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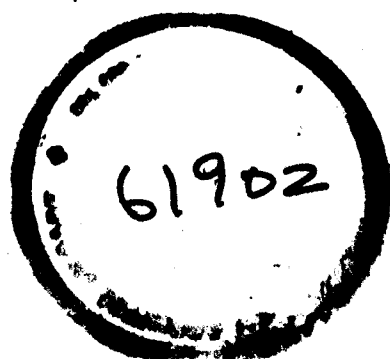
WITH INDEX.

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TO THE

ABSTRACT PROCEEDINGS OF THE COUNCIL OF THE
GOVERNOR OF FORT ST. GEORGE

FOR

MAKING LAWS AND REGULATIONS,

FOR THE YEARS 1879 AND 1880.

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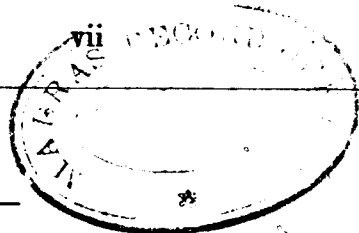
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Abstract of the Proceedings of the Council of the Governor of Fort St. George assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament, 24 and 25 Victoria, Cap. 67.

The Council met at the Council Chamber in Fort St. George on Thursday, the 30th day of January 1879.

P R E S E N T :

HIS GRACE the GOVERNOR OF MADRAS, G.C.S.I.—*presiding*.
THE HON'BLE W. HUDLESTON.
THE HON'BLE D. F. CARMICHAEL.
THE HON'BLE P. O'SULLIVAN.
THE HON'BLE G. N. GAJAPATTI RAO.
THE HON'BLE MIR HUMAYUN JAH BAHADUR.
THE HON'BLE J. G. COLEMAN.
THE HON'BLE A. MACKENZIE.
THE HON'BLE RAJA RAO GANGADHARA RAMA RAO, Raja of Pittapur.

APOLOGIES.

The Assistant Secretary submitted to His Grace the President the apology of the Hon'ble A. Seshaya Sastri for his absence from this meeting owing to heavy and important work which detained him at Pudukottai at present.

The Hon'ble D. F. Carmichael mentioned that the Hon'ble V. Ramiengar, C.S.I., Inspector-General of Registration, was on a tour of inspection.

ACTS ASSENTED TO BY GOVERNOR-GENERAL.

HIS GRACE THE PRESIDENT announced the assent of His Excellency the Governor-General to the following Acts:—

(a.) No. VI of 1878.—“An Act to make provision for investing with certain powers the Commissioner of Salt Revenue in the Madras Presidency,” passed by this Council on the 9th August 1878.

(b.) No. VII of 1878.—“An Act to provide for the payment from Municipal Funds of a portion of the cost of the Police Force employed in the City of Madras and in all Municipal Towns within the Presidency of Fort St. George,” passed by this Council on the 8th April 1878.

(c.) No. VIII of 1878.—“An Act to prevent thefts of Coffee,” passed by this Council on the 16th August 1878.

ACTS NOT ASSENTED TO BY GOVERNOR-GENERAL.

HIS GRACE THE PRESIDENT also announced that His Excellency the Governor-General had withheld his assent from the following Acts, which were passed by this Council on the 15th June 1878 :—

- (i) "An Act to amend the law relating to Abkári in the Madras Presidency."
- (ii) "An Act to provide for the protection of game and acclimatised fish in the District of the Nilgiris in the Madras Presidency."

By His Grace's direction, the Assistant Secretary read the letters from the Secretary to the Government of India in the Legislative Department, dated respectively the 20th September and 13th November 1878, Nos. 1245 and 1447, communicating the Governor-General's disallowance of the above Acts, chiefly on the objection that these Acts created Special Funds, which was a departure from the principle laid down by the Government of India in their Financial Resolution, dated 19th June 1877, No. 1275; and intimating, as regards the Nilgiris Game and Fish Act, that the Government of India had no objection to the fines and forfeitures, with the expenses of working, being made Provincial, in which case the Government of Madras could dispose of them at its discretion.

ABKÁRI LAW AMENDMENT BILL.

In moving for leave to introduce a revised Bill to amend the law relating to Abkári in the Madras Presidency, the Honorable Mr. HUDLESTON made the following explanation :—With reference to the letter read by the Assistant Secretary, the Bill now proposed to be introduced modified the Act (which had been passed by this Council) in the direction indicated by the Government of India. The principal objection taken to the disallowed Act was that it created a special fund, out of which it was intended to reward informers or give compensation to persons aggrieved by proceedings taken under the Act. The Government of India pointed out that the object could be provided for either as in Act X of 1871 (which is the Excise Revenue Act for Northern India, British Burma and Coorg), or as in the new Bombay Abkári Act (I of 1878). Accordingly, Section 26 C of the revised Bill provided that all fines levied under the Act, the disposal of which was not specially provided for, should belong to Government, but that the Board of Revenue were to be at liberty to appropriate any portion of such fines, not exceeding one-half, for rewarding informers, or for compensating persons subjected to annoyance or injury by any proceedings under the Act. The Act, as passed by this Council (Section 24-C) required Heads of Villages as well as Police Officers to assist in the detection and suppression of illicit manufacture or sale of liquor, and subjected them to a penalty of a fine not exceeding 500 Rupees for refusing or neglecting so to assist. The Government of India, however, considered that this express provision was hardly necessary as being perhaps already provided for by Section 217 of the Penal Code. The penalty attached to Section 24 C had therefore been omitted; but adverting to the question, which the Government of India suggested might possibly arise, as to whether a head of a village acting in the capacity referred to in the Act was a public servant, a clause had been substituted declaring heads of villages, for the purposes of the Act, to be public servants within the meaning of the Code. There seemed little room to doubt that heads of villages were public servants in matters affecting the public interests; but to prevent any question being hereafter raised, it was deemed advisable to insert the express provision. The Government of India had also objected to the

second clause of Section 24 E (prescribing a penalty for omitting to give notice of unlicensed manufacture) and to Section 24 F of the disallowed Act (prescribing a penalty for giving false information), because these were already provided for by Sections 176 and 182 of the Penal Code. The clauses objected to had therefore been omitted in the revised Bill. The alterations made in the Bill, though fully meeting the wishes of the Government of India, in no way affected the principle of the Act which had been passed by this Council. The Government of India had thrown out a suggestion that the opportunity might be taken of consolidating the Abkári Law instead of adding another Act to the existing Abkári Acts; but the Government, having fully considered the matter, felt unable to carry out the suggestion, because the new three-year leases were running, and to recast the law as now understood, even without material change, might disturb confidence.

As this was a mere measure of revision, the Hon'ble Mr. HUDLESTON applied for the suspension of the Standing Orders in view to the Bill being at once considered and, if approved, passed by the Council. The motion was seconded by the Hon'ble Mr. CARMICHAEL.

On HIS GRACE THE PRESIDENT suspending the Standing Orders, the Council proceeded to consider the Bill, the Assistant Secretary reading the Bill section by section.

A considerable discussion took place on the propriety of retaining Section 26 C, which declared that all fines, not specially provided for, should belong to Government, but that the Board of Revenue should have power to appropriate any portion thereof, not exceeding one-half, to rewarding informers, or compensating persons subjected to annoyance or injury by any proceedings under the Act. The Hon'ble Mr. HUDLESTON advocated the retention of this section, as it was desirable that the Board of Revenue should possess such a power, while the section itself followed the principle of Sections 79 and 80 of Act X of 1871, to which the Government of India had expressly pointed as a model on this question; and under any circumstances, no mischief could result; but it was contended by the Hon'ble Mr. CARMICHAEL that the power ought more appropriately to be vested in the Magistrate, to be exercised by him when adjudicating the case, as affording the injured party more speedy justice, while the principle would be in keeping with the provisions of Section 308 of the Code of Criminal Procedure, which already gave a Criminal Court power to award any portion of a fine by way of compensation. Ultimately HIS GRACE THE PRESIDENT took the same view; and after consulting the Hon'ble the Advocate-General, the Council proceeded to make the following amendments suggested by HIS GRACE THE PRESIDENT :—

Section 26 A, last line but one.—After the words "shall be liable" the words "on conviction before a Magistrate" to be inserted; and

at the end of the clause, after the words "five hundred rupees," the words "out of which compensation may be awarded as provided in Section 308 of the Code of Criminal Procedure" to be added.

Section 26 B, third clause.—In the first line, for "If no fine be realized," read "If no fine or forfeiture be realized."

Section 26 C.—To be entirely omitted.

It was then moved by the Hon'ble Mr. HUDLESTON, and seconded by the Hon'ble Mr. CARMICHAEL, that the Bill as thus amended be passed.

The motion was put to the Meeting by HIS GRACE THE PRESIDENT, and was carried unanimously.

4 CATTLE DISEASE PREVENTION ACT AMENDMENT.

NILGIRIS GAME AND FISH BILL (REVISED).

The Hon'ble W. HUDLESTON, in introducing this Bill, explained that it was a revised measure to meet the wishes of the Government of India, who had objected to Section 9, because it created a special fund, by declaring that all fees, fines and forfeitures realized under the Act should form a special fund, to be applicable, at the discretion of the Governor in Council, for the purposes of the Act. The object of the proposed law had been fully explained by him when the original Bill was introduced—*vide* Proceedings of this Council, 8th April 1878. The Bill now brought forward was exactly the same, except that Section 9 now declared that all fees, fines and forfeitures realized under the Act should be paid into the public treasury. This was quite in accordance with the wishes of the Government of India, who had intimated that they had no objection to the fines, &c., together with the expenses of working the Act, being made Provincial, in which case this Government could dispose of the proceeds at their discretion. Mr. HUDLESTON applied for the suspension of the Standing Orders, in view to the Bill being at once considered by the Council.

On His GRACE THE PRESIDENT suspending the Standing Orders, the Council proceeded to consider the Bill as read by the Assistant Secretary, when the following verbal amendments were passed on the suggestion of the Honorable Mr. HUDLESTON:—

Section 9—Clause 2, lines 3 and 4.—Instead of "such portion of the fine or such amount of the forfeiture," read "such portion of the fine or of the proceeds of the forfeiture."

Schedule.—The word "Attiputty" to be spelt "Attipadi."

The Hon'ble Mr. HUDLESTON moved, and the Hon'ble Mr. CARMICHAEL seconded the motion, that the Bill as read and amended be passed.

HIS GRACE THE PRESIDENT put the motion to the Meeting; and it was resolved that the Bill be passed accordingly.

CATTLE DISEASE PREVENTION ACT AMENDMENT BILL.

The Hon'ble P. O'SULLIVAN moved for leave to introduce this Bill, which had already been published under Rule XXV. He explained that Madras Act II of 1866 had been passed to guard against the spread of disease among cattle in the Madras Presidency, by providing for the establishment of hospital pounds and for infected cattle being removed there for treatment. When disease showed itself last year within the Municipal limits of the City of Madras, it became necessary to see what measures could be taken to prevent the plague spreading by applying the Act to the city. It was then found that it contained several provisions giving "the Magistrate of the District" power to determine places where hospital pounds were to be established, and to authorize hospital pound-keepers or other persons to do certain things under the Act. But there was no such official as "the Magistrate of the District" in this city. It was therefore proposed to give these powers to the President of the Municipal Commission as the officer best suited for the purpose, and to amend the Act by enacting that it should be read as if it contained the words "or in the City of Madras, District." As the matter was of an urgent nature, Mr. O'SULLIVAN applied for the suspension of the Standing Orders, in view to the Bill being considered and passed at once.

HIS GRACE THE PRESIDENT suspended the Standing Orders; whereon the Council proceeded to consider the Bill and pass it, subject to the following amendment

HACKNEY CARRIAGE.

5

suggested by His GRACE, on its being pointed out by Mr. CARMICHAEL that the Madras Municipality limits do not now include the whole of the City of Madras.

Preamble—line 7, after the words "limits of the City of Madras," insert "as defined in Madras Act V of 1878;" and in line 8, after the word "conferring," strike out "in the City of Madras."

MADRAS ACT VIII OF 1867 AMENDMENT BILL.

The Hon'ble P. O'SULLIVAN moved for leave to bring in a Bill to amend Madras Act VIII of 1867, which was an Act providing for the Police of the Presidency town. The necessity for this Bill arose in this way. Section 55 of Act VIII of 1867 provided that any one cruelly ill-treating, abusing, or torturing any animal, was to be liable to fine not exceeding 100 Rupees, or in default of payment to imprisonment for a period not exceeding three months; but it contained no provision for relieving the injured animal. The Society for the Prevention of Cruelty to Animals, which existed in Madras, therefore suggested that in certain cases of injury there should be some means of taking care of and treating injured animals, and they undertook to provide an establishment for the purpose, if legal provision were made to enable their object to be carried out. The Bill was intended to carry out this suggestion. It authorized the Magistrate to direct animals proved to have been cruelly ill-treated to be sent to the Infirmary, and there detained until fit to be discharged, the owners being liable to pay expenses of care and treatment, or a portion thereof, as the Magistrate might direct. Opportunity had also been taken to give the Magistrate power to order the destruction of any animal proved to be suffering from any incurable disease or injury. Mr. O'SULLIVAN applied for the suspension of the Standing Orders, in view to the Bill being introduced and referred to a Select Committee.

HIS GRACE THE PRESIDENT having suspended the Standing Orders, it was moved by the Hon'ble P. O'SULLIVAN, and seconded by the Hon'ble G. N. GAJAPATTI RAO, that the Bill be referred to a Select Committee consisting of—

THE HON'BLE W. HUDLESTON.

THE HON'BLE A. MACKENZIE.

THE HON'BLE J. G. COLEMAN.

THE HON'BLE G. N. GAJAPATTI RAO, and the Mover.

The motion was put to the Meeting and carried.

HACKNEY CARRIAGE BILL.

The Hon'ble J. G. COLEMAN stated that he had obtained leave at the Meeting of the Council on 16th January 1878 to bring in a Bill for the regulation of Hackney Carriages in the City of Madras. He now begged leave to introduce this Bill, which mean time had been published by order of His Grace the Governor under Rule XXV; and as he had already fully explained the object of the measure, he would now only move that it be referred to a Select Committee.

The motion having been seconded by the Hon'ble MIR HUMAYUN JAH BAHADUR and put to the Meeting, it was resolved that the Bill be referred to a Select Committee consisting of—

THE HON'BLE W. HUDLESTON.

THE HON'BLE THE ADVOCATE-GENERAL.

THE HON'BLE A. MACKENZIE.

HACKNEY CARRIAGE.

THE HON'BLE MIR HUMAYUN JAH BAHADUR.

THE HON'BLE G. N. GAJAPATTI RAO, and the Mover.

There being no further business to be put before the Meeting, the Council adjourned *sine die*.

(By Order.) ●

FORT ST. GEORGE,
The 30th January 1879.

W. M. SCHARLIEB,
Asst. Secy. to Government,
Legislative Department.



Abstract of the Proceedings of the Council of the Governor of Fort St. George assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament, 24 and 25 Victoria, Cap. 67.

The Council met at the Council Chamber in Fort St. George on Wednesday, the 2nd day of April 1879.

P R E S E N T :

HIS GRACE the GOVERNOR OF MADRAS, G.C.S.I.—*presiding*.
THE HON'BLE W. HUDLESTON.
THE HON'BLE D. F. CARMICHAEL.
THE HON'BLE P. O'SULLIVAN.
THE HON'BLE V. RAMIENGAR, C.S.I.
THE HON'BLE G. N. GAJAPATHI RAO.
THE HON'BLE MIR HUMAYUN JAH BAHADUR.
THE HON'BLE P. MACFADYEN.

NEW MEMBER.

The HON'BLE P. MACFADYEN took his seat as a Member of the Council in succession to the Hon'ble A. Mackenzie, whose resignation was accepted on his proceeding to Europe.

ACTS FORWARDED FOR GOVERNOR-GENERAL'S ASSENT.

THE ASSISTANT SECRETARY reported that the following Acts, passed by the Council on the 30th January 1878, and formally assented to by HIS GRACE THE GOVERNOR on the 6th and 12th February last, respectively, had been forwarded for the assent of His Excellency the Governor-General:—

- (i) An Act to amend Madras Act II of 1866 (The Cattle Disease Prevention Act).
- (ii) An Act to amend the law relating to Abkari in the Madras Presidency.
- (iii) An Act to provide for the protection of Game and acclimatised Fish in the District of the Nilgiris in the Madras Presidency.

FOREST BILL.

HIS GRACE THE PRESIDENT introduced a Bill "to make further provision for the protection and conservation of Forests and Forest Produce in the Madras Presidency," which had already been published in the *Fort St. George Gazette* by order of His Grace under Rule XXV of the Rules for regulating the business of the Council. His Grace spoke to the following effect:—

The Bill introduced was for an important object, viz., the conservation of forests in this Presidency, legislation in respect to which was, in the opinion of the Government, very necessary on account of the constant diminution of forest area which had

been taking place for some time—not so much from extent of alienation for purposes of cultivation, as from gradual wasting of forest on forest land from various causes, such as increased demand for fuel for private consumption, for railway purposes, for sugar factories, and so forth. There had been considerable waste of valuable timber when the railway was being constructed on account of the pressing demand for sleepers, and considerable waste also from what His Grace would call trespass by villagers and others who had extended their felling and clearing even into the higher forests, because the smaller areas lower down had been taken up for cultivation. There was an impression abroad that the alienations of forest land for cultivation, which had been sanctioned by Government for the purposes of growing Coffee, Tea, and Cinchona, was so large as to materially affect the area of forest land; but that had not been proved to be the case. The fact was that the area taken up for Tea, Coffee, and Cinchona planting was after all not so very large. His Grace hoped to have been in a position to put the figures before the Council; but the returns called for had not come in from all the districts. But taking North Arcot, Madura, Cuddapah, and such districts for which returns were available, it was found that the alienations of forest land for cultivation were comparatively small. The only districts in which such alienation was really appreciable were the Nilgiris and the Wynaad, where the waters run to the west. Large alienations had also taken place in the minor jungles, or in what might be called the fringe of the larger forests; as in Coimbatore. But recently in all districts there had been wastage of timber to a considerable extent arising from causes which had been mentioned, from alleged rights exercised in forests to obtain fuel and agricultural implements, and from a want of consideration for their own interests on the part of the Zemindars themselves in not letting the land rest after they had cut off its timber. What the Government desired to see and accomplish was that all forest area should be conserved to the utmost as forest, subject only to what must inevitably be taken away from time to time for cultivation and improvement; but, at the same time, not to such an extent as would lead to injury in respect to climatic considerations. However, in certain districts only would destruction of forest lead to any serious injury; for example, upon the slopes of hills where there were head waters; or in the denuding of hills causing hasty floods, as in Tinnevely; though the actual quantity of the water-supply might in no case be diminished.

There were large portions of the forests of this Presidency which belonged to Zemindars and other private landholders. The Government, therefore, proposed to deal with forests under two classes, viz., State and Private. The first point to aim at was to secure the necessary supplies of wood to villagers for fuel and for agricultural implements. If the measure introduced or something similar was not passed into law so as to secure reasonable supplies, it was not in human nature on the part of these people to resist taking what was an absolute necessity for themselves. The first point, therefore, was to secure a full and free supply of timber for villages. In regard to this supply, the rights were varied. In some cases, the supply was free: in some cases, a small fee was payable. The first step, in passing the proposed Bill, would be to define the areas over which village rights were to be exercised, either free of all payment, or on payment of a fee, according to the custom of particular villages. It was, therefore, proposed to set aside for every village a sufficient area of the nearest forest, and then to have those areas protected in the interest of the villagers. When this was done, the conservation of the rest of the forest area would be more stringent. It was also proposed to take power to close both State or Village forests absolutely for a time, whenever these forests became so injured as to need rest. In such case, a limited area or proportion only would be so closed for a period not exceeding ten years, which would secure trees newly planted sufficient time to attain a certain growth, or

trees which had been weakened to recover their growth. It was proposed also to abolish the distinction between jungle and forest. This was necessary, because tracts in certain districts which were covered with scrub, and which ought to have been reserved as parts of forests, had not been so reserved simply because they had no timber and were thought not worth preserving. Such tracts would hereafter be classed as forests. It was also proposed to take power to bring land now waste, if the Government thought proper, under forest laws, granting such compensation for deprivation of rights as would be consistent with the great object of preserving forests for the general good. If it were found that there were such rights existing over these waste tracts as could not be justly set aside without compensation, then compensation would be settled by the officers of Government; but private proprietors dissatisfied with such compensation would have the right of referring their case to the Courts. It was also proposed to give leave to Government to make rules for the regulation of village forests as to the mode in which and extent to which village rights were to be exercised, which rules would enable the Government to assign to villages the full exercise of the rights to which the villagers could properly lay claim, and would also enable them to define the places in forests whereat only forest produce could be brought for sale, and to prevent people who had no right to graze their cattle in these village forests from wandering about or camping in them at the risk of causing fires and so destroying forest.

Having set aside village forests and provided for their protection, it was next proposed to declare particular portions of forests to be perpetual forests in order to secure water-supply for rivers or for the purposes of irrigation. These would be reserved forests; and as the Bill was drawn, they would be absolutely reserved, and could not be alienated by the Local Government without the previous sanction of the Government of India. The object of this was to secure a certain steadiness in forest management. Possibly, it might be found that certain strips of these reservations might be cultivated without detriment to the object in view. In such case there would be full consideration and discussion preparatory to a step which would be almost irrevocable, because once taken and the land surrendered to cultivation, it would be all but impossible to restore the former condition. Therefore it was considered expedient that no grant of any portion of a reserved forest should be made without reference to the Supreme Government. These were provisions affecting State Forests. The question then arose as to how private forests belonging to private persons should be dealt with, as such forests also would cover the head waters of important streams. These were the property of Zemindars and other such land-holders. Having received them as forests, it might be said that private proprietors could not destroy these forests for the sake of making money by it. The question therefore arises whether Government might not pass an Act providing that within certain limits forests should not be cut so as to destroy them. The Government were averse to anything which might be considered an infringement of private ownership, except where it could be shown that it was essential or unavoidable for the public good. As the Bill was framed, it was not proposed absolutely to prohibit the cutting of timber in forests; but if Government were satisfied that it was essential to reserve any portion for the protection of water-supply for the public good, then it would be competent to them to declare that it should be so reserved as perpetual forest, just as much as it was competent for them to declare their own forests to be perpetual forests. But in such case, Government would make compensation to the owners in respect of the prohibition to cut and clear timber, leaving to them all other rights over the land, such as quarrying, grazing, gathering fuel or fruit, except the liberty of destroying the forest. To that extent the power taken by the Bill was compulsory. It was also proposed, on the application of any private proprietor who had set aside a sufficient area of his forests

for the use of the villages of his Zemindari or Estate, to extend to him the benefit of the protective provisions of the Bill as to closing a sufficient area of the forest, or to extend such provisions over any land which he might wish to plant. It was also proposed in the case of reserved forests, notwithstanding the restriction of previous reference to the Government of India, that facility should be given for quarrying for minerals or stone with such restrictions however as would protect the forests from destruction.

The other clauses in the Bill were of a more formal nature; but His Grace desired to point out the inquiry which would have to be made to protect existing rights, if any, before any waste land, or land acquired by Government, could be constituted forest. Notices would have to be given as to what limits were to be constituted forest; and a period of four months was fixed within which objections might be lodged. According to Section 35 of the Bill, the Collector of the district would, immediately on the expiry of the period allowed, publish a list of the claims and objections, and appoint a day for their investigation, to take place either in the taluk in which the forest was situated, or in the adjoining taluk, so that the inquiry might be within the reach of those affected by the steps taken. When the claims were being investigated, it would be the duty of the settlement officer to record the claims admitted; he would then, *with the consent* of the claimants and not otherwise, set out a sufficient area of some other forest land and record an order conferring upon them a right of pasture, or a right to forest produce, up to the extent admitted; or he would so alter the limits of the proposed forest as to exclude land of sufficient extent and in a locality reasonably convenient for the purposes of the claimants; or he would record an order continuing to the claimants a right of pasture, or a right to forest produce, to the extent admitted; or if he found it impossible, having due regard for the maintenance of the proposed forest, to make such settlement as would ensure the continued exercise of the rights admitted, he would, with the consent of the claimants, and subject to such rules as the Government might prescribe, commute such rights by payment of money or by grant of land. Thus there were no compulsory powers. If a claimant chose to say that he possessed certain rights, such as feeding his cattle over any area of land, and he could prove it, he had no need to give up his rights. He could not be compelled to do so. By Section 36, the decision of the Forest Settlement Officer would be open to appeal; and in the same way, if it were proposed to close any portion of a forest for a period of years, notice of the intention would have to be given; and by Section 37, such notice would be for two months during which the villagers would have the right to make their objections to the Tahsildar, provision being made for a village forwarding its objection through its own village officials.

With regard to offences defined in the proposed Act, Chapter IX, any person unlawfully felling, girdling, burning or otherwise injuring any tree in a State forest, &c., was liable to a penalty which might consist of a maximum term of imprisonment for six months, or a maximum fine of Rupees 500, or both. These penalties had been put into the Bill at this figure, as tallying with the law which the Government of India had made applicable to other Administrations; and it was thought proper that they should be made the same for Madras also. Section 44 demanded attention: it dealt with the incautious burning of timber or vegetation on private land, without taking precautions against the fire spreading to adjoining forest land. Persons so burning timber or vegetation were liable to pay to Government a sum of money (to be fixed hereafter) for every acre of forest land burnt. The effect would be that every person would have to take the precaution of felling a boundary line, or *fire trace*, around the area he intended to burn, to prevent the fire from reaching beyond the line so fixed. All the other clauses relating to property stolen or removed from forests, and the mode of dealing with the offences, did not call for any special remark. Chapter X referred to the appointment of Forest Officers and the powers vested in them, which were to be

found in Sections 60 and 61. Section 60 enabled the Government to appoint an officer not below the rank of a covenanted officer of three years' standing, or a Deputy Collector, to act as Forest Settlement Officer to inquire into claims in respect of land proposed to be constituted forest, to close forest lands for the purpose of protecting it, and also to set out and demarcate village forest. Section 61 enabled Government to vest such officer with power to enter on land for the purpose of surveying and mapping; also to vest him with the powers of a Civil Court for summoning witnesses, compelling the production of documents, issuing search warrants, &c. Chapter X went on to restrict all Forest Officers, either as principal, or trustee, or agent, from trading in timber or other forest produce. Then there was a section of some importance, viz., 65, which empowered the Government from time to time to make rules prescribing the powers and duties of Forest Officers. Clause (e) of this section was very important as providing a check against surreptitious taking away of forest produce out of private as well as Government forests. Clause (f) took in hand the clearing of land for cultivation, known on the West Coast as the *kumari* cultivation, which could be continued under certain rules, but not without regard to any customary or prescribed limits. Section 68 made it obligatory on every person permitted to exercise rights in a forest, or who received emoluments from the Government for services to the community, to furnish information to a Forest or Police officer of offences committed or intended to be committed, and generally to aid in the prevention of offences. There was one point early in the Bill which ought to have been noticed. This was the provision in Section 6 which applied to all forests and prohibited all persons from cutting, clearing, or burning any tree within a distance of fifty yards from the margin of the bed of any river or within fifty yards of any spring or other source of water. This protection of springs had already been practically carried out in hill districts, although the provision in the Bill went a little further, but not further than was imperatively demanded. The fifty yards distance from the margin of river-beds or springs was necessary to protect the banks of rivers from erosion, and the sources of water from the desiccating process of the sun in upper countries. This might be a novel restriction here, but it had been imposed with advantage in some of the colonies. The area reserved would be but very small, but the provision would be attended with immense advantage to the country. This prohibition affected private forest land also, but no private proprietor could possibly object to it. If a Bill of this form were passed, there would be no reason to apprehend danger, on the one hand, to forests or forest areas; nor, on the other hand, any undue prohibition against the spread of cultivation, either ordinary, or the planting of coffee, tea, or cinchona. If proper forest areas were secured, there was no reason why due areas of land could not be opened up for coffee or tea. There was no reason why ample scope could not be given for full cultivation without denuding whole districts of their forests. There was no reason, after seeing what had taken place on the Nilgiris and in the Wynnad, to think that the same extent of coffee and tea cultivation could not have been opened out, without denuding of all wood such long and continuous strips of the slopes. His Grace had seen large proportions of areas taken up burnt down, but not planted. This forest land had been entirely sacrificed; portions had been left bare and waste, or were growing again into jungle. He could see no reason why the planters should not have been confined to the actual limits necessary for their cultivation, without burning down and injuring lands which were not capable of bearing any plant whatever, but were only useful for weed. There was no reason why forest conservancy and full development of land for cultivation could not go hand in hand, if cultivators and Government were agreed as to what should be. His Grace would be sorry to take part in any Bill which would place a check on planting interests, whether tea, coffee, or cinchona. Such cultivation was of great importance to this Presidency and to the districts in the hands of capitalists,

whether European or Native. Nothing should be done which would in any way unduly impede its full development. It was also of great importance to our villagers that they should not be restricted from the proper extension of their cultivation. There was ample scope in North Arcot and other central districts for such extension. All that was necessary was that the areas to be set out for cultivation should be well considered, and that land which would be poor for ordinary cultivation, but would be useful for forest, should not be hastily thrown into cultivation and afterwards abandoned. With these remarks His Grace would move that the Bill, which had been already published, be referred to a Select Committee.

The HON'BLE MR. HUDLESTON seconded the motion. He would only remark that, if it appeared to any Member of the Council that the proposed measure trenching on private rights, he would do well to contrast it with the law on forests recently enacted by the Government of India, which had not been extended to this Presidency because this Government represented that such legislation for this Presidency should be considered and passed here. The special provision to which he would draw attention was to be found in Section 16, which preserved to villagers, as regards village forests, all customary rights of collecting fuel or timber for building materials or agricultural implements, or other forest produce, subject only to certain rules. Power had been taken, in the event of repeated mischief to forests, to assume the management of such forests and to maintain special guards for their protection at the cost of the villages. The other point to which attention should be directed as indicative of the same intention, was that the Forest Settlement officer was not an officer of the Forest Department, but an officer of the Revenue Department known to the people and in whom they had confidence; and even there the Bill provided that the acts of the Revenue officer would be open to appeal. Mr. Hudleston desired to point to a clerical error in Section 38 of the draft Bill which ought to have attracted notice. It was there stated that the appeal from the Collector was to lie to the Sessions Court, whereas it was obvious that the appeal was to lie to the District Court.

The HON'BLE G. N. GAJAPATHI RAO spoke as follows in support of the Bill:—

"The Bill introduced by the Noble President, I need not describe, is one of paramount importance, and one that will assuredly result for the benefit of this Presidency at large. It has often been said by many scientific men that one of the many causes of famine was the cutting off, and consequent annihilation, of forests. Some twenty years back famine was of very rare occurrence. We were then visited by such calamities once in ten or fifteen years, but unfortunately of late its appearance has been too frequent—almost every year. I remember having read some time back an article in some magazine—I think it was Macmillan's—on famines and floods in India. The writer of that article, a gentleman of great experience,—himself an engineer and a great traveller,—attributed the destruction and removal of forests as one of the chief causes for the constant visitation of this calamity. Men of old experience in my part of the country also cherish the same view. It is also a strange coincidence that this view should have been maintained by our pundits and philosophers of old. It is said in the *Yejurveda*, 'By trees we get rain.' This Bill, therefore, will eventually prove very beneficial throughout the Presidency. I quite concur with the able observations made by the Noble President for the conservation and protection of forests.

"But I am, however, of opinion that Sections 28 to 31, which give control to Government over forest lands belonging to private persons, will have to be very carefully considered by the Select Committee, who, I am sure, will weigh the matter thoroughly when the Bill comes before them. I would also suggest that the Select Committee should invite the opinion of zemindars and landed proprietors, through the

Collectors with their opinions, in what manner the appropriation by Government of private forest lands may be made. With these few observations I beg to support the Bill."

The HON'BLE MIR HUMAYUN JAH BAHADUR remarked that, as the chief object of the Bill was to secure a regular supply of water for the irrigation of the country by putting a stop to forests and woods being injured by fires or reckless cutting down of trees, the proposed measure met with his cordial sympathy and support.

The HON'BLE V. RAMIENGAR spoke as follows:—

"The Bill introduced by your Grace to-day is one fraught with importance to the interests of this Presidency. It is directed against a serious and growing evil—the evil of the wanton and indiscriminate destruction of valuable forests—and I trust that the principle of the measure will commend itself to every intelligent landholder. The great difficulty in dealing with a measure of this kind is how to secure the accomplishment of the object aimed at without violence to existing private rights; and on this point the Bill appears to me to be conceived and framed with care and in a liberal spirit. I regard with particular satisfaction that portion of it which provides for the investigation and settlement of the claims and objections which may be preferred under it, being entrusted to Revenue officers familiar with the people and their language, and who may be supposed to possess their confidence; and it is also a matter for congratulation that this important and domestic question of forest conservancy is to be dealt with by the local Legislature with reference to local circumstances and local conditions. Without at present pointing to any particular provisions of the measure, I think the whole will demand, and doubtless will receive, the careful and attentive consideration both of the Select Committee and of this Council; and, if the Bill is eventually passed into law, as I trust it will be, with any modifications which may be considered necessary, and judiciously worked, I firmly believe that it will be found to result in great and lasting good to this Presidency. Entertaining these views, I have no hesitation in adding my humble vote in favor of the motion before the Council."

It was then moved by HIS GRACE THE PRESIDENT, seconded by the Hon'ble W. HUDLESTON, and agreed to by the Council that the Bill be referred to a Select Committee consisting of—

THE HON'BLE W. HUDLESTON.

THE HON'BLE V. RAMIENGAR.

THE HON'BLE G. N. GAJAPATHI RAO.

THE HON'BLE MIR HUMAYUN JAH BAHADUR, and

THE HON'BLE P. MACFADYEN.

HACKNEY CARRIAGE BILL.

THE HON'BLE W. HUDLESTON, on behalf of the Hon'ble J. G. COLEMAN, who was absent from Madras, presented the report of the Select Committee on the Bill making provision for the regulation of Hackney Carriages in the Town of Madras, which had been so amended by the Select Committee as to give power to the Government to extend its provisions to any other town in the Presidency.

Mr. HUDLESTON remarked that the Bill itself had been under the consideration of the Members of the Council since its publication, and that the Report of the Select Committee had been duly circulated. The principle of the Bill had been preserved, the only important alteration made being that the entire working of the proposed measure was put into the hands of the Commissioner of Police, so as to avoid divided responsibility. Without drawing any special attention to the various alterations and

improvements effected by the Committee, he recommended that the Bill be taken into consideration by the Council.

The motion, seconded by the HON'BLE D. F. CARMICHAEL, having been put to the meeting and passed, the Council proceeded to take the Bill into consideration.

Preamble, lines 2 and 3.—Instead of "regulation and control," read "regulation, control, and protection;"

Lines 6 and 7.—Instead of "for fixing the fares and terms of hiring," read "and for fixing and enforcing terms of hiring;" and

Lines 7 to 9.—Strike out the words "and for the punishment of misconduct on the part of licensees, drivers, or attendants on such vehicles."

Section 6, lines 6 to 8.—For "the inspection of the said Commissioner of Police at such time and place as he may appoint," read "such inspection as the Commissioner of Police may direct."

Section 9, Clause 2.—Omit the words "and the place at which the hackney carriage is to be kept for hire."

Section 12, last two lines.—Omit the words "and of the place at which he intends to keep such vehicle for hire."

Section 13, lines 4 and 5.—Omit the words "or the place at which the hackney carriage is kept for hire;" and

Last line.—Omit the words "or place."

Section 15, line 5.—Strike out the words "for every such offence;" and add at the end of the section the words "for each day on which such offence is continued."

Clause 3, line 4.—Insert the words "together with any costs or charges incurred" after "paid;" and

Lines 6 and 7.—For "such carriage together with the animals" read "such carriage and the animals."

Section 18.—Insert among the particulars of the driver's license the following clause;—"the description of carriage and animals such person is licensed to drive."

Section 22, line 6.—Add the words "or marked" after "punched."

Clause 4, line 4.—For "new badge," read "new license and badge;" and line 6, for "one previously issued," read "badge previously issued."

Section 23, line 2.—After the words "determination of any license," insert "whether by substitution or cancellation."

Clause 2, lines 6 and 7.—Alter the words "fraudulently use, or wear, or detain" to "use, or wear, or fraudulently detain."

Section 26, line 8.—For the word "fail" substitute "refuse."

Section 30, lines 8 to 11.—For the words "the Commissioner of Police shall enter the particulars contained in such memorandum in the register," read "the Commissioner of Police shall enter the fact of such sentence in the register."

Section 35, Clause 2, last line.—For "as provided in Section 31," read "as provided in pursuance of Section 31."

Section 37.—Omit "owner" in the first line.

Section 45.—Bring in at the end of the section the words "and the number of carriages that shall stand upon it."

Section 46, line 5.—For "twenty-four hours," substitute "twelve hours."

Section 47, Proviso, line 6.—For "property to be sold," substitute "property to be advertised and sold."

It was then moved by the HON'BLE MR. HUDLESTON seconded by the HON'BLE MR. CARMICHAEL that the Standing Orders be suspended, the Bill as amended be passed.

HIS GRACE THE PRESIDENT having suspended the Standing Orders and put the motion to the Council, the Council passed the Bill accordingly.

MADRAS ACT VIII OF 1867 AMENDMENT BILL.

THE HON'BLE P. O'SULLIVAN presented the report of the Select Committee on the above Bill, and explained that although the Hon'ble Mr. COLEMAN and the Hon'ble Mr. MACKENZIE were not present to sign the report, they had taken part in the amendments carried out, and fully agreed to them. Those amendments did not, with one exception, touch the principle of the Bill. When the Bill was sent to the Select Committee, they thought it expedient to extend the purpose. By the original Bill, the provisions of the proposed law could come into force at all, only when an offence had been committed under Section 55 of Madras Act VIII of 1867, which provided against cruelty to animals; but by Section 7 of the Bill as amended power was to be taken for any Magistrate to order the destruction of any animal suffering from diseases which would be dangerous to the public safety. The absence of such a power had been felt more than once. The other amendments were matters of detail, and called for no special remark. He therefore moved that the Bill as amended by the Select Committee be now taken into consideration.

The motion was seconded by the HON'BLE MR. HUDLESTON; and the Council proceeded to consider the Bill. The following amendments were adopted.

Preamble, lines 9, 10, and 11.—The following words "and also to order the destruction of any animal suffering from dangerous disease" to be struck out.

Section 1, lines 3 and 4.—Between the words "appoint" and "an" the following words "one or more places to be" to be added.

Section 5, line 5.—Between the words "the" and "proceeds," the word "nett" to be inserted.

Section 7.—His Grace considered that the power conferred by this section, enabling a Magistrate to destroy any animal which might be in any private premises, was a very large one. The exercise of that power might be inexpedient, without the aid of competent professional advice, and upon what might turn out to be insufficient, if of competent professional advice, and upon what might turn out to be insufficient, if of competent professional advice. His Grace thought it would be better to leave the working not improper, evidence. His Grace thought it would be better to leave the working of the intended provision to the operation of the Cattle Disease Prevention Act as recently amended by the Council. The Council agreeing with His Grace's views, it was resolved to omit the section.

The HON'BLE MR. O'SULLIVAN then moved that the Standing Orders be suspended, and that the Bill as altered by the Council be passed.

On HIS GRACE suspending the Standing Orders, the Bill was passed accordingly.

There being no further business to be put before the Meeting, the Council adjourned *sine die*.

(By Order.)

W. M. SCHARLIEB,
Asst. Secy. to Government.
Legislative Department.

FORT ST. GEORGE,
2nd April 1879.

*Abstract of the Proceedings of the Council of His Grace the Governor of
Fort St. George for the purpose of making Laws and Regulations
held under Act of Parliament, 24 and 25 Victoria, Cap. 67.*

The Council met at the Council Chamber at Ootacamund on Wednesday, the
25th day of June 1879.

P R E S E N T :

HIS GRACE the GOVERNOR OF FORT ST. GEORGE, G.C.S.I., C.I.E.—*presiding.*
HIS EXCELLENCY the COMMANDER-IN-CHIEF, G.C.B., G.C.S.I.
THE HON'BLE W. HUDLESTON.
THE HON'BLE D. F. CARMICHAEL.
THE HON'BLE V. RAMAIAENGAR, C.S.I.
THE HON'BLE J. G. COLEMAN.
THE HON'BLE P. O'SULLIVAN, *Advocate-General.*

ASSENT OF THE GOVERNOR-GENERAL TO CERTAIN MADRAS ACTS.

HIS GRACE the PRESIDENT communicated to the Council the assent of His
Excellency the Viceroy and Governor-General, to the following Madras Acts:—

Act No. I of 1879—An Act to amend the Cattle Diseases Prevention Act II
of 1866.

Act No. II of 1879—The Nilgiris Game and Fish Preservation Act.

Act No. III of 1879—The Madras Hackney Carriage Act

Act No. IV of 1879—An Act to amend the Madras Town Police Act VIII of
1867, so far as relates to Cruelty to Animals.

Act No. V of 1879—The Madras Abkari Laws Amendment Act.

THE CITY OF MADRAS MUNICIPAL ACT AMENDMENT BILL.

The HON'BLE D. F. CARMICHAEL, in introducing a Bill "to amend the City of
Madras Municipal Act V of 1878," observed that he had but little to add to the "State-
ment of Objects and Reasons" which had been already published in the Gazette by
order of His Grace under the 25th Rule for the Conduct of Business. The Notification
issued by Government under Section 4 of the Madras Municipal Act, defining the
City for the purposes of the Act, excluded Fort St. George from such limits. Now,
there were numerous public offices in the Fort to which persons resident in
Municipal limits outside the Fort daily resorted for the exercise of their profession.
Such persons enjoyed all the benefits of the Municipality; but inasmuch as their
offices happened to be situate outside the Municipal limits, they would escape the
Professional Tax unless the present Bill passed into law. Such exemption was not
contemplated when the Municipal Act was before the Council; but it resulted from
the wording of Section 103. The object of excluding the Fort from the Municipal
limits was in order that the barracks and other buildings in the Fort might be
exempted from the operation of the Act, and that there might be no clashing between
the Military Department and the Municipality as regards the sanitary and other

arrangements therein and for other reasons. The matter was urgent, and he therefore requested HIS GRACE to suspend the Standing Orders, that the Council might proceed to consider the Bill with a view to pass it.

HIS GRACE THE PRESIDENT directed that the Standing Orders be suspended.

THE HON'BLE V. RAMAIYENGAR observed that it appeared to him that Section 114 of the Municipal Act required to be similarly amended, as persons residing within the Fort would otherwise be entitled to claim exemption from the tax on salaries if it came to be levied.

This suggestion was approved by the Council; and after some discussion the Bill was recast as follows:—

A Bill to amend the City of Madras Municipal Act, 1878.

WHEREAS doubts have arisen whether persons residing in or following their professions in Fort St. George, and not otherwise exempted from the payment of the Tax on Arts, Professions, Trades, Callings and Salaries are liable to pay the said taxes under Madras Act V of 1878; it is hereby enacted as follows:—

1. In Section 103 after the word "placed" the following words shall be inserted:—
 "provided that no person shall claim exemption from the operation of this section by reason of his exercising his art, profession, trade, or calling within the limits of Fort St. George notwithstanding any notification by the Governor in Council under Section 4."
 Proviso to Section 103.
2. To Section 114 the following words shall be added:—
 "Provided also that no person shall claim exemption from the operation of this section by reason of his residence within the limits of Fort St. George notwithstanding any notification by the Governor in Council under Section 4."
 Additional proviso to Section 114.
3. This Act shall be read with and taken as part of Madras Act V of 1878.

and passed *nem con.*

THE GUNPOWDER BILL.

THE HON'BLE P. O'SULLIVAN, in introducing a Bill "to regulate the storage, sale, and conveyance of gunpowder," observed that the Bill had already been published in the *Fort St. George Gazette* under Rule 25 of the Rules for the Conduct of Business, and that it was intended to be brought into operation from and after such date as the Governor in Council may notify in the Presidency town and in other places in the Presidency where the Towns' Improvement Act was in force. The Bill would make it compulsory on every Municipality to provide a Magazine for storing Gunpowder; and every person within such Municipality having in his possession more than 40 lbs. of gunpowder would be bound to deposit it in the Magazine. Provision was also made for keeping gunpowder where the quantity was less than 40 lbs. by requiring the possessor to keep it in a suitable box or safe, apart from any other combustible substance. Section 6 prohibited the hawking or selling of gunpowder which was not kept in a suitable receptacle. Section 7 enabled the Government to make rules relating to the packing of gunpowder for conveyance from one place to another. Section 8 provided penalties for breaches of the provisions contained in the Bill or Rules. The last section exempted from the operation of the Bill, gunpowder intended for the use of the Military,

Police, or the Government. He concluded by saying that the Bill be taken into consideration and referred to a Select Committee.

After some discussion, it was resolved that the Bill be referred to a Select Committee consisting of

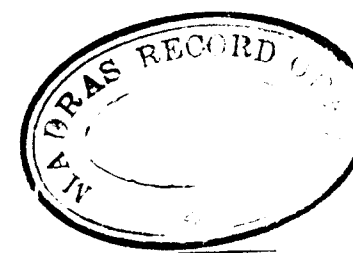
THE HON'BLE W. HUDLESTON,
 " P. MACFADYEN,
 " V. RAMAIYENGAR,
 " J. G. COLEMAN, and
 THE MOVER.

There being no further business to be transacted, the Council adjourned *sine die* by order of HIS GRACE THE PRESIDENT.

(By order of HIS GRACE THE PRESIDENT.)

A. L. V. RAMANA,
 Acting Assistant Secretary,
 Legislative Department.

OOTACAMUND,
 25th June 1879.





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Abstract of the Proceedings of the Council of the Governor of Fort St. George assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament, 24 and 25 Victoria, Cap. 67.

The Council met at the Council Chamber at Ootacamund on Friday, the 9th day of July 1880.

PRESENT:

HIS GRACE THE GOVERNOR OF MADRAS, G.C.S.I.—*Presiding*.
HIS EXCELLENCY THE COMMANDER-IN-CHIEF, G.C.B., G.C.S.I.
The Hon'ble W. HUDLESTON.
The Hon'ble D. F. CARMICHAEL.
The Hon'ble P. O'SULLIVAN.
The Hon'ble P. MACFADYEN.
The Hon'ble RAJA RAO GANGADHARA RAMA RAO, Raja of Pittapur.
The Hon'ble R. DAVIDSON, C.S.I.

NEW MEMBER.

The Hon'ble R. DAVIDSON, C.S.I., took his seat as an Additional Member of Council.

Telegram read from the Hon'ble G. N. GAJAPATHI RAO expressing his inability to attend the meeting, in consequence of his being at Visagapatam.

ACT ASSENTED TO BY THE GOVERNOR-GENERAL.

HIS GRACE THE PRESIDENT announced the assent of HIS EXCELLENCY THE VICEROY AND GOVERNOR-GENERAL to Madras Act VI of 1879, "An Act to amend the City of Madras Municipal Act, 1878."

THE GUNPOWDER BILL.

The Hon'ble P. O'SULLIVAN, in presenting the Report of the Select Committee on the Bill "for regulating the storing, sale, and packing for conveyance of gunpowder," stated that the chief alterations made by the Committee, were the raising of the amount allowed to be kept in a person's own possession from 40 lbs. to 50 lbs., and committing to the Governor in Council, instead of to the Municipal Commissioners, the power of making regulations for the management of the magazines; and he moved that the Bill, as amended by the Select Committee, be now taken into consideration. In the motion being carried, the Hon'ble P. MACFADYEN said that he could not see the necessity for this Bill so far, at all events, as Madras was concerned, for with other Municipalities he was not sufficiently acquainted. The Madras Police Act of 1867, Section 45 *et seq.*, and the Madras Municipal Act of 1878, Section 322, seemed to provide all the safeguards requisite for the storage of less than 50 lbs. of gunpowder, while the merchants' magazine at present existing, satisfactorily took care of

MADRAS ACT III OF 1863 REPEALING.

larger quantities. The Hon'ble W. HUDLESTON observed that this was done under Customs Regulations. The Hon'ble P. MACFADYEN proceeded to say that he saw no reason for disturbing the present system, which worked well, and for adding to the already numerous duties of the Municipality. He had no objection to a small charge being made by the Government for the use of the magazine, which might be effected by a mere executive order.

HIS GRACE THE PRESIDENT pointed out, by reference to a recent case, the difficulties attending the passing of such an order, and showed that if fees were to be charged at all, legislation was absolutely necessary to protect either the Government or the Municipality, whichever authority was left to charge the fees, as otherwise they would be in the position of a mere warehouseman, with a liability to pay damages for losses by explosion and what not.

The Hon'ble P. MACFADYEN, admitting this, contended against the Madras Municipality, in its present financial circumstances, being saddled with the expense of providing a magazine, as it would be bound to do, as Section 3 of the Bill now stood. An assurance being given, on his proposal, that the present merchants' magazine would be lent to the Municipality, further objection on his part to the Bill was withdrawn. He suggested, however, that as the Municipality would now be compelled to assume a novel charge, it should not be denied the making of the bye-laws in respect thereof, and proposed that Section 4 of the Bill should be amended so as to place the regulation of the magazine in the hands of the Municipal Commissioners instead of in those of the Governor in Council, as recommended by the Select Committee. This was agreed to, and Section 4 of the Bill was accordingly altered as follows:—

Instead of "Governor in Council" was read "Municipal Commissioners with the previous sanction of the Governor in Council."

The following verbal amendments were also ordered to be made:—

On the suggestion of HIS GRACE THE PRESIDENT—

Section 2. After "date" insert "or dates respectively," and after "Gazette" insert "from time to time."

On the suggestion of the Hon'ble P. O'SULLIVAN—

Section 3. For "extended" read "applied."

On the suggestion of the Hon'ble W. HUDLESTON—

Section 9. In lieu of all the words after "affect" read "gunpowder belonging to Government."

HIS GRACE THE PRESIDENT then put to the Meeting the Motion that the Bill as read and amended be passed; and it was carried *nem. con.*

MADRAS ACT III OF 1863 REPEALING BILL.

The Hon'ble D. F. CARMICHAEL, in introducing this Bill, explained that it was prepared at the instance of the High Court, who, being of opinion that Madras Act III of 1863, which was passed to make better provision for the service of processes under the Criminal Breach of Contract Act, had been practically, though not expressly, repealed by the provisions of Sections 18 and 20 of the Court Fees Act of 1870—had suggested the expediency of its being actually repealed. It was a very trifling and formal matter; and he therefore applied for the suspension of the Standing Orders in view to the Bill being at once considered and passed.

MADRAS MUNICIPAL ACT AMENDMENT.

HIS GRACE THE PRESIDENT suspended the Standing Orders, and the Bill being read, was passed by the Council.

MADRAS LICENSE ACT OF 1878, AMENDMENT BILL.

The Hon'ble W. HUDLESTON introduced this Bill, and said its object was to amend the Schedule annexed to the Madras License Act, by striking out the three highest classes of assessment, which were higher than those prevailing in any other part of India. The scale had been adopted when the License Tax was first imposed in Madras, and though the Chamber of Commerce very soon complained of its being excessive, legislation in Madras to remove the inequality had been delayed, as there was reason to expect that the Government of India would supply the legislative remedy. They had now, however, abandoned this intention, but had approved the amendment of the law proposed by this Government to reduce taxation here, so that the maximum rate should be reduced to Rupees 500, which is the highest rate in force elsewhere. The reduction will operate for the current official year, and the immediate financial effect will apparently be to reduce 40 assessments aggregating Rupees 27,800 to Rupees 20,000. He would now apply for the suspension of the Standing Orders, so that the Bill might be considered and passed forthwith.

HIS GRACE THE PRESIDENT having suspended the Standing Orders, and no discussion arising, the Bill was passed.

MADRAS MUNICIPAL ACT AMENDMENT BILL.

The Hon'ble P. O'SULLIVAN, in introducing this Bill, stated that its object was simply to protect the Municipality, for a period of three years, from being sued for default in supplying water, the performance of which obligation necessarily required reasonable time, but which had been omitted to be defined in the original Act.

HIS GRACE THE PRESIDENT remarked that the Bill really imposed no additional taxation.

HIS GRACE then suspended the Standing Orders, so that the Bill might be considered and passed into law.

On HIS EXCELLENCY THE COMMANDER-IN-CHIEF observing that it seemed hard that a house-owner should pay for water he did not get, the Hon'ble P. MACFADYEN remarked that though some persons were doubtless benefited more than others, yet there had been a general benefit to the whole community from the water-supply.

A short discussion followed as to the period for which the Municipality's immunity was to last, and it was agreed that the three years provided by the Bill was not too long a time to allow for the completion of the water-works.

The Hon'ble P. O'SULLIVAN suggested an amendment in the Bill as to the date on which, if passed, it should come into force. At present retrospective effect was given to it, but he feared that ill consequences might ensue from this. On his motion, it was, therefore, resolved to make the following amendment:—

Section 1. For the word "thereof" read "of this Act."

The Bill, as read and amended, was thereupon passed by the Council.

MARINE POLICE.

MARINE POLICE BILL.

The Hon'ble D. F. CARMICHAEL, in introducing this Bill, related how Imperial Act XXVIII of 1858, which provided that every cargo-boat shall carry a Policeman and pay a fee of 3 annas to the Police Fund, per trip, had been passed at the suggestion of the Chamber of Commerce, Madras, to prevent the plundering of cargo on the part of the boatmen between ship and shore at the port of the Presidency Town; and stated that other ports now felt the want of the same protection, which it was the object of this Bill to extend to them. It had also been found that the rate of 3 annas per boat fixed by that Act was inadequate to meet the expenditure incurred on account of the Madras Marine Police; and it was now proposed to empower the Government to fix and revise the rates so that they may cover the cost of the present force, and of any increase that it may be necessary to make to it. The present rate is uniform without reference to the weight or extent of the boat-load, but in future there would be a scale according to the tonnage. With these remarks he begged to move that the Bill be referred to a Select Committee, who would have to consider also the corporal punishment on conviction of certain offences committed by the boatmen, the Bill, in its present shape, was open to the objection that it would add to and vary the Penal Code and the Whipping Act, which the Council was not competent to do. A Bill framed to extend the old Act and to provide for the levy of fees might perhaps best meet the case. He proposed that the Select Committee should consist of—

The Hon'ble W. Hudleston,
The Hon'ble P. Macfadyen,
The Hon'ble P. O'Sullivan,
The Hon'ble R. Davidson, C.S.I., and
The Mover.

The Motion was put and carried.

The Hon'ble the RAJA OF PITTAPUR having signified his approval of the Bill, recommended the extension of its provisions to passenger boats also.

HIS GRACE THE PRESIDENT observing that the suggestion was good in case of certain ports, said that the written note of the Hon'ble Member should be referred to the Select Committee for consideration.

The Council was then adjourned *sine die*.

(By order.)

Ootacamund, 9th July 1880.

J. A. DAVIES,
Assistant Secy. to Govt.,
Legislative Department.



Abstract of the Proceedings of the Council of the Governor of Fort St. George assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament, 24 and 25 Victoria, Cap. 67.

The Council met at the Council Chamber at Ootacamund on Saturday the 2nd day of October 1880.

PRESENT:

HIS GRACE THE GOVERNOR OF MADRAS, G.C.S.I.—*Presiding*.
HIS EXCELLENCY THE COMMANDER-IN-CHIEF, G.C.B., G.C.S.I.
The Hon'ble W. HUDLESTON.
The Hon'ble D. F. CARMICHAEL.
The Hon'ble MIR HUMAYUN JAH BAHADUR.
The Hon'ble J. G. COLEMAN.
The Hon'ble R. DAVIDSON, C.S.I.

The ASSISTANT SECRETARY submitted to His Grace the President the apologies of the Hon'bles P. MACFADYEN, G. N. GAJAPATHI ROW, and the RAJA OF PITTAPUR for their inability to attend the Council.

ACTS FORWARDED FOR GOVERNOR-GENERAL'S ASSENT.

The ASSISTANT SECRETARY reported that the following Acts, passed by the Council on the 9th July last, and formally assented to by His Grace the Governor on the 6th August following, had been forwarded for the assent of His Excellency the Governor-General:—

- (1) An Act for regulating the storing, sale, and packing for conveyance of Gunpowder.
- (2) An Act to repeal Madras Act III of 1863 (An Act to make better provision for the service of processes under Act XIII of 1859).
- (3) An Act to amend the schedule annexed to the Madras License Act, 1878, as amended by Act VI of 1880.
- (4) An Act to amend Act V of 1878 (The City of Madras Municipal Act).

ACTS ASSENTED TO BY THE GOVERNOR-GENERAL.

HIS GRACE THE PRESIDENT announced the assent of His Excellency the Viceroy and Governor-General to the following Acts:—

- (1) No. I of 1880—"An Act for regulating the storing, sale, and packing for conveyance of Gunpowder."
- (2) No. II of 1880—"An Act to repeal Madras Act III of 1863 (An Act to make better provision for the service of processes under Act XIII of 1859)."

FOREST BILL.

The Hon'ble W. HUDLESTON presented the Report of the Select Committee on the Bill "to make provision for the protection and conservation of forests and forest-produce in the Madras Presidency," which had been re-cast and re-arranged throughout, but the only points in which the Select Committee had materially modified its provisions were by the excision of Section 6, and the last clause of Section 28 of the original draft. Section 6 provided that no person shall "cut, clear, or burn in any forest any trees being within a distance of fifty yards from the margin of the bed of any river, or within fifty yards of any spring or other source of water;" but the Committee, considering that the provision, while oppressive, was inadequate for attaining the object aimed at and that it did not admit of modification to an extent, which would remove the objections without neutralising the intention, resolved to strike it out altogether. The other provision which the Committee had excised related to the suspension of payment of compensation to a private owner, whose forest had been taken up by Government in the event of the destruction of the forest by fire, for they were of opinion that, with the management of private property in the public interests, the Government must also assume the risks incident to its administration. With reference to the Minute of dissent by the Hon'ble P. Macfadyen regarding Chapter VII, which dealt with this question of management by Government, the Hon'ble W. HUDLESTON compared the provisions of the Bill with those of the Government of India Act, and pointed out that although under the former the owner could not compel the Government to acquire the forest taken up, as was provided in the Imperial Act, yet that Act went much further than the present Bill in declaring five purposes for which the Government might interfere with the private control of property; whereas here its interference was permitted in only one case for an object of vital importance, namely, the preservation of the sources of rivers upon which the irrigation of the country depended. He then proceeded to review the Bill, noticing its salient features and the modifications made by the Select Committee. In Chapter I, a definition of "Forest Settlement Officer" had been introduced with reference to Chapter VI; "Customary rights" had also been interpreted, and by using the word "include" they were advised that other rights not mentioned were not barred or excluded. The difficulty of defining "Forest" had led to its omission and the substitution of Section 3, Chapter II, in its stead, where the same word "include" was used, with other words which covered every thing necessary for the operation of the Act. Section 4 had been specially inserted following Section 83 of the India Act in order to declare the Land Acquisition Act applicable for the purposes of this Act in case of any doubt on the point. Though it might perhaps be superfluous, it could do no harm; but by its insertion, the Government were placed in the position of having to proceed under the Act referred to so far as it might apply. Section 9 was in substitution of the provisions in the original Bill constituting a separate class of "Closed Forest," and authorising the closing of parts of Village Forests. The section, as it now stood, was more useful and convenient, as it extended the powers to any State Forest including Reserved and Protected as well as Village Forests. The terms followed pretty much the India Act, except that the time for which a forest may be closed might therein extend by one Notification to 20 years, while this Bill empowered the closing for only 15 years altogether, and that in two periods,—first for 10 years and then, in case of necessity, for another period of 5 years. The provision was a very necessary one, and could be worked to great advantage. In the District of Nellore by a few years' fencing and preserving, the village woods had been extensively restored without any inconvenience to the people, and

judging from the experience gained there, the time allowed in the Bill would prove quite sufficient for the object aimed at.

HIS EXCELLENCY THE COMMANDER-IN-CHIEF expressed his approval of the provision, arranging, as it also did, for a sufficient supply of fuel to the villagers.

The Hon'ble W. HUDLESTON continued that the provisions of Chapter III regarding Reserved Forests remained as in the original draft except that these forests would now come under the operation of Section 9 and be capable of being closed. They would be protected and conserved by the Forest Department, and powers were given to enable the Forest Officers to work them properly, but they must be preserved as forest and their area could not be cleared. Private Forests when taken up under Chapter VII would be classed as Reserved Forests, thereby allowing the exercise of all rights provided the Forest itself was not injured. Chapter IV was important as recognising the customary rights of villagers, and as setting apart for their use, sufficient areas of State Forest in which those rights might be exercised. The limitation would allow of poor people selling to the richer in their own village but not beyond it. It was in this particular that the want of proper power for conservancy had been most felt hitherto. There had been a trade by merchants on the coast line or in large towns, who had employed people in the interior to cut down and supply them with wood which they dealt in to their own profit. The License and Voucher system had worked fairly, but it had no legal authority, and the Heads of Villages were not always under proper control and supervision. It had occurred to him, as a Member of the Select Committee, whether they had not gone too far in saying forest should be allotted "in or to" every village, no matter at what distance, so long as it was practicable, the area allotted might be. This was going beyond the existing right which was all that they wanted to preserve and cherish, and it might raise too great expectations. The Mirasidar or ryot could support his claim to wood only within his village limits, but the village ryot could support his claim to wood only within his village limits, but the section was worded so as to allow the allotment beyond, as the jungle might be close by the village though outside its limits. Under Chapter V had been included all State Forests not coming under Chapters III and IV. They were declared to be Protected Forests, but customary rights in them were still reserved. Chapter VI made important provisions for the investigation and settlement of all rights claimed in any forest coming under the operation of the Act. The principal change made by the Committee was to be found in Section 27 which gave a wider selection to the Government in the choice of Forest Settlement Officers; Members of the Military or Uncovenanted Services being also rendered eligible for such employment. It was further provided that if a Forest Officer was selected, he must have two others of other Departments associated with him.

HIS EXCELLENCY THE COMMANDER-IN-CHIEF observed that this was a wise provision, inasmuch as the Act would depend on its good working for its success.

The Hon'ble W. HUDLESTON continued that another modification made was that no appeal was allowed in the case of commutation of claims when assented to by the claimant. Referring again to Chapter VII, he remarked that the interests of private owners had not been forgotten, as it was understood that compensation would be claimable for possible profit from cultivation, such as Tea, Coffee, or Cinchona planting, although it was not supposed that any such existing cultivation would be affected by the provisions of this Chapter. The provisions of Chapter VIII relating to the transit of timber, &c., were almost identical with the draft, and followed those of the Government of India Act as did also the Subsidiary Rules of Chapter IX except, that instead of being scattered about, they were here brought together. Chapter X dealt with penalties, also following the India Act, except in one

important particular, viz., the power of arrest without warrant, given by Section 63 of that Act. Though its adoption was strongly urged by the Forest Officers it was thought that it would put too great a power of oppression in the hands of subordinate officials in remote forest tracts. Power has, however, been given for the seizure of tools, &c., connected with a forest offence. In para. 26 of the Report relating to this matter "one" had been printed by mistake before "month's," and it should be altered to "six." The only other point of the Select Committee's report to be noticed was their concluding provision in the Bill empowering the Government to apply all or any of its provisions to private forests at the request of the owners. It was very much the same as the provision in Section 38 of the Government of India Act. In conclusion, he would move that the Bill, as amended by the Committee, be taken into consideration.

The Motion being carried, the Council proceeded to consider the Bill which was read, section by section, by the Assistant Secretary.

On the reading of *Section 2*, the interpretation clause, it was pointed out by the Hon'ble W. HUDLESTON that the Government of India Act included more things under "Forest-produce" than were entered here. The reason that some of those were excluded in this Bill was that a difficulty was foreseen in regard to them with reference to the sections regulating transit, while others, such as "horns, &c," were in this Presidency the subject of customary rights. Under customary rights in line 41 it was agreed, on the suggestion of the Hon'ble D. F. CARMICHAEL, to insert "immemorial" before "right," and on his objection to the words "of village cattle of the locality, but not of grazing other cattle" after the words "right of grazing" which it was explained had been put in to prevent the cattle of distant villages being allowed to graze on payment of fees to the villagers possessing the grazing grounds, it was unanimously resolved to strike them out on the ground that whether distant villagers had or had not the right of grazing in particular tracts was a question to be decided in each case, and not one to be peremptorily settled here. Under "river" it was remarked that "channels" had been struck out, as superfluous.

In *Section 3*, it was pointed out that the word "tree" included "stumps."

In *Section 9*, the following amendments were made:—The words "and under such Notification duly published" in lines 7 and 8, "any specified or" in line 9, "customary" and "as the case may be" in lines 10 and 11, to be struck out; and after the word "area" in line 12, the words "subject to such exceptions as the Government may specify in such Notification" to be added. In line 16 the word "customary" to be omitted, and in lines 18 and 19 for the words "conveniently elsewhere" to be substituted "elsewhere in a locality reasonably convenient." The following clause was added to the section and marked (b):—

"The Government may in like manner cancel any such Notification."

Section 15 "Village Forests." The opening words "In recognition and furtherance of village customary rights of common and" were struck out as vague and unnecessary. As to granting to villagers allotment of forest beyond their village bounds, the Hon'ble D. F. CARMICHAEL concurred in thinking the provision went too far. No one could urge that he was entitled to take wood gratis without regard to village limits, and people who, owing to the absence of it in their own villages, had hitherto purchased it or obtained it on license could continue to do so. There appeared no reason to make them a present of it in future, and he would therefore move that the words "or to" in lines 5 and 6 be struck out. The motion was carried.

It was pointed out by HIS GRACE THE PRESIDENT that the restrictive part of the section would, as worded, still permit of the sale of wood, so long as it was sold in the village, to any person whatsoever, so that the trading merchant, who was to be guarded against, might come and buy on the spot; and it being doubtful whether the provisions of Sections 42 (i) and 44 would save existing Rules in the matter of licenses so as to prevent such an evasion of common village rights, it was resolved to amend the latter part of the section as follows:—In line 8, the words "to the villagers" to be struck out, and in line 9, after the word "be" the words "to the villagers for their own use" to be inserted, and after the word "for" in line 11, the words "the use of cattle and thatching" to be added, and the following words in lines 12, 13, and 14, "common enjoyment by the inhabitants of such village, but not for purposes of trade beyond its limits" to be struck out.

HIS EXCELLENCY THE COMMANDER-IN-CHIEF observed that the rights of the villagers themselves appeared to be sufficiently protected.

In *Section 17*, for the words in lines 2, 3, and 4 "grazing, collecting fuel or timber or other forest-produce for village use and enjoyment" the words "the villagers" were ordered to be substituted, and after the word "concerned" in line 7 the words "for their own use and enjoyment" were inserted. In line 11 "also" was entered after "and."

Section 19. The words in lines 12 and 13 "as of pasturage, grazing or collecting forest-produce other than trees or timber," were expunged, and the word "Forest" in line 15, was altered to "Forests."

The Council then adjourned to Monday the 4th instant at 11 o'clock.

(By order.)

J. A. DAVIES,
Acting Under Secy. to Govt.

Ootacamund, 2nd October 1880.

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Abstract of the Proceedings of the Council of the Governor of Fort St. George assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament, 24 and 25 Victoria, Cap. 67.

The Council met at the Council Chamber at Ootacamund on Monday, the 4th day of October 1880.

PRESENT:

HIS GRACE THE GOVERNOR OF MADRAS, G.C.S.I.—*Presiding*.
HIS EXCELLENCY THE COMMANDER-IN-CHIEF, G.C.B., G.C.S.I.
The Hon'ble W. HUDLESTON.
The Hon'ble D. F. CARMICHAEL.
The Hon'ble MIR HUMAYUN JAH BAHADUR.
The Hon'ble J. G. COLEMAN.
The Hon'ble R. DAVIDSON, C.S.I.

FOREST BILL.

The Council resumed the consideration of the Forest Bill.

Chapter VI., Section 20. For the word "the" in line 8, "every" was substituted, and in line 23 after "Gazette," the words "and in each village concerned," and after "which" the word "period" were inserted.

Section 21. In line 1 the word "also" and in line 2 the words "in writing" were ordered to be erased.

Section 22. In lieu of the words "The inhabitants of any village may claim or object," to be read "The inhabitants of any village may make claims or objections."

Section 23, line 1. For "the" to be read "all," and the words "record of all" to be struck out. Line 5 "copy" to be altered to "copies."

Section 24. On the suggestion of the Hon'ble J. G. COLEMAN, the words "or by Agent" were ordered to be added at the end of the section.

Section 25. In line 2 after "posted" the words "in the vernacular" to be inserted.

On *Section 27*, the Hon'ble D. F. CARMICHAEL proposed that the restriction "of not less than four years' standing" as applied to officers should be struck out, as it might be taken to imply that that was a sufficient qualification, whereas there were men of over 4 years' standing not fitted for the work, while, on the other hand, there might be men under that standing, who were. After some discussion, the motion being seconded, was put to the Meeting, and lost by a majority of 4 to 3. The words were, therefore, ordered to stand, and the words "not exceeding three" were entered before them.

At the end of the proviso in lines 10 and 11, it was resolved to strike out the words "from other departments," and substitute the words "neither of whom shall be a Forest Officer." HIS GRACE THE PRESIDENT moved that the following provision be also added:—"Provided also that nothing in this section shall prevent the

Government from nominating and appointing as Forest Settlement Officers any persons, Natives of India, who may be deemed specially qualified for the duty."

The Hon'ble R. DAVIDSON proposed that the words "Natives of India" be omitted, so that qualified non-official Europeans might be eligible for appointment, but the proposed amendment not being seconded, the original motion was put to the meeting and carried unanimously. It was resolved that the above be entered as a second proviso to the section, at the end of proviso 1 as amended, and that the remaining part of the section from the word "it" in line 11 be numbered next as a separate section. In line 1 of this new section "also" was altered to "further" and for the "&c.," wherever it occurred, the words "or objections" were substituted. It was remarked by HIS GRACE THE PRESIDENT that as these Forest Settlement Courts were nominated and constituted by the Government itself, the right of appeal by Government against their decisions had been intentionally not allowed as in the Government of India Act. It would, moreover, entail heavy expenses on private parties if Government could appeal.

Section 29. In lieu of all the words after "Court" in line 11 to the end of the section, were substituted "in the trial of suits."

Section 30. After "shall" in line 1, the words "after the examination of witnesses in the manner prescribed in Section 182 of the Code of Civil Procedure" after "forthwith" in line 2, the words "proceed to," and after "decision" in line 3, the words "and the grounds for arriving at it" were inserted. The necessity for the illustration given of the particulars to be entered in the decision was doubted by the Hon'ble D. F. CARMICHAEL. It was pointed out by the Hon'ble W. HUDLESTON that the Government of India Act had a fuller illustration, which the Select Committee had thought it was not politic to enter as perhaps being too restrictive. As, however, the Bill did not give the full illustration of the Act, it was agreed that it was better to leave it out altogether, and it was accordingly ordered that the words, from "as the" in line 8, to "other details" inclusive, in line 13, be struck out, and the words "in such detail," be substituted therefor.

On Section 31, HIS GRACE THE PRESIDENT suggested that too great a power had been taken in making commutation compulsory, and giving the claimant no choice.

The Hon'ble W. HUDLESTON observed that the India Act had been followed, but that here the right of appeal in case of the claimants' non-assent to the terms had been allowed to a District Court, whereas by that Act the appeal was only to a Revenue Court. The point was raised whether the appeal would lie only as regards the amount of the commutation, or also as regards the order for commutation itself.

The Hon'ble W. HUDLESTON considered it would lie on the whole question with reference to the beginning words of the clause. If the officer "finds it impossible" and whether that was a fact, might be made a point at issue.

HIS GRACE THE PRESIDENT still thought, however, that the provision was too sweeping a measure against the privileges of the owner, considering the large extent of forest land to which it might be applied, and especially as the power arose in cases where admittedly the forest officer "found it impossible" to do complete justice. It was, therefore, resolved that the consent of the party must be a condition precedent to commutation and clause (d) was altered as follows:—In line 41, for the word "shall" the words "may with the assent of the claimant," and in line 46 for "the" the words "a money" were substituted. In line 47, the words "of a sum of money" and the last four lines of the clause being all the words after "land" were struck out. The previous consent of the claimant being thus provided for in the case of commu-

tation, it was resolved that it was not required in the cases provided for in clauses (a), (b), and (c), and that the words at the head of these clauses in lines 6 and 7 "with the consent of the claimant" being out of place, should be struck out.

Section 32. The Hon'ble D. F. CARMICHAEL considered that the appeal allowed was not wide enough, and suggested that an alternative appeal should be permitted to either the Collector or a Forest Court as in the Government of India Act, or to the District Court.

HIS GRACE THE PRESIDENT showed that this would be objectionable, as there would be the danger of getting contrary decisions in the same class of cases in the same forests.

The Hon'ble D. F. CARMICHAEL then urged that the order should first be liable to revision by the Collector, who, as the Head of the District, well understood the requirements and character of its people, and that an appeal should be allowed from his decision to the District Court by regular suit. He was of opinion that the procedure recommended by petition, would bar all further appeal by regular suit.

The Hon'ble W. HUDLESTON pointed out that recourse could also be had to a regular suit, and explained that the object of the petition was to allow an easy process to poor people whose rights might be affected by the provisions of the Bill, and so to save them from the expense of a regular suit which they could not afford. The procedure laid down by the Madras Boundary Act, which had been suggested, was more stringent, and persons affected by that Act were generally of the richer classes, such as Zemindars and other land-holders.

The adoption of the Hon'ble D. F. CARMICHAEL's proposal was, however, agreed to, and the whole section was remodelled as follows:—

"Any person who has made a claim under this Act, and who shall be aggrieved by any order made under clauses (a), (b), and (c) of the preceding section, may within 60 days from the date of such order apply for its revision by petition to such officer of the Revenue Department of rank not lower than that of a Collector as the Government may, from time to time, appoint by Notification in the District Gazette by name or as holding an office to revise such order. An appeal shall lie to the District Court from the revision orders of such officer by regular suit, provided it be preferred within two calendar months from the passing of the same: Provided always that the original order shall have full force and effect until varied or set aside by revision, injunction, or decision on appeal."

Section 33. The following verbal amendments were made:—In line 3 after "reported" the words "to Government" to be inserted, and the word "the" to be struck out. In line 4 after "and" the word "his" to be entered. The words "on consideration of such report" in lines 5 and 6 to be erased. In line 7 "all" to be substituted for "any," and "admitted" for "recorded as existing." In lines 9 and 10, the words "and confirmed by him" to be struck out, and in lines 15, 16, and 17, for the words "by the decision of the District Court on any appeal duly entered," the following words to be substituted "from time to time by any revision, order, or decision on appeal."

Chapter VII. On Section 34, the Hon'ble W. HUDLESTON pointed out the distinctive features of difference between the Government of India Act and the present Bill. In the former, when the control of the private forest was assumed only the net profits (if any) realised by the working of it by Government were to be paid as compensation to the proprietor, while by the Bill this Government would pay him an annual rent representing any possible profit he might have derived by leasing the land

for tea or coffee planting or in any other manner. This was considered so greatly to his benefit that no provision had been made as in the India Act compelling Government to acquire the land taken up at the requisition of the owner if made within any period after the third, and before the expiration of the twelfth year. And as mentioned in his opening remarks on the Bill it allowed interference only for the one purpose of protecting the sources of the water-supply of the country, whereas Section 35 of the India Act mentioned several purposes for which the compulsory procedure might be made applicable.

HIS EXCELLENCY THE COMMANDER-IN-CHIEF said that nevertheless he objected to the principle that Government could deprive a man of his rights of ownership without giving him the fullest compensation in its power, namely, payment for the whole value of his property if he desired it. He entirely agreed with the Hon'ble P. Macfadyen's Minute of dissent in considering that the proposed measure was a very arbitrary dealing with private property. The fact that the rightful owner of the forest had not complete control over it for sale or other disposition as he thought fit, would lessen its value in the market, and though he might find it more profitable to rent it to Government, and would in many, if not most, cases be willing to do so, he should, for this very reason, be allowed some option in the matter; for owners would not then feel aggrieved, and would the more readily fall in with the views and accede to the wishes of Government. It was bad policy to make people feel that their legal rights in property were insecure, but if, as he admitted, the infringement of those rights was necessary in some cases for the public good, that very necessity should be the ground for giving every advantage to the individuals who suffered the deprivation. He moved, therefore, that the provisions of the Government of India Act enabling the owner in certain circumstances to enforce the acquisition on the part of Government of his property, should find a place in the Bill before the Council.

The Hon'ble J. G. COLEMAN seconded the proposed amendment. He was certainly of opinion that it should be optional with the owner whether he would continue the renting of his land, or would have it bought outright.

HIS GRACE THE PRESIDENT gave some instances where a course similar to that proposed in the Bill had been followed in England. They were in the case of lands on the coast in the neighbourhood of fortifications, owing to which the owners were in several matters restricted from the free use and enjoyment of their properties and for this only an annual consideration was paid them. As regards the expected fall in value of the forest lands liable to Government intervention in the way laid down by the Bill, he was inclined to think that remaining as they would intact, and yielding in addition perpetual rent, their value would be enhanced. If the enforced renting to Government was to create a sense of insecurity in landed property, how much more should it be felt if power was given to take the property away altogether as proposed under the Land Acquisition Act. He considered it would be impolitic to apply that Act to these forest lands which in many cases belonged to Zemindars. Compensation would have to be settled with the life-tenant, who would be glad to get it, to the prejudice of the estate and his heirs. In any case it was not in his opinion desirable to take the land entirely away from the owner.

The Hon'ble W. HUDLESTON referred to a telegraphic communication received from the Hon'ble G. N. GAJAPATHI RAO, approving the principle of renting in preference to purchase, by Government of forest areas required under this Chapter for one reason, because the latter would be too costly a method.

HIS EXCELLENCY THE COMMANDER-IN-CHIEF presumed that the question of expense had been a main consideration in framing the Bill as it now stood; but the Hon'ble

Mr. HUDLESTON replied that the extent effected would not be after all very great, for the Chapter applied only to standing Forest, and not to cleared Forest and to such only as covered the head waters of three or four rivers; upon which HIS EXCELLENCY remarked there was then the less reason for refusing the owner the alternative of obliging Government to acquire the land. The opinions of the majority of Hon'ble Members present were in favor of an option being left to owners disposed under this section, and it was, therefore, resolved that the following proviso be added to it:— "Provided that such owner may at any time not less than three or more than twelve years from the date of Notification under this section require that such forest shall be acquired for public purposes, and the Government shall thereupon acquire such forest accordingly under the provisions of the Land Acquisition Act, 1870."

The Hon'ble W. HUDLESTON drew attention to an amendment made by the Select Committee in expressly placing such Reserves under the administration of the Forest Department so as to allow of their proper conservancy. HIS GRACE THE PRESIDENT feared this provision would look as if it was intended to make a profit out of the rent, while the sole object was simply to take care of the forest, paying the proprietor on account of it, good money, which he might never get otherwise. It being pointed out that by declaring such Forests to be Reserved, they came under the operation of Chapter III; in which administration by the Forest Department was already provided for, it was agreed to strike out the words in lines 11 and 12 "and to administer it as such by the Government Forest Department." In lines 20 and 21 "Sections 11, 12 and 13" was to be corrected to "Section 13."

In Section 35, lines 4 and 5, the words "a minor ward of Court" were altered to "any minor" and for the word "ward" in lines 7 and 8, the word "minor" to be read.

In Section 36, line 8, after "lessee" the words "in such lease" to be inserted, and the words "in such lease" in line 9 to be struck out.

Sections 37 and 38 relating to the determining of the compensation to be given under this Chapter. The Hon'ble W. HUDLESTON observed that the procedure laid down was merely miscellaneous and summary, and would not, he considered, bar a regular suit. It was finally resolved that in the case of the assumption by Government of leases, the compensation should be settled when disputed by a compulsory reference to arbitration, and in the case of rent payments there should, failing agreement, be an award made by the Collector from whose decision an appeal should lie to the District Court by regular suit so that it might be open to the party to carry on the case to the Higher Courts. The Assistant Secretary was directed to redraft the sections accordingly, instructions as to the periods of limitation being given him. He was further directed to draft two other provisions for this chapter, one for the periodical revision of the rents agreed on or awarded, and the other to empower Government to relinquish at equitable periods land so taken up on rent when no longer needed. The further consideration of this chapter was reserved for the next sitting of the Council.

On Chapter VIII, the Hon'ble W. HUDLESTON said that the Select Committee wished to draw attention to the subject of passes required by Section 9, Clause (b), for unless special facilities were afforded for granting them, the provision which was very stringent, would work oppressively.

HIS GRACE THE PRESIDENT pointed out that it would apply to coffee which came under the definition of "forest produce," and that as State Forests included Village Forests, none of the products under that very wide definition, not even a jar of honey, could go within 3 miles of any Village Forest without a pass. All timber also when-

ever in transit, whether by rail or by road, would require to be covered by a pass, for in its conveyance it would often be going within the prohibited circle of 3 miles from a State Forest.

The Hon'ble W. HUDLESTON stated that the Forest Officers urged the necessity for these rules very strongly, and remarked that those of the Government of India appeared still more stringent, for they applied all over the country, while these only for the specified radii of 3 miles. It was questioned whether, instead of all "forest-produce" being laid under embargo, the rules might not be passed with reference only to the more valuable kinds, such as sandalwood, cardamoms, &c., which might be named; and the further consideration of the chapter was reserved till the next sitting of the Council in order to allow meantime of a consultation on the subject with the Conservator or Deputy Conservator of Forests.

In Chapter IX, Section 42, line 12, the words "and timber" were altered to "timber and produce."

On the reading of Section 45 relating to the appointment of special guards at the cost of the villagers, HIS GRACE THE PRESIDENT remarked that though a stringent provision, it was guarded by requiring a special order of the Government to apply it, and it could not be applied until after repeated acts causing injury to the forests had been committed.

Section 47. In lines 9 and 10 for the words "the line between any village and other forest" were substituted the words "every village forest.—" and in Section 49 line 1, the words "and orders" were altered to "orders and rules."

The Council then adjourned to Wednesday, the 6th instant, at 11 o'clock.

(By order.)

J. A. DAVIES,
Acting Under Secy. to Govt.

Ootacamund, 4th October 1880.

Abstract of the Proceedings of the Council of the Governor of Fort St. George assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament, 24 and 25 Victoria, Cap. 67.

The Council met at the Council Chamber at Ootacamund on Wednesday, the 6th day of October 1880.

PRESENT:

HIS GRACE THE GOVERNOR OF MADRAS, G.C.S.I.—Presiding.
HIS EXCELLENCY THE COMMANDER-IN-CHIEF, G.C.B., G.C.S.I.
The Hon'ble W. HUDLESTON.
The Hon'ble D. F. CARMICHAEL.
The Hon'ble MIR HUMAYUN JAH BAHADUR.
The Hon'ble J. G. COLEMAN.
The Hon'ble R. DAVIDSON, C.S.I.

The ASSISTANT SECRETARY submitted to His Grace the President the explanation, which had been mis-sent and received only now, of the Honorable The ADVOCATE-GENERAL for his non-attendance at the meeting of the Council on the 2nd.

ACT ASSENTED TO BY THE GOVERNOR-GENERAL.

HIS GRACE THE PRESIDENT announced the assent which had been received since the last sitting of the Council of HIS EXCELLENCY THE VICEROY AND GOVERNOR-GENERAL to Madras Act III of 1880.—An Act to amend the schedule annexed to the Madras License Act, 1878, as amended by Act VI of 1880.

ACT NOT ASSENTED TO BY THE GOVERNOR-GENERAL.

HIS GRACE THE PRESIDENT also announced that HIS EXCELLENCY THE VICEROY AND GOVERNOR-GENERAL had withheld his assent from the Act to amend Act V of 1878 (The City of Madras Municipal Act), which was passed by this Council on the 9th July last, on the ground that inasmuch as the Act purported to bar the jurisdiction of the High Court in the class of suits therein mentioned, it was *ultra vires* of the Madras Legislative Council.

FOREST BILL.

The Council resumed the consideration of the Forest Bill.

Chapter X, Section 50, line 5.—After "shall" to be inserted "on conviction by a Magistrate," and in line 9 "fifty" was ordered to be substituted for "five hundred," which amount was considered as allowing too high a fine in the simplest cases of breach of rules.

Section 51 was amended by striking out the clause in lines 1 and 2, "who commits any of the following offences, that is to say," and by substituting for the words

"the provisions" in line 3, the words "any express provision." It was questioned by HIS GRACE THE PRESIDENT whether clause (b) regarding the prohibition of quarrying stone, &c., could be applied to *all* State Forests when Section 19 allowed the continuance of such privileges in Protected Forests.

The Hon'ble Mr. HUDLESTON considered that the words in parentheses "(when such an Act is prohibited)" operated as a saving clause, as well as giving a power of prohibition in case it should be wanted. It was resolved, however, to substitute for the word "State" in line 16, the words "Reserved or Closed," and that, with reference to the amendment that had been made in the heading of the section, the words above quoted were no longer necessary as the Acts referred to were already expressly prohibited in the forests now named. The words "when such an Act is prohibited" were struck out accordingly.

Clause (c) relating to the breaking up of land and applied to forest area taken up under Chapter VII, seemed to HIS EXCELLENCY THE COMMANDER-IN-CHIEF as prohibiting mining for gold and other rights, which he understood were not to be interfered with in such areas, and it was therefore resolved to qualify the clause by inserting at the beginning, the words "without competent authority previously obtained." The words in line 20 "land in" were corrected to "portion of" and "of" substituted for "in" in line 21.

The Hon'ble D. F. CARMICHAEL thought that that part of the provision in Clause (d) regarding setting fire to forests was not only superfluous, as the Penal Code already provided for such an offence, but, placed where it was with reference to the penal part of the section, the highest punishment that could be inflicted was far too inadequate for a wilful act of such flagrancy. The rest of the clause sufficiently provided for a negligent setting on fire. It was, therefore, agreed to strike out the words in line 24 "sets fire to any State Forest" and to transpose the words in lines 25 and 26 "kindles a fire in or near any State Forest" to after the word "spreading" in line 28, and to add thereto "or Forest reserved under Chapter VII." In Clause (e), line 31, "or Reserved" was inserted between "Closed" and "Forest," and all the words after the latter word to the end of line 33 were struck out. In line 34 after "shall" were inserted "on conviction by a Magistrate," and in line 37 "five" altered to "two." In line 39 for the word "prohibit" the words "render an offence" to be read, and in line 41 for "the" "a" were substituted.

Section 52.—On the question arising as to what sum was to be fixed for each acre of forest burnt as liquidated damages, it was suggested by HIS EXCELLENCY THE COMMANDER-IN-CHIEF that losses caused by damage to Government property should be recovered in the usual way by the institution of a civil suit, but HIS GRACE THE PRESIDENT said there would often be great difficulty in estimating and proving the amount of damage done. After some discussion, it was finally determined to adopt the provision in Section 25 of the Government of India Act directing that compensation should be paid in addition to the punishment inflicted. The definition of the offence also requiring alteration, the section was amended as follows:—All the words after "forest" in line 6 beginning with "which" down to the word "burnt" in line 10, were struck out, and the following substituted in their place:—"and omits to take such order with such fire as is sufficient to prevent fire from spreading to such forest, shall be liable to imprisonment of either kind for a term which may extend to six months or to a fine not exceeding Rs. 500 or to both in addition to such compensation for damage done to the forest as the convicting Court may direct to be paid."

Section 53.—In line 24 after "shall" the words "on conviction by a Magistrate" were entered.

Section 54.—In line 11 after the word "right" the words "or right recorded under Sections 31 and 32 of this Act" were inserted.

Section 55.—In line 6 after "carts" were entered "or other vehicles." It was resolved to omit the proviso to this section, that is, all the lines after line 18, at the end of which the words "who shall thereupon proceed to dispose of the matter in due course of law" were added. This addition made the following Section 56 unnecessary, and it was expunged.

Section 57.—In line 6, after "carts" the words "or other vehicles" were inserted. The Hon'ble Mr. HUDLESTON pointed out that this section as worded would allow of the property of an unoffending Zemindar being confiscated by Government, but it was agreed that the qualifying phrase "liable to confiscation" would guard against injustice being done in any case.

Section 65.—In line 9 "two" was substituted for "five."

Section 70.—The clause in lines 1 to 5, "save such as are duly authorized as Agents on behalf of Government, the Court of Wards, or other duly-constituted authority," was transposed to the end of the section, and the words "and then only in such behalf" added to it.

Section 72.—The Hon'ble D. F. CARMICHAEL proposed that the obligation to give information of offences should not be made so absolute as it stood, and that heads of villages should be included, for the sake of convenience to the people, among the officers to whom report might be made, as they were always accessible, while Forest and Police officers were not.

The Hon'ble Mr. HUDLESTON said the only objection to the latter proposal was that the obligation to report was laid upon the heads of villages themselves in the earlier part of the section, and sometimes they would not be disinterested parties. But it was agreed that the head of any village might receive the report, and the section was accordingly altered as follows:—In line 15 after "bound" the words "in the absence of reasonable excuse" were inserted. In line 16 "some" was substituted for "any," and in line 17 "or head of a village" was entered after "officer," the word "or" at the beginning of the line being struck out.

Section 74.—All the words after "paid" in line 9 to the end of the section were eliminated, and the following clauses taken, with one verbal modification, from Section 82 of the Indian Forest Act were substituted in their stead:—

"If such amount is not paid when due, the Forest Officer may sell such produce by public auction, and the proceeds of the sale shall be applied first in discharging such amount.

"The surplus (if any), if not claimed within two months from the date of the sale by the person entitled thereto, shall be forfeited to the Government."

To the concluding Section 75, the Hon'ble D. F. CARMICHAEL objected that it provided for the provisions of this Act being applied, at the request of owners, to Private Forests. Now those provisions enacted that Government shall do this and that. How was the private owner—a Zemindar for instance—to take the place of Government? The sections would not be applicable and could not be conveniently altered to be made so.

HIS GRACE THE PRESIDENT did not see the difficulty, and the Hon'ble W. HUDLESTON pointed out that the section applied only such provisions of the Act as were practicable and suitable to Zemindaris.

The Hon'ble Mr. CARMICHAEL then asked if the Forest Officers of Zemindars were to have the powers of the Forest Officers of Government.

The Hon'ble W. HUDLESTON replied that it was not so contemplated. A few perhaps of those powers might be conferred on them. His EXCELLENCY THE COMMANDER-IN-CHIEF agreed in thinking that it seemed like a double administration which would have difficulties.

The discussion of the subject dropped, as it was admitted that the provision, if it could be worked, was expedient as enlisting private proprietors in the cause of conservation, and thus assisting the Government to benefit the public. The following amendments in the section were made:—In line 6 after "Government" the words "from time to time" and in line 8 after "representatives" the words "by Notification in the Fort St. George and District Gazettes" were inserted, and at the end of the section the clause "any such notification may be altered or cancelled by like notification" was added.

The Hon'ble D. F. CARMICHAEL was in favor of adopting the provision of the India Act constituting two-thirds of the owners' shares in an estate, a sufficient majority for action to be taken on their requisition, but the difficulties of the case as regards mittahdars and co-parceners generally were allowed to be against so definite a declaration, while the general phrase "competent private owners" would cover all cases in which some persons could legally represent all concerned.

The Council then resumed the consideration of Chapters VII and VIII, which had been reserved for this meeting. The draft provisions prepared for Chapter VII by the Assistant Secretary in accordance with instructions, were read and the following resolutions were passed:—

Section 34 (now numbered as *Section 35*).—In line 23 for the words "provided that," the word "but" to be substituted, and the following to be added as a second proviso to the section:—"Provided also that the Government may at any time before the expiration of the third year from the date of notification, on the payment of one year's rent, cancel the notification and relinquish any such forest area to the owner. It shall not be open to the Government to relinquish such area at any future period, except at the request of the owner, save as provided in *Section 37* of this Act following."

Section No. 38 of the draft was numbered next as 36 and was amended as follows:—"All compensation to be given under the preceding section shall be settled by mutual agreement between the owner and the Collector of the district, or shall, failing agreement within four months from the date of notification, be forthwith subject to the award of the Collector of the district, from whose decision an appeal shall lie to the District Court by regular suit, provided it be preferred within ninety days from the passing of the same."

It was considered unnecessary to specify the basis upon which compensation was to be computed, as that must be left to the discretion of the Collector in each case upon the principle enunciated in the course of the present debate.

It was agreed that the periodical revisions of the rent paid should follow the Revenue Settlement period of thirty years, and this provision was inserted and numbered as *Section 37*. "In every case the annual compensation so agreed on or awarded shall be subject to revision on the application of the owner at the expiration of thirty years from the date of agreement or award, and at the expiration of every succeeding period of thirty years, and at the same periods, it shall be open to the Government, with or without the consent of the owner, to relinquish to him the whole or any part of the forest area for which such sum is being paid."

The former *Section 35* was numbered as 38 and the following additional amendments were made therein:—In line 5, for the words "to be" the words "so agreed on or awarded" were substituted, and in line 6 before the word "revision" the words "a special" were inserted.

Sections 36 and 37 of the draft were numbered as 39 and 40 respectively, and the latter was amended as follows:—All the words of the section after "agreed" in line 5 were struck out, and the words "on between him and the Collector of the district, and, failing agreement within thirty days from the date of notice, the matter shall be finally settled by a compulsory reference to arbitration under the provisions of Chapter 37 of the Code of Civil Procedure" were substituted.

With reference to Chapter VIII, the Assistant Secretary reported that no reply had been received from the Conservator of Forests in answer to the telegram despatched regarding "forest produce," but that he had seen the Deputy Conservator, who had specified several valuable kinds of produce which should be included in any list that was made.

The Hon'ble Mr. HUDLESTON observed that the provision of the Bill under discussion was merely permissive and not obligatory, and that in making the rules the Government could modify them so as to meet various conditions and the varying circumstances of the different districts.

HIS EXCELLENCY THE COMMANDER-IN-CHIEF saw no harm in this case in leaving them as they stood.

The Hon'ble MIR HUMAYUN JAH BAHADUR thought the rules were very hard.

HIS GRACE THE PRESIDENT considered that their object was evidently to effect a greater yield of revenue from the minor produce of forests which, as it could not be had except at the expense and liberty of the villagers, was not worth securing, and this expressing the general sense of the Council, it was resolved to strike out clauses (b) and (c) of the section (now numbered 41 instead of 39) altogether, and in clause (a) instead of the word "transported" to substitute "removed from a forest," thus limiting the power for the prescription of routes only to those leading out of a forest. Clause (d) was marked (b) and the word "reporting" in it struck out, and in lieu of the last words "within the above limits" the following words from clause (d) of *Section 41* of the India Act were substituted:—"in respect of which there is reason to believe that any money is payable to Government on account of the price thereof or on account of any duty, fee royalty, or charge due thereon, or to which it is desirable for the purposes of this Act to affix a mark." Clauses (e) and (f) were altered to (c) and (d) respectively and the number 40 of the next section to 42.

On the suggestion of the Hon'ble D. F. CARMICHAEL, it was resolved to insert the words "subject to the procedure prescribed in Chapter VI of this Act" in the earlier provisions of the Bill relating to Closed, Reserved, and Village forests, and the said words were accordingly entered in *Section 9* at the beginning thereof, in *Section 11* after the word "Government" in line 7, and in amended *Section 15* at the beginning thereof.

The preamble was then read and passed, and the Bill as amended was deferred for final consideration to the next meeting of the Council.

MASTER AND SERVANT BILL.

The Hon'ble J. G. COLEMAN introduced a Bill "to provide for the punishment of breaches of contract and other misconduct between domestic and other servants and

their employers " for the introduction of which leave had been obtained on the 4th June 1877, but, owing to a similar Bill being under the consideration of the Governor-General's Council, further action on this had been postponed till now. Without taking up the time of the Council, who were aware of the provisions of the Bill, he would at once move that it be referred to a Select Committee for report.

The Hon'ble W. HUDLESTON thought that before taking this step, inquiry should be made from the Government of India whether the Bill before them was to be proceeded with.

HIS GRACE THE PRESIDENT was decidedly of the same opinion, and it was ordered that the Government of India should be addressed on the subject accordingly.

EURASIAN AND ANGLO-INDIAN ASSOCIATION BILL.

The Hon'ble J. G. COLEMAN moved for leave to introduce a Bill " to incorporate the Madras Eurasian and Anglo-Indian Association." He said that the word " Eurasian " was intended to include all persons of mixed descent, direct or indirect. The word " Anglo-Indian " to describe Europeans permanently settled in South India and more particularly their descendants of pure European blood. Under Act of Parliament all Eurasians and all children of Europeans permanently settled in the country were Natives of India.

The position of Eurasians and Anglo-Indians in the country was one of great difficulty. The lower labor-market was not only overstocked, but it was overstocked with very cheap labor. Hence it was impossible for Eurasians and Anglo-Indians to take to such work as was open to the poor in European countries.

For the higher forms of labor there were too many competitors, and it was impossible that Government, the Railway, and other Agencies could so expand their operations as to find employment for all those in want of it. The time, therefore, seemed to have arrived for Eurasians and Anglo-Indians to take their place among the general industrious classes of the population irrespective of holding employment with monthly wages attached thereto.

The Association had induced many poor persons to take to the lower forms of labor and thus give up being a tax on the industry of others, and it had also opened houses of industry in which various trades were carried on and taught at the same time to boys and girls. It also undertook through proper agents to execute every kind of handicraft. The Association supplied capital, and by reserving only a small portion of its profit as interest, it hoped to be able to pay its Eurasian and Anglo-Indian workmen so well as to enable them to live by handicrafts. The Association also wished to reserve a portion of its profits on industry for education of all kinds.

The Association also desired to secure land for agricultural purposes of every description and to settle Eurasians and Anglo-Indians on the land as proprietors and practical agriculturalists.

To enable the Association to encourage thrift and providence, and to better the condition generally of Eurasians and Anglo-Indians, the Association had established a Building Fund and was about to establish a Provident Fund.

To enable Eurasians and Anglo-Indians to set up in business and to enable borrowers to obtain money on easy terms, the Association had established a Loan Fund.

The funds of the Association were raised by voluntary subscriptions, and it was necessary that provision be made for their proper conservation and for their application to the legitimate uses of the Association.

It was necessary, therefore, that to give the Association greater stability, to protect its interests, and to enable it to carry on its various operations, it should have a defined legal status as a corporate body.

The Hon'ble MIR HUMAYUN JAH BAHADUR seconded the motion, and on being put to the Meeting it was carried unanimously.

Considering the lateness of the hour, the Hon'ble J. G. COLEMAN begged leave to postpone the introduction of the other subjects standing in his name.

Leave was granted accordingly.

The Council then adjourned *sine die*.

(By order.)

J. A. DAVIES,
Acting Under Secy. to Govt.

Ootacamund, 6th October 1880.

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Abstract of the Proceedings of the Council of the Governor of Fort St. George assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament 24 and 25 Victoria, Cap. 67.

The Council met at the Council Chamber in Fort St. George on Saturday, the 20th day of November 1880.

PRESENT:

HIS GRACE THE GOVERNOR OF MADRAS, G.C.S.I.—*Presiding*.
HIS EXCELLENCY THE COMMANDER-IN-CHIEF, G.C.B., G.C.S.I.
The Hon'ble W. HUDLESTON.
The Hon'ble D. F. CARMICHAEL.
The Hon'ble THE ADVOCATE-GENERAL.
The Hon'ble R. DAVIDSON, C.S.I.
The Hon'ble J. G. COLEMAN.
The Hon'ble P. MACFADYEN.
The Hon'ble MIR HUMAYUN JAH BAHADUR.
The Hon'ble G. N. GAJAPATHI RAO.

ADDITIONAL MEMBER.

The Hon'ble G. N. GAJAPATHI RAO took his seat on re-appointment as Additional Member.

FOREST BILL.

The Hon'ble W. HUDLESTON moved the final consideration of the Bill to make provision for the protection and conservation of forests and forest-produce in the Madras Presidency, and observed that there were four points that had been left for the opinion of the Hon'ble the ADVOCATE-GENERAL, which had now to be determined, and some verbal alterations were also to be made.

The Council proceeded to consider the proposed amendments *seriatim*.

On the first doubt as to the force of the word "includes" in the interpretation clause, the Hon'ble the ADVOCATE-GENERAL remarked that it was not meant to be exhaustive, and it was, therefore, not necessary to add to it "among other things" or similar words; but still it could do no harm, and it might be safer, especially in the definition of customary rights, to add them. The sections where the word occurred were read, and it was resolved to make the amendment in the clauses interpreting "tree," "timber," "forest-produce," and "customary rights," but that no such addition was necessary in those explaining "cattle," "river," and "forest".

In Section 2, after the word "includes" in lines 22, 25, and 31, the words "among other things," and after the word "include" in line 40, the words "amongst others" were accordingly inserted.

The Hon'ble the ADVOCATE-GENERAL proposed, and it was carried, that the words "or easement" in Section 8, line 1, be struck out, as the word easement did not correctly

describe any rights in a forest except rights of way which were not contemplated in the section; but the same word in line 6 of the same section and in the next Section 9 was retained, His GRACE THE PRESIDENT pointing out that it was intended that easements of rights of way, or water, already existing, should be allowed to continue.

On the Hon'ble the ADVOCATE-GENERAL expressing a doubt whether the date 1st January 1879 in line 7 of Section 8 was inadvertently or intentionally retained in the present draft, the Hon'ble W. HUDLESTON observed that the date was purposely fixed in order to prevent claims being originated during the time the subject of the Bill was under discussion.

In Section 11, line 13, the word "specified" was substituted for "named."

The Hon'ble the ADVOCATE-GENERAL pointed out that Section 13 provided that no persons other than persons employed by the Forest Department should cut or remove timber; whereas Section 14 said that no persons other than those having customary rights should collect or carry away any forest-produce other than timber, which seemed to be contradictory.

The Hon'ble W. HUDLESTON said the same doubt as to the meaning had been raised before; it did appear as if the removal of timber was at first prohibited and then in the next section allowed. But what was meant was that all persons excepting those having customary rights were altogether debarred from enjoyment, and that even those having customary rights were debarred from the one privilege of cutting or removing the timber for themselves. This could be done only by Forest employees who would deliver the timber to those having rights. He admitted the wording was awkward and should be altered to give effect to the intention he had indicated.

HIS GRACE THE PRESIDENT remarked that it amounted to this: A man having established rights to forest-produce must in the case of timber go to the Forest Officer to cut and give it him, but in the case of other customary rights he might get what he wanted himself.

It was considered that the intention would be expressed if the words "other than timber" in line 5 of Section 14 were struck out, and it was resolved accordingly.

In Section 15, line 3, the word "and" was inserted before "when," and in Section 17, line 10, the words "such forests" were substituted for the words "the forest."

The Hon'ble the ADVOCATE-GENERAL pointed out that Section 27 of the Bill provided that three persons may constitute the Forest Settlement tribunal, but it did not provide what was to be done in cases of differences of opinion among the three. He suggested that some words might be added in Section 44 empowering the Government to make rules in this behalf. But it being considered more advisable to make special provision in the Bill itself, the terms of the following clause were approved, to be numbered as a separate section next after Section 32.

"In case of a difference of opinion arising amongst the officers appointed to decide under Sections 31 and 32, the opinion of the majority shall prevail, and when the number shall be equal, the opinion of the Officer first in order of nomination shall prevail."

On the suggestion of the Hon'ble P. MACFADYEN, the following words were added at the end of Section 32: "Copies of all such orders shall be furnished forthwith to the parties concerned."

The Hon'ble the ADVOCATE-GENERAL said that the provision in Sections 33 and 36 for an appeal "by regular suit" was a contradiction in terms although the words were

to be found in other Acts. The words "by regular suit" in line 16 of the former section and in line 10 of the latter were accordingly ordered to be struck out.

In line 17 of Section 33, "sixty days" was substituted for "two calendar months," and at the end of line 18 the words "exclusive of the period required for procuring copies of such orders" were added.

The Hon'ble P. MACFADYEN observed that the intention in the second proviso to Section 35 as to the payment of a year's additional rent in case of relinquishment by Government was not clearly expressed and for the words "one year's rent" in line 38, it was accordingly resolved to substitute "for one year beyond the term for which such forest has been occupied."

In reference to a question raised on Section 36, as to whether the compensation to be awarded should not be determined by the principle of the market-value of the land, as in the Land Acquisition Act, the Hon'ble the ADVOCATE-GENERAL was of opinion that the provisions of that Act could not be applied, inasmuch as it provided for payment of compensation once for all according to the market-value; whereas this Bill meant to provide for payment of an annual sum by way of compensation to the owner. He was doubtful, moreover, whether this provision as it stood was not repugnant to the provisions of the Land Acquisition Act. If the word "annual," however, was inserted before "compensation" in line 1 as was suggested, he considered that would show clearly the distinction, and the provision would not then clash with the Land Acquisition Act, and the insertion of the word was accordingly agreed upon. After "days" in line 11 the words "exclusive of the time required for procuring a copy of the decision" were entered.

In Section 38, for the word "minor" wherever it occurred "infant" was substituted, and at the end of the section, the following words "in which such area is comprised" were added.

Section 40 of the Bill provided for the mode of determining compensation in the case of the assumption of leases by a compulsory reference to arbitration; but the Hon'ble the ADVOCATE-GENERAL did not think the section sufficiently explicit, and considered that it would be better not to provide for arbitration at all, but to repeat the provisions of Section 36 for cases disputed.

HIS GRACE THE PRESIDENT remarked that the object was to make the procedure as short as possible in these simple cases merely like a matter of a transferable lease, and he did not think it was necessary to allow an appeal.

The Hon'ble the ADVOCATE-GENERAL said that in that case, the simplest course would be to let the matter end with an award of the Collector. If a more satisfactory and shorter procedure was the point aimed at, he could say, from his experience, that it could be had better by resort to the regular Courts than to arbitration. Arbitrations were generally extended over lengthened periods, and the decisions of arbitrators were constant subjects of dispute.

The Hon'ble W. HUDLESTON himself doubted the expediency of arbitration in these cases; and the Hon'ble P. MACFADYEN supported the view of the Hon'ble the ADVOCATE-GENERAL, and was of opinion that in case of disputes the provisions of Section 36 should be adopted here.

It was accordingly resolved to strike out all the words of the section after "matter shall be" in line 8, and substitute the words "settled by the award of the Collector of the district, from whose decision an appeal shall lie to the District Court, provided it be preferred within 30 days, exclusive of the time required for

NILGIRI COMMISSIONER'S ACT REPEALING.

procuring a copy of the decision, from the passing of the same." The time allowed for appeal, viz., 30 days, was decided to be sufficient in matters of this simple nature.

In Section 47, the words "an additional" in line 9, and "village" in line 11, were struck out. A discussion ensued as to the particular persons to be held liable for the expenses of the special guards, and the replanting provided for in this and the following section, it being admitted that the charge on the "village or villages" was too indefinite.

On the suggestion of the Hon'ble W. HUDLESTON, it was decided that the expenses should be levied from the land-holders, and that land-holders should be defined according to the Madras Local Fund Act IV of 1871, and the provisions of that Act made applicable for the purpose of the assessment and apportionment of the charges when made. The sections were thereupon altered as follows:—

Section 47, line 10, before "village" the words "land-holders of the," and in line 11, after "adjoining" the words "village or" were inserted. In line 18 "land-holders" was substituted for "assessment," and all the words after "villages" at the end of the line were struck out, and the following words were entered "in proportion to the rent-value of their lands, and shall be recoverable as an arrear of Land Revenue."

Section 48, line 10, before "villages" the words "land-holders of the" were inserted, and all the words after "shall be" in line 13 to the word "paid" inclusive in line 16 were struck out, and the words "recoverable as an arrear of Land Revenue" entered in their place. In line 18 "land-holders" was substituted for "inhabitants," and the following clause was added at the end of the section:—"The term 'land-holders' in this and the preceding section shall be read as defined in Madras Act IV of 1871, and the provisions of the said Act shall be applicable for the purpose of assessing and apportioning the amounts payable."

In Section 49, line 18, after "marks" the words "are provided and maintained" were inserted. In Section 52, line 7, after "kind" the words "as defined in the Indian Penal Code" were inserted, and in line 33 of Section 53, in line 10 of Section 54, and in line 25 of Section 55 after the word "kind" the words "as aforesaid" were entered.

With reference to a doubt as to the effect of the words "competent private owners" in Section 76, the Hon'ble the ADVOCATE-GENERAL considered that they would not cover the case of a majority of co-parceners, and it would be difficult to say how infants could be bound unless the arrangement were clearly for their benefit. He would, therefore, propose that the words "competent private" before "owners" be struck out of the section, and that the words "The managing member of a Hindu family who is also a co-parcener, a Hindu widow who is in possession of the estate comprising any such private forest or plantation, and the Karnavan of a Tarwad in Malabar shall be deemed to be an owner within the meaning of this section" be inserted as a separate paragraph to the section, after the word "boundaries." The Motion was carried.

The Bill, as read and amended, was thereupon passed by the Council.

NILGIRI COMMISSIONER'S ACT REPEALING BILL.

The Hon'ble D. F. CARMICHAEL introduced a Bill to repeal Madras Act I of 1868 (*An Act for the appointment of a Commissioner for the administration of Civil and Criminal Justice, and for the Superintendence and Collection of the Revenues on the Nilgiri Hills*). He stated that the Nilgiri Hills had, with the District of Coimbatore,

NILGIRI COMMISSIONER'S ACT REPEALING.

been made over to the East India Company in 1799 by the Partition Treaty of Mysore, but little was known of the Hills till twenty years afterwards. No Magistrate was appointed till the year 1832. He then proceeded to trace the history of the civil and criminal administration of the Hills up to the year 1868, (up to which time they merely formed a separate taluk of the Coimbatore Collectorate) when the present constitution was formed by the legislative enactment it was now proposed to repeal. Under it, the Commissioner exercised the power of a Civil and Sessions Judge and Collector, and the Assistant Commissioner the powers of an Assistant Collector, District Munsif, and Small Cause Judge; besides which, he was the District Magistrate, and had charge of the Treasury. There was a Joint Magistrate also stationed at Ootacamund. The objections to the present system were that the duties of these officers tied them down too much to Ootacamund; that the District Magistrate was a junior instead of being as he should be a senior officer, and that a heavy charge was incurred by the appointment of a Joint Magistrate. It was, therefore, proposed to make the Hills a Collectorate, and the officer holding the appointment would also be the District Magistrate as in other districts; and to post the Assistant Collector at Coonoor, to be in charge of that station and Kotagherry, and preside over the Bench of Magistrates in his Division. To assist the Collector at Ootacamund in his treasury and miscellaneous work, there would be a Deputy Collector in place of the Assistant Commissioner removed and the Joint Magistrate dispensed with, and for the trial of civil suits a Subordinate Judge (who will also be a 1st-Class Magistrate) would be appointed. It had been suggested that the Judge of Coimbatore should come up to the Hills to dispose of the Sessions cases, which were only five or six a year; but the High Court seemed to think there would be a temptation for him to stop too long away. Deferring to that, it was now proposed to vest the District Magistrate with jurisdiction in all cases except those punishable with death or transportation. These measures, after raising the salaries of some subordinates who were insufficiently paid, would effect a saving of Rupees 353 a-month, or Rupees 4,236 a-year. Referring to the area (about 1,000 square miles) and population (about 75,000) of the Hills, the Hon'ble Member considered that provision had been made to meet the wants of all classes. He understood that the chief objection made to the changes was with respect to the appointment of a Native Judge, but a very large proportion, probably 95 per cent., of the judicial work including all the original work of the Presidency was now performed by such Judges, and with great satisfaction to the people. As the changes proposed by the measure had been approved by the Viceroy, and had been considered for some time, he would now move HIS GRACE THE PRESIDENT to suspend the Standing Orders so that the Bill might be considered and passed at once.

The Hon'ble W. HUDLESTON remarked that no Memorial against the Bill had been presented to the Council, but it was understood that one had been addressed to the Viceroy and Governor-General. This Council could not take such a paper into consideration.

HIS EXCELLENCY THE COMMANDER-IN-CHIEF observed that the proposed judicial system would be inconvenient for the planters and Europeans on the Hills, with their interests increasing every day, especially as they would have to take their Civil Suits to Coimbatore.

The Hon'ble D. F. CARMICHAEL explained that the Sub-Judge would have full powers in Original Suits including Small Causes up to 500 rupees, and in appealable cases under 5,000 rupees the appeal would lie to the Coimbatore Court, and in cases above Rupees 5,000 to the High Court.

NILGIRI COMMISSIONER'S ACT REPEALING.

The Hon'ble P. MACFADYEN remarked that appeals over Rupees 2,500 must go to the High Court as it is, every suit above that amount being now filed before the Commissioner.

HIS EXCELLENCY THE COMMANDER-IN-CHIEF, however, thought the Commissioner had higher powers than the Sub-Judge, for instance, in a case below Rupees 2,500 tried by the Assistant Commissioner as District Munsif, the appeal would lie to the Commissioner, whereas now it would have to go to Coimbatore. A planter would, therefore, not be able as now to have his suit under Rupees 5,000 finally settled on the Hills, but would be obliged to go down to Coimbatore in case of appeal.

The Hon'ble D. F. CARMICHAEL added that all appeals from the Commissioner now lay to the High Court, but under the proposed arrangement many appeals from the Sub-Judge could be made at Coimbatore. In the case of all original suits they would simply be filed before the Sub-Judge instead of, some before the Commissioner, and some before the Assistant Commissioner, as at present.

HIS EXCELLENCY THE COMMANDER-IN-CHIEF said, he believed, the planters would prefer their cases being tried by a European Judge.

The Hon'ble D. F. CARMICHAEL considered this mere prejudice, and remarked that besides the Magisterial Officers sitting separately, there were Benches of Magistrates chiefly composed of Europeans for the trial of criminal cases; and a British born subject could be tried only by a British born subject.

HIS EXCELLENCY THE COMMANDER-IN-CHIEF thought that the President of that Bench ought always to be a European. Then, with reference to the European Jail, there seemed to be no one provided to take the place of the Joint Magistrate as Superintendent, and the prison would virtually be in the charge of the Jailor, who, though no doubt a useful subordinate, ought not to be entrusted with the power of inflicting corporal punishment for breaches of Jail discipline, which is now in the hands of the Joint Magistrate. Who again would take his place for the trial of magisterial cases in which the soldiers at Wellington might be concerned?

With reference to the last remark of HIS EXCELLENCY THE COMMANDER-IN-CHIEF, HIS GRACE THE PRESIDENT observed that so far as that went, there would be an advantage by the change, for the European Magistrate would be at Coonoor, which was adjacent to Wellington.

The Hon'ble P. MACFADYEN said that, after due consideration, he intended to support the Bill. It was the general opinion that the creating of the Commission in 1868 was, to use a common phrase, a job, and for this, among other reasons, he thought it should be abrogated; he considered that one great advantage would be gained by setting the Commissioner free to move about in the district more than he can do now. As regards the objections raised in the matter of appeal suits, he was of opinion that, in cases of small value, the parties would be satisfied with the Sub-Judge's decision, and that, in cases over Rs. 5,000, they would be no more satisfied with the Commissioner's decision than with the Sub-Judge's; and whether the case were tried by the Sub-Judge or by the Commissioner an appeal would be equally certain. As to the Superintendence of the Jail there was sure to be some one who could look after it, when the District Magistrate was away.

The Hon'ble W. HUDLESTON said that he was bound to protest against the imputation of jobbery that had been made. It was perfectly undeserved. He was connected with the Executive Government at the time the Act was passed, and he could



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most conscientiously declare that it was purely on account of its advisability that the measure had been adopted. It was only after trying several other methods of administration, and after the fullest discussion, that the present system was adopted as being the best that presented itself. It so happened that the first gentleman appointed to the post of Commissioner was the son-in-law of a Governor, and it was that perhaps which led to the idea, but he must repeat that it was entirely without justification. Circumstances now had changed, and there were now facilities of communication with Coimbatore which did not formerly exist, so the proposed introduction of an improved system did not condemn the past.

HIS EXCELLENCY THE COMMANDER-IN-CHIEF remarked that the present opposition to the change was itself a proof and confirmation of how advantageous the administration by Commission had been, and he should wish to see it maintained, with such improvements as were desirable.

The Hon'ble J. G. COLEMAN said that the proposed measure commended itself to him as being on the side of economy and allowing of the employment of men of the Uncovenanted Service, who were now well educated and fit for the higher appointments; and he would second the proposal for the suspension of the Standing Orders. He remembered that when the Commission was established, it was reported as a "job;" at all events, that was the common belief, but he was glad to hear the emphatic denial of the Hon'ble Mr. Hudleston.

The Hon'ble D. F. CARMICHAEL, with reference to the question of the Jail, observed that he could not pledge the Executive Government, but that he himself would appoint for the Deputy Collectorship a European who could be put in charge of the Jail. The Deputy Collector to be stationed on the Hills need not necessarily be one on only Rupees 250 a-month, but one of those employed in the higher classes on Rupees 500 or Rupees 600 might be located on the Hills, and the additional Deputy now to be sanctioned could be appointed to the place of the one taken away from the plains.

HIS EXCELLENCY THE COMMANDER-IN-CHIEF remarked that there would then, in reality, be no saving,—a ground on which the Hon'ble Mr. COLEMAN supported the Bill. Taking into account the salary of the Joint Magistrate which, in his capacity as a Military Officer, must still be paid, the total cost to the State would be actually increased, though the Civil Department might save the amount of his pay.

The Hon'ble MIR HUMAYUN JAH BAHADUR strongly supported the measure, as economy and efficiency were combined in it. A legislative measure of this kind ought to be hailed with satisfaction.

The Hon'ble R. DAVIDSON inquired if any Hon'ble Member present could inform the Council of the nature of the objections raised by the Europeans on the Hills to the Bill, as they were not otherwise before the Council, so that it might be considered whether there were any reasonable grounds for their opposition.

HIS GRACE THE PRESIDENT said that, under ordinary circumstances, he would not have hesitated to suspend the Standing Orders, but as it appeared in this case that there were objections urged against the measure, and that as those objections were not in proper form before the Council, and could not, therefore, be considered by it, he thought it would be but right to give those making the objections an opportunity of representing them. There would be no great delay in postponing the final stage of the Bill for a week, when the Council would be again summoned; meantime, those who were memorialising the Viceroy might be informed that any representations duly made, would be considered by this Council.

NILGIRI COMMISSIONER'S ACT REPEALING.

The Hon'ble J. G. COLEMAN requested permission, owing to the state of his health, to postpone the subjects standing in his name till the next Meeting.

Leave was granted accordingly.

The Council then adjourned by order of HIS GRACE THE PRESIDENT, till Saturday the 27th instant, at noon.

(By order.)

J. A. DAVIES,
Acting Under Secretary to Government.

Fort St. George, 20th November 1880.

Abstract of the Proceedings of the Council of the Governor of Fort St. George assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament, 24 and 25 Victoria, Cap. 67.

The Council met at the Council Chamber in Fort St. George on Saturday, the 27th day of November 1880.

PRESENT:

HIS GRACE THE GOVERNOR OF MADRAS, G.C.S.I.—*Presiding*.
HIS EXCELLENCY THE COMMANDER-IN-CHIEF, G.C.B., G.C.S.I.
The Hon'ble W. HUDLESTON.
The Hon'ble D. F. CARMICHAEL.
The Hon'ble THE ADVOCATE-GENERAL.
The Hon'ble R. DAVIDSON, C.S.I.
The Hon'ble J. G. COLEMAN.
The Hon'ble P. MACFADYEN.
The Hon'ble MIR HUMAYUN JAH BAHADUR.
The Hon'ble C. V. RANGANATHA SASTRIYAR.

NEW MEMBER.

The Hon'ble C. V. RANGANATHA SASTRIYAR took his seat as an Additional Member of Council.

PETITION.

The ASSISTANT SECRETARY read a memorial from certain inhabitants of Ootacamund and the surrounding districts in the Madras Presidency—

Representing that they view with grave concern the proposed abolition of the Nilgiri Commission; they learn that Government intend appointing a Native gentleman to be Subordinate Judge, and consider the higher agency employed unnecessarily large; but under the new scheme the higher agency is to lose one 1st-Class Magistrate, and to gain a Deputy Collector and a Subordinate Judge, both 1st-Class Magistrates, and the existing Civil, Judicial, and Revenue establishments though really insufficient are to be curtailed in salaries and numbers; that "defects" and "inconveniences" referred to by Government are unknown to the public or to the local officials; the District Magistrate if also a Sessions Judge will be debarred from trying important cases; the large European community of Ootacamund will, during the frequent absence of the Collector, be without a European Magistrate able to try European cases; that no sufficient reason has been shown for transferring the judicial administration to a Native Judge in a district being rapidly developed by European Planters and others, and disputes about gold-mining rights require a peculiarly competent tribunal; the transfer of appellate work to the Coimbatore Court will cause serious inconvenience to litigants; that the Municipality will suffer by the transfer of the Assistant Commissioner to Coonoor; the present administration has worked well for the last twelve years and given satisfaction; that the contemplated saving of Rupees 353 a month will be

NILGIRI COMMISSIONER'S ACT REPEAL.

reduced if the Revenue and Judicial establishments be restored to efficiency; that the saving by the abolition of the Wellington Magistracy cannot be credited to the present scheme; that the development of the gold-mining industry and contemplated political changes may shortly render necessary some progressive change in the administration.

Petitioners pray that the Nilgiri Commission may be retained as now constituted.

The ASSISTANT SECRETARY, with the permission of His Grace the President, read a letter from the Secretaries, Memorial Committee, Ootacamund, to the Chief Secretary, dated 24th November 1880, forwarding the aforesaid memorial and reiterating the arguments used in the memorial, and enclosing a resolution passed at a Committee Meeting held on the 24th November 1880.

THE NILGIRI COMMISSIONER'S ACT REPEALING BILL.

The Hon'ble D. F. CARMICHAEL said that at the last meeting of the Council he had introduced a Bill for the abolition of the Nilgiri Commission and applied for the suspension of the Standing Orders with a view to its being at once passed into law. It was then understood that a memorial from certain inhabitants of the Nilgiris had been addressed to the Governor-General, but there was no petition which this Council could consider. His Grace, however, deemed it but right that they should have an opportunity of making in due form a representation to this Council and it was therefore resolved to postpone final consideration of the Bill. The petition of the memorialists had now been received. In moving consideration of the Bill he must say that he failed to see the grievance complained of. The Bill, it was said, deprived them of a European Magistrate resident at Ootacamund; but for the one European Joint Magistrate, they will get a European Deputy Collector and a Sub-Judge who would both be first-class Magistrates. The present Commission would be replaced by an Administrative Staff, consisting of a Collector, who would also be Chief Magistrate of the district, having a Head Assistant Collector with full powers both as a Revenue Officer and as a Magistrate, and a Deputy Collector and Magistrate, who would be permanently stationed at Ootacamund; and in addition there would be the Native Sub-Judge. Besides, there were three Benches of European Magistrates, at Kótagiri, Gúdálúr, and Devála; and the Native Sub-Magistrates and Deputy Tahsildars at Coonoor and Gúdálúr. The District Magistrate would, in addition to his other duties, have the powers of a Sessions Judge, trying all cases except those punishable with death or transportation for life, which would be sent to Coimbatore. He failed therefore to see how under the proposed system the magisterial work of the district would be affected to the detriment of the memorialists.

The Sub-Judge at Ootacamund would, like the Assistant Commissioner, have Small Cause Court powers up to Rupees 500, extended if necessary to Rupees 1,000. In regular suits his jurisdiction would be unlimited, the appeal in cases valued under Rupees 5,000 lying to the Judge at Coimbatore and in suits over that amount to the High Court direct. The only difference was that now appeals in regular suits from the Assistant Commissioner, whose powers were those of a Munsif, went to the Commissioner, and appeals from judgments, original and appellate, of the latter to the High Court.

The memorialists dwelt on the expense and trouble entailed in going down to Coimbatore, but appeal suits do not require these journeys; pleaders appeared on both sides; points of law and the nature of the evidence were argued; there was no calling of parties or witnesses into the box.

NILGIRI COMMISSIONER'S ACT REPEAL.

The Nilgiri District, including South-East Wynaad, was about 1,000 square miles in extent with a population of 75,000, the greater portion of whom were natives. In regard to the Planters, there was no place where so small a body of Settlers had received so much consideration at the hands of Government as the European community on the Nilgiris; he admitted it was the largest in Southern India, and large sums of money had been invested in coffee, gold, and other industries; these enterprises were developing; but everything had been done to meet the wants of the growing class engaged in them. At present there was no necessity for increased European agency. If the gold industry extended, a European Magistrate might be required in the Wynaad, but it would be an easy matter to appoint one when the need arose. He considered that the arguments advanced by the petitioners need not detain the Council. He concluded by moving that the Bill be taken into consideration.

The Hon'ble MR. HUDLESTON, in seconding the motion, said it was not necessary to recapitulate what he had said on a former occasion, or to remind the Council that the proposed legislation had been forced upon them by the Government of India. The Assistant Commissioner of the Nilgiris was originally obtained by the abolition of the Special Assistant in Malabar. When subsequently disturbances in Malabar rendered it necessary to restore that post, application for its revival was opposed by the Government of India on the ground that the matter was in our own hands, that we could retransfer an officer from the Nilgiris. The opinion then was that to do this would be an unfortunate step for the Nilgiri tracts. After correspondence sanction was obtained to retain both, but we were required to effect certain economies; the Government of India, insisted on the abolition of the Military Joint Magistracy at Ootacamund, the retention of which had been justified on the ground of its involving but slight expense; but it was pointed out that it entailed on the State, as a *civil charge*, the full pay of a Staff Corps Lieutenant-Colonel, who if not employed where he was would be absorbed in the Military Department, and usefully, engaged in some military capacity, and it was erroneous to view the small extra allowance received in respect of civil duties as the cost of his services. That was the germ of the discussion from which the present proposals arose. He failed to see they were retrogressive as the memorialists asserted. The Executive had frequently seen reason to wish that the Senior Administrative Officer were District Magistrate; he was of opinion it was absolutely necessary. Complaints were made of the Civil Officers not moving about their district. The necessity of frequent visits was now materially enhanced by the addition of the South-East Wynaad, and by the recent extension of enterprise in the district which every one hoped and expected was on the eve of rapid development. Under the system contemplated the Collector would be more accessible, able to exercise better supervision, and give greater personal attention to the wants of the community.

The removal of the Assistant Commissioner to Coonoor would be of very material advantage, now that the Contonment Magistracy of Wellington had been abolished.

He must further remark that no adequate sense of the importance and value of the Benches of unpaid Magistrates was shown. In no place except the Presidency Town was there such a body of European gentlemen to choose from—gentlemen of integrity and intelligence and every qualification fitting them to exercise magisterial functions. He trusted that it would not be long before these Benches, which had worked excellently well, were invested with as full powers as in England.

As to the proposed judicial arrangements, his Honorable friend Mr. Carmichael had sufficiently shown that the fears of the memorialists were exaggerated. There was no material hardship in appeals in higher cases going to Coimbatore. In the

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other Mofussil districts, where the difficulties of getting to Court and the distances are often greater no complaints had been made.

If the Bill be carried, he hoped the memorialists would before long recognize that the system of administration which the Bill provided promoted their convenience, and was a decided improvement on the past.

The Hon'ble Mr. DAVIDSON said that he had been represented in an unofficial report as having at last meeting of Council given his support to the Bill. This was an entire mistake. He had abstained from expressing any opinion on the subject. The objections of the memorialists were not then before the Council. He had heard what Hon'ble Members urged in favor of the Bill, that the system had been deliberately selected twelve years ago after full consideration. Having himself acted as Commissioner of the Nilgiris, he was acquainted with many of the Planters and wished to hear their case; he had asked for information; as that was not forthcoming His GRACE had postponed further consideration of the Bill. The Council had now heard the memorial.

The contemplated changes might be thus summarized—

1. The inclusion of the Nilgiri and Wynad Districts in the territorial jurisdiction of the Judgeship of Coimbatore, the Judge occasionally holding Sessions at Ootacamund for the disposal of certain Session cases.
2. The conference on the Chief Executive Officer of the powers of Magistrate of the district in substitution for the judicial functions now exercised by him as Commissioner.
3. The removal to Coonoor of the second Executive Officer to exercise the powers of a Head Assistant Magistrate in charge of a division.
4. The appointment of a Sub-Judge stationed at Ootacamund and invested with the powers of a Small Cause Court and of a Magistrate of the 1st Class.
5. The appointment of a Deputy Collector at Ootacamund with magisterial powers.
6. Transfer of the Coonoor Sub-Magistrate to Kotágiri.
7. The increase of the salary of the Subordinate Magistrate at Gúdalur.

The memorialists state that they view with great concern the proposed abolition of the Commission and the intention of Government to place the Civil Judicial Administration in the hands of a Native gentleman who would be Sub-Judge; that the "defects" and "inconveniences" referred to were unknown to the public and that the local officers were opposed to the change as unnecessary and retrogressive; that no sufficient reasons were given for withdrawing the judicial administration from European Officers and reposing it in a Native gentleman; that as the greater portion of the administrative and executive work connected with the Municipality devolved upon the Assistant Commissioner, the town of Ootacamund cannot but suffer by his removal; that the present Administration had for the last twelve years shown itself well suited to the peculiarities of the district and that the changes in the Judicial Department are especially distasteful to the wealthier Native inhabitants; that constant changes are detrimental to the progress of the district; that as the largest European community in Southern India they protested against being handed over to an Agency inferior in standing to the present and in which they could not place the same confidence; and that these important changes were contemplated at a time when two millions sterling had been subscribed in the last year towards developing the gold-mining industry alone. The memorial bore the signatures of about 250 persons, most of

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whom were the leading European and Native Planters and residents having large interests at stake. As an expression of genuine public opinion it was hardly possible to conceive anything more unanimous; and it deserved the fullest consideration.

Certain of the proposed changes would unquestionably be to their advantage. The transfer of the Assistant Commissioner to Coonoor, and perhaps ultimately to Devála, where great interests may be expected to arise, and the setting free the Collector to attend in person to their boundary disputes and other interests would prove of great benefit. The basis of the grievance was chiefly the employment of a Native Sub-Judge. In selecting an officer the Government would no doubt employ very great care, and in an ordinary district he would discharge his duties with satisfaction; there was no objection on the ground of personality, but solely on that of principle; many intricate and delicate questions arose which a European was far more fitted to decide. He was constrained to view the appointment of a Native gentleman to discharge these judicial functions with doubt, and especially at a time when there was the prospect of European enterprise and capital still further developing the resources of that part of the country. It might take long to retrace a wrong step taken now and replace matters on a satisfactory footing. It was suggested that the proposed changes would effect certain economies, but the memorialists had shown this result to be, to say the least, very doubtful. And in this connection it must be borne in mind that if the Judge of Coimbatore came to Ootacamund, he would have to bring an establishment, the cost of which would probably make any supposed saving vanish.

The Hon'ble Mr. CARMICHAEL remarked that the Judge would not leave Coimbatore at all; the Judges of the High Court had objected to his going up to the Hills.

The Hon'ble Mr. DAVIDSON replied that in that case appeals would lie either to Coimbatore or to Madras. He had heard with satisfaction the proposals in respect of Benches of Magistrates; he could quite endorse from his own experience all that had been said in their favor, but it was to be remembered that one duty that would devolve on the Sub-Judge as explained by the Hon'ble Mr. Carmichael in introducing the Bill would be to preside at the Ootacamund Bench; that Bench consisted at present of two General Officers and two Planters, and it could hardly be expected that they would care to sit under the presidency of the Native Sub-Judge.

The Hon'ble Mr. CARMICHAEL observed that there was no Bench at Ootacamund, and it would not be necessary to have one, the stipendiary staff being so strong.

The Hon'ble Mr. DAVIDSON explained that he had made inquiries of the Commissioner and had learned that a Bench did exist, and that it was composed of two General Officers and two Planters.

The Hon'ble Mr. HUDLESTON remarked that, although certain gentlemen had been appointed Magistrates, the institution was in abeyance there where its need had hitherto been little felt.

The Hon'ble Mr. DAVIDSON said that the memorial before the Council had come from the largest European community in Southern India; for the last twelve years they had been happy and contented under the present system, which they wished to continue; if changes were deemed absolutely necessary they made certain suggestions; a good deal had to be said on their side, and they had said it carefully. He therefore proposed that the Council delay proceeding further with this measure and that the representations of the memorialists be considered with the caution and deliberation they deserved. He concluded by moving that the Bill be referred to a Select Committee.

The Hon'ble MR. HUDLESTON observed that it seemed to be overlooked that the changes had been dictated to the Madras Government as a result of the abolition of the Joint Magistracy at Ootacamund. As to the President of the Bench of Magistrates being a Native, the reports on the working of the Gúdalur and Devála Benches proved that there existed complete harmony between the European Planters and gentlemen composing the Bench and the Native Officer who, under the provisions of the Code of Criminal Procedure, presided. And this was in the case of an official of far lower rank, who was only a Sub-Magistrate, and he was not sure whether he had even second-class powers, but still there was complete harmony in the working, which was highly gratifying. This, he trusted, would weaken the objection taken to the presidency of Native officials.

The Hon'ble MR. MACFADYEN said on a Bill of this kind and with a memorial before them signed by gentlemen engaged in pursuits which brought them much in contact with him, it might be expected that he, as a merchant and as the personal friend of many of them, would be on their side. He was, moreover, always disposed to regard with suspicion measures introduced by the Executive Government. If he had any bias it was a bias in favor of the memorialists, but he had come to the conclusion that it was his duty on this occasion to support the Bill. This Bill, it was urged, had two redeeming features—improved administration and economy. Under the latter, the saving, according to the information before him, was a matter of only Rs. 300.

HIS EXCELLENCY THE COMMANDER-IN-CHIEF remarked that there was really no gain in economy; the Military Joint Magistrate would revert to military duty and be paid by the State.

The Hon'ble MR. MACFADYEN observed that His Excellency's remarks only strengthened his opinion that the memorialists had disposed of the question of economy; if the change of system was to be made on the ground of so small a saving it was not worth making. But the point really made by the supporters of the Bill was the greater efficiency of administration that would result. The proposed arrangements would have that effect. "Retrogression" was an easy word and was not uncommonly used in such discussions; if retrograding would improve their interests he did not fear it. But he believed that this was not a retrogressive measure. At present the head of the district saw too little of his district; he was too much in Ootacamund. The proposals would alter this. The Collector would now be free to move about and see for himself how things were conducted on the spot. The Hon'ble Mr. Davidson had laid stress on the introduction of two millions of European capital into the district within the last few years. He hoped a great many more millions would be introduced, but he did not believe the changes contemplated would in any way affect the enterprises in which these sums were embarked. Take the case of Colar, in a purely Native State—a fact perfectly well known at home—people were quite ready, with that knowledge, to send out capital, and three-quarters of a million had been invested in the gold-mining industry there. He did not see that the appointment of a Native Sub-Judge would affect detrimentally the civil judicial administration. It had been already pointed out that in original cases there was no need to go to Coimbatore as the Sub-Judge was invested with unlimited jurisdiction. Moreover, he knew from experience that no suit of any consequence was ever finally determined on the Hills, it always in the end found its way to Madras. Stress has been laid on the inconvenience of coming to Coimbatore, but there was no hardship imposed upon the parties. The fact was Ootacamund had its attractions. Believing the Bill would further the interests of the district, he was willing to see it passed.

The Hon'ble RUNGANADHA SASTRIYAR said he personally knew nothing of the Nilgiris; he had heard the petition of the memorialists, and it seemed that the principal objection was on the score of the native element in the judicial administration. It had been always the laudable merit of our Governors to annihilate the distinction of race. If the Bill before the Council to-day was in this direction, it would be a most happy thing. He himself had sat for twenty-one years as a Judge in the Small Cause Court of the Presidency Town and every European House of Agency in Madras had on some occasion or other submitted disputes for his decision. He believed no complaint had ever been made against the way in which justice was administered in his Court. He did not think that objection to the appointment of a Native Sub-Judge at Ootacamund could be justified by any one acquainted with the judicial administration of the country. He supported the Bill.

HIS EXCELLENCY THE COMMANDER-IN-CHIEF said at last meeting he had raised some objections to the Bill before the Council because he believed the contemplated changes in the administration to be against the interests of the Planters. All his objections were not yet removed. Some of the proposals would prove beneficial. They had been told that the conversion of the Commissioner into a District Magistrate and the abolition of the Joint Magistracy had been dictated by the Government of India. Any change of the Joint Magistracy had been dictated by the Government of India. Any change allowing the head of the district to go about was a step in the right direction; but they should stop short at that. He had objected to the appointment of a Native Sub-Judge as he believed it against the wishes of the people; he found this belief confirmed by the memorial. It would be a happy day when all race distinctions were obliterated, but at present they existed. It was not wise to force upon these people a Judge in whom they could not repose confidence. If a European Judge could be appointed, the memorialists would welcome the change. Comparisons had been drawn between these European Colonists and Europeans living in Mofussil towns. It was asked why should they complain when Europeans at Cocanada raised no objection to the jurisdiction of Native Civil Judges. He could see no analogy; they had in the one case a handful of merchants amid a native population, in the other the largest European population in India; not officials, but persons engaged in private enterprise and scattered over the district. They therefore held by every argument that would better their position. The Hon'ble Mr. Carmichael had alluded to a European Bench of Magistrates, but there was a great distinction between Planters living on their estates and gentlemen resident in Ootacamund. At certain seasons there was an influx of the idle and the sick, but when they leave who were there at Ootacamund fitted to form an efficient Bench. As to the financial point, they had been told that the contemplated change effected improvement with retrenchment. The retrenchment expected was, however, purely fictitious. The Joint Magistrate was a Military Officer sixteen years in civil employ, and was now to be relegated to military duty. His military salary of about Rupees 1,000 a month was regarded as a saving which could be employed in paying the new officials; but the officer would still have to be paid by the State though in another department.

The European prison required supervision, and this was now done by the Joint Magistrate. It was now proposed that the Medical Officer undertake this duty, but as there would only be one in future he did not see how he could find time. European British Soldiers and subjects were confined in the jail and its care should be the special duty of one person, and that a Magistrate. The Bill did not go far enough. The memorialists claimed certain privileges which he thought the Council ought to extend to them.

The Hon'ble THE ADVOCATE-GENERAL said that he concurred in most of the Hon'ble Mr. Davidson's remarks as to the appointment of a Sub-Judge and supported his motion to refer the Bill to a Select Committee. Interests of considerable magnitude were at stake and hasty legislation was not desirable. Some of the proposals for the improvement of the administration of the Nilgiris were good, but it was a question whether all were. The Bill required further consideration, especially as to its effect on the judicial administration.

The Hon'ble MR. HUDLESTON wished to point out that the Bill in no way precluded the arrangements recommended by the Hon'ble Mr. Davidson and the Hon'ble the Advocate-General.

The Hon'ble THE ADVOCATE-GENERAL observed that he understood the powers of this Government were limited by the funds at their disposal. He would second the Hon'ble Mr. Davidson's amendment.

The Hon'ble MR. CARMICHAEL desired to make a few remarks on the arguments of His Excellency the Commander-in-Chief as to the necessity of a European Judge to do the civil judicial work. The objections to the appointment of a Native Judge were advanced on grounds of mere sentiment; the Memorialists seemed to prefer the decisions of a young European Officer, simply because he was a European, to those of an experienced Native Judge of mature years. The Memorialists talked of their "polyglot community;" this was a most unfortunate argument, for surely *ceteris paribus*, a Native was much more fitted than a European to deal with the litigation of a "polyglot" community. The civil judicial work of the Presidency was done almost entirely by Native and only a fractional part by European Officers. Sir Thomas Munro in his last Minute observed that Natives were being largely employed in adjudicating upon the litigation of the country, that this would go on more and more, till nothing was left to the European Judge, but the appellate work:—a state of things which Sir Thomas Munro contemplated with great satisfaction. Much more should be the general satisfaction now, when no Native is raised to the Bench, certainly not to the higher rank of a Subordinate Judge, without sufficient proof of his education, legal attainments, and integrity of character. He reiterated the opinion that the objections raised by the European people proceeded from rash and misguided sentiment.

The amendment being put to the Council was negatived.

The original motion was then put and carried.

The ASSISTANT SECRETARY read the Bill.

The Hon'ble MR. CARMICHAEL moved that the Bill be passed and the Hon'ble MR. HUDLESTON seconded the motion.

The Motion was put and agreed to.

THE CITY OF MADRAS MUNICIPAL ACT AMENDMENT BILL.

The Hon'ble THE ADVOCATE-GENERAL in introducing a Bill to amend Act V of 1878 (the City of Madras Municipal Act) said that this necessity had arisen in consequence of the amending Act passed in this Council in July last being disallowed by the Viceroy and Governor-General. The object of the Bill, like that of the Bill disallowed, was to amend the Madras Municipal Act in respect of the provisions for the water-supply of the city. Act V of 1878 imposed upon the Municipal Commissioners two duties—one the erection of stand-pipes within 150 yards of every house, the other the supply of water free of further charge to every person paying the

water-tax from the pipes of the Commissioners for domestic purposes. Taking the two sections, Sections 211 and 141, under which these obligations arose, the effect was that a person who paid the water-tax was entitled to have water brought within 150 yards of his house. So long as the Commissioners were unable to collect the water-tax, except under these conditions, they were not in a position to complete the water-supply project; it was necessary to accumulate a fund. There had been litigation; suits had been brought to compel the Commissioners to supply water and to restrain them from collecting the tax till the supply was provided, and the High Court held the parties entitled to the relief sought till water was brought within 150 yards of their doors. A great deal had been done by the Commissioners, but the completion and extension of the scheme would be abortive unless a period of breathing time were allowed. To allow this was the object of the Bill before the Council. The Commissioners were protected from being obliged to fulfil the obligations imposed by Section 211 of the Municipal Act in respect of every house for a short term during which the tax could be collected and applied in completing the necessary works. He now introduced the Bill and applied for the suspension of the Standing Orders in view to the Bill being considered and passed.

The Hon'ble MR. HUDLESTON in seconding the motion, observed that when the Municipal Act was passed no one considered that the Commissioners were to be legally bound to effect at once all the objects of the Act; every one must have recognized that a period was necessary in which to carry out the Municipal improvements contemplated and to accumulate funds for the purpose. A suggestion had been made that the funds should have been raised by a tax more general than a water-rate. He did not see what difference this would make. By the Act the funds derived from the rate were exclusively appropriated to maintaining and extending the waterworks; and, an interval of time was requisite to effect the extension, and to carry out in the fullest manner the provisions of the Act. The Bill before the Council was only to effect the original intention contemplated by the Act.

The Hon'ble MR. MACFADYEN said he did not intend to oppose the Bill. The Commissioners should have a little breathing time. The good derived from the introduction of water into the town had not been properly recognized by the people of Madras;—a general benefit had been obtained and a general duty was imposed. His own opinion was that the cost of the water-supply and works should be met by a general rate, and then that those who received the advantage of having water brought near their houses should pay an additional rate. The Municipality had come to a dead-lock, the result of patch-work legislation, Government Orders, and litigation. In every other department Government, if they directed a thing to be done, gave the means of accomplishing it. But the Municipality was directed to spend money and Government refused it the power of obtaining the necessary funds. He recommended that the Government should not fail to consult the Commissioners when it resolved upon introducing measures to amend the Act.

The Hon'ble MR. COLEMAN wished to be informed whether it was likely further amendments were to be made in the Act. If certain changes were effected in Municipal Administration there would be ample funds at disposal for carrying out the water-supply project. The President and Vice-Presidents and their establishments were a perpetual drain on Municipal resources. Under the present system of Presidents and Standing Committees there were clashing powers. The Commissioners as a body were nonentities, and they had no access to Government. He did not oppose the present Resolution, but he thought the entire Act should be

ADULTERATION OF FOOD AND DRUGS.

taken into consideration and measures proposed for the improvement of the condition of the affairs of the Municipality.

HIS EXCELLENCY THE COMMANDER-IN-CHIEF thought the Bill, if passed, would bear hardly on householders. The Hon'ble the Advocate-General said the object was to give breathing time to the Commissioners, but there was no guarantee that the works would be executed at least for the next four years. The cost of maintaining the present pipes was increasing, and heavy expenditure would be required to meet that. The Hon'ble Mr. Macfadyen's suggestion seemed the most reasonable. But if there were other available sources of revenue as the Hon'ble Mr. Coleman said, these should be applied. He thought those who got the water alone should be taxed.

The Hon'ble MR. HUDLESTON observed that already fourteen lakhs of rupees of borrowed money had been expended upon the water works, to repay which with interest a rate was essential. They must not forget that Red Hills water had been introduced into the city.

HIS GRACE THE PRESIDENT suspended the Standing Orders.

The motion that the Bill be now taken into consideration was put and agreed to.

The Council proceeded to consider the Bill, and on the motion of the Hon'ble THE ADVOCATE-GENERAL, who thought the period given to the Commissioners should be restricted to the term of three years provided in the disallowed Bill, the following amendment was made and agreed to :—

Section 2, line 5, the figures "1885" to be struck out, and the figures "1884" substituted.

The motion that the Bill as amended be passed was put and agreed to.

ADULTERATION OF FOOD AND DRUGS BILL.

The Hon'ble MR. COLEMAN in moving for leave to introduce a Bill to prevent the adulteration of food and drugs, said that the object was to check an evil which had long been known to exist, viz., the adulteration of food and drugs, and thereby to promote the health and comfort of all classes of the public in general, and more especially secure those of our European soldiery and their families in India, who obtained their supplies for daily consumption from the native bazaars. The great increase of retail arrack shops and taverns in town rendered it a matter of ease for soldiers to obtain arrack and other liquors which it was well known were largely adulterated by unprincipled native vendors, whose sole object was to obtain gain at the sacrifice of health on the part of the consumer. It was well known that arrack was adulterated with sulphur, and even opium, to produce intoxication; toddy, or the juice of the palmyra, date, &c., was rendered intoxicating by the use of stramonium seed; ragi flour was mixed with ashes; wheat flour with rice flour; ghee or clarified butter with castor-oil and plantains; cow's milk with water, chalk, &c.; gingelly-oil with groundnut oil; honey with molasses; sugar with rice and wheat flour, and so forth. This Bill proposed to check these evils by leaving all articles of food and drugs open to examination and analysis by the local Police and Municipal authorities. He would subsequently move that the Bill be referred to a Select Committee, before whom he would bring proposals as to certain provisions in respect of Chemists and native vendors of medicines. There had been a similar movement in Calcutta.

The Hon'ble MIR HUMAYUN JAH BAHADUR seconded the motion.
The motion was put and agreed to.

MADRAS WIDOWS' AND ORPHANS' FUND, AND
TOWN DUTIES.MADRAS WIDOWS' AND ORPHANS' FUND BILL AND TOWN
DUTIES BILL.

The Hon'ble MR. COLEMAN also asked permission to postpone the consideration of the following Bills :—

No. 5 of 1875.—"A Bill to incorporate the Madras Widows' and Orphans' Fund."

No. 5 of 1878.—"A Bill to provide further means for carrying out the objects of the City of Madras Municipal Act, 1878."

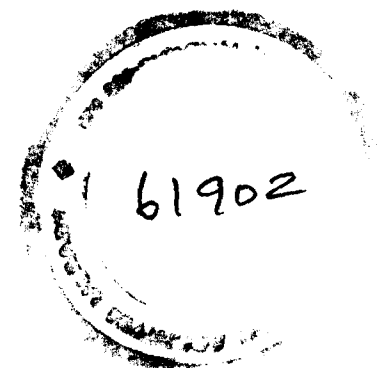
Permission was granted accordingly.

The Council then adjourned *sine die*.

(By order.)

G. S. FORBES,
Acting Assistant Secretary to Govt.,
Legislative Department.

Fort St. George, 27th November 1880.



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