules is omitted. The Magistrate is empowered to make special rules, and it should be clearly incumbent on all to obey these rules without exception; therefore it is thought better to add a sub-section (4) to section 37, viz.:—"It shall be the duty of all persons concerned to conform to any order duly made as aforesaid so long as the same shall be in operation."

All these amendments were carried.

The Honourable Sir RAYMOND WEST:—The amendment to omit the words "in the *Bombay Government Gazette*" in Section 39, lines 7 and 8, follows as a matter of course. In lines 18 and 19 I wish to make a mere verbal change by substituting the words "set forth" for "prescribed".

The amendments were carried.

The Honourable Sir RAYMOND WEST :—In Section 40 B, line 19, I wish to substitute “every” for “any”.

The amendment was carried.

The Honourable Sir RAYMOND WEST :—In the same section lines 26 to 28 I propose to substitute for the words “subject to a decree, injunction or order made by a Civil” the words “recalled or altered on its being made to appear to the Magistrate of the District that such order is inconsistent with a judgment, decree, injunction or order of a”. This amendment is rather more substantial in its effect than some others, and if honourable members will read the clause as we think it ought to stand, it will be obvious that this is an improvement. The section as it stood only provided for an order of the Civil Court, but it is conceivable that a matter might have gone to the High Court and that an order might have been made by that Court in the exercise of its criminal jurisdiction. The whole effect of the proposed change is to make it incumbent on the District Magistrate to consider the legality of his order whenever a Court’s decision is brought to his notice whether the Court is a Civil or Criminal one, and if the order is inconsistent with the order of a higher authority, to withdraw it.

The Honourable ADVOCATE GENERAL :—I think it would be preferable to strike out the word “Civil,” which would meet the difficulty.

The Honourable Sir RAYMOND WEST :—If the Honourable the Advocate General prefers to have it that way, I am quite willing to have it so. I would propose, with the assent of His Excellency the President, to strike out only the word “Civil” and to insert after “jurisdiction” the words “and shall be recalled or altered on its being made to appear to the Magistrate of the District that such order is inconsistent with a judgment, decree, injunction or order of such Court.”

The amendment as thus settled was agreed to.

The Honourable Sir RAYMOND WEST :—In line 29 I propose to insert “complaint” before “suit”. This follows as a matter of course after the preceding amendment.

The amendment was agreed to.

The Honourable Sir RAYMOND WEST :—In Section 41 (1), lines 15 to 17, I propose to omit the words “or proposing to repair” and the words “or proposing to return”. It appears on consideration that this would confer too much power on the officer. It was suggested by an ex-Government official residing in Poona that it would be very difficult to ascertain what a person might be “proposing” to do. That is very reasonable, and therefore it would be desirable to strike out these words.

The amendment was carried.

The Honourable Sir RAYMOND WEST :—In Section 41 I propose that clause (2) (b) be numbered clause (3), because it is separate in sense from the other provisions.

The amendment was carried.

The Honourable Sir RAYMOND WEST :—In Section 44 (2), line 32, it is proposed to insert the words “or shall be notified to the person affected thereby” between the words “operate” and “and”. It may be desirable to give a more specific notification to the persons affected by the order, and it was thought desirable to have that addition made to the clause.

The amendment was carried.

The Honourable Sir RAYMOND WEST :—In Section 45 (1), line 1, it is proposed to substitute “Magistrate of the District” for “District Superintendent”. This is a matter affecting the general control of the district, which in consequence ought to be in the hands of the Magistrate of the District instead of in those of the District Superintendent of Police. Connected with that is the proposed amendment in line 2, where after “notice” it is proposed to insert “extending to such place or places within the district as shall therein be named.” The clause as it stands does not provide for the introduction of the order within the limits of any particular town. It is obvious that there should be a power of discrimination between one place and another.

The Honourable Mr. MOORE :—In my opinion there is too much detail in this.

The Honourable Sir RAYMOND WEST :—This is a matter which was considered very carefully by the Select Committee, one or two representations having been made on the subject,

and the conclusion arrived at was that this clause went as far as it was desirable to go at present. This is a new matter altogether in the Mofussil, and it was thought that we could not be too particular in describing the powers of the Police in order to prevent any unpleasant *fracas* between the people of the village and the policeman carrying out the orders. Members will see that if the owner of a dog comes forward to claim it, it will be restored to him if he pays the expenses of its keep. Thus, while the owners of good dogs will claim their property, pariah dogs will be unclaimed. There is something to be said both for and against this; but we have endeavoured to be as mild as possible.

The Honourable the ADVOCATE GENERAL:—I am inclined to think the Police will have power to destroy dogs whether they are muzzled or not. There is no doubt that when once that notice has been issued, the insertion of these words into the clause means a very large power.

The Honourable Sir RAYMOND WEST:—Well, this section was considered over and over again in the Select Committee and that was the view taken by the members. It was considered on both sides, and this is a new provision. It was thought inexpedient to go too far at present; but if this section works well, it should then appear desirable that we should go further; that can be done if necessary.

The Honourable Mr. MOORE:—And it can only be done when the order is in operation.

The Honourable Sir RAYMOND WEST:—It means the order can be issued and put in operation until withdrawn by the Magistrate.

The Honourable Mr. LITTLE:—There will be a difficulty in some places. I know of some towns in Gujarát where dogs swarm in thousands, and unless something is done, hydrophobia will be rampant.

The Honourable Sir RAYMOND WEST:—Under the section as it stands the Police will lay hold of such dogs, muzzled or unmuzzled, and they will keep them for three days, when if the owner does not come forward, the dog will be destroyed.

The Honourable Mr. LITTLE:—You will see ten thousand dogs in some towns in Gujarát. People are glad to see them destroyed.

The Honourable Sir RAYMOND WEST:—And some would be much irritated. That is all the more reason why the nuisance should be gently dealt with. I think in a matter of some delicacy I should like to proceed in a rather tender fashion; and I should not advise the Council to go too far.

His Excellency the COMMANDER-IN-CHIEF:—I know in the towns of Northern India when the number of dogs straying about the streets becomes a nuisance, we call upon the Magistrate to inform the people that if they are not secured they will be killed, and a great number are thus killed.

The Honourable the ADVOCATE GENERAL:—Even in England the muzzling of dogs is a difficulty. There are questions as to the muzzling of dogs, and they have come to the conclusion that a strap muzzle is not within the provision of the Act. But here they may destroy a dog whether it is muzzled or not. At any rate I am inclined to think the provision will act more widely than it is intended. There will at least be a question of law on it.

The amendments were carried.

The Honourable Sir RAYMOND WEST:—In Section 47 (1) (*dd*), line 26, there is a printer's error, and for the word "needed" I propose to substitute the word "aided".

The amendment was carried.

The Honourable Sir RAYMOND WEST:—In Section 47, line 6, I propose to add "and shall by all lawful means endeavour to give effect to the commands of his superior." One would have thought that such words were not necessary, but a case has arisen recently which shows that there is a necessity for them.

The amendment was carried.

The Honourable Sir RAYMOND WEST:—In Section 48 (*c*) I propose to insert "and shelter" after "sustenance". The reason I insert these words is because you might be as cruel to a prisoner, especially if it happens to be an old woman or a person in feeble health, by keeping the prisoner out in the cold or rain as by not feeding him.

The Honourable Mr. LITTLE:—Are the prisoners to be provided with clothing?

The Honourable Sir RAYMOND WEST :—That question was discussed by the Select Committee, and it was thought that if clothes were provided, many people would commit offences to get a suit of clothes from the Police.

The amendment was carried.

The Honourable Sir RAYMOND WEST :—In Section 51 A, line 4, I propose to substitute the word “ Trespass ” for the word “ Pound ”. The latter word was merely a slip of title. In line 7 I propose to insert the words “ and other persons concerned ” after “ owner ”, in order to bring people within the reach of the law who might otherwise set up a quibbling defence.

These amendments were carried.

The Honourable Sir RAYMOND WEST :—In Section 52, line 10, I propose to insert “ in any such case ” after “ if ”. This makes the sense somewhat clearer.

The amendment was carried.

The Honourable Sir RAYMOND WEST :—I propose to add to Section 54 A the words “ whenever the same shall appear necessary or expedient for giving more complete or convenient effect to the law or for avoiding an infringement thereof.” The object of the section is to enable the Chief Constable or Inspector or Superintendent, when he sees that the work to be done is of a delicate nature, to take the matter into his own hands, or to call to his assistance some person other than the stupid policeman in charge; but he should not of course take warrants out of the hands of the man to whom they have been entrusted; nor should he supersede a subordinate in any case without some good cause.

The amendment was carried.

The Honourable Sir RAYMOND WEST :—My first amendment in Section 55, *viz.*, to omit the words “ in the *Bombay Government Gazette* ”, will of course be accepted. The other in line 92 is merely a verbal change, “ or ” for “ and ”. In line 101 I propose to insert “ causes a child to do so ” after “ nature ”. It seems necessary to provide for a common kind of nuisance in the streets by allowing Government to prohibit the committing of nuisances by holding out children and allowing them to stool, which is just as bad as grown-up persons being allowed to commit the same nuisances.

The amendments were carried.

The Honourable Sir RAYMOND WEST :—In Section 55, lines 105 and 128, I propose to substitute “ Magistrate of the District ” for “ District Magistrate ”, in order to preserve uniformity of expression.

The amendment was carried.

With the assent of His Excellency the President, the Honourable the ADVOCATE GENERAL moved to amend section 55 (l) in the following manner :—By omitting in lines 123 to 126 the words “ pond, pool, aqueduct, or part of a river, stream, nala, or other source or means of water-supply,” and by adding to the clause the words “ or in or by the side of any pond, pool, aqueduct, part of a river, stream, nala or other source or means of water-supply in which such bathing or washing is forbidden by order of the Magistrate of the District or other person having lawful authority in that behalf.”

The Honourable Sir RAYMOND WEST :—The proposal of the Honourable the Advocate General is less important than it would appear, as will be seen on reference to clause 1 of the section. This particular section could not be brought into operation in any particular district unless there was a special necessity for it, and of course Government would not extend the operations of the clause to the neighbouring open country surrounding the particular town or village where it was introduced. However, if the Honourable the Advocate General presses for it, I do not object to meeting his views; it amounts to the same thing either way. The specification in the one case would be of prohibition; in the other, of permission.

The Honourable the ADVOCATE GENERAL :—I think it would be better.

The Honourable Sir RAYMOND WEST :—The Honourable the Advocate General and myself can readily model this clause into the shape he desires, and if the Council will permit, we will bring it forward at the third reading.

This was agreed to.

The Honourable Sir RAYMOND WEST :—To Section 56 I propose to add “2. Jurisdiction in cases arising under this section shall not be exercised by a Magistrate of lower rank than the First Class, unless such Magistrate be specially invested with jurisdiction for that purpose by Government.” It has occurred to me that rather serious cases in the shape of cruelty to animals might arise, which ought not to be left entirely to the lower Magistrate, who might perhaps be imbued with the prejudices affecting certain classes in India in this regard. He might be subjected to special influences, and not administer the law in the proper way

The amendment was carried.

The Honourable Sir RAYMOND WEST :—In Section 62 between clauses (a) and (b) I propose to insert “or”. This is a purely formal amendment.

The amendment was carried.

The Honourable Sir RAYMOND WEST :—In Section 67, line 1, I propose to insert between “not” and “be” the following words, *viz.*, “except in obedience to a rule or order made by Government or by the Magistrate of the District.” The general object of this section was in cases of very petty offences, where there was no real crime, but where only some inconvenience had been caused (in such cases, for instance, as cleaning furniture or exposing goods for sale on the road, &c.), that it should not be imposed on the Police to carry on prosecutions. But, on the other hand, it was suggested to me that the Police might make this a source of bribery, and therefore they should not without reserve have it in their own hands to prosecute or not, but it should be left to the Magistrate. So if the Magistrate thought that the Police in any particular division could not be trusted, he should be empowered to give orders to prosecute. It is merely introduced with a view of keeping the Police in check.

The amendment was carried.

The Honourable Sir RAYMOND WEST :—In Section 68, line 4, I propose to insert “and punished” after “prosecuted”. Then there is a modification at the end of the section which makes it clearer than it is. In line 7 I propose to insert “prosecuted and” after “being”, and to substitute “this Act for an offence punishable under any other enactment. Provided that all such cases shall be subject to the provisions of Section 403 of the Code of Criminal Procedure” for the words beginning with “any other” in line 7 to the end of the section. This brings the provisions within the general sphere of the law, *viz.*, that there shall not in any ordinary case be a second prosecution, but that subject to that the person may be dealt with under either of two laws applicable.

The amendments were carried.

The Honourable Sir RAYMOND WEST :—I propose to add the words “and may withdraw such authority” to Section 70. It is not perhaps necessary to add the words, but as an honourable member is very anxious about it, I do not object to introducing them.

The amendment was carried.

The Honourable Sir RAYMOND WEST :—In Section 72 (1), line 1, I propose to insert “Commissioner” after “no”, because it is desirable that he, too, should be protected if he happens to make a mistake, as well as the lower officials, against any malicious prosecution.

The amendment was carried.

The Honourable Sir RAYMOND WEST :—In Section 72 A (2), line 26, I propose to substitute “District” for “High”, and after “Court” to insert “of the district wherein he resides and wherein the rule or order operates”. The reason for this is that a question might arise as to whether in passing such a section the Government might not, by some technical process of reasoning, be thought to infringe the jurisdiction of the High Court. It will be still possible for the High Court to withdraw the case from the District Courts, so that if it desires it, it can do so; but it is no longer imposed upon it as a necessity.

The Honourable the ADVOCATE GENERAL :—Why is this restriction placed upon them?

The Honourable Sir RAYMOND WEST :—It was thought desirable that we should not encourage mere speculative litigation, and therefore that the suits should not be brought unless first the particular order was in operation in the district, and, secondly, the person

had some reason for bringing it; he must show that he is a person affected by the order he complains of. Therefore it was thought desirable to insert these two conditions.

The Honourable the ADVOCATE GENERAL :—I can imagine a case of a person being affected by the order who was not a resident in the district. I would suggest that the words “wherein he resides” should be struck out.

The Honourable Sir RAYMOND WEST :—I have no strong objection to striking them out. It is hardly possible that a person not a resident should be affected or interested.

The amendment after omission of the words “wherein he resides and” was carried.

The Honourable Sir RAYMOND WEST :—In Section 72 A (3), line 34, it is thought desirable to insert the words “for a malicious injury or a criminal offence” after “individual”.

The Honourable the ADVOCATE GENERAL :—I do not see that it is necessary to put them in at all.

The Honourable Sir RAYMOND WEST :—This clause was only inserted to satisfy the Honourable Mr. Sayani, and I do not think it would do any harm if amended as I propose.

The Honourable the ADVOCATE GENERAL :—I do not think it advisable to introduce the words.

The Honourable Sir RAYMOND WEST :—Well, if Mr. Sayani has no objection, I think the best way would be to strike out the clause.

The Honourable Mr. SAYANI :—I have no objection.

The clause was struck out; and the Honourable Sir Raymond West's amendment was consequently withdrawn.

The Honourable Sir RAYMOND WEST :—I propose to add “or of the Municipal Taxation Act, 1881” to Section 73, in case this Act at any time came in the way of that Act.

The amendment was carried.

The Honourable Sir RAYMOND WEST :—In Schedule B, I wish to substitute “Form of certificate for Police officer below the grade of Inspector” for “Form of Police officer's certificate.”

The amendment was carried.

The Honourable Sir RAYMOND WEST :—In Sections 6, 13, 24, 28 and 39 I wish to substitute “Government” for “the Governor in Council” and also elsewhere in certain places where it occurs. It is a condensed expression, and for three words we need only use one.

The Honourable the ADVOCATE GENERAL :—The honourable member will see that this would answer in some places, but would not in others.

The Honourable Sir RAYMOND WEST :—The matter is of no consequence. The words “the Governor in Council” are exactly equivalent to “Government”.

The amendment was carried.

THE MATADARS' BILL.

The Honourable Mr. MOORE moved for leave to introduce Bill No. 2 of 1890, a Bill Mr. Moore moves for leave to to amend the Matadars' Act (Bombay VI of 1837). Leave introduced the Bill. was granted for the introduction of the Bill.

His Excellency the PRESIDENT then adjourned the Council.

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

A. C. LOGAN,

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

Bombay, 3rd April 1890.

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 Wednesday the 9th April 1890, at 3 P.M.

PRESENT.

His Excellency the Right Honourable LORD REAY, LL.D., G.C.I.E., Governor of Bombay, *Presiding*.

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

The Honourable J. G. MOORE.

The Honourable the ADVOCATE GENERAL.

The Honourable RAHIMTULA MAHAMED SATANI, M.A., LL.B.

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

The Honourable T. D. LITTLE, M.I.C.E.

The Honourable A. F. BEAUFORT.

The Honourable RAO BAHÁDUR MAHADEO GOVIND RANADE, M.A., LL.B., C.I.E.

THE DISTRICT POLICE BILL.

The Honourable Sir RAYMOND WEST :—It will be in the recollection of honourable members that it was resolved to substitute the word "Government" for the words "the Governor in Council" wherever they occurred, and in some instances it would be necessary to substitute "it" or "its" for "he", "him" or "his". There is therefore a slight modification which I will ask your Excellency's permission to introduce in Section 28, and that is to substitute "the Governor in Council" for "Government", because there power is also given to "any officer authorized", &c., and the word "he" would have to be used. Therefore I propose to make an exception to the amendment by allowing the words "the Governor in Council" to stand there.

Consideration of the Bill in detail resumed.

The amendment was carried.

The Honourable Sir RAYMOND WEST :—In Section 3, line 11, I propose to insert the article "a" before the words "Deputy Inspector-General &c.," as it improves the grammar.

The amendment was carried.

The Honourable Sir RAYMOND WEST :—In Section 5 (2), line 14, I propose to omit the word "the" before "Government", in accordance with the usual practice throughout this Bill.

The amendment was carried.

The Honourable Sir RAYMOND WEST :—In Section 5 (3), line 22, I propose to insert the words "and Deputy Inspector-General" between the words "General" and "may". No objection will be taken to the Government having power to dismiss this officer even by those who are opposed to his appointment.

The amendment was carried.

The Honourable Sir RAYMOND WEST :—In Section 7, line 12, I propose to omit the words "the Local" before "Government". The word must have slipped in by mistake.

The amendment was carried.

The Honourable Sir RAYMOND WEST :—In Section 26 (e), line 22, I propose to insert the words “and Section 17” between the words “Section 13, clause (1)” and “the”. The utility of this will be evident. Section 26 relates to the powers and duties of the Inspector-General, and it is obvious, considering the position we have assigned to the Commissioner in the body of this Act, that what the Inspector-General does ought to be subject to the authority of the Commissioner which is set forth in Section 17, as it ought to be subject to the authority of the Magistrate of the District. Therefore to preserve harmony I propose this amendment. Otherwise it might be that the Inspector-General will give an order with which the Magistrate will interfere, and the Commissioner in his turn will interfere with the order of the District Magistrate. It would be very much better to give the Commissioner the direct power.

The amendment was carried.

The Honourable Sir RAYMOND WEST :—In Section 31 (1), line 12, I propose to omit “the” before “Government”, for reasons I have already stated.

The amendment was carried.

The Honourable Sir RAYMOND WEST :—In Section 33 (1) (a), line 14, I propose to add the word “until” after “and”, as it makes the expression a little clearer.

The amendment was carried.

The Honourable Sir RAYMOND WEST :—In Section 33 (3), line 33, I propose to insert the words “of this Act” between the words “Section 35” and “or”, so that it will run “Section 35 of this Act, or”.

The amendment was carried.

The Honourable Sir RAYMOND WEST :—In Section 35 I propose to insert the following before Sub-section (1) :—“(1) Any person who makes a false statement or uses a false document for the purpose of obtaining employment, or release from employment, as a police officer, or”. The reason for this I stated at the last meeting, and it was that a case of misrepresentation by a man seeking employment in the police in the North-West Provinces having come up for consideration by the Law officers of the Government of India, they both agreed that he was not responsible, under Section 192 of the Indian Penal Code, for making that false statement. Now I am not bound to sustain that view of the law; in fact, I may say that I believe it is opposed to a ruling of my own when I was Judge in the High Court here. But as a matter of prudence it seems better, when this view has been taken by the Law advisers of the Government of India, to put the clause in; and as the matter was sent to us it is more respectful to put in that clause. The Government of India, like all persons in authority, looks to have its suggestions followed. In any case its insertion will do no harm.

The Honourable ADVOCATE GENERAL :—The honourable mover’s decision has been followed by a similar one lately, and so there is no doubt as to the law on this point; but if it will please the Government of India to have the words inserted I have no objection to them.

The amendment was agreed to.

The Honourable Sir RAYMOND WEST :—In Section 35, lines 25 and 26, I propose to omit the words “the amount of” after “to”, so that we may follow the phraseology of the Penal Code.

The amendment was agreed to.

The Honourable Sir RAYMOND WEST :—In Section 40 I have to ask your Excellency’s permission to introduce a slight modification, and I believe the view of your Excellency’s Council is universally in favour of what I have to propose, or at any rate the honourable members consent to it. I have had a long conversation with the Honourable Mr. Ranade and several other honourable members of Council, and I am satisfied some objections which it was proposed to make may be met by it. It has been thought desirable that so extensive a power as that given under Section 40 ought rather to be committed to a Magistrate of the first class only rather than that it should be allowed to fall into the hands of one of lower rank, and at the same time that what the Magistrate of the district should have control over ought to be more definitely stated. Therefore with your Excellency’s

permission I propose to introduce after the word "absence" in line 2 of Section 40 the words "and subject to his order", and after the word "Magistrate" in line 3 to substitute for the words, "chief in rank of those" the words "of the First Class" and in clause 2, line 34, to substitute for "equal rank" the words "the First Class."

I propose this change to meet the views of a considerable number of gentlemen whose views have already been expressed. That being the case, I will ask your Excellency to make that complete by adding a third clause in these words:—"An order made under this section by a Subordinate Magistrate shall be forthwith communicated to the Magistrate of the district who shall thereupon confirm, cancel, or modify the same as shall seem expedient."

The amendment was carried.

The Honourable Sir RAYMOND WEST moved:—In Section 45 (2), line 22, to substitute "a known" for "the." The idea in framing the clause as it stands was to preserve dogs where the owners were known and likely to come forward and claim them; but it has been strongly placed before us lately that there are a number of people in some parts of the country who would put false collars upon them in order to give the dogs an additional chance of life, or at any rate keep them from being destroyed so soon, and in order to worry the police who are engaged in the particular duty of destroying ownerless dogs at large. It seems desirable that while dogs should be preserved, if there is any reasonable chance of the owner coming forward, the police should not be sent hunting over the country for some imaginary owner of dogs which are perhaps absolutely ownerless. Then at the end of the same clause I propose to add "for which he shall be answerable as for an arrear of land revenue" so that if there is a real owner he may be sued in Court for the expense of keeping the dog for some days. If that is accepted it follows as a corollary to insert in Section 45 (3), line 34 "apparently genuine" between "the" and "address."

The Honourable the ADVOCATE GENERAL:—No; I do not see how it can follow as a corollary. It would be rather awkward to sue a man for the expense after his dog has been destroyed.

The Honourable Sir RAYMOND WEST:—It would not be unfair seeing that the dog had been kept for the owner's sake. I do not suppose the question would arise very often, and it is very desirable to put a check on this practice of putting collars with false names and addresses on dogs. Now if we make the owner liable we can get at the person who puts on a collar bearing a false name through the criminal law.

The Honourable the ADVOCATE GENERAL:—But he will probably put an imaginary name and address, if he should adopt that device at all. If you want to introduce a clause, you will have to put it as a substantive clause.

The Honourable Sir RAYMOND WEST:—The evil suggested has already been provided for. But you see a large number of dogs might be collected, and considerable expense incurred by the public through owners not coming forward to claim them. It is surely desirable to prevent that.

The Honourable the ADVOCATE GENERAL:—It would rather make the Act unpopular to destroy a dog, and then ask people to pay the expenses of its keep. It is not done in England, I know.

The Honourable Sir RAYMOND WEST:—It is made at the suggestion of the district officers who have experience in these matters.

The Honourable the ADVOCATE GENERAL:—Well, I think it would make the Act very harsh.

The Honourable Mr. LITTLE:—At present I know of 18,000 dogs having been destroyed in one district in one year.

The Honourable Sir RAYMOND WEST:—The effect would be to make the owners come forward and claim their dogs. Having in any case to pay they would take better care of them.

The Honourable the ADVOCATE GENERAL:—I think you want a substantive clause for it, or the Court will not accept it in that way.

The Honourable Sir RAYMOND WEST:—I will alter the wording to meet the suggestion of the Advocate General and make it another clause. Put it in this way:—

“(3.) For the expenses incurred under the preceding sub-sections the owner of the dog shall be answerable as for an arrear of land revenue.”

The amendments to Section 45 as thus modified were carried.

The Honourable Sir RAYMOND WEST:—In Section 50, line 14, insert the words “or order” between “notification” and “as”.

The amendment was agreed to.

The Honourable Sir RAYMOND WEST:—“In Section 55, (j), line 103, insert the word “or” between “nature” and “causes.”

The amendment was agreed to.

The Honourable the ADVOCATE GENERAL proposed the following amendment:—
For Section 55 (l), substitute the following:

“(l) bathes or washes in or by the side of a public well, tank or reservoir, not set apart for such purpose by order of the Magistrate of the district or of some other person having lawful authority in that behalf; or in or by the side of any pond, pool, aqueduct, part of a river, stream, nala or other source or means of water-supply in which such bathing or washing is forbidden by order of the Magistrate of the district, or other person having lawful authority in that behalf.” This is the matter I mentioned the other day. I gave my reasons then for the clause. I think the onus lies on those who desire to forbid bathing in the places mentioned in the latter clause; therefore I move the amendment.

The Honourable Sir RAYMOND WEST:—I have no objection to make. It is much the same, and it may be better to put it in this shape than the other.

The amendment was carried.

The Honourable Sir RAYMOND WEST proposed the following amendments:—

In Section 55 (pp), line 168, to insert “the” between “disturbs” and “public.”

In Section 71 A, line 8, to insert the word “Bombay” before the words “Government Gazette”.

Both amendments were carried.

The Honourable Sir RAYMOND WEST:—These, your Excellency, are the only amendments I have to propose, and I will now recommend the Bill to the honourable members for third reading.

No Bill has ever passed through the Council which has been more carefully handled by the Members of Council or in the Select Committee. I have gone over the principles of the Bill, and compared it with former Acts, and stated the reasons which made it inevitable for Government, so to say, to bring this measure forward, so that I need not dwell on that part of the subject on the present occasion. The Bill, as it stands now, will be very effective in the maintenance of public peace and good order by the police authorities and by all connected with the police force in this Presidency. It is impossible to say that in this Act, any more than any other, which is the result of joint deliberation, there are not some matters which might have been resolved, or better stated. Even of so great and successful a work as the Constitution of the United States, Hamilton, who was almost its philosophic father, had to say: “Wherever in any measure the results of deliberations and expressions of different views are given, these results must represent the prejudices and errors of some of those persons, or perhaps of all of them, as well as represent their wisdom and sagacity.” All that we can hope to do is to strike a fair balance between the conflicting opinions or claims, and here we may hope that the errors and prejudices of the Government have been corrected by the wisdom and good sense of its frank counsellors, and that now finally it is in a shape in which, again referring to the American Constitution, we may say the main and leading principles of it are fairly and firmly established, while as to details its sections possess the requisite amount of flexibility, so we may look forward to the Bill working beneficially and effectively. The very few gentlemen whose opinions have been unfavourable to the Bill, will, I hope, when it becomes an Act, take it as a part of the legislatively embodied interests of the Presidency, and use their very best endeavours to make it successful instead of the failure

they have predicted. The manner in which an Act of this kind is worked is of immense importance, and the Government will certainly do its best, and devote its best attention to make it work effectively, and have it carried out with perfect harmony amongst the different officers concerned in the working of it.

It will, at any rate, have the effect of enabling the servants of Government to falsify the reports of evil purposes which have had a disturbing effect though they may have been made in perfect sincerity. I myself believe that the Act with the modifications it has received will have the effect in the management of the police, of making the magistrate of the district more completely responsible for the police in his district, and that it will also increase his power very largely. By a very greatly increased power of making local rules the magistrate of a district will have more scope in the preservation of public order and decency in the district under his charge. There may be some objections taken to certain points in the police regulations, that they place the magistrate of the district in a position of imposing too many restrictions, and that the freedom of action of the people will not be sufficiently regarded and respected. With respect to that objection I have to say the magistrate of the district will be subject to the control of the High Court, for in the rules the important word "reasonable" has been introduced, and if the magistrate does anything palpably violent, the Court will pronounce an order that it is absolutely unreasonable. Again, he is subject to the Commissioners under Section 13 of the Bill; and, thirdly, there is the control of the Government of Bombay to be taken into consideration; indeed it is only in rare instances we may expect differences to be referred to Government, but when such cases do arise we may expect them to be justly and considerably disposed of by the members of Government, for they are always men of long experience who occupy elevated positions which enable them to have a somewhat broad and philosophical idea of the questions, which may arise as to the liberty of the people and the order to be maintained. Having that view Government never could allow the magistrate of the district to run riot in issuing orders which unfairly interfere with the freedom of the people. As civilization advances the sensibilities of the people grow finer, and there will be a spontaneous activity amongst them in doing all they can to further each other's happiness as dependent on such other's acts and forbearances. But, at the same time, we know that especially in a country where the conditions of life and of civilization are so unequal, when there are many who as others have risen have refused to follow, we must look to it that they do not drag all down to their own low level, and therefore it is necessary there should be a coercive force in order that they may be brought up to the general level of civilization and refinement. This is the object of the measure in the provisions of which I am speaking. All the matters connected with it will come under the careful cognisance of Government, who having that duty to perform and a sense of that duty, it is not likely they will fail to check any operation that does not follow a wise and judicious course. I am sure that, considering the principles upon which this Bill is based, the magistrate's authority will be used with very great benefit to society at large, and in the course of years a distinct step forward in civilization will be the result. Amongst the indications of a careful regard to the people's comfort to which I have made reference, there is one other point I may mention, and that is the great care which has been taken in dealing with the abuse of power on the part of police officers. Honourable gentlemen will have observed, in the course of the reading of the Bill before Council, that any aberration from duty, specially any purposed aberration from duty on the part of an officer or constable, is pretty severely punishable under the Act. There is one error which the police fall into at times; that is the undue detention of prisoners, and that has been provided for by a penalty. The constable is prevented from indulging in harshness and encouraged in mildness and forbearance. It is provided he must always be gentle to the persons under his custody, and provide them with proper shelter when necessary. It has been suggested we should provide them with suits of clothes when found necessary. Supposing the honourable member who made that proposal to have been serious, I may seriously answer that we have not yet reached the point of progress at which such an encouragement to petty crime would be innocuous. But what could properly be done to alleviate the great discomfort of police custody has been done. I think I can congratulate his Excellency on this, the last occasion upon which he will preside at this Council on his having presided at the passing of this well-balanced Bill. I believe he will have reason to congratulate himself in the years to come on having passed this important measure, and he will see, when he turns his eyes to India—as I have no doubt he often will—from

time to time a general progress and improvement in the administration of this most difficult subject, the application of force to the maintenance of order, and the advancement by mild and regulated governmental action of good manners and civilization. I beg leave to recommend the third reading of this Bill.

The Honourable Mr. LITTLE :—For the reasons I have already mentioned I propose to vote against the Bill.

The Honourable Ráo Bahádur RANADE said :—While I accept the assurance given by the honourable mover that, as far as possible, the apparently harsh provisions of the Bill will be modified by the rules which Government is empowered to make, I think that this feature of the Bill constitutes its weakest points. The necessity of enforcing caution and moderation in the enforcement of the law becomes thus at this stage a manifest duty, seeing that the success of the Bill will depend on the spirit in which these rules are made and enforced. Government has, no doubt, the best intentions, and when any matter is of sufficient importance to come up before Government, the case will, no doubt, be dealt with in a very lenient manner; but the worst of the thing is that there are many occasions of interference by district officials which do not and cannot come up to Government, and no body of rules can possibly provide for all conceivable contingencies. Although therefore I vote for the third reading of the Bill and accept the general description of it given by the honourable mover, yet I cannot but feel some hesitation, not as regards the administrative difficulty, for I think that the different officers will loyally do all they can to make the new Police Act a success, when once it becomes law, but I am most apprehensive about the latter part of the Bill commencing with Section 37. Sections 37, 40, 40 A, B and 43 especially relate to matters of a complicated and delicate character, and going by the letter of the Act, without having regard to the spirit, they seem to interfere needlessly and in great detail with many cherished institutions and inherited prejudices of the people of the country. The people in many parts of the country have peculiar prejudices and customs, and these require to be gently dealt with. If in respect of the enforcement of these sections, a young or inexperienced magistrate overrode the spirit of the law, and acted strictly according to the letter, he would without doubt give serious offence and create much uneasiness. For these reasons, although I vote for the Bill, I do so with a certain amount of misgiving. I do not deem it necessary to refer here to any particular regulations; but there are some rules in respect of which in times of difficulty people will have to depend entirely on the discretionary interpretation given to them by the magistrate. For instance some of those provisions relating to the disposal of corpses, regulation of assemblies and meetings, celebrations on festive days, &c., which trench perilously near interference with religious customs.

The Honourable Sir RAYMOND WEST :—I will draw the honourable member's attention to the fact that these rules are not to be administered "save subject to reasonable regulations".

The Honourable Ráo Bahádur RANADE :—But the wisest rules framed by Government will not cover all the possible manifold applications of the sections, and Government interference and the relief afforded by the High Court will not and cannot in the nature of things help matters in time before the mischief takes place. That is what I apprehend. The great difficulty is that, in a Government like this, the District authorities are not always in full touch and sympathy with the habits of the people whom they are called upon to govern. There is a chance of a conflict and of misunderstanding, and when that takes place wise rules might help matters to some extent, but Government cannot always ensure that the spirit of charity and leniency which animates it will also be the spirit which will guide its District officers in giving effect to the sections. I do not want to re-open questions which are settled to some extent, but Government should make such rules as will guarantee that no harm is done and that the spirit which animates it shall also be the spirit of the officers entrusted with the duty of carrying out the rules.

His Excellency the PRESIDENT :—I am sorry that the honourable member entertains some apprehension with regard to the spirit in which this Act will be carried out. As far as my recollection goes, whenever a complaint has been made with regard to the conduct of an officer wounding religious or national convictions or feelings, or even prejudices, Government have never hesitated to administer a stern rebuke, because such conduct

would be in direct contravention of the principles laid down in the Queen's Proclamation. On this subject there can be no difference of opinion, because the rules which bind Government are perfectly clear, and there is not an officer in the service unacquainted with these constitutional safeguards. Any infringement of these fundamental precepts would at once be visited with the severe displeasure of Government. I do not wish of course to refer to the very rare instances which have occurred of such misbehaviour, and if there have been any not brought to the notice of Government, neither the law nor the administration are to blame, but the individuals who failed to call the attention of Government to these facts of the case. But I go a step further with regard to the general policy of this Bill. It commends itself to me because it makes additional provision and gives additional guarantees against the arbitrary proceedings of officials exercising police functions, as my honourable colleague has already pointed out. Before the Bill is read a third time I wish to state that I am convinced that it secures the possibility of complete harmony between the various officers who will carry it out. I say possibility, because the best laws can be defeated in their benign operation by injudicious executive Acts. The legitimate authority and influence of the Commissioners remain absolutely intact. The Bill will increase the efficiency of the police. I do not wish to give any encouragement to this apprehension which exists in some quarters that our police are absolutely inefficient, but I am convinced that the stricter supervision introduced by this Bill will be most useful. I may fairly congratulate the honourable member who has shown such complete mastery of the subject, and who has had the onerous charge of the Bill. The Bill has been subjected to the searching criticism of many experts, and it is due to the conciliatory spirit of the honourable mover that we have reached this stage. It will be another link in the chain of distinguished services rendered to the cause of law and order in this presidency by the Honourable Sir Raymond West. As this is the last time that I shall have the honour of speaking in this Council, I wish to express the feelings of personal gratitude which I cannot but entertain towards the members, past and present, of this Council for the unvarying considerateness which I have always received at their hands, whatever may have been the differences of opinion. This Council will ere long have its sphere of usefulness widened, but if the same dignified methods of debate are observed which have always been a leading feature of this Council, its decisions will continue to command the general respect which they have hitherto deserved and obtained.

Bill read a third time and passed.
time and passed.

The motion to read the Bill a third time was then put to the vote and carried, and the Bill was read a third

THE MATADARS' BILL.

The Honourable Mr. MOORE said:—Your Excellency, in introducing this Bill I beg leave to remark that it has been introduced in order to correct a palpable defect in the Matádars' Act (Bombay), No. VI of 1887.

Mr. Moore moves the first reading of the Bill.

The first amendment relates to Section 6 which runs thus:—

“In every village in which there are two or more distinct Matádár families, separately recognized in the Collector's records, a right, to hold the office of Pátíl, shall ordinarily be deemed to appertain to each of the said families:

“Provided that it shall be competent to the Governor in Council to declare if, upon consideration of the past history of the tenure of the office in any village, and of the circumstances, so far as known, under which the village was founded, it shall appear to him equitable so to do that the right to the Pátíl's office in such village appertains, exclusively, to one Matádár family, and every such declaration shall be conclusive evidence of the exclusive right thereby affirmed.”

The necessity for this amendment was first brought to notice by the Collector of Kaira, who asked whether, in all cases, in which the right to the Pátíl's office is not found to appertain, exclusively, to one family, rotation must ordinarily be extended to all the Matádár families. The Commissioner, N. D., in forwarding the Collector's letter, expressed his opinion that if Government have the power to do justice to one family, the same power should apply to the case of more families than one, and that the proviso to Section 6 should be interpreted in that broad sense, but, still, he doubted whether Government could

legally make the declaration contemplated by the proviso in favour of more families than one.

The view taken by the Commissioner, as regards the liberal interpretation of the proviso, appears to be in conformity with what was the real intention of the legislature. The word "exclusively" may be taken to mean "to the exclusion of any other families recognized in the Collector's records", and, in drafting the Bill, it was, evidently, intended that a declaration under Section 6 might be made in favour of more than one family, to the exclusion of others recognized in the Collector's records. And this view of the matter has commended itself to Government.

The amended section runs thus:—

" * * * * *

appertains to one, or more than one, of such families, to the exclusion of the remainder of such families, and shall vest in such order as he may thereby determine, and every such declaration shall be conclusive evidence of the rights thereby affirmed."

Now the above amendment involves a revision of Section 14 of the Act which runs thus:—

"In every village, in which the Governor in Council declares, under Section 6, that the right to the Pátíl's office appertains exclusively, to *one* Matádár family, the said right shall vest in the representative Matádár of that Matádár family alone."

But, according to the Act (Section 15), in every village, in which the right to the Patél's office appertains to more than one Matádár family, "the right to the Pátíl's office shall vest in each of the Matádár families entitled thereto by rotation." And then Section 17 comes in, which provides that, on the occurrence "of any vacancy in the office of Pátíl, in any village to which Section 15 applies, the Matádárs of the village may elect some member of the Matádár family, whose turn it is to enjoy the right of office to fill the vacancy"; so, the actual officiator is, no longer, the representative member of the family whose turn to serve has arrived, but *any* member of the family who may be elected by the whole body of Matádárs (even if he be one of those who have no right to supply a Pátíl in turn) may be appointed to serve. The amendment of Section 14 has, therefore, been introduced in order to limit the right to office, in each recognized Matádár family, to the representative member. And the amended Section 14 runs thus:—

"In every village, in which the Governor in Council makes a declaration under Section 6, the right to the office of Pátíl shall vest, to the exclusion of all other Matádárs, in the representative of each of the families whose rights are thereby declared, in such order as may therein be determined."

With regard to the rotation of service it is clear that it cannot be determined under Section 16 of the Act, which applies only to villages in which all the families have equal rights, and this section would give the excluded families a voice in settling the order; it has, therefore, been decided that the order of rotation shall be determined at the same time as the rights to the office. This, it is thought, would be more convenient, in practice, as the past history of the tenure would be before Government at the time.

With these remarks I place the Bill before the Council in order that it may be read the first time.

Bill read a first time.

The Bill was read a first time.

His Excellency the PRESIDENT:—I suppose no member has any objection to the suspension of the standing orders in order that the Bill

Standing orders suspended, and

may be read a second and third time.

Bill read a second and third time and passed.

The Bill was then read a second and third time and passed.

His Excellency the PRESIDENT then adjourned the Council.

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

A. C. LOGAN,

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

Bombay, 9th April 1890.