



Bombay Government Gazette.

Published by Authority.

WEDNESDAY, 10TH NOVEMBER 1875.

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 COUNCIL'S ACT, 1861."

The Council met at Poona on Thursday the 30th September 1875 at noon.

PRESENT:

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

His Excellency the Honourable SIR CHARLES STAVELEY, K.C.B.

The Honourable A. ROGERS.

The Honourable J. GIBBS.

The Honourable Major General M. K. KENNEDY.

The Honourable Colonel W. C. ANDERSON.

The Honourable Rao Saheb VISHWANATH NARAYAN MANDLIK.

The Honourable NACODA MAHOMED ALI ROGAY.

The Honourable Khan Bahadur PADAMJI PESTONJI.

The Honourable DONALD GRAHAM.

The Honourable Rao Bahadur BECHERDASS AMBAIDASS.

The Honourable Major-General KENNEDY moved the second reading of Bill No. III. of

Major-General Kennedy moves the second reading of the Road Tolls Bill, and points out that as the Bill only comes before the Council in order to adjust a technical error it is too late for Hon. members to object to the principle of it.

1875 : a Bill for enabling Government to levy tolls on public roads and bridges in the Presidency of Bombay. He said—At the last meeting of Council my Honourable friend Rao Saheb VISHWANATH MANDLIK took exception to the principle of the Bill. Now, even if this were an abstract question and we were taking it up for the first time I should fail to agree with him; but it is not an abstract question; tolls having been levied by the Government of India since 1851, while as a matter of fact we have been levying them in this Presidency since 1864. This Bill therefore in-

volves very practical issues, and it cannot be said to come as a surprise upon the people. Under the present system by which we levy tolls we collect about 7 lakhs of rupees per annum—a revenue which we cannot consent to forego for abstract considerations in the present state of our finances. I trust, therefore, that my Honourable friend will not press his objections to the principle of the Bill, because I think it is now altogether too late to do so. The Bill has been returned to this Council merely for a technical reason, because this Council, through an inadvertence, had repealed an Act of the Government of India. In its present amended shape it has been approved of by the Government of India, and I may observe that if it were not passed in this shape, we could still continue levying tolls under the Acts of the Government of India. We could even levy tolls at a higher rate than we propose to do under this Bill, because when we discussed this Bill in 1873, and took into consideration the schedules of the Bill, we reduced the rates in the Government of India schedules very considerably. As regards the objection which has been taken to section 2, that it is a retrospective section, all that can be said is that it is possible—I do not say it will be the case—that if this section were struck out, that we should have a crop of law-suits against Government springing up over the country, because through the mistake of not extending the Government Act of 1864 to this Presidency, it may be contended that there was a want of legal authority for the course we have pursued in levying tolls since that date. The other points to which exception has been taken are merely matters of detail, and can be considered when we come to the second reading of the Bill. I now beg to move that this Bill be now read a second time.

The Honourable Rao Sahab VISHVANATH NARAYAN MANDLIK—Your Excellency—I had not intended to speak upon the second reading of the Bill, because I understood, although my observations were directed to the inadvisability of tolls as a rule, that this Bill came before us as it were technically, and therefore it would be too late now, as the Hon'ble General Kennedy has pointed out, to go back upon what has already been considered and passed. However, I think that in the case of *post facto* provisions of law,

Rao Sahab Vishvanath Mandlik says he will not oppose the second reading, but he would not vote for the second section nor for the section which empowers Government to levy tolls upon roads constructed from Local Funds.

it ought to be a general rule as far as possible that in Acts relating to the revenue or to abridge contracts care should be taken to pass as few retrospective sections as possible. On that point I fear I should not consider it advisable to recede from what I hold to be the proper law for all countries and for all times. In the case of the present Bill, I think it has been agreed that the sanction of the Government of India to tolls has been in existence for a considerable time past, and that although by some mistake the Government of India's law was not extended to this Presidency, yet as the officers in this Presidency had been acting *bonâ fide* upon what they believed to be the law, it was desirable that the possibility of law-suits should be avoided. I shall not vote for the second section of the Bill, nor shall I vote against the second reading of this Bill; but in the course of the second reading I shall have several amendments to propose.

The Honourable DONALD GRAHAM—Your Excellency—I am entirely opposed to the principle of this Bill, and were it a measure brought forward here for the first time, I should strongly oppose its second reading. Perhaps on bridges which there might be some difficulty in completing without tolls, and which were urgently

Mr. D. Graham objects to tolls on principle, because they obstruct traffic.

required for public convenience, these tolls might be justifiable; but as regards tolls on roads I think it is not only impolitic to tax traffic, but it is a most vexatious and expensive way of raising revenue. In England there is a strong feeling against tolls, and in many counties they have been done away with altogether; and I believe that but for the complications which have naturally arisen out of a system which has lasted so long, the probability is that tolls ere this would have been abolished all over the country. Here in this country it seems to me that the people who are to be taxed by this Bill are the same as those who have already to subscribe to the Local Funds; and I therefore think it is a pity to keep up two sets of tax-gatherers when one might suffice. I don't wish to infer from this that the Local Fund cess should be increased, though even that would be a lesser evil, but the general feeling of those with whom I have discussed this Bill seems to be that the cess ought to be sufficient to maintain the roads, and I think that if Government could see its way to make it suffice, and abolish tolls, it would be conferring a great boon upon the poorer class in this country.

The Honourable Mr. GIBBS—I cannot help thinking we are now year by year drifting more and more into mere theoretical notions in regard to what ought to be done in this country. I do not know whether

Mr. Gibbs points out the advantage which the people in the Presidency now enjoy from good roads as compared with the state of the country a few years ago, and argues that in tolls the people are simply paying for benefits received by them.

the hon. member who has just spoken ever travelled in a country cart along an old-fashioned country track, because if he has, and has heard the oaths and other bad language used by the bullock-drivers, witnessed the many tail-twistings of the bullock, and finally seen the cart upset, had half his kit smashed, and been pitched out upon the road besides; if, moreover, at the end of his journey he had found one or both bullocks lame and the cart in a general state of disrepair—I think he would agree with what a native of Khandesh once told me comparing an old track we had just come along with a Local Fund road. Alluding to the latter this man remarked how good it was and how easily we went along. I asked him what he thought of the tolls; he replied that as the Sirkar had made the roads they must be kept up somehow; he did not object to the tolls, because he looked upon the roads as a saving of his bullocks and carts. “Jaissa ki mahal, waissa ki mohl”—as is the article so is its value—he reaped benefits from the roads, and he was prepared to pay for them. I think that considering what the state of the roads was when I came to India twenty-eight years ago and what it is now—the difficulty that then existed of getting from village to village, and the disadvantages which people used to labour under to get their goods brought cheaply to a good market instead of being compelled to dispose of them at a low rate in a place where there was little or no market—the change for the better has been wonderful. It has been admitted over and over again that the only way to do the country good is to open up communications by means of local roads, and if you do this you must keep up the roads in repair. I have never heard anybody—except gentlemen who deal in theories—I have never heard any person with practical experience who has been in the habit of meeting country drivers say they have heard them object to the system of toll-levying upon roads. I myself have had some practical experience, and I doubt much if the people do object to these tolls. I know that the amount they have to pay in tolls is nothing in comparison to what they had previously to pay for cart repairs and doctoring their injured bullocks. I have seen piece goods, dubbas of oil and ghee, and other goods upset over and over again in the old country roads, and now loads of goods can be taken in safety throughout the country. I should not have made these observations if I did not feel compelled to take a practical view of the matter, and apply my own experience to a matter which has become surrounded with theories.

His Excellency the COMMANDER-IN-CHIEF—I understand that all this Bill seeks to do is to legalise what has been going on in this Presidency for a long time.

His Excellency the PRESIDENT replied in the affirmative.

The Honourable MAHOMED ALI ROGAY—So far as the principle of this Bill is concerned I have nothing more to say than that I concur with the Honourable Rao Sahab, but I shall take the liberty of suggesting one or two amendments when we consider the Bill in Committee.

The Honourable Rao Bahadur BECHERDASS AMBAIDASS said that public roads and

Rao Bahadur Becherdass Ambaidass opposes the Bill.

bridges had been made out of local funds, imperial funds, and by other means, and roads had also been kept in good repair from these sources. In Guzerat there was a reserve in the local funds of about a lakh of rupees, which sum ought to be applied to make new local roads; while as for imperial roads, commonly called Badshahae or King's Roads, they ought to be kept up out of Imperial funds, as when they were made by the Imperial Government it must have anticipated this charge upon its roads. To levy tolls in Guzerat upon people paying local cess already, municipal taxes would be unpopular and a burden. He thought it was unnecessary to introduce a Bill to remove the doubts about the legality of collecting tolls since 1864. As regards the proposed tax upon foot passengers he begged to point out that no such tax had hitherto been levied at the Ellis Bridge at Ahmedabad, which had unfortunately been lately washed away in the disastrous floods on the Saburmuttee. He felt that he must oppose the Bill.

The Honourable Mr. ROGERS—The general drift of the Honourable Rao Bahadur's speech

Mr. Rogers points out that tolls must be levied because the local cess is insufficient to keep roads in good repair, or else additional taxation will have to be levied.

seems to be that those who pay local funds pay sufficient without paying tolls on roads. He refers to their paying municipal tolls as another reason why they should not be compelled to pay the tolls contemplated under this Act. He also appears to think that in ancient days, before the introduction of the British

Government, there were roads upon which no tolls were levied. If the honourable gentleman will point out one single road, in any part of the country with which he is familiar, made by a former native government, I will agree with his argument; but I say there is not one such road in existence, and there never was one. Notwithstanding this, the native governments used to burden trade by transit duties, which the British Government has abolished. With regard to the Honourable Mr. Graham's suggestion that the local funds ought to be made to suffice for all purposes, I have only to say that we have most accurate reports from all parts of the country as to what is done with the local funds, and we find that in very few cases are these funds sufficient to carry out even the most necessary public improvements, particularly those regarding water-supply. Consequently, if tolls were not imposed, the only alternative would be to impose additional taxation all over the country, and I think the honourable gentleman will agree that it is better to make the people who use the roads pay small tolls than to introduce more taxation. One of those two things must be done—either keep the tolls or impose extra taxation. If we had no means but the Local Funds to support roads with we should soon see road-making abandoned, and the whole of the funds swallowed up in simple repairing. The case of England does not apply, because there the authorities have county rates and other means to enable them to do away with tolls and yet keep roads in repair. As I have said before, we have no such means available in India, and we must depend for our resources upon the local funds and tolls.

The Honourable RAO BAHADUR acknowledged there was much truth in what the Honourable Mr. Rogers had said; but he still felt declined to pass the Bill. With regard to the remark that there were no transit duties, he thought there were, because a large income was derived from salt duty and land revenue.

The Honourable Khan Bahadur PADAMJI PESTONJI said one great objection to the present system was that the tolls were placed too near each other. He alluded to a Government resolution that tolls should not be set nearer each other than twenty miles. This resolution was alluded to in Mr. Nairne's book published in 1872, at page 293.

The Honourable Major-General KENNEDY said there was no Government resolution to that effect, although he thought there was one saying that tolls should be about a day's journey from each other.

The Honourable KHAN BAHADUR—A day's journey is calculated in the Government resolution to be about twenty miles.

The Honourable Major-General KENNEDY—That may be; but there was no special distance mentioned; and as a matter of fact tolls are now placed about a day's journey apart, sometimes they are twelve miles and sometimes twenty apart.

His Excellency the PRESIDENT—There are several objections to fixing twenty miles as a particular limit. I understand that no member of this Council would object to the establishment of a toll where a ferry formerly existed. Consequently I can see nothing unreasonable in charging toll upon a bridge which has been substituted for a ferry. In the same way I look upon the substitution of a really good road for a bad one, say over a severe Ghaut, as being quite as important for the convenience of traffic as the substitution of a bridge for a ferry, and this good road nobody should object to pay for. Of course a bad part of a road may not necessarily be twenty miles apart from another bad part, and this at once shows how objectionable it would be to lay down a fixed distance of twenty miles for tolls. In regard to the question raised about local funds, I may say that these are kept totally apart from the maintenance of the main roads of the country for this reason—it has always been the avowed object of Government to restrict the application of local funds to strictly local wants, and therefore you cannot look upon the local funds as available for the maintenance of main roads from district to district. In discussing this Bill therefore it will be well to keep quite distinctly before

us the tolls as affecting the main roads of the country and as affecting local roads. These two have no connection whatever. It is quite true perhaps that as a matter of policy it would be desirable to abolish tolls. But then comes the question, how are the roads to be supported? No one surely is going to advocate that the roads should be allowed to go into decay, and if you abolish the tolls you will have to find some other means of supporting the roads.

The Honourable Khan Bahadur PADAMJI PESTONJI remarked that it was a pity to employ local funds upon imperial roads.

The Honourable Mr. GIBBS said he did not think that that was done.

His Excellency the PRESIDENT—I think, at all events, that the Government should do everything in its power to prevent the roads falling back again into their old state, and looking to the constant demand for new roads, I certainly should not advise the abandonment of tolls on a mere matter of principle.

The Honourable Colonel ANDERSON—Those who object to tolls do not sufficiently consider the great changes which have occurred in the communications of the country during the last 30 or 35 years. Previous to that time south of Poona there were but two made roads: first, the Bhore Ghaut from Poona to Panwel, a distance of 71 miles, at that time considered a marvel of engineering science, though hardly passable for a laden cart with its ordinary pair of cattle, and the other on the Ram Ghaut, from Belgaum to Vingorla, a distance of about 75 miles. This Ghaut was for the greater part at a slope of one in five or six, and was the cause of the death of hundreds of draught cattle annually. Now the country is intersected by roads in every direction and the superabundant produce of one part is able to supply the deficiencies of another to the great benefit of both the buyer and seller. In examining some old price lists, only a few days back, I found that in 1844-5, a famine year in every part of the Deccan, jowaree was quoted on the average of the year at 15 Indian seers in the Mareh Talooka, then in Poona, now in Sholapur; while in bazaars, not more than 50 miles distant, the average price of the year was nearly a third of that amount. Difficulties of communication alone prevented the transfer of produce necessary to produce some equalization of prices. Anomalies like this are now, through improved communications, become impossible. Brinjaree bullocks were formerly the main carrying agency of the country; now carts have supplanted them. Where there were 100 carts formerly, 500 and 600 will now be found, as shown by the comparative statistics of the present time and 30 years ago; where no carts at all existed in former times they are now numerous. Toll is doubtless disagreeable as all taxes are, but in this case there is hardly any option; doubtless the people would prefer that the Government should provide funds from the general revenue to make and keep in repair all roads, but this is impossible. Toll must either exist or roads be left to fall into disrepair, which the warmest opponents of the toll system would hardly select as the alternative. Doubtless the frequency with which tolls occur is a source of some irritation; they often occur in open places, near no visible obstacle, and the payer does not see how many bridges over rivers or bad nullas he has passed in the last few miles without payment; he only sees that he is called on to pay at a spot where no natural obstacle has been overcome, payment at which would appear to him quite reasonable. In this respect the present system appears open to remedy, and if tolls were even doubled on large bridges, ghauts, and other great natural obstacles, and their total number reduced, the people would be more satisfied and the toll revenue be far from suffering. No man takes the farm of any toll without looking for a large profit from it; the more numerous tolls are the larger becomes the wastage in remuneration of contractors. No toll is bought for Rs. 1,000 a year without the purchaser looking to clear another 1,000 by the bargain. The more the number of tolls is reduced, and the rate on each is increased, the smaller becomes the amount collected on the traffic of the country which would be diverted from the gross toll revenue into the pockets of the contractor, as the establishment required for the collection of a 4 annas cart rate would equally suffice for an 8 anna rate, which would admit of every other 4 anna toll rate being abolished. In this direction might be found an alleviation of some of the points in which the present toll system presses most heavily. Those who object to tolls should point out some practicable alternative; this has never been done, and theoretically bad as tolls may be, until a workable remedy can be found, they must be retained or present progress lost and further progress rendered impossible.

His Excellency the PRESIDENT asked if any of the honourable members objected to the second reading of the Bill.

The Honourable RAO SAHEB said he was afraid that some of his previous observations had been misunderstood. Although he objected on principle to *ex post facto* laws, yet he did not object to the second reading of the Bill, because practically the Bill had been in existence for twelve years past, and the only effect of rejecting it would be to undo what had *bonâ fide* been done by the officers of Government during that time.

The Honourable MAHOMED ALI ROGAY said he did not object to the second reading.

The Rao Bahadur BECHERDASS AMBAIDASS said he objected to the second reading.

A note was taken of the single objection to the second reading of the Bill, and His Excellency declared that the Hon. Major-General Kennedy's motion was agreed to by a majority.

Read a second time and considered in detail.

The Council then proceeded to consider the Bill in detail.

Mr. Nacoda Mahomed Ali Rogay proposes that section 2 should be omitted, and thinks Government should pay the penalty of not legalising the collection of tolls since 1864.

The Honourable MAHOMED ALI ROGAY proposed that section 2 of the Bill should be omitted. He could not see the good of introducing the present Bill if the Council had power to extend Act XV. of 1864 to the Presidency.

The Honourable Mr. GIBBS—We have in the present Bill reduced very considerably the schedule contained in the Act of 1864.

The Honourable Major-General KENNEDY—If my honourable friend were to succeed in repealing this section we should simply have to fall back upon the Acts of the Government of India with their higher schedules.

His Excellency the PRESIDENT—The practical effect of the omission of this section would be to hold out to all who have hitherto been paying these tolls an inducement to bring actions against the toll-collectors, who were acting *bonâ fide* under the authority of Government; and unquestionably if the toll-collectors were cast in these actions, the Government would have to refund all the tolls.

The Honourable MAHOMED ALI ROGAY—I do not see why parties who have been injured should not reap the advantage of the mistake which has been made by Government.

His Excellency the PRESIDENT—Do you mean that you want to see a quantity of law-suits filed against the Government?

The Honourable MAHOMED ALI ROGAY—Yes; if Government illegally imposes tolls I think it ought to pay for the consequences.

His Excellency the PRESIDENT—You must not forget that it is the public money that will have to pay, for Government merely represents the public.

The Honourable Mr. GIBBS—To be reasonable, I suppose that the honourable member would insist that the Government of the day, when these tolls were levied, should be called to bear the responsibility; and as Sir Bartle Frere will shortly be in Bombay, perhaps it would be possible to get him to adjust the claims of the persons who have been paying the tolls illegally.

The Honourable Rao Saheb VISHVANARH NARAYAN MANDLIK said he would not vote on the section at all. He was opposed to retrospective laws on principle: such laws were opposed to the very constitution of some states. And although such may not be the statutory law of India, all such acts which sought to abridge contracts or impose *post facto* burdens on the people ought to be avoided. He could not therefore vote for the clause. But he would not vote against it; because all the officers who were acting under the vetoed Act, and the previous Acts of the Council of India, have been acting *bonâ fide* and require to be protected under the particular circumstances of this Bill.

Section 2 is passed after a division.

A vote was taken on the Honourable MAHOMED ALI ROGAY'S motion with the following result :—

Ayes.

The Honourable Nacoda MAHOMED ALI ROGAY.
The Honourable Rao Bahadur BECHERDASS AMBAIDASS.

Noes.

His Excellency the Honourable SIR CHARLES STAVELEY, K. C. B.
The Honourable A. ROGERS.
The Honourable J. GIBBS.
The Honourable Major-General M. K. KENNEDY.
The Honourable Colonel W. C. ANDERSON.
The Honourable Khan Bahadur PADAMJI PESTONJI.
The Honourable DONALD GRAHAM.

The Honourable Rao Saheb VISHVANATH NARAYAN MANDLIK did not vote.

The Honourable Rao Saheb VISHANATH NARAYAN MANDLIK—I wish to propose an amendment upon section III. with reference to the tolls levied upon roads made entirely from local funds. In legislative matters I think we must, to a certain extent, go upon theory, for that is simply a rule derived from practical experience. When I see what the experience of the Bombay Government has been in this matter, I am somewhat strengthened in the course which I wish to suggest upon the present occasion. In the last general report for the Bombay Presidency there is a passage in a minute recorded by His Excellency the President to which I wish to refer. His Excellency says :—“ The following general conclusions may be drawn from the replies received from the Revenue Commissioners, Collectors, Assistants, &c., to the circular letter No. 3821, dated the 20th August :—Tolls are unpopular, more particularly with those who pay the one-anna cess and therefore consider themselves entitled to the use of the roads without further charge.”

Rao Saheb Vishvanath Narayan Mandlik proposes an amendment upon section 3, in order to prevent people who have already contributed to Local Funds from being compelled to pay Tolls on local roads.

His Excellency the PRESIDENT—That merely recites the fact that tolls were unpopular.

The Honourable RAO SAHEB—That is all I wish to point out. What we have to examine here is whether the unpopularity in this case arises from a disposition somewhat common to humanity to avoid one's own burdens and place them on the shoulders of other people, or whether it is a just unpopularity founded upon the course which has been pursued by the Government. Now, I submit that those who pay the one-anna cess upon roads have a certain right to expect improvements upon these roads for the accommodation of their traffic without being subjected to additional taxation. Perhaps the case is different in regard to imperial roads made from the general revenues of the empire over navigable rivers or over ghauts or over very bad tracts of country which but for these roads would be dangerous to carts and animals; but when we talk of the necessary improvements within the local area of districts, the means of those who pay local funds ought to be taken into consideration before tolls are imposed. These means are determined by the proceeds of the road and school tax, and it is not the absolute means of communication but the relative means of communication which should be considered by the local funds department. However correct it may appear to be, that if a man uses a road he ought to pay something for that convenience, yet when a man does already pay taxes for the purpose of making the roads, it is not reasonable to tax him over again for the same convenience—namely, by compelling him to pay another tax for using the self-same roads. I hope that the country will be still further developed by roads, but at the same time I think there is a danger in spreading taxes over too many sources, and I think it would be more conducive to the general interests of the country if we had fewer of these tolls. My position is this—that if it can be shown that a man is using a road wholly or partially constructed from imperial revenues he might be made to pay tolls, but in the case of absolute local funds roads, the one-anna cess, which he has already paid, ought to suffice.

I, therefore, beg to propose that the words "wholly or partially" be inserted between the words "repaired" and "at" in line 7, and that the words in lines 8 and 9 "or from funds collected under the provisions of Bombay Act III. of 1869," be omitted.

The Honourable Colonel ANDERSON—It is too much to expect that the local funds are a mine of wealth which can supply everything. One-third of the local funds goes to schools, and dharamsallas which people occupy free are also constructed out of them. Again, in places where there is a scarcity of drinking water the improvement of the supply is thrown upon the local funds and this is a point of the greatest importance, for it is doubtless to this beneficial improvement of the general water-supply that the great diminution of cholera, which has taken place all over the country during the last ten or fifteen years, is due. Again, roadside trees, a great source of comfort to travellers, are planted at the expense of the local funds. When all these things are done out of the local funds I do not suppose that there is more than five pies out of the one-anna available for the improvement of roads. Now, as five pies cannot do the work of one-anna I think it is impossible to dispense with tolls.

His Excellency the PRESIDENT—Can it be considered that the portion of the one-anna cess which is expended on the roads bears any proportion to the benefits which are derived from the fact that excellent communications with good markets are now available to the agriculturists of the Presidency? Admitting that these people do pay the one-anna cess, I think before we speak of the abolition of tolls we ought to make sure whether the cess bears any proportion to the benefits which they derive from possessing good roads unknown to their ancestors, who had to be contented with a limited local market for their produce.

The Honourable Major-General KENNEDY—I think my honourable friend the Rao Saheb draws a distinction between provincial and local roads, which is not justifiable. Provincial roads are made out of revenue derived from provincial sources, and the local roads are made out of the local funds levied under local Acts. The general public pay, in the way of tolls, for the maintenance of the provincial roads, and the general public have also to pay for the maintenance of local roads. No doubt a part of the general public contributes to the one-anna cess, but I do not think my honourable friend would contend that because a man builds a house therefore he not need keep it in repair. If the people who contribute to local funds were to build a Town Hall or a dharamsalla it would have to be repaired and maintained at the expense of the local funds; and the argument is the same when it relates to the question of the obligation of the people to maintain the roads which they have constructed.

The Honourable Colonel ANDERSON—There is another point to notice. Who actually pays these tolls? The cultivator undoubtedly pays them in the first instance, but it seems to me that the person who has actually to pay them in the long run is the consumer of the cultivator's produce.

The Honourable Mr. ROGERS—I think that the Honourable Rao Saheb's argument might hold good if the only people who use the local funds roads were the people who pay the cess; but, as a matter of fact, the general public also use the roads, and why they should get the use of the roads as a present, I cannot understand.

The Honourable Mr. GIBBS—Again it would not be fair to throw the maintenance of the roads on the shoulders of a whole district, because many people who do not keep carts would be compelled to pay for the convenience of those who actually cut up the roads with their vehicles. When you go into the subject, deeper it becomes more and more difficult. I quite agree with what my honourable friend Mr. Rogers has said.

The Honourable RAO SAHEB—I regret that I shall have to repeat one or two things that I have already said. The question really is, what are necessary local improvements? It may be that to cover a whole district with a network of roads might be a very necessary improvement; but the word necessary is ambiguous. I do not say that many roads are not necessary in this sense, that positively speaking they would be improvements; but we

must consider all improvements relatively, *i.e.*, having regard to the means of the people who are to be taxed for making them. And I say, further, that the means to effect such improvements should be the local funds. I am entirely distinguishing between provincial roads and imperial roads, and I do say that the case of a man who pays a tax for making a road is very different from that of a man who is using a road made simply from that fund. The objection made by the Honourable Mr. Rogers will not practically arise, because all I propose is that the general public should get the advantages for which a portion of the public has already paid by means of contributions to the local rates. If, as is hoped, revenue improves under the new survey administration, there may be a large increase in the local funds; but until there is such improvement, we ought not to carry out schemes beyond the means of people in a district. We ought to look to the capacity of the people more than we do, and in the meantime I hope that the argument that the general public will derive benefits from the roads will not be permitted to weigh against the injustice of taxing a man twice for the same thing. The Honourable Colonel Anderson asked, who pays the rates? Although this is a great economical question, I think it would not be quite satisfactory to discuss it in a Bill for the levying of tolls. It may be quite true that many of the agriculturist's charges would fall upon the consumer, but at the same time many of these mofussil tolls will fall directly upon those who use them. The poorer districts do not export in large quantities, and yet the people have to pay three or four tolls. There ought certainly to be roads, but still we must keep within the means of the people.

A vote was taken upon the Honourable RAO SAHEB'S amendment, with the following result:—

Ayes—2.

The Honourable Rao Sahab VISHVANATH NARAYAN MANDLIK.

The Honourable Nacoda MAHOMED ALI ROGAY.

Noes—7.

His Excellency the Honourable SIR CHARLES STAVELEY, K.C.B.

The Honourable A. ROGERS.

The Honourable J. GIBBS.

The Honourable Major-General M. K. KENNEDY.

The Honourable Colonel W. C. ANDERSON.

The Honourable Khan Bahadur PADAMJI PESTONJI.

The Honourable Rao Bahadur BECHERDASS AMBAIDASS.

The Honourable W. DONALD GRAHAM did not vote.

The Section was agreed to.

Referring to section IV. His Excellency thought the first part of this section might prove exceedingly vexatious, and he thought it might be amended so as to make a toll-keeper entitled, seize only as much of a person's property as would suffice to pay the toll.

The Honourable Major-General KENNEDY—This section is quite in accordance with former Acts.

The Honourable Colonel ANDERSON.—I think the section as it stands invests a most dangerous power in the hands of toll-keepers.

His Excellency the COMMANDER-IN-CHIEF remarked that the custom in England was simply to let a toll-keeper bar the way of a person who could not pay toll.

His Excellency the PRESIDENT—The people in this country have to travel such immense distances, that it would scarcely do to bar their passages. I think the section might be made to read as follows:—"In case of non-payment of any such toll on demand, the officers appointed to collect the same may in the first place seize any part of the burden or load of the carriage or animal on which the toll is chargeable of sufficient value to defray the toll, or in the event of the burden or load being insufficient, such carriage or animal," &c.

The amendment was agreed to.

The President remarks that in the Bill there is no penalty laid down for evasions.

His Excellency the PRESIDENT remarked that he could see no provision in the Bill dealing with evasion, although this was a very common offence in all countries.

The Honourable Major-General KENNEDY thought His Excellency's objection was a good one, for a man might travel fourteen miles and then turn off and evade the toll placed on the road at the fifteenth mile.

The Honourable RAO SAHEB thought it would be exceedingly difficult to make evasion laws.

The Honourable Colonel ANDERSON concurred with the Honourable Rao Saheb.

The Honourable Mr. GIBBS mentioned that the latter part of section V. was not in the Bill introduced last year, and that it had been put in subsequently at the suggestion of the Government of India.

The Honourable Khan Bahadur PADAMJI PESTONJI said that although he would not oppose the section, still he thought that Government stores should not be exempted from payment on Local Funds roads.

The section was agreed to.

Section VIII. was amended as follows:—the words "shall be put up in a conspicuous place near such gate or station" were struck out, and at the end of the section these words were added after "toll"—"shall be furnished by Government to the collector of tolls, and the same shall by him be kept in a conspicuous place near such gate or station."

Alluding to section IX., His Excellency the PRESIDENT asked, what would happen if the toll-collector with whom a composition had been made should be turned out before the expiry of the year? Would the man who had compounded be made to pay over again?

The Honourable Mr. GIBBS—No; if necessary the amount would be recovered from the sureties of the toll-collectors.

No alteration was made in the section.

The Council then proceeded to the consideration of the schedule.

The Honourable Khan Bahadur PADAMJI PESTONJI thought that a palkee with eight or six bearers should not be charged more than eight annas, as not more than four bearers carry the palkee at a time. The extra bearers may be charged as foot passengers.

The Honourable Colonel ANDERSON thought that certainly the charge of 2 annas upon every palankeen, dooley, palna or tonjon with two bearers should not be continued in the schedule. Many poor people carried their sick relative in palneys, and in such a case as two sons carrying their mother between them he thought that a toll would be a hardship.

On the consideration of the schedule, Colonel Anderson proposes that conveyances carried by two persons should be exempted from tolls.

His Excellency the PRESIDENT concurred.

The Honourable Major-General KENNEDY did not approve of exempting any person carrying a palkee or palna from the schedule.

The Honourable RAO SAHEB sympathised with the Honourable Colonel Anderson's views. Poor people were generally moved about by being slung in a piece of cloth between two of their friends or relatives, or were taken in a small *palna* carried by two bearers.

The Honourable Colonel ANDERSON said he was disposed to put the matter to the vote. He begged to propose that the last line but one of the schedule should be omitted.

The following was the result of the vote :—

Ayes—8.

His Excellency the Honourable Sir
CHARLES STAVELEY, K.C.B.
The Honourable J. GIBBS.
The Honourable Colonel W. C. ANDER-
SON.
The Honourable Rao Saheb VISHVANATH
NARAYAN MANDLIK.
The Honourable Nacoda MAHOMED ALI
ROGAY.
The Honourable Khan Bahadur PA-
DAMJI PESTONJI.
The Honourable DONALD GRAHAM.
The Honourable Rao Bahadur BECHER-
DASS AMBAIDASS.

Noes—2.

The Honourable A. ROGERS. .
The Honourable Major-General M. K.
KENNEDY.

The Honourable Major-General KENNEDY said—To be consistent I shall propose that a line be inserted in the schedule by which every palankeen, dooly, palna, or tonjon with two bearers shall be charged one anna.

After some conversation the subject dropped.

The Honourable RAO SAHEB—Regarding the item authorising the taxation on foot

Rao Saheb, Vishvanath Mandlik proposes that foot passengers should be liable to pay toll only on bridges or heavy ghaut roads, and even then that the tolls should be collected from them only with the approval of Government.

passengers I think the difficulties which have been discussed as bearing upon the subject in this Council might be met by saying that foot passengers should be liable to tolls only on bridges over navigable rivers or upon hill roads, and that in all such cases the special sanction of Government would be required.

The Honourable Major-General KENNEDY.—Throughout the length and breadth of the Presidency at the present moment tolls are charged upon foot passengers only at the Matheran Ghaut.

The Honourable Mr. GIBBS—During all these years we have not, with the exception just pointed out, levied tolls upon foot passengers, and I cannot vote for any such amendment as the Honourable Rao Saheb suggests, because it appears to me that by so doing I should be supporting a vote of want of confidence in the Government, who surely may be trusted for the future as they have been for the past, and I see no cause for having one law for this Presidency and another for all the rest of India.

The Honourable Major-General KENNEDY said he did not object to an amendment upon the subject if it were limited to bridges and hill-roads.

The Honourable RAO SAHEB then moved that the last line of the schedule stand thus—“On every foot passenger, with the special sanction of Government, on bridges or hill-roads, 3 pies.”

The following was the result of the vote :—

Ayes—8.

His Excellency the Honourable Sir
CHARLES STAVELEY, K.C.B.
The Honourable A. ROGERS.
The Honourable Major-General M. K.
KENNEDY.
The Honourable Colonel W.C. ANDERSON.
The Honourable Rao Saheb VISHVANATH
NARAYAN MANDLIK.
The Honourable Nacoda MAHOMED ALI
ROGAY.
The Honourable Khan Bahadur PADAMJI
PESTONJI.
The Honourable Rao Bahadur BECHER-
DASS AMAIDASS.

Noes—1.

The Honourable J. GIBBS.

On the suggestion of His Excellency the President the following words were added to the Schedule:—"No second toll shall be levied on the same carriage or animal returning on the same day."

Rao Sahab's motion agreed to, and the Schedule passed as amended.

The preamble and title of the Bill were agreed to, and the Bill was then read a third time and passed.

His Excellency the PRESIDENT then adjourned the Council.

By order of His Excellency the Governor in Council.

W. LEE-WARNER,
Acting Under Secretary to Government.

Poona,
30th September 1875. }